

**COUNCIL MEETING AGENDA
CITY OF PRAIRIE VILLAGE
Council Chambers
Tuesday, January 22, 2019
6:00 PM**

- I. **CALL TO ORDER**
- II. **ROLL CALL**
- III. **PLEDGE OF ALLEGIANCE**
- IV. **APPROVAL OF THE AGENDA**
- V. **INTRODUCTION OF STUDENTS & SCOUTS**
- VI. **PUBLIC PARTICIPATION**

(5 minute time limit for items not otherwise listed on the agenda)

VII. **CONSENT AGENDA**

All items listed below are considered to be routine by the Governing Body and will be enacted by one motion (Roll Call Vote). There will be no separate discussion of these items unless a Council member so requests, in which event the item will be removed from the Consent Agenda and considered in its normal sequence on the regular agenda.

By Staff

- 1. Approve the regular City Council meeting minutes - January 14, 2019
- 2. Approve the 2019 recreation fees
- 3. Approve changes to field reservation policy
- 4. Approve Ordinance 2377A: amending the MCI Metro/Verizon Telecommunications franchise agreement
- 5. Approve the agreement with the Mid-America Regional Council (MARC) for funding operations of Operation Green Light Traffic Control Systems (OGL) in Prairie Village for 2019 and 2020.

VIII. **COMMITTEE REPORTS**

IX. **MAYOR'S REPORT**

X. **STAFF REPORTS**

XI. **OLD BUSINESS**

XII. **NEW BUSINESS**

COU2019-07 Consider approval of the design agreement with Affinis Corp for the design of the 2019 Drainage Program.
Keith Bredehoeft

COU2019-08 Consider approval of the design agreement with Affinis Corp. for the Bike/Ped Implementation Plan
Keith Bredehoeft

COU2019-09 Consider approval of the construction contract with Essary Plumbing for emergency storm pipe replacement on Village Drive
Keith Bredehoeft

XIII. **COUNCIL COMMITTEE OF THE WHOLE** (Council President presiding)

Overview of the 2018 Exterior Grant Program **Will be tabled to the 2/4 mtg**
Jamie Robichaud

2018 Code enforcement annual update **Will be tabled to the 2/4 mtg**
Jamie Robichaud

COU2019-10 Consider formally naming the new public park at W. 67th and Roe Avenue as “Wassmer Park” in accordance with Council Policy 501
Eric Mikkelson

Discuss draft ordinance (Chapter 11, Article 16) regulating the use of Unmanned Aerial Vehicles (UAVs)
David Waters

XIV. **ANNOUNCEMENTS**

XV. **ADJOURNMENT**

If any individual requires special accommodations - for example, qualified interpreter, large print, reader, hearing assistance - in order to attend the meeting, please notify the City Clerk at 385-4616, no later than 48 hours prior to the beginning of the meeting. If you are unable to attend this meeting, comments may be received by e-mail at cityclerk@pvkansas.com



**CITY COUNCIL
CITY OF PRAIRIE VILLAGE
January 14, 2019**

The City Council of Prairie Village, Kansas, met in regular session on Monday, January 14, 2019, at 6:00 p.m. in the Council Chambers at the Municipal Building, 7700 Mission Road, Prairie Village, Kansas. Mayor Laura Wassmer, and then Mayor Mikkelson presided.

ROLL CALL

Roll was called by the City Clerk with the following Council Members in attendance: Chad Herring, Jori Nelson, Serena Schermoly, Ronald Nelson, Tucker Poling, Andrew Wang, Sheila Myers, Brooke Morehead, Dan Runion, Courtney McFadden, Ted Odell, and Terrence Gallagher. Staff present: Tim Schwartzkopf, Chief of Police; Keith Bredehoeft, Director of Public Works; Interim City Attorney David Waters, attorney with Lathrop & Gage; Wes Jordan, City Administrator; Jamie Robichaud, Deputy City Administrator; Alley Porter, Assistant City Administrator, Lisa Santa Maria, Finance Director, and Ashley Freburg, Public Information Officer/Deputy City Clerk. Also present were Teen Council members Wenhan Sun, Sophie Rice, Jackson Bibb and Mary Kate Gallagher.

PLEDGE OF ALLEGIANCE

APPROVAL OF AGENDA

Tucker Poling moved the approval of the agenda for December 17, 2018 as presented. Serena Schermoly seconded the motion, which passed unanimously.

INTRODUCTION OF STUDENTS & SCOUTS

Boy Scouts working toward their citizenship badges introduced themselves to the Council.

PRESENTATIONS

Swearing in of New Mayor

Outgoing Mayor Laura Wassmer swore in Eric Mikkelson as the new Mayor of Prairie Village. Mayor Mikkelson read a proclamation for Mayor Wassmer, declaring January 14, 2019 "Laura Wassmer Day". The Mayor then outlined several of his policy and civility goals for Prairie Village over the next few years.

PUBLIC PARTICIPATION

Inga Selders, 4600 Tomahawk Road, stated that she had concerns about the proposed contract renewal between the City and Challenger Sports. Ms. Selders noted that large



soccer camps are using park fields in the summer which prevents neighborhood children from utilizing park space, and asked that the Council consider rejecting the contract.

Charles Schollenberger, 3718 W. 79th Terrace, spoke about the recent power outages from Winter Storm Gia that affected the area. Mr. Schollenberger asked if City Council members or staff could meet with KCP&L to reduce power outages within the city. Additionally, Mr. Schollenberger asked that communications be improved as well.

With no one else to address the Council, public participation was closed at 6:25 p.m.

CONSENT AGENDA

Mayor Mikkelson asked if there were any items to remove from the consent agenda for discussion.

Serena Schermoly asked that item #3, "Approve the 50 Plus Facility Use Agreement with JCPRD" be removed for further discussion, and Brooke Morehead asked that item #6, "Approve the 2019 Contract with Challenger Sports" be removed for further discussion as well.

Sheila Myers moved for the approval of the Consent Agenda of January 14, 2019, with the exception of items #3 and #6:

- 1. Approve the regular City Council meeting minutes - December 17, 2019**
- 2. Approve claims ordinance 2973**
- 4. Approve 2019 SuperPass Interlocal Agreement and Swim Meet Letter of Understanding**
- 5. Approve 2019 SuperPass Agreement with the City of Merriam**
- 7. Approve an agreement with the Kansas City Crime Commission for the TIPS Hotline Crime Stoppers Program**
- 8. Approve agreement with Berberich, Trahan & Co., P.A. to audit the city's 2018 financial statements**

A roll call vote was taken with the following votes cast: "aye" Herring, J. Nelson, Schermoly, R. Nelson, Poling, Wang, Myers, Morehead, Runion, McFadden, Odell, and Gallagher.

Mrs. Schermoly noted that Section 8-d of the agreement states a report shall be provided to the City Administrator, which has not happened. The report needs to be provided to determine how many residents are using the program. Mrs. Myers asked if the agreement could be approved with the understanding that a report is provided in the future. Mrs. Schermoly agreed.



Mrs. Myers made a motion to approve the 50 Plus Facility Use Agreement, which was seconded by Mrs. Schermoly, and passed unanimously.

Brooke Morehead acknowledged public concern regarding item #6. Mrs. McFadden noted that the Parks and Recreation committee had reviewed the contract with Challenger Sports. Alley Porter stated that Challenger Sports provides soccer programs on behalf of the city since the city does not manage them internally. A second issue to address through policy is what access external companies which have no affiliation with the city have to city facilities.

Chad Herring moved for approval of the 2019 agreement with Challenger Sports as presented, and Andrew Wang seconded. The motion passed unanimously.

COMMITTEE REPORTS

Serena Schermoly noted that the Art Council's "Future of the Arts" reception on Friday, January 11th was very successful, with over 80 entrants and 200 attendees. Jori Nelson echoed Ms. Schermoly's sentiments. In 2020, an art exhibit in conjunction with the Special Olympics will be held.

Terrance Gallagher stated that Teen Council members were given a tour of the Police Department, and that several had participated in ride-alongs with police officers. He noted that the program had been very successful.

MAYOR'S REPORT

Mayor Mikkelson reported that he and city staff had recently met with Commissioner Becky Fast and State Senator Barbara Bollier, as well as State Representatives Stephanie Clayton, Jerry Stogsdill and Rui Xu.

- An upcoming State of the Cities annual lunch will be held on Thursday, January 31 in Overland Park.
- A reception for former City Clerk Joyce Hagen Mundy will take place at 6:00 PM on Monday, January 28 in the council chambers.
- The National League of Cities conference in Washington D.C. will be held later in the spring
- Local Government Day will be in Topeka on January 23.
- A reception for former Mayor Laura Wassmer will be held on January 16 from 4:30 to 6:30 PM.
- City attorney interviews are still in process, and a selection will be announced at an upcoming Council Meeting.
- A meeting was held with the YMCA to discuss future projects with the city.

Mayor Mikkelson presented Chief Tim Schwartzkopf with a pin to recognize his 25 years of service with the Prairie Village Police Department.



STAFF REPORTS

Public Safety

- Chief Schwartzkopf noted that the number of calls fielded over the past few days as a result of the Winter Storm Gia were significant. The department worked closely with Public Works to address issues.

Public Works

- Keith Bredehoeft reported that a plan was created for the snowstorm, but that the amount of snow received was considerably higher than forecast.
- Republic will begin picking up bundles of branches this week. Arbor Masters will pick up larger limbs the week of the January 21. Once a plan is finalized, it will be shared on the city website and via social media.

Administration

- Alley Porter introduced Ashley Freburg as the new Public Information Officer and Deputy City Clerk. Mrs. Porter added that JCPRD is longer offering parks programming in Prairie Village parks due to low attendance.
- David Waters noted that there has been a change made to the state's cereal malt beverage ordinance, which will allow grocery and convenience stores to sell beer containing more than 3.2% alcohol.
- New legislation is being introduced regarding wireless franchise ordinances and right of way.
- A co-responder agreement between Prairie Village, Mission Hills and Leawood will be presented at the next City Council meeting.
- Wes Jordan stated that a January Plan of Action had been compiled and that he was happy to answer any questions.

OLD BUSINESS

There was no Old Business to come before the City Council.

NEW BUSINESS

COU2019-01 Consider approval of the 2019 legislative platform

Alley Porter stated that each year the City Council passes a platform to outline its legislative priorities for the upcoming session. The meeting packet included an updated draft along with comments from individual council members.

Discussion was held about including medical marijuana on the platform. Terrence Gallagher suggested adding the consideration of medical marijuana at a later date for



legislative discussion. Jori Nelson stated that the issue should be included to the 2019 platform, and made a motion to add the following language: *“We support the legalization and use of medical marijuana in Kansas. In 2017, the state of Colorado medical and recreational sales topped \$1.5 billion, and the state collected \$247 million in taxes and fees. This would provide much needed sales tax revenue to the state, as well as local governments to fund KPERS, local schools and replenish the highway fund.”* The motion was seconded by Ron Nelson.

Terrence Gallagher made a motion to amend the motion to state the following: *“We support the legalization of the exploration and use of medical marijuana and its derivatives for the purpose of improving the quality of life of individuals with medical conditions that can benefit from its use.”* The motion was seconded by Chad Herring, and Ms. Nelson noted that she supported the amendment. Dan Runion asked to amend the language from *“exploration and the use of marijuana”* to *“exploration of the use of marijuana.”* Mr. Gallagher supported Mr. Runion’s amendment.

A vote on the motion to amend the original motion passed by a vote of 9 to 3, with Mr. Wang, Mr. Runion and Mr. Odell voting in opposition.

A vote on the motion to add the language to the 2019 legislative platform as amended passed by a vote of 9 to 3, with Mr. Wang, Mr. Runion and Mr. Odell voting in opposition.

Tucker Poling made a motion to amend the Property-Tax Lid section of the platform, to include *“Further, the legislature should review and consider amending the current statute to include a hold-harmless provision to allow local governments to lower property tax rates and, within the subsequent five years, return the property tax rate to the prior level if necessary.”* The motion was seconded by Serena Schermoly.

Brooke Morehead asked to amend line 3 to say “return the property tax rate to prior level”, which removed the redundant word ‘back’. Tucker Poling agreed with the change.

Mr. Poling stated that the following language should also be added: “the legislature should also review and consider exemptions to allow local governments the authority to cap the rate of increase of residents’ property tax increases from year to year.”

A vote on the motion to amend the language of the Property-Tax Lid section of the 2019 legislative platform and passed by a vote of 10 to 2 with Mr. Wang and Mr. Gallagher voting in opposition.

Jori Nelson made a motion to add the following: *“A statewide energy policy standard to financially incentivize energy sources that protect air quality and reduce dependency on oil. We support the development of a coordinated and comprehensive energy policy, including the reuse of renewables, including wind and solar power, developed with strong input from municipalities.”* The motion was seconded by Dan Runion, and passed unanimously.



Poling made a motion to amend the KORA section to include: *“We also support amendments to update KORA to provide better guidance about the application of KORA to all forms of electronic communications, including but not limited to social media. Further, we encourage legislative clarification in regard to the application of KORA to subcommittees and working groups formed by local government bodies.”* The motion was seconded by Ted Odell, and passed unanimously.

Jori Nelson made a motion to add the following language to the platform: *“We support the restoration of funding of social services programs that are critical for our most at-risk and vulnerable residents, including child welfare, mental health and our senior citizens.”* The motion was seconded by Chad Herring, and passed by a vote of 6 to 5, with Mr. Wang, Mrs. Myers, Mrs. Morehead, Mr. Runion and Mr. Odell voting in opposition, and Mr. Gallagher abstaining.

Tucker Poling moved to amend his prior amendment to the platform to read: *“We also support amendments to update KORA and KOMA to provide better guidance about the application of KORA and KOMA to all forms of electronic communications, including but not limited to social media. Further, we encourage a legislative clarification in regard to the application of KORA and KOMA to subcommittees and working groups formed by local government bodies.”* The motion was seconded by Dan Runion and passed unanimously.

Jori Nelson made a motion to add the following to the platform: *“We support the ban on retail sales of dogs, cats and rabbits unless the animal was obtained by a public animal control agency or shelter, humane society group, society for the prevention of animal cruelties, shelter or rescue group that is in a cooperative agreement with at least one private or public shelter.”* Tucker Poling seconded the motion, which failed by a vote of 10-2, with Ms. Nelson and Mr. Poling voting in favor.

Chad Herring made a motion to support COU2019-02 as amended. The motion was seconded by Ron Nelson, and passed by a vote of 11 to 1 with Ted Odell voting in opposition.

COU2019-02 Consider approval of funding project NAAV0006: pedestrian signal maintenance at Nall and 86th Street.

Melissa Prenger gave a presentation on this project, which is being addressed in conjunction with the City of Overland Park.

Chad Herring made a motion to approve COU2019-02. The motion was seconded by Serena Schermoly, and passed unanimously.

COU2019-03 Consider approval of the Interlocal agreement with Johnson County for Project ROAV0005: Roe Avenue, 63rd Street to 67th Street



Keith Bredehoeft stated that this project is part of the Interlocal agreement with Johnson County. Each year Public Works have a five-year project that is brought to Council. This project is included in the Capital Improvements Program in 2019, and approval by Council will commit those funds to this project.

Jori Nelson made a motion to approve COU2019-03. The motion was seconded by Chad Herring, and passed unanimously.

COU2019-04 Consider approval of the addition of solar power for North Park, and to transfer \$20,000 to the project from Parks Unallocated.

Tucker Poling made a motion to approve COU2019-03. The motion was seconded by Serena Schermoly, and passed by a vote of 9 to 3 with Andrew Wang, Brooke Morehead and Ted Odell voting in opposition.

Election of 2019 Council President

Mayor Mikkelson stated that council policy recommends the longest-serving councilperson who has not served as president be elected. In this case, that person is Terrence Gallagher.

A motion was made by Ted Odell to elect Terrence Gallagher as Council President. The motion was seconded by Serena Schermoly, and passed unanimously.

Tucker Poling moved the City Council go into the Council Committee of the Whole portion of the meeting. Courtney McFadden seconded the motion, which passed unanimously.

COUNCIL COMMITTEE OF THE WHOLE

Update on annual bulky item pickup route change.

Jamie Robichaud gave a presentation on the mapping adjustments to the bulky item pickup schedule in 2019.

COU2019-06 Consider approval of the athletic field rental/reservation policy

Alley Porter asked the Council president to address COU2019-06 prior to COU2019-05 based on public interest. Terrence Gallagher approved the change.



Chad Herring moved to recommend the approval of the athletic field rental/reservation policy as presented. Sheila Myers seconded the motion, which passed unanimously with Council action to be taken at the January 23, 2019 City Council meeting.

COU2019-05 Consider approval of 2019 recreational fees

Alley Porter noted that the Parks and Recreation Committee reviews recreational fees yearly to determine if changes need to be made. Jori Nelson recommended amending the fee schedule to increase athletic field rental costs for commercial use from \$15 to \$20.

Chad Herring moved to recommend the approval of the 2019 fee schedule as presented. Sheila Myers seconded the motion.

Jori Nelson moved to amend the motion to increase athletic field rental costs from \$15 to \$20. Tucker Poling seconded the amendment which passed by a vote of 7 to 5 with Chad Herring, Andrew Wang, Dan Runion, Courtney McFadden and Terrence Gallagher voting in opposition.

Chad Herring moved to approve COU2019-05 as amended. Courtney McFadden seconded the motion as amended which passed by a vote of 11 to 1 with Terrence Gallagher voting in opposition. Council action will be taken at the January 22, 2019 City Council meeting.

Tucker Poling moved to adjourn the Council Committee of the Whole portion of the meeting and return to the City Council meeting. Jori Nelson seconded the motion, which passed unanimously.

ANNOUNCEMENTS

The announcements were included in the Council packet.

ADJOURNMENT

With no further business to come before the City Council, Mayor Eric Mikkelson declared the meeting adjourned at 10:07 p.m.

Adam Geffert
City Clerk



PARKS AND RECREATION

Parks & Recreation Meeting Date: January 9, 2019

Council Committee Date: January 14, 2019

City Council Meeting Date: January 22, 2019

COU2019-05

Consider 2019 Recreation Fee Schedule

RECOMMENDATION

Recommend approval of the 2019 Recreation Fee Schedule as approved by the Parks & Recreation Committee.

BACKGROUND

Per Council direction, staff annually reviews recreation fees to ensure they are reasonable and keep pace with any operational increases.

Since 2016, the City's pool membership structure includes resident/non-resident rates for individuals, seniors, and a 5 swim card. In addition to the change in structure, the Parks & Recreation Committee expressed interest in shifting to a \$5 increment every 3-5 years versus minor increases every year with the goal of having rounded fees (e.g. \$57 vs. \$60). The Committee voted in their January 9, 2019 meeting to implement some changes to the current pool membership structure for the 2019 season in order to keep up with increases in expenditures, mainly associated with the increase to lifeguard pay.

The Committee approved increasing the Individual and Senior Citizen passes for both residents and non-residents by \$5.00. To offset the increase, they proposed a \$10.00 early bird special in the month of April (an increase of \$5.00 from the previous year). This means individuals who purchase their passes in April will not see any increase. The 5 Swim Card rate was also increased.

For daily admission, the Committee voted in favor of raising the rate to \$10.00 keeping in line with the goal to have rounded fees. They also recommended having the \$5.00 Twilight rate start at 4:30 PM vs. 5:30 PM.

2019 Proposed Rates	RESIDENT	NON-RESIDENT
Individual*	\$50	\$80
Sr. Citizen (60+)*	\$45	\$70
Swim Card with 5 Admissions	\$35	\$40
Daily Admission Fee	\$10	\$10
Twilight Fee after 4:30 PM	\$5	\$5

*Individual and Senior memberships are \$10 off in April

*Individual and Senior memberships are half price starting July 15

There were minor increases to tennis for the purpose of rounding fees. There were no changes to the athletic field rentals fees, but there is an additional category for commercial use. The fees for private tennis tournaments were also changed to go to a per day charge to attempt to recover costs associated with portable toilets.

FINANCIAL IMPACT

The average General Fund subsidy for the past three seasons for the pool is roughly \$190,000. This does not include personnel costs for Public Works, Information Technology, or Administration.

ATTACHMENTS

2019 Recreation Fee Schedule as approved by the Parks & Recreation Committee
Pool Memberships & Attendance Trends

PREPARED BY

Alley Porter
Assistant City Administrator
Date: January 17, 2019

2019 Recreation Fee Schedule

RESIDENT	2017	2018	2019	Percent Change
Individual*	\$45	\$45	\$50	11%
Senior Citizen (60+)*	\$40	\$40	\$45	12.5%
5 Swim Card	\$30	\$30	\$35	17%

\$10 early bird special in April

NON-RESIDENT					
Individual*	\$75	\$75	\$80	6.6%	
Senior Citizen (60+)*	\$65	\$65	\$70	7.7%	
5 Swim Card	\$35	\$35	\$40	14%	

\$10 early bird special in April

DAILY	\$8	\$8	\$10	25%
TWILIGHT (after 4:30 pm)	\$5	\$5	\$5	0%
DAYCARE	\$5	\$5	\$5	0%

POOL RENTAL	\$315	\$350	\$350	0%
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AQUATICS					
Resident	\$110	\$110	\$110	0%	
additional child	\$105	\$105	\$105	0%	
Non-Resident without membership	\$165	\$165	\$165	0%	
Non-Resident with membership	\$115	\$115	\$115	0%	
Lessons (30 minutes)	\$40	\$45	\$45	0%	

TENNIS					
JTL	\$105	\$105	\$105	0%	
additional child	\$100	\$100	\$100	0%	
Pee-Wee	\$47	\$47	N/A	N/A	
Mighty Mites	\$60	\$60	N/A	N/A	
Future Stars	\$60	\$60	N/A	N/A	
Private (30 minutes)	\$25	\$25	\$25	0%	
Semi-Private (30 minutes)	\$16	\$16	\$20	25%	
Three & a Pro (1 hour)	\$18	\$18	\$20	11%	

ATHLETIC FIELD RENTAL					
Individual Rental (hourly)		\$7.50	\$7.50	0%	
Seasonal Practices		\$40	\$40	0%	
Commercial Use (hourly)		N/A	\$20	100%	

TENNIS COURT RENTAL		2018	2019
Individual Rental (hourly)		\$7	\$7
School Tournament		\$300/tournament	\$150/day
Private Tournament		\$300 + \$250 deposit	\$150/day + \$250 deposit
Seasonal School Rental (per court)		\$50	\$50

Pool Memberships & Attendance Trends

Total Memberships	2016	2017	2018
Resident Individual	2,784	2,758	2,796
Resident Senior Citizen	232	282	285
Resident 5 Swim Card	160	141	156
Employee Membership	42	47	28
Non-Resident Individual	453	539	523
Non-Resident Senior Citizen	35	75	80
Non-Resident 5 Swim Card	37	45	46
TOTAL	3,743	3,887	3,914

The total number of memberships is up for 2018. Membership sales in 2018 were \$175,394 compared to \$172,392 reported in the 2017 Annual Report.

2018 Pool Membership Fees at Surrounding Communities

Merriam

	Resident	Non-Resident
Household	\$105	\$180*
Individual	\$70	\$105
Senior	\$55	\$85

*Limit of six members per non-resident household. If household has more than six, additional single passes can be purchased for \$20

Mission

	Resident	Non-Resident
Family	\$120	\$170
Single	\$70	\$100

Fairway

	Resident	Non-Resident
Family Membership*	\$145	\$270
Individual	\$90	\$170
Senior Individual	\$70	\$120

*Up to 5 members, \$5 each additional

Roeland Park

	Resident	Non-Resident
Individual	\$75	\$120
Family*	\$125	\$180

*Family membership includes 2 adults maximum and 3 children up to age 18

Leawood

	Resident	Non-Resident
Individual	\$38	\$53
Senior	\$28	\$43



ADMINISTRATION

Parks & Recreation Meeting Date: November 14, 2018

Council Committee Date: January 14, 2019

City Council Meeting Date: January 22, 2019

COU2019-06: Athletic Field Rental/Reservation Policy

RECOMMENDATION

Recommend approval of the Athletic Field Rental/Reservation Policy as written.

BACKGROUND

Each season, the City receives a handful of requests from private organizations to utilize our parks for “commercial use” (e.g. sports camps charging patrons a fee). Common practice has been to not allow reservations for organizations that are charging money and making a profit. However, this is not explicitly outlined in City policy. This leads to inconsistencies in the handling of certain reservations and confusion amongst staff.

With that in the mind, the Parks & Recreation Committee approved an athletic field reservation policy for Council consideration. While it does not ban commercial use, it does prioritize use so practice teams are not competing with sports camps. It also allows for different fees to be charged (2019 Recreation Fee Schedule proposes a charge of \$15/hour for commercial use field reservations).

This draft policy builds upon CP525: Ballfield Reservations for League Play and CP526: Reservation of Ballfields.

ATTACHMENTS

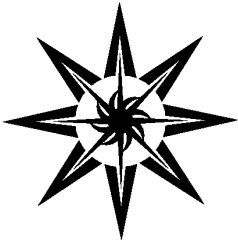
Draft Athletic Field Rental/Reservation Policy

PREPARED BY

Alley Porter

Assistant City Administrator

Date: January 10, 2019



City Council Policy: CP524 - Athletic Field Rental/Reservation Policy

Effective Date: January 23, 2019

Amends:

Approved By: City Council

I. SCOPE

II. PURPOSE

- A. To establish a policy that governs the allocation and use of athletic fields with the goal of fair and equitable usage at the following parks: Franklin, Porter, Taliaferro, Windsor, and any additional parks deemed appropriate by the City.

III. RESPONSIBILITY

- A. City Clerk

IV. DEFINITIONS

V. POLICY

A. Permissible and Impermissible Activities

1. Approved activities may include, but are limited to: general public use (no reservation), individual use (reservation), community events, recreational sport practices, programs sponsored by the City or City partners.
2. League play is prohibited on City ballfields due to current facilities such as restrooms, seating, and parking spaces being inadequate to hold league play.
3. The "subletting" of fields (when an organization reserves a field and then rents it to a separate group for a different purpose) is not allowed. Reservations need to be made directly with the City.

B. Priority of Use

1. Programs sponsored by the City of Prairie Village or Johnson County Park & Recreation District
2. Seasonal reservations for youth practices
 - a.) Teams from Prairie Village schools and teams with at least 50% members who are Prairie Village residents will be given preference.
 - b.) Seasonal ballfield requests are restricted to a period not to exceed 1 ½ hours per field, per team and shall be limited to a maximum of two practices per week.
3. Reservations for commercial ("pay for play") organizations

C. Filing an Application for a Permit

1. Other than for general public use, individuals or organizations must obtain an approved permit through the City of Prairie Village.
2. All groups requesting use of athletic fields shall complete the application provided by the City Clerk's Office.
3. Applications for single or multiple use dates should be submitted at least seven (7) days prior to the date of use.
4. Applications for seasonal use should be submitted at least thirty (30) days prior to the date of use.
5. A request for a particular athletic field does not guarantee availability or assignment.

D. Fees

1. Fees will be outlined in the annual fee schedule and can differ for each use.

VI. PROCEDURES



Consider Ordinance 2377A: Amending the MCI Metro/Verizon Telecommunications Franchise Agreement

BACKGROUND

MCI Metro contacted David Waters requesting some changes to our existing franchise agreement to clarify some language. The existing agreement was approved by the Council on March 19, 2018 with Ordinance 2377.

The current franchise agreement defines “gross receipts” as being revenue derived from seven categories. The last category is explained as “revenue received by grantee from resellers or others which use grantee’s facilities.” The definition for gross receipts in the original agreement was taken from KSA 12-2001 (c)(6); however, that specific definition only has six categories, and the seventh category in our agreement is not included in that specific section of the statute. The statute allows for this kind of fee that category 7 outlines, but it is found in KSA 12-2001 (n). During negotiations of this agreement, all parties agreed to just list category seven with the other six categories.

MCI Metro’s concern is that cities will try to use category seven to include fees that they receive from wireless providers, or to attach gross receipts to wireless use. This was not the intent of the agreement, and the agreement specifically excludes revenues from wireless communications services, so this is really a non-issue for the City.

MCI Metro requested that we amend our agreement to match the exact language found in KSA 12-2001 (c)(6). It is the opinion of staff and our city attorney that this is not a substantial change to our original agreement, and the intent of the original agreement is still in place. Overland Park also recently approved this same change to their agreement at the request of MCI Metro.

RECOMMENDATION

This item is part of the consent agenda, and approval is recommended by staff.

PREPARED BY

Jamie Robichaud
Deputy City Administrator
Date: January 17, 2019

ORDINANCE NO. 2377A

AN ORDINANCE GRANTING TO MCIMETRO ACCESS TRANSMISSION SERVICES CORP., A DELAWARE CORPORATION, D/B/A VERIZON ACCESS TRANSMISSION SERVICES, A CONTRACT FRANCHISE TO CONSTRUCT, OPERATE AND MAINTAIN A TELECOMMUNICATIONS SYSTEM IN THE CITY OF PRAIRIE VILLAGE, KANSAS, AND PRESCRIBING THE TERMS OF SAID CONTRACT FRANCHISE; AMENDING AND RESTATING ORDINANCE NO. 2377.

WHEREAS, on March 19, 2018, the City adopted Ordinance No. 2377 granting MCImetro Access Transmission Services Corp., a Delaware corporation, d/b/a Verizon Access Transmission Services, a contract franchise to construct, operate, and maintain a telecommunications system in the City; and

WHEREAS, MCImetro Access Transmission Services Corp. has requested a revision to the contract franchise in order to clarify its required treatment of resellers of its services and, accordingly, this Ordinance is intended to amend and restate the original contract franchise set forth in Ordinance No. 2377.

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

SECTION 1. DEFINITIONS.

For the purposes of this Ordinance the following words and phrases shall have the meaning given herein. When not inconsistent within the context, words used in the present tense include the future tense and words in the single number include the plural number. The word "shall" is always mandatory, and not merely directory.

- a. "Access Line" - shall mean and be limited to retail billed and collected residential lines; business lines; ISDN lines; PBX trunks and simulated exchange access lines provided by a central office based switching arrangement where all stations served by such simulated exchange access lines are used by a single customer of the provider of such arrangement. Access Line may not be construed to include interoffice transport or other transmission media that do not terminate at an end user customer's premises, or to permit duplicate or multiple assessment of Access Line rates on the provision of a single service or on the multiple communications paths derived from a billed and collected Access Line. Access Line shall not include the following: Wireless telecommunications services, the sale or lease of unbundled loop facilities, special access services, lines providing only data services without voice services processed by a Telecommunications Local Exchange Service Provider or private line service arrangements.
- b. "Access Line Count" - means the number of Access Lines serving consumers within the corporate boundaries of the City on the last day of each month.
- c. "Access Line Fee" - means a fee determined by the City, up to a maximum as set out in K.S.A. 12-2001(c)(3), and amendments thereto, to be used by Grantee in calculating the amount of Access Line Remittance.
- d. "Access Line Remittance" - means the amount to be paid by Grantee to City, the total of which is calculated by multiplying the Access Line Fee, as determined in the City, by the number of Access Lines served by Grantee within the City for each month in that calendar quarter.

- e. "City" - means the City of Prairie Village, Kansas.
- f. "Contract Franchise" - means this Ordinance granting the right, privilege and franchise to Grantee to use the City's Public Right-of-Way to provide Telecommunications Services within the City.
- g. "Facilities" - means the Grantee's telephone and telecommunications lines, conduits, manholes, ducts, wires, cables, pipes, poles, towers, vaults, appliances, optic fiber, and all equipment comprising the Grantee's system located within the Public Right-of-Way, designed and constructed for the purpose of providing Telecommunications Services.
- h. "Grantee" - means MCImetro Access Transmission Services Corp., a Delaware corporation, d/b/a Verizon Access Transmission Services, authorized to do business in Kansas, as a provider of Telecommunications Services within the City. References to Grantee shall also include, as appropriate, any and all successors and assigns.
- i. "Gross Receipts" - means only those receipts collected from within the corporate boundaries of the City and which are derived from the following: (1) Recurring Local Exchange Service for business and residence which includes basic exchange service, touch tone, optional calling features and measured local calls; (2) Recurring local exchange Access Line services for pay phone lines provided by Grantee to all pay phone service providers; (3) Local directory assistance revenue; (4) Line status verification/busy interrupt revenue; (5) Local operator assistance revenue; and (6) Nonrecurring Local Exchange Service revenue which shall include customer service for installation of lines, reconnection of service and charge for duplicate bills. All other revenues, including, but not limited to, revenues from extended area service, the sale or lease of unbundled network elements, non-regulated services, carrier and end user access, long distance, wireless telecommunications services, lines providing only data service without voice services processed by a Telecommunications Local Exchange Service Provider, private line service arrangements, internet, broadband, and all other services not wholly local in nature are excluded from Gross Receipts. Gross Receipts shall be reduced by bad debt expenses. Uncollectible and late charges shall not be included within Gross Receipts. If Grantee offers additional services of a wholly local nature which if in existence on or before July 1, 2002, would have been included with the definition of Gross Receipts, such services shall be included from the date of the offering of such services within the City.
- j. "Local Exchange Service" - means local switched telecommunications service within any local exchange service area approved by the state corporation commission, regardless of the medium by which the local telecommunications service is provided. The Term Local Exchange service shall not include wireless communication services.
- k. "Telecommunications Local Exchange Service Provider" means a local exchange carrier as defined in subsection (h) of K.S.A. 66-1,187, and amendments thereto, and a telecommunications carrier as defined in subsection (m) of K.S.A. 66-1,187, and amendments thereto, which does, or in good faith intends to, provide Local Exchange Service. The term Telecommunications Local Exchange Service Provider does not include an interexchange carrier that does not provide Local Exchange Service, competitive access provider that does not provide Local Exchange Service or any wireless telecommunications local exchange service provider.
- l. "Public Right-of-Way" - means only the area of real property in which the City has a dedicated or acquired right-of-way interest in the real property. It shall include the area on, below or above the present and future streets, alleys, avenues, roads, highways, parkways or boulevards dedicated or acquired as right-of-way. The term does not include the airwaves above the right-

of-way with regard to wireless telecommunications or other non-wire telecommunications or broadcast service, easements obtained by utilities, or private easements in platted subdivisions or tracts, and does not include infrastructure located within the Public Rights-of-Way owned by the City or other third-parties, such as poles, ducts or conduits, use of which shall require a separate license agreement for attachment to City facilities.

- m. "Telecommunications Services" - means providing the means of transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received, as described in K.S.A. 17-1902(a)(3) and amendments thereto. For purposes of this Contract Franchise, the term Telecommunications Services shall not include the provision of Wireless Services as a Wireless Services Provider.
- n. "Wireless Infrastructure Provider" – means any person that builds or installs transmission equipment, wireless facilities or wireless support structures, but that is not a Wireless Services Provider, as described in K.S.A. 66-2019(b)(20).
- o. "Wireless Services" - means "personal wireless services" and "personal wireless service facilities" as defined in 47 U.S.C. § 332(c)(7)(C), including commercial mobile services as defined in 47 U.S.C. § 332(d), provided to personal mobile communication devices through wireless facilities or any fixed or mobile wireless services provided using wireless facilities, as described in K.S.A. 66-2019(b)(19).
- p. "Wireless Services Provider" - means a provider of Wireless Services, as described in K.S.A. 66-2019(b)(24).

SECTION 2. GRANT OF CONTRACT FRANCHISE.

- a. There is hereby granted to Grantee this nonexclusive Contract Franchise to construct, maintain, extend and operate its Facilities along, across, upon or under any Public Right-of-Way for the purpose of supplying Telecommunications Services within the corporate boundaries of the City, for the term of this Contract Franchise, subject to the terms and conditions of this Contract Franchise. In addition, Grantee is granted the right to lease its Facilities in whole or in part to affiliates or third parties, provided that Grantee maintains ownership of such Facilities; and further provided, that such lessee shall have its own Contract Franchise with the City if required by applicable law.
- b. The grant of this Contract Franchise by the City shall not convey title, equitable or legal, in the Public Right-of-Way, and shall give only the right to occupy the Public Right-of-Way, for the purposes and for the period stated in this Contract Franchise. This Contract Franchise does not:
 - (1) Grant the right to use Facilities or any other property, telecommunications related or otherwise, owned or controlled by the City or a third-party, without the consent of such party;
 - (2) Grant the authority to construct, maintain or operate any Facility or related appurtenance on property owned by the City outside of the Public Right-of-Way, specifically including, but not limited to, parkland property, City Hall property or public works facility property; or
 - (3) Excuse Grantee from obtaining appropriate access or attachment agreements before locating its Facilities on the facilities owned or controlled by the City or a third-party.

- c. As a condition of this grant, Grantee is required to obtain and is responsible for any necessary permit, license, certification, grant, registration or any other authorization required by any appropriate governmental entity, including, but not limited to, the City, the Federal Communications Commission (FCC) or the Kansas Corporation Commission (KCC). Grantee shall also comply with all applicable laws, statutes and/or City regulations (including, but not limited to those relating to the construction and use of the Public Right-of-Way or other public or private property).
- d. Grantee shall not provide any additional services for which a franchise is required by the City, including but not limited to services as a Wireless Services Provider, Wireless Infrastructure Provider, cable television provider, or video services provider, without first obtaining a separate franchise from the City or amending this Contract Franchise, and Grantee shall not knowingly allow the use of its Facilities by any third party in violation of any federal, state or local law. In particular, this Contract Franchise does not provide Grantee the right to provide cable service as a cable operator (as defined by 47 U.S.C. § 522(5)) within the City. Grantee agrees that this franchise does not permit it to operate an open video system without payment of fees permitted by 47 U.S.C. § 573(c)(2)(B) and without complying with FCC regulations promulgated pursuant to 47 U.S.C. § 573. Grantee is permitted to provide wireline-based cell site front- and back-haul transport services using its Facilities.
- e. This authority to occupy the Public Right-of-Way shall be granted in a competitively neutral and nondiscriminatory basis and not in conflict with state or federal law.

SECTION 3. USE OF PUBLIC RIGHT-OF-WAY.

- a. Pursuant to K.S.A. 17-1902 and 12-2001, and amendments thereto, and subject to the provisions of this Contract Franchise, Grantee shall have the right to construct, maintain and operate its Facilities along, across, upon and under the Public Right-of-Way. Such Facilities shall be so constructed and maintained as not to obstruct or hinder the usual travel or public safety on such public ways or obstruct the legal use of such other public ways by other utilities.
- b. Grantee's use of the Public Right-of-Way shall always be subject and subordinate to the reasonable public health, safety and welfare requirements and regulations of the City. The City may exercise its home rule powers in its administration and regulation related to the management of the Public Right-of-Way; provided that any such exercise must be competitively neutral and may not be unreasonable or discriminatory. Grantee shall be subject to all applicable laws and statutes, and/or rules, regulations, policies, resolutions and ordinances (hereinafter "Laws") adopted by the City, relating to the construction and use of the Public Right-of-Way, including, but not limited to the City's Use and Occupancy of the Public Right-of-Way Ordinance and amendments thereto, Codified at Chapter 13, Article 5 of the City Code, and the City's zoning and land use ordinances, to the extent such laws do not conflict with or are preempted by any Federal law or regulation.
- c. Grantee shall participate in the Kansas One Call utility location program.

SECTION 4. COMPENSATION TO THE CITY.

- a. In consideration of this Contract Franchise, Grantee agrees to remit to the City a franchise fee of 5.00% of Gross Receipts. To determine the franchise fee, Grantee shall calculate the Gross Receipts and multiply such receipts by 5.00%. Thereafter, subject to subsection (b) hereafter, compensation for each calendar year of the remaining term of this Contract franchise shall continue to be based on a sum equal to 5.00% of Gross Receipts, unless the City notifies Grantee prior to

ninety days (90) before the end of the calendar year that it intends to switch to an Access Line Fee in the following calendar year; provided, such Access Line Fee shall not exceed the maximum Access Line Fee allowed by Kansas Statute. In the event the City elects to change its basis of compensation, nothing herein precludes the City from switching its basis of compensation back; provided the City notifies Grantee prior to ninety days (90) before the end of the calendar year.

- b. Beginning January 1, 2004, and every thirty-six (36) months thereafter, the City, subject to the public notification procedures set forth in K.S.A. 12-2001(m), and amendments thereto, may elect to adopt an increased Access Line Fee or Gross Receipts fee subject to the provisions and maximum fee limitations contained in K.S.A. 12-2001, and amendments thereto, or may choose to decline all or any portion of any increase in the Access Line Fee.
- c. Grantee shall pay on a quarterly basis, without requirement for invoice or reminder from the City, and within forty-five (45) days of the last day of the quarter for which the payment applies, franchise fees due and payable to the City. If any franchise fee, or any portion thereof, is not postmarked or delivered on or before the due date, interest thereon shall accrue from the due date until received, at the applicable statutory interest rate.
- d. Upon written request by the City, but no more than once per quarter, Grantee shall submit to the City a statement, executed by an authorized officer of Grantee or his or her designee, showing the manner in which the franchise fee was calculated for the period covered by the payment.
- e. No acceptance by the City of any franchise fee shall be construed as an accord that the amount paid is in fact the correct amount, nor shall acceptance of any franchise fee payment be construed as a release of any claim of the City. Any dispute concerning the amount due under this Section shall be resolved in the manner set forth in K.S.A. 12-2001, and amendments thereto.
- f. The City shall have the right to examine, upon written notice to Grantee no more often than once per calendar year, those records necessary to verify the correctness of the franchise fees paid by Grantee, as provided in K.S.A. 12-2001(b).
- g. Unless previously paid, within sixty (60) days after the Effective Date of this Contract Franchise, Grantee shall pay to the City a one-time application fee of One Thousand Dollars (\$1,000.00). The parties agree that such fee reimburses the City for its reasonable, actual and verifiable costs of reviewing and approving this Contract Franchise.
- h. The franchise fee required herein shall be in addition to, not in lieu of, all taxes, charges, assessments, licenses, fees and impositions otherwise applicable that are or may be imposed by the City under K.S.A. 12-2001 and/or 17-1902, and amendments thereto. The franchise fee is compensation for use of the Public Right-of-Way and shall in no way be deemed a tax of any kind.
- i. Pursuant to K.S.A. 12-2001(n), the City is hereby exercising its option to require Grantee to collect and remit an Access Line (franchise) Fee or Gross Receipts (franchise) fee to the City on those Access Lines resold to another Telecommunications Local Exchange Service Provider. Accordingly, Grantee shall remit an Access Line (franchise) Fee or a Gross Receipts (franchise) fee to the City on those Access Lines that have been resold to another Telecommunications Local Exchange Service Provider, but in such case the City shall not collect a franchise fee from the reseller service provider and shall not require the reseller service provider to enter a contract franchise ordinance. Such Access Line (franchise) Fee or Gross Receipts (franchise) fee shall be in the same amount or percentage as the franchise fee set forth in subsection 4.a. hereinabove. Grantee shall notify the City in writing within seven (7) business days after the completion of any

agreement or other transaction through which Grantee agrees to allow another Telecommunications Local Exchange Service Provider to resell Grantee's services.

SECTION 5. INDEMNITY AND HOLD HARMLESS.

- a. It shall be the responsibility of Grantee to take adequate measures to protect and defend its Facilities in the Public Right-of-Way from harm or damage. If Grantee fails to accurately or timely locate Facilities when requested, in accordance with the Kansas Underground Utility Damage Prevention Act, K.S.A. 66-1801 *et seq.*, it has no claim for costs or damages against the City and its authorized contractors unless such parties are responsible for the harm or damage caused by their gross negligence or intentional conduct. The City and its authorized contractors shall be responsible to take reasonable precautionary measures including calling for utility locations and observing marker posts when working near Grantee's Facilities.
- b. Grantee shall indemnify and hold the City and its officers and employees harmless against any and all claims, lawsuits, judgments, costs, liens, losses, expenses, fees (including reasonable attorney fees and costs of defense), proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including personal or bodily injury (including death), property damage or other harm for which recovery of damages is sought, to the degree that it is found by a court of competent jurisdiction to be caused by the negligence, gross negligence or wrongful act of Grantee, any agent, officer, director, representative, employee, affiliate or subcontractor of Grantee, or its respective officers, agents, employees, directors or representatives, while installing, repairing or maintaining Facilities in the Public Right-of-Way.
- c. The indemnity provided by this Section does not apply to any liability to the extent such liability results from the negligence of the City, its officers, employees, contractors or subcontractors. If Grantee and the City are found jointly liable by a court of competent jurisdiction, liability shall be apportioned comparatively in accordance with the laws of this state without, however, waiving any governmental immunity available to the City under state law and without waiving any defenses of the parties under state or federal law. This section is solely for the benefit of the City and Grantee and does not create or grant any rights, contractual or otherwise, to any other person or entity.
- d. Grantee or City shall promptly advise the other in writing of any known claim or demand against Grantee or the City related to or arising out of Grantee's activities in the Public Right-of-Way.

SECTION 6. INSURANCE REQUIREMENT AND PERFORMANCE BOND.

- a. During the term of this Contract Franchise, Grantee shall obtain and maintain insurance coverage at its sole expense, with financially reputable insurers that are licensed, authorized, or permitted to do business in the State of Kansas. Grantee shall provide not less than the following insurance:
 - (1) Workers' compensation as provided for under any worker's compensation or similar law in the jurisdiction where any work is performed with an employers' liability limit equal to the amount required by law.
 - (2) Commercial general liability, including coverage for contractual liability and products completed operations liability on an occurrence basis and not a claims-made basis, with a limit of not less than Two Million Dollars (\$2,000,000.00) combined single limit per occurrence for bodily injury (including death), personal injury and property damage. The City shall be included as an additional insured with respect to liability arising from Grantee's operations under this Contract Franchise.

- b. Grantee shall, as a material condition of this Contract Franchise, prior to the commencement of any work and within fifteen (15) days of any renewal thereof, deliver to the City a certificate of insurance reasonably satisfactory in form and content to the City, evidencing that the above insurance is in force. Grantee will provide notice to the city not less than thirty (30) days prior to any insurance cancellation or material change with respect to areas and entities without first giving the City thirty (30) days prior written notice. Grantee shall provide to the City at Grantee's office in the city or Grantee's nearest office to the City, on request for the City's inspection, the policy declarations page and a certified copy of the policy in effect, so that limitations and exclusions can be evaluated for appropriateness of overall coverage.
- c. Grantee shall, as a material condition of this Contract Franchise, prior to the commencement of any work and prior to any renewal thereof, deliver to the City a performance bond in the amount of \$50,000.00, payable to the City to ensure the appropriate and timely performance in the construction and maintenance of Facilities located in the Public Right-of-Way. The required performance bond must be with good and sufficient sureties, issued by a surety company authorized to transact business in the State of Kansas, and satisfactory to the City in form and substance.

SECTION 7. REVOCATION AND TERMINATION.

In case of failure on the part of Grantee to comply with any of the provisions of this Contract Franchise, or if Grantee should do or cause to be done any act or thing prohibited by or in violation of the terms of this Contract Franchise, Grantee shall forfeit all rights, privileges and franchise granted herein, and all such rights, privileges and franchise hereunder shall cease, terminate and become null and void, and this Contract Franchise shall be deemed revoked or terminated, provided that said revocation or termination, shall not take effect until the City has completed the following procedures:

- a. Before the City proceeds to revoke and terminate this Contract Franchise, it shall first serve a written notice upon Grantee, setting forth in detail the neglect or failure complained of, and Grantee shall have sixty (60) days thereafter in which to comply with the conditions and requirements of this Contract Franchise.
- b. If at the end of such sixty (60) day period the City deems that the conditions have not been complied with, the City shall take action to revoke and terminate this Contract Franchise by an affirmative vote of the governing body of the City present at the meeting and voting, setting out the grounds upon which this Contract Franchise is to be revoked and terminated; provided, to afford Grantee due process, Grantee shall first be provided reasonable notice of the date, time and location of the governing body's consideration, and shall have the right to address the governing body regarding such matter.
- c. Upon any determination by the City Council to revoke and terminate this Contract Franchise, Grantee shall have thirty (30) days to appeal such decision to the District Court of Johnson County, Kansas. This Contract Franchise shall be deemed revoked and terminated at the end of this thirty (30) day period, unless Grantee has instituted such an appeal. If Grantee does timely institute such an appeal, such revocation and termination shall remain pending and subject to the court's final judgment. Provided, however, that the failure of Grantee to comply with any of the provisions of this Contract Franchise or the doing or causing to be done by Grantee of anything prohibited by or in violation of the terms of this Contract Franchise shall not be a ground for the revocation or termination thereof when such act or omission on the part of Grantee is due to any cause or delay beyond the control of Grantee or to bona fide legal proceedings.

Nothing herein shall prevent the City from invoking any other remedy that may otherwise exist at law.

SECTION 8. RESERVATION OF RIGHTS.

- a. The City specifically reserves its right and authority as a customer of Grantee and as a public entity with responsibilities towards its citizens, to participate to the full extent allowed by law in proceedings concerning Grantee's rates and services to ensure the rendering of efficient Telecommunications Services and any other services at reasonable rates, and the maintenance of Grantee's property in good repair.
- a. In granting its consent hereunder, the City does not in any manner waive its regulatory or other rights and powers under and by virtue of the laws of the State of Kansas as the same may be amended, or under the Constitution of the State of Kansas (including but not limited to the City's "home rule" authority), nor any of its rights and powers under or by virtue of present or future ordinances of the City.
- b. In entering into this Contract Franchise, neither the City's nor Grantee's present or future legal rights, positions, claims, assertions or arguments before any administrative agency or court of law are in any way prejudiced or waived. By entering into the Contract Franchise, neither the City nor Grantee waive any rights, but instead expressly reserve any and all rights, remedies, and arguments the City or Grantee may have at law or equity, without limitation, to argue, assert, and/or take any position as to the legality or appropriateness of any present or future laws, non-franchise ordinances and/or rulings.

SECTION 9. FAILURE TO ENFORCE.

The failure of either the City or the Grantee to insist in any one or more instances upon the strict performance of any one or more of the terms or provisions of this Contract Franchise shall not be construed as a waiver or relinquishment for the future of any such term or provision, and the same shall continue in full force and effect. No waiver or relinquishment shall be deemed to have been made by the City or the Grantee unless said waiver or relinquishment is in writing and signed by both the City and the Grantee.

SECTION 10. TERM AND TERMINATION DATE.

- a. This Contract Franchise shall be effective for a term beginning on the Effective Date (defined below) of this Contract Franchise and ending on that date which is ten (10) years thereafter.
- b. Upon written request of either the City or Grantee, this Contract Franchise shall be renegotiated at any time in accordance with the requirements of state law upon any of the following events: changes in federal, state, or local laws, regulations, or orders that materially affect any rights or obligations of either the City or Grantee, including but not limited to the scope of the Contract Franchise granted to Grantee or the compensation to be received by the City hereunder.
- c. If any clause, sentence, section, or provision of K.S.A. 12-2001, and amendments thereto, shall be held to be invalid by a court or administrative agency of competent jurisdiction, provided such order is not stayed, either the City or Grantee may elect to terminate the entire Contract Franchise. In the event of such invalidity, if Grantee is required by law to enter into a Contract Franchise with the City, the parties agree to act in good faith in promptly negotiating a new Contract Franchise.
- d. Amendments under this Section, if any, shall be made by Contract Franchise ordinance as prescribed by statute. This Contract Franchise shall remain in effect according to its terms, pending completion of any review or renegotiation provided by this section.

- e. In the event the parties are actively negotiating in good faith a new Contract Franchise ordinance or an amendment to this Contract Franchise upon the termination date of this Contract Franchise, the parties by written mutual agreement may extend the termination date of this Contract Franchise to allow for further negotiations. Such extension period shall be deemed a continuation of this Contract Franchise and not as a new contract franchise ordinance or amendment.

SECTION 11. POINT OF CONTACT AND NOTICES.

Grantee shall at all times maintain with the City a local point of contact who shall be available at all times to act on behalf of Grantee in the event of an emergency. Grantee shall provide the City with said local contact's name, address, telephone number, fax number and e-mail address. Emergency notice by Grantee to the City may be made by telephone to the City Administrator or the Public Works Director. All other notices between the parties shall be in writing and shall be made by personal delivery, depositing such notice in the U.S. Mail, Certified Mail, return receipt requested, or by facsimile. Any notice served by U.S. Mail or Certified Mail, return receipt requested, shall be deemed delivered five (5) calendar days after the date of such deposit in the U.S. Mail unless otherwise provided. Any notice given by facsimile is deemed received by the next business day. "Business day" for purposes of this section shall mean Monday through Friday, City and/or Grantee observed holidays excepted.

To the City:

City of Prairie Village, Kansas
7700 Mission Road
Prairie Village, Kansas 66208
Attn: City Administrator

To Grantee:

MCImetro Access Transmission Services Corp.
d/b/a Verizon Access Transmission Services,
600 Hidden Ridge, Mailcode: HQE02E102
Irving, TX 75038
Attn: Franchise Manager,

With copy to (except for invoices) (which copy will not constitute notice):

Verizon Business Services, Inc.
1320 N. Courthouse Road, Suite 900, Arlington, VA 22201
Attn: General Counsel, Network & Technology.

or to replacement addresses that may be later designated in writing.

SECTION 12. TRANSFER AND ASSIGNMENT.

This Contract Franchise is granted solely to the Grantee and shall not be transferred or assigned without the prior written approval of the City; provided that such transfer or assignment may occur without written consent of the City to a wholly owned parent or subsidiary, or between wholly owned subsidiaries, or to an entity with which Grantee is under common ownership or control, upon written notice to the City. In the event of any transfer or assignment of either this Contract Franchise or Grantee's business or assets, Grantee shall: timely notify the City of the successor entity; provide a point of contact for the successor entity; and advise the City of the effective date of the transfer or assignment. Additionally, Grantee's obligations under this Contract Franchise with regard to indemnity, bonding and insurance shall continue until the transferee or assignee has taken the appropriate measures necessary to assume and replace the same, the intent being that there shall be no lapse in any coverage as a result of the transfer or assignment. In the event an entity acquires substantially all of the assets of Grantee, said successor entity shall be allowed to operate under this Contract Franchise for up to one hundred and eighty days from the date of transfer; provided, within thirty (30) days from the date of transfer said successor entity makes application with the City for either a new ordinance or the transfer of this Contract Franchise, and provides the City with written evidence satisfying the obligations under this Contract Franchise with regard to indemnity, bonding and insurance.

SECTION 13. CONFIDENTIALITY.

Information provided to the City under this Contract Franchise or K.S.A. 12-2001 shall be governed by confidentiality procedures in compliance with K.S.A. 45-215, 60-432, and 66-1220a, *et seq.*, and amendments thereto. Grantee agrees to indemnify and hold the City harmless from any and all penalties or costs, including attorneys' fees, arising from the actions of Grantee, or of the City, at the request of Grantee, in seeking to safeguard the confidentiality of information provided by Grantee to the City under this Contract Franchise.

SECTION 14. ACCEPTANCE OF TERMS.

Grantee shall have sixty (60) days after the final passage and approval of this Contract Franchise to file with the City Clerk its acceptance in writing of the provisions, terms and conditions of this Contract Franchise, which acceptance shall be duly acknowledged before some officer authorized by law to administer oaths; and when so accepted, this Contract Franchise and acceptance shall constitute a contract between the City and Grantee subject to the provisions of the laws of the state of Kansas, and such contract shall be deemed effective on the later of the date Grantee files acceptance with the City or publication of this Contract Franchise in accordance with applicable Laws (the "Effective Date").

SECTION 15. PAYMENT OF PUBLICATION COSTS.

In accordance with Kansas statute, Grantee shall be responsible for payment of all costs and expense of publishing this Contract Franchise, and any amendments thereof.

SECTION 16. SEVERABILITY.

If any clause, sentence, or section of this Contract Franchise, or any portion thereof, shall be held to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remainder, as a whole or any part thereof, other than the part declared invalid; provided, however, the City or Grantee may elect to declare the entire Contract Franchise invalidated if the portion declared invalid is, in the judgment of the City or Grantee, an essential part of the Contract Franchise.

SECTION 17. FORCE MAJEURE.

Each and every provision hereof shall be reasonably subject to acts of God, fires, strikes, riots, floods, war and other disasters beyond Grantee's or the City's control.

SECTION 18. AMENDMENT OF ORIGINAL CONTRACT FRANCHISE.

Ordinance No. 2377 granting MCImetro Access Transmission Services Corp., a Delaware corporation, d/b/a Verizon Access Transmission Services, a contract franchise to construct, operate, and maintain a telecommunications system in the City is hereby amended and restated as set forth in this Ordinance No. 2377A.

PASSED by the City Council of the City of Prairie Village, Kansas on _____, 2019.

APPROVED:

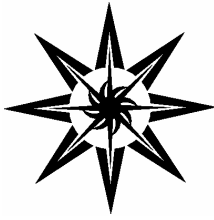
Eric T. Mikkelson, Mayor

ATTEST:

Adam Geffert, City Clerk

APPROVED AS TO LEGAL FORM:

David E. Waters, City Attorney



PUBLIC WORKS DEPARTMENT

Council Meeting Date: January 22, 2019

CONSIDER AGREEMENT WITH THE MID-AMERICA REGIONAL COUNCIL FOR FUNDING OPERATIONS OF OPERATION GREEN LIGHT TRAFFIC CONTROL SYSTEMS IN PRAIRIE VILLAGE FOR 2019 AND 2020

RECOMMENDATION

Move to approve the agreement with the Mid-America Regional Council (MARC) for funding operations of Operation Green Light Traffic Control Systems (OGL) in Prairie Village for 2019 and 2020 in the amount of \$8,100.00.

BACKGROUND

Since early 2002, we have been part of a project with the Mid-America Regional Council (MARC) to construct a regional arterial traffic signal coordination system. This coordinating system is intended to alleviate traffic congestion caused by weather, accidents or construction to improve the traffic operational efficiency, air quality and monetary savings through consolidated and coordinated operation of traffic signals along the arterial corridors. The system includes five signals on 75th Street that are Prairie Village Signals, two signals on 75th Street that are shared with Overland Park, and four signals on 95th Street that are shared with Overland Park. The attached agreement is the sixth agreement to date related to OGL. These agreements are summarized below.

OGL Agreement 1 (2003)-	For initial design and committed \$14,585 in City Funds
OGL Agreement 2 (2006)-	For final design and construction and committed \$20,849 in City Funds.
OGL Agreement 3 (2010)-	For operational costs and committed \$24,860.06 in City funds.
OGL Agreement 4 (2014)-	For operational costs for 2015 and 2016 and committed \$10,800 in City Funds
OGL Agreement 5 (2016)-	For operational costs for 2017 and 2018 and committed \$10,800 in City Funds. This agreement is essentially the same agreement executed in 2014.
OGL Agreement 6 (2019)-	For operational costs for 2019 and 2020 and commits \$8,100.00 in City Funds. The agreement is essentially the same as the agreement in 2016 but is was modified to include all OGL partners.

This agreement is for 2 years.

The \$8,100 in City Funds for operation is only 50% of the actual operations and maintenance costs, the other 50% is paid for by Surface Transportation Project (STP) Federal funds that are coordinated through MARC.

FUNDING SOURCE

Funding is available in the Streets Operating Account.

ATTACHMENTS

1. Agreement with MARC for funding of OGL's operational costs.
2. Operation Green Light Information Sheet

PREPARED BY

Keith Bredehoeft, Public Works Director

January 16, 2019

**COOPERATIVE AGREEMENT
FOR FUNDING OPERATIONS OF OPERATION GREEN LIGHT
TRAFFIC CONTROL SYSTEM**

THIS COOPERATIVE AGREEMENT FOR FUNDING OPERATIONS OF OPERATION GREEN LIGHT TRAFFIC CONTROLS SYSTEM (this "Agreement") is made and entered into by and between Mid-America Regional Council ("MARC"), a consortium of cities in the nine county Kansas City Metropolitan Area, a Regional Planning Commission and a Missouri not for profit corporation and the City of Bonner Springs, Kansas; the City of Fairway, Kansas; the City of Lansing, Kansas; the City of Leavenworth, Kansas; the City of Leawood, Kansas; the City of Lenexa, Kansas; the City of Merriam, Kansas; the City of Mission, Kansas; the City of Mission Woods, Kansas; the City of Olathe, Kansas; the City of Overland Park, Kansas; the City of Prairie Village, Kansas; the City of Shawnee, Kansas; the City of Westwood, Kansas; and the Unified Government of Wyandotte County, Kansas City, Kansas (collectively, the "Member Agencies" or "Member Agency").

WHEREAS, MARC performed a feasibility study "*Operation Green Light Feasibility Report, June 2000*" (the "Feasibility Report"), which created a regional arterial traffic signal coordination system known as "Operation Green Light" ("OGL"), for the Kansas City Urban Area; and

WHEREAS, the Strategic Plan 2017-2020 established the vision, mission, objectives, and goals of the program; and

WHEREAS, improvement in traffic operational efficiency, air quality, and monetary savings to the Member Agencies and the public can be realized from a consolidated management approach of coordinated traffic signal control along arterial corridors in the roadway systems of each Member Agency; and

WHEREAS, several Missouri agencies and political subdivisions are contracting with MARC to participate in OGL for coordination in the Missouri portions of the Kansas City Urban Area; and

WHEREAS, the Kansas Department of Transportation ("KDOT") is also contracting with MARC to participate in OGL; and

WHEREAS, the Member Agencies which are political subdivisions or agencies of the State of Kansas are authorized pursuant to the provisions of Section 12-2908 of the Kansas Statutes Annotated to enter into cooperative agreements for the purpose of coordinating traffic signals between and within the Jurisdictional Boundaries of the Member Agencies; and

WHEREAS, each Member Agency has agreed to enter into an agreement to fund the cost of operating such a Regional Traffic Control System, and to mutually cooperate regarding the operation of the same; and

NOW, THEREFORE, in consideration of the covenants and conditions herein set forth, MARC and the Member Agencies (collectively, the "Parties") mutually agree as follows:

Sec. 1. STATUTORY AUTHORITY. Pursuant to the authority set forth in K.S.A. 12-2908 the parties enter into this Agreement for the funding of the operations of the Regional Traffic Control System for the purpose of coordinating traffic signals within the Jurisdictional Boundaries of the Member Agencies from a regional perspective.

Sec. 2. DEFINITIONS. As used in this Agreement, and Exhibit 1 through Exhibit 6, attached hereto and incorporated herein by this reference, the following words shall have the meanings set forth herein:

Exhibit 1 – Steering Committee Document

Exhibit 2 – Scope of Services

Exhibit 3 – Compensation

Exhibit 4 – Insurance Requirements

Exhibit 5 – Ownership Matrix

Exhibit 6 – Concept of Operations

Communications Network – all telecommunication infrastructure between Regional Traffic Management Centers and Traffic Signal Controllers which are a part of the Regional Traffic Control System.

Jurisdictional Boundaries – the geographical boundaries of the governmental entities acting as political subdivisions of the States of Kansas.

Jurisdictional Control Center – the site or location designated by the Member Agency containing various equipment, computer hardware, and computer software capable of controlling and coordinating all Traffic Signal Controllers located within the Jurisdictional Boundaries of the Member Agency.

Member Agencies – agencies that have entered into an agreement with MARC to participate in funding the cost of design, construction, and operations of the Regional Traffic Control System.

Private Firms – any private firm or firms engaged by MARC to perform or provide any services, directly or indirectly, related to the operations of the Regional Traffic Control System (including, without limitation, design services provided for on-going operations), as more particularly set forth in Exhibit 2.

Regional Traffic Control System – an array of components including Traffic Signal Controllers, wireless and wireline telecommunications equipment, interface units, computer hardware and software, digital storage media, operator's console, peripherals, and other related devices designed to monitor, control, and coordinate traffic movements at signalized intersections according to a given or developed plan.

Regional Traffic Management Center – the site or location designated by the Steering Committee containing various equipment, computer hardware, and computer software capable of controlling and coordinating the Regional Traffic Control System. The

Regional Traffic Management Center is sometimes referred to herein and in the Exhibits as the Traffic Operations Center (“TOC”).

Steering Committee – that committee created for the purpose of assisting and advising MARC with respect to the plans, specifications, construction, installation, and operation of the Regional Traffic Control System and consisting of voting representatives from the Member Agencies, KDOT and participating agencies and political subdivisions of the State of Missouri which have entered into similar agreements with MARC regarding OGL. The membership structure and policy are set forth in Exhibit 1.

Traffic Signal Controller – a complete electrical mechanism responsible for traffic signal control and operation at an individual intersection.

Sec. 3. RESPONSIBILITIES OF PARTIES.

(a) MARC. MARC is hereby designated the administrator and is by virtue of this designation responsible for administering this cooperative undertaking. As administrator, MARC shall perform or cause to be performed the services set forth in Exhibit 2.

(b) Member Agencies. In addition to the obligations set forth in this Agreement, the Member Agencies shall each also perform all the obligations set forth in the document entitled “OGL Concept of Operations: Roles and Responsibilities”, attached hereto as Exhibit 6. Furthermore, the Member Agencies each individually agree that they shall not interfere with MARC’s exercise of its obligations under this Agreement, including, but not limited to MARC’s deployment of the regional signal timing and on-going operations of the Regional Traffic Control System.

Sec. 4. SHARE OF COSTS. Subject to the conditions set forth in this Agreement, the Member Agencies shall each make payment to MARC the sum set forth in Exhibit 3, which is attached hereto and incorporated by reference as if fully set forth herein. The cost associated with Member Agencies represent each individual agency’s share of the cost for the maintenance and operation of the Regional Traffic Control System, as set forth in said Exhibit 3. The “Operation Green Light Location/ Ownership Matrix” set forth in Exhibit 5 identifies the location and ownership of the software, hardware, and other components comprising the Regional Traffic Control System.

Sec. 5. SHARING INFORMATION. MARC shall share information related to the maintenance and operation of the Regional Traffic Control System with the Member Agencies, KDOT and participating agencies and political subdivisions of the State of Missouri and the Member Agencies shall cooperate in sharing information among themselves, KDOT, with the participating agencies and political subdivisions of the State of Missouri and with MARC necessary for the on-going maintenance and operation of the Regional Traffic Control System.

Sec. 6. SEVERABILITY. Should any provision hereof for any reason be deemed or ruled illegal, invalid, or unconstitutional by any court of competent jurisdiction, no other provision of this Agreement shall be affected; and this Agreement shall then be construed and enforced as if such illegal or invalid or unconstitutional provision had not been contained herein.

Sec. 7. AUTONOMY. No provision of this Agreement shall be constructed to create any type of joint ownership of any property, any partnership or joint venture, or create any other rights or liabilities except as may be otherwise expressly set forth herein.

Sec. 8. EFFECTIVE DATE. The effective date of this Agreement shall be upon complete execution by the Parties.

Sec. 9. TERMINATION FOR CONVENIENCE. Any party to this Agreement may terminate this Agreement by giving one hundred eighty (180) days' written notice to the other party. Financial obligations will be honored up to the effective date of termination. A Member Agency that terminates this Agreement may no longer be granted access to the Regional Traffic Control System. Costs may be incurred by the Member Agency terminating the Agreement for MARC to uninstall or transfer ownership of network equipment owned by MARC.

Any party or parties' unilateral decision to terminate their participation in this Agreement shall not affect the rights of the other parties to continue cooperation under this Agreement, and this Agreement shall continue to be in effect for all parties not-exercising rights to terminate their participation in this Agreement.

Sec. 10. MERGER. This Agreement constitutes the entire agreement between the parties with respect to this subject matter.

Sec. 11. NO AUTHORITY ON BEHALF OF OTHER PARTIES. This agreement does not give any party hereto authority to take any action or execute any documents on behalf of any other party to this Agreement.

Sec. 12. COMPLIANCE WITH LAWS. All parties to this Agreement shall comply with and shall require any Private Firms contracted pursuant to this Agreement to comply with all federal, state, and local laws, ordinances, and regulations applicable to the work and this Agreement.

Sec. 13. DEFAULT AND REMEDIES. If any party of this Agreement is in Default or breach of any provision of this Agreement, any non-defaulting party may terminate their participation and cooperation in this Agreement, withhold payment, or invoke any other legal or equitable remedy after giving written notice and opportunity to correct such default or breach within thirty (30) days of receipt of such notice; provided, however, if such default or breach cannot be cured within thirty (30) days, then any non-defaulting party shall notify the party in default in writing and commence to cure within thirty (30) days.

Any party or parties' unilateral decision to terminate their participation in this Agreement shall not affect the rights of the other parties to continue cooperation under this Agreement, and this Agreement shall continue to be in effect for all parties not-exercising rights to terminate their participation in this Agreement.

Sec. 14. WAIVER. Waiver by the any party to this Agreement of any term, covenant, or condition hereof shall not operate as a waiver of any subsequent breach of the same or of any other term, covenant, or condition. No term, covenant, or condition of this Agreement can be waived except by written consent of all of the Parties to this Agreement, and forbearance or indulgence by any party to this Agreement in any regard whatsoever shall not constitute a waiver of same to be

performed by said party to which the same may apply and, until complete performance of the term, covenant, or condition, the Parties to this Agreement shall be entitled to invoke any remedy available to it under this Agreement or by law despite any such forbearance or indulgence.

Sec. 15. MODIFICATION. Unless stated otherwise in this Agreement, no provision of this Agreement may be waived, modified, or amended except in writing signed by each party to this Agreement; provided, however, the Exhibits to this Agreement may be modified by agreement of a majority vote of the Steering Committee without each Member Agency approving and executing an amendment to this Agreement.

Sec. 16. HEADINGS; CONSTRUCTION OF AGREEMENT. The headings of each section of this Agreement are for reference only. Unless the context of this Agreement clearly requires otherwise, all terms and words used herein, regardless of the number and gender in which used, shall be construed to include any other number, singular or plural, or any other gender, masculine, feminine, or neuter, the same as if such words had been fully and properly written in that number or gender.

Sec. 17. AUDIT. Each Member Agency shall have the right to audit this Agreement and all books, documents, and records relating thereto upon written request to MARC. MARC shall maintain all its books, documents, and records relating to this Agreement and any contract during the period of this Agreement for three (3) years after the date of final payment of the contract or this Agreement, whichever expires last. The books, documents, and records shall be made available for any and each of the Member Agencies' review within fifteen (15) business days after the written request is made.

Sec. 18. AFFIRMATIVE ACTION; NON-DISCRIMINATION.

(a) MARC shall require Private Firms to establish and maintain for the term of this Agreement an Affirmative Action Program in accordance with the provisions of Title VI of the Civil Rights Act of 1964, as amended. More specifically, any third party firm will comply with the applicable regulations of the U. S. Department of Transportation ("USDOT") relative to non-discrimination in federally assisted programs of the USDOT, as contained in 49 C.F.R. 21 through Appendix H and 23 C.F.R. 710.405, which are herein incorporated by reference and made a part of this Agreement.

(b) During the performance of this Agreement or any subcontract resulting thereof, MARC, Private Firms, and all subcontractors and vendors (the Private Firms, together with all subcontractors and vendors, shall for purposes of this Section 18 be collectively referred to as the "Other Contractor Parties") shall observe the provisions of the Kansas Acts Against Discrimination (K.S.A. 44-1001 et seq.) and Title VII of the Civil Rights Act of 1964 as amended and shall not discriminate against any person in the performance of work under the Agreement because of race, religion, color, sex, national origin, age, disability, ancestry, veteran status, or low income. In all solicitations or advertisements for employees, MARC and the Other Contractor Parties shall include the phrase "equal opportunity employer" or a similar phrase to be approved by the Kansas Human Rights Commission ("Commission"). If MARC fails to comply with the manner in which MARC reports to the Commission in accordance with the provisions of K.S.A. 44-1031 and amendments thereto, or if MARC is found guilty of a violation

of the Kansas Act Against Discrimination under a decision or order of the Commission which has become final, MARC shall be deemed to have breached this Agreement, and this Agreement may be canceled, terminated, or suspended, in whole or in part, by any of the Member Agencies.

(c) MARC shall abide by the Kansas Age Discrimination In Employment Act (K.S.A. 44-1111 et seq.) and the applicable provisions of the Americans With Disabilities Act (42 U.S.C. 1201 et seq.), as well as all other federal, state, and local laws, ordinances, and regulations applicable to this project, and shall furnish any certification required by any federal, state, or local laws, ordinances, and regulations applicable to this project and shall furnish any certification required by any federal, state, or local governmental agency in connection therewith.

(d) MARC shall include the provisions of paragraphs (b) through (c) above in every subcontract so that such provisions will be binding upon such subcontractor or vendor.

Sec. 19. ASSIGNABILITY OR SUBCONTRACTING. MARC shall not subcontract, assign, or transfer any part or all of MARC's obligations or interests without the Member Agencies prior approval which shall not be unreasonably delayed or withheld. If MARC shall subcontract, assign, or transfer any part or all of MARC's interests or obligations under this Agreement without the prior approval of the Member Agencies, it shall constitute a material breach of this Agreement.

Sec. 20. CONFLICTS OF INTEREST. MARC shall require its Private Firms to certify that no officer or employee of any of the Member Agencies, or no spouse of such officer or employee, has or will have a direct or indirect financial or personal interest in this Agreement or any other related agreement, and that no officer or employee of any of the Member Agencies, or member of such officer's or employee's immediate family, either has negotiated, or has or will have an arrangement, concerning employment to perform services on behalf of MARC or its Private Firms in this Agreement or any other related agreement.

Sec. 21. RULES OF CONSTRUCTION. The judicial rule of construction requiring or allowing an instrument to be construed to the detriment of or against the interests of the maker thereof shall not apply to this Agreement.

Sec. 22. NOTICE. Any notice to a party in connection with this Agreement shall be made in writing at the following address or such other address, as the party shall designate in writing:

MARC
Attention: Director, Mid-America Regional Council
600 Broadway, Suite 200
Kansas City, Missouri 64105

**For notices to each Member Agency, see the signature page(s) as they relate to each Member Agency.*

Sec. 23. GOVERNING LAW. This Agreement shall be construed and governed in accordance with the law of the State of Kansas. Any action in regard to this Agreement or arising out of its terms and conditions must be instituted and litigated in the courts of the State of Kansas, and in

no other. The Parties submit to the jurisdiction of the courts of the State of Kansas and waive venue.

Sec. 24. INDEMNIFICATION BY PRIVATE FIRMS. MARC shall require its Private Firms (including, without limitation, any design professionals) to defend, indemnify, and hold harmless the Member Agencies and any of its agencies, officials, officers, agents or employees from and against all claims, damages, liabilities, losses, costs, and expenses, including reasonable attorney fees, arising out of any negligent acts or omissions in connection with the services performed pursuant to this Agreement (including, without limitation, professional negligence), caused by a Private Firm, its employees, agents, contractors, or caused by others for whom the Private Firm is liable. Notwithstanding the foregoing, the Private Firm is not required under this section to indemnify the Member Agencies for the negligent acts of a Member Agency or any of its agencies, officials, officers, or employees.

Sec. 25. INSURANCE. MARC and any Private Firms retained by MARC shall maintain the types and amounts of insurance set forth in Exhibit 4; provided, however, the limits set forth in Exhibit 4 are the minimum limits and MARC may carry higher limits as it may deem necessary, in its discretion, or as may be required by other Member Agencies.

Sec. 26. INITIAL TERM; RENEWAL OF TERM. The initial term of this Agreement shall be two (2) years ("Term") unless sooner terminated in accordance with Section 9 of this Agreement. The Term of this Agreement shall automatically renew for one (1) additional two (2) year period (the "Renewal Term") on the same terms and conditions as set forth herein; provided, the Term shall not automatically renew as to each individual member agency if such member agency provides written notice to MARC of its intention not to renew within one hundred eighty (180) days prior to the expiration of the Term.

Sec. 27. CASH BASIS LAW & UNFUNDED OBLIGATIONS. This Agreement is subject to the Kansas Cash Basis Law, K.S.A. 10-1101 et seq. and amendments thereto as it applies to Member Agencies which are agencies or political subdivisions of the State of Kansas. Any automatic renewal of the terms of the Agreement shall create no legal obligation on the part of the Member Agencies. This Agreement shall be construed and interpreted so as to ensure that the Member Agencies shall at all times stay in conformity with such laws and, as a condition of this Agreement, each member agency reserves the right to unilaterally sever, modify, or terminate its participation in this Agreement at any time if, in the opinion of its legal counsel, the Agreement is deemed to violate the terms of the Kansas Cash Basis Law to the extent it prohibits unfunded obligations. The Member Agencies are obligated only to pay periodic payments or monthly installments under the Agreement as may lawfully be made from: (a) funds budgeted and appropriated for that purpose during the Member Agencies' current budget year, or (b) funds made available from any lawfully operated revenue producing source.

Sec. 28. EXECUTION IN MULTIPLE COUNTER PARTS. This Agreement may be executed by the parties in multiple counterparts which shall be taken together as one complete document.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, each party hereto has executed this Agreement on the day and year herein written.

MID-AMERICA REGIONAL COUNCIL

By: [Signature]

Title: EXECUTIVE DIRECTOR

Date: 12-4-18

ACKNOWLEDGMENT

STATE OF MISSOURI)
) ss
COUNTY OF JACKSON)

On this 4 day of DECEMBER, 2018, before me, the undersigned, a Notary Public, appeared DAVID A. WATZEL, to me personally known, or proved to me on the basis of satisfactory evidence, who, being by me duly sworn, did say that he is the Executive Director of Mid-America Regional Council ("MARC") and that this foregoing instrument was signed and sealed on behalf of MARC by authority of its Board, and said officer acknowledged said instrument to be executed for the purposes therein stated and as the free act and deed of MARC.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year last above written.

[Signature]

Printed Name Nancy Weitzel Burry
Notary Public - State of Missouri
Commissioned in Jackson County

My commission expires:
NANCY WEITZEL-BURRY
Notary Public, State of Missouri
Jackson County
Commission # 13414121
My Commission Expires July 28, 2021

***Notices:** Notices pursuant to this Agreement to PRAIRIE VILLAGE, KS shall be sent to:

City of Prairie Village
Attention: Keith Bredehoeft, Public Works Director
7700 Mission Road
Prairie Village, Kansas 66208

EXECUTION OF AGREEMENT

PRAIRIE VILLAGE, KS

By: _____
[PRINTED NAME]
[TITLE]

Date: _____

Attest:

Clerk

APPROVED AS TO FORM:

ACKNOWLEDGMENT

STATE OF KANSAS)
) ss.
COUNTY OF _____)

On this ____ day of _____, 201__, before me, the undersigned, a Notary Public, appeared _____, to me personally known, or proved to me on the basis of satisfactory evidence, who, being by me duly sworn, did say that he is the Mayor of the City of _____, Kansas, and that the foregoing officer acknowledged said instrument to be executed for the purposes therein stated and as the free act and deed of said City.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year last above written.

Printed Name: _____
Notary Public – State of Kansas
Commissioned in _____

My commission expires:

EXHIBIT 5

Operation Green Light Location / Ownership Matrix

Component	Location	Purchased By	Owned By	Maintained By	Comments
Software/Firmware					
TransSuite & Associated Software	OGL TOC	MARC	MARC	MARC*	
Genetec Video System	OGL TOC	MARC	MARC	MARC*	Available for use by local agencies
Other software used by MARC staff	OGL TOC	MARC	MARC	MARC*	
Computer Hardware					
OGL TOC Servers	OGL TOC	MARC	MARC	MARC*	
OGL TOC Workstations	OGL TOC	MARC	MARC	MARC*	
Agency TOC Servers	Local Agency	Local Agency	Local Agency	Local Agency	
Agency TOC Workstations	Local Agency	Local Agency	Local Agency	Local Agency	
Field Hardware					
OGL Field Network Equipment	Field	MARC	MARC	MARC*	
Local Agency Field Network Equipment	Field	Local Agency	Local Agency	Local Agency	Extension of City network
Existing Closed-Loop fiber re-tasked to OGL Network	Field	Local Agency	Local Agency	Local Agency	OGL owns switches to manage
Traffic Signal Controllers	Field	MARC/Local Agency	Local Agency	Local Agency	OGL purchased controllers only for original build-out
OGL-purchased Closed Circuit Camera	Field	MARC	Local Agency	Local Agency	
Miscellaneous					
OGL TOC Office	MoDOT KC District	MoDOT	MoDOT	MoDOT	
OGL TOC Phone System	OGL TOC	MoDOT	MoDOT	MoDOT	
OGL TOC Office Furniture & Equipment	OGL TOC	MARC	MARC	MARC*	
OGL Vehicles & Mobile Equipment	OGL TOC	MARC	MARC	MARC*	

* MARC maintained components to be maintained by joint-funded agreement

Exhibit 6

OGL Concept of Operations: Roles and Responsibilities

Introduction

Operation Green Light (OGL) is a regional initiative to improve traffic flow and reduce vehicle emissions by coordinating traffic signals on major roadways in the Kansas City metropolitan area. OGL is a cooperative effort of the Mid-America Regional Council (MARC), state departments of transportation and local agencies working together to coordinate traffic signal timing plans and communication between traffic signal equipment across jurisdictional boundaries.

The concept of operations provides a high-level overview of the roles and responsibilities of the agencies participating in the operation and management of OGL. The concept of operations is intended to balance the need for standardization and uniformity of operations on OGL routes with the need to be responsive to the unique needs and circumstances of the agencies participating in OGL.

Signal Timing

Initial Deployment of Regional Timing Plans

The member agencies will partner with MARC and each other in developing regional traffic signal timing plans. In order to facilitate this work each member agency will provide MARC traffic counts and other relevant, available data for traffic signals that are part of regionally significant traffic corridors that pass through adjacent cities. This information may include;

- Existing timing plans and data in the existing traffic controller (controller data sheets)
- Intersection geometry via aerial mapping
- Signal phasing information (or policy)
- Historical traffic count information available
- Approved yellow and all-red clearance intervals (or policy)
- Pedestrian timing (or policy)
- Signal phasing policy (lead only/lead-lag/vary lead-lag by time-of-day)
- Historical citizen complaints on the intersection operation as needed

After providing data to MARC, each member agency will then work with MARC to cooperatively develop regionally optimized timing plans. The member agency will continue to be responsible for maintenance of timing plans for traffic signals that lie wholly within the member agency's jurisdictional boundaries and are not on OGL corridors unless the member agency decides to contract this work to MARC. The steps involved in the development of regional timing plans are:

- The member agency will either collect traffic counts on the arterials for signals maintained by the member agency and provide this information to MARC OR will contract with MARC to collect traffic counts as needed.
- In conjunction with member agency staff, MARC will conduct travel-time studies and speed profile studies on the arterial prior to implementation of the timing plans
- MARC may hold design meetings with representatives from the member agencies and other impacted agencies. At the first of these meetings the following items will be established
 - Number of timing plans and time of use (i.e., am, noon, pm, off-peaks, etc.)
 - Critical intersections of a corridor
 - An initial common corridor cycle length for each of the plans identified (i.e. am,



pm, etc.) [Note: this cycle length may need to be revisited after developing the regional timing plan.]

- The member agency will then develop the following initial parameters for individual signals maintained by the member agency for each of the timing plans to be developed, and submit them to MARC for review and incorporation into regional plans for the OGL corridor;
 - phase sequencing
 - splits
 - offsets
- MARC will develop initial splits and offsets for any remaining signals and incorporate member agency developed timing plans into regional plans for the OGL corridor.
- MARC may then incorporate the regional plans into mutually agreed upon software as needed for review by the member agencies.
- At the second meeting, MARC and the member agencies will;
 - Review the regional timing plans developed
 - Review any software models developed
 - Determine if any changes to initial timings need to be made to optimize the operation of the corridor
- Once the member agencies have agreed on the different timing plans developed, they will download the timing plans into signal controllers maintained by each member agency OR will request MARC to provide signal timing plans and download to local controllers.
- In conjunction with member agency staff, MARC will field-monitor each arterial after a timing plan has been downloaded and will work with the member agency to make any additional changes to further optimize the flow of traffic if necessary.
- In conjunction with member agency staff, MARC will conduct travel-time and speed profile studies on arterials after implementation of the optimized signal timing plans

Providing Maintenance Timing Plans

As part of a regional effort, MARC will on a regular basis, or as requested, examine the operations of signals that are part of regionally significant traffic corridors that pass through the member agency and adjacent cities and determine if optimization is necessary. If minor changes to splits and offsets are to be made to individual signals along an OGL corridor the following steps will be followed:

- In conjunction with MARC, member agency staff will field-monitor the affected corridor or intersection(s)
- MARC will meet with affected member agencies if needed
- MARC will collect traffic counts as necessary OR the member agency will collect traffic counts at member agency maintained traffic signals
- The member agency will develop timing plans for member agency maintained signals and download them to controllers as necessary in coordination with MARC OR MARC will develop and provide revised arterial timing plans as needed
- In conjunction with member agency staff, MARC will field-monitor each arterial after timing plan download and provide further optimization if necessary by submitting updated timing plans for agency consideration and download

If major changes, such as changes to cycle lengths, phase sequencing and major changes to splits, are to be made along an OGL corridor, the process described above for initial deployment of regional timing plans may be used.

Incident Management



The member agency will work with MARC and other member agencies to identify locations along the regionally significant arterials and interstate highways where incidents are prone to happen and have major impact on traffic flow. These locations may be manually forced to run special plans when an incident is observed at the TOC. The following steps shall be followed for planned, recurring, and anticipated incident response:

- MARC and member agencies will identify incident-prone locations
- MARC will meet with affected member agencies to discuss solutions
- MARC will develop signal timing plans for the incident
- MARC will submit such plans for review by member agencies
- MARC and member agencies will jointly determine the parameters required for invoking such a plan by the TOC
- Once the plan has been invoked (when the required parameters are met) MARC will inform the affected agencies immediately
- After the incident has been cleared, MARC will put signals back on their regular plans and inform member agencies

The member agency will inform MARC about construction and roadway closures and may request signal timing plan adjustments. MARC will provide special timing plans when requested to optimize traffic flow for agency consideration and download.

Citizen Complaints

Member agencies will route/report citizen complaints/requests on OGL signals to the TOC and MARC, in cooperation with the member agency, will respond to the complaint/request in a timely manner. MARC will also route/report received citizen complaints to the member agencies and maintain a response log.

Dispute Resolution

In the event that satisfactory agreement cannot be reached between member agencies on timing plans or incident plans developed for OGL, the dispute will be referred to the OGL Steering Committee, which will provide recommendations for resolution. Unless the responsible engineer for a member agency determines that such plans will create an unsafe condition within their jurisdiction, the member agency will implement the plans recommended by the Committee

Emergency Provisions

In the event of an emergency not already covered under a pre-arranged incident-management plan, the member agency will take any steps it considers necessary to manage traffic signals within its jurisdiction to ensure the safety of the traveling public. The member agency will notify MARC of any emergency changes made to OGL traffic signal timing plans in a timely manner and will work expeditiously with MARC to restore all OGL corridors within its jurisdiction to normal operation when the emergency subsides.

Field Communication Operation and Maintenance

MARC will be responsible for maintenance and replacement of all wireless communication infrastructure that is installed as a result of OGL initiated construction projects. Member agencies that have the capability to maintain their own communication infrastructure may do by separate agreement with MARC.



Controller Upgrades and Work inside the Traffic Controller Cabinet

MARC will, with the applicable member agencies, upgrade traffic controllers that are incapable of communicating with the central system software. When work is performed that involves the opening of a traffic controller cabinet, the member agency will coordinate with the contractor and have a representative in the field. The member agency will test and approve/disapprove the work performed by the contractor and inform MARC of the fact. MARC will be responsible for administration and final approval of all OGL initiated construction projects. Member agencies are responsible for notifying and coordinating with OGL when undertaking traffic signal system construction projects on OGL corridors.

Technical Support for OGL Computer Network

MARC will provide technical support for the central system software and the laptop version of the central system software. MARC will also maintain the computer network hardware along with all network components such as network switches, routers, licensed and unlicensed radios, modems etc.

The Traffic Operations Center

MARC will staff OGL operations at the Traffic Operations Center (TOC). The TOC is currently co-located with the KC Scout program and offices in the MoDOT KC District offices.

The TOC will be staffed as determined by MARC. MARC expects to coordinate with Kansas City Scout and use the video monitoring capabilities available at the KC Scout TOC to alleviate congestion along arterials. It is recommended that member agencies with traffic management centers, at a minimum, staff their centers to operate on a schedule concurrent with OGL.

The staff will interact with citizens and the media and provide answers to traffic signal timing questions on OGL signals.





WHAT IS OGL?

Operation Green Light (OGL) is a regional effort to improve traffic flow and reduce vehicle emissions in the Kansas City area. Coordinated through the Mid-America Regional Council (MARC), it is supported by local agencies, driven by their expert staff, and powered by technology

WHAT WE DO

OGL works with federal, state, and local agencies to develop and implement a regional network of signals. This system provides uniform traffic management across jurisdictional boundaries in Kansas City allowing for better collaboration among all agencies.

The system coordinates traffic signal timing plans and communication between traffic signal equipment, improving the flow of traffic in the region

OGL tracks signal-related malfunctions in the field and provides improved maintenance and infrastructure to partner jurisdictions.

OGL is paving the way in the traffic sector within the Kansas City region through innovation and collaboration.

ANNUAL BENEFITS



220 MILLION
FEWER VEHICLE STOPS



1.9 MILLION
HOURS SAVED



1.8 MILLION
GALLONS SAVED



3,000 TONS
OF POLLUTANTS AVOIDED



\$35.2 MILLION
DOLLARS SAVED

FAST FACTS

700+ Traffic Signals

200+ Roadway Miles

1.6 Million Trips/Day

50/50 Local Agency/
Federal Funding

\$600 Local Agency Annual
Cost Per Signal

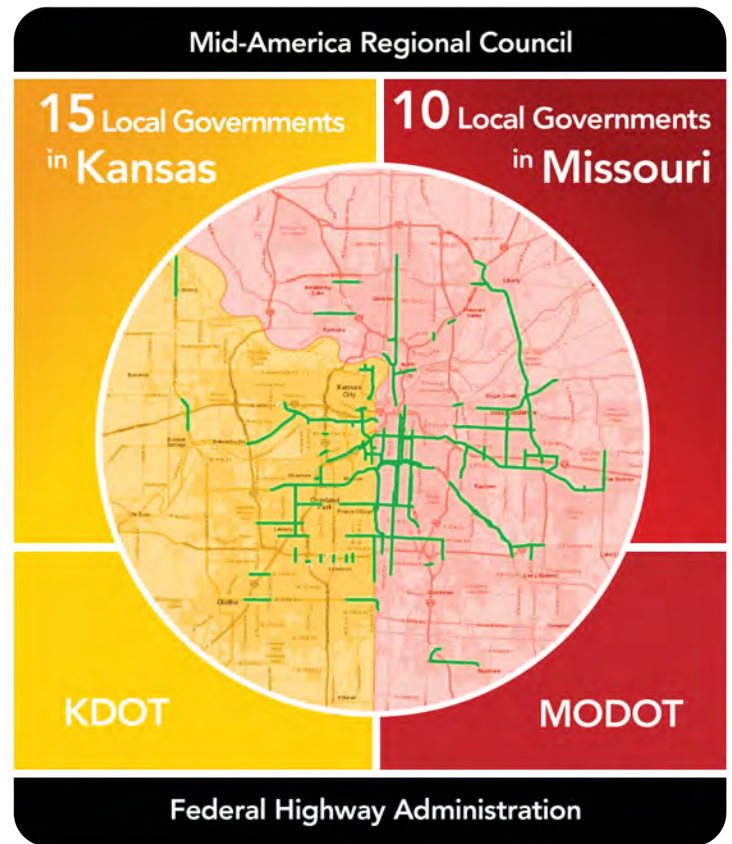
MOVING FORWARD

OGL is constantly working with partner agencies to look for new and innovative strategies that can be implemented within the Kansas City region to further improve traffic conditions. Some of the strategies and technologies we are currently investigating and implementing include:

- Arterial diversion routes for incidents occurring on interstates
- Adaptive and responsive signal control
- Use of crowd-sourced data in decision making
- Actively preparing for the integration of connected and automated vehicles

www.marc.org/transportation/commuting

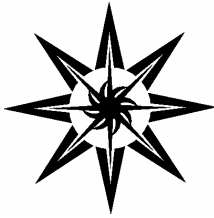
AGENCIES & PARTNERS



BENEFITS OF PARTICIPATION

There are many benefits to partnering in the OG program. OGL staff coordinate better traffic flow at every corridor by constantly monitoring real-time operations, assisting with timing changes for roadwork projects and incidents, and supporting agency traffic signal maintenance activities. OGL partners often pursue additional funding for traffic signal system improvements together, increasing the chances of being selected. OGL paves the way by providing leadership and coordination in the evaluation of new strategies and technologies to improve the system and benefit every Kansas City area traveler.

Data Sources: Traffic volume data on designated OGL corridors from MoDOT and KDOT published AADT reports. Population estimates from most recent US Census. Timing benefits averaged from all measured initial corridor timings from 2008 through 2015, including calculated values for delays, fuel, pollution, and the value of time.



PUBLIC WORKS DEPARTMENT

Council Committee Meeting Date: January 22, 2019
Council Meeting Date: January 22, 2019

COU2019-07 CONSIDER DESIGN AGREEMENT WITH AFFINIS CORP FOR THE DESIGN OF THE 2019 DRAINAGE PROGRAM.

RECOMMENDATION

Move to approve the design agreement with Affinis Corp for the design of the 2019 Drainage Program in the amount of \$96,200.00.

BACKGROUND

This agreement is for the design of the 2019 Drainage Program and contains a list of three improvement locations. Construction is anticipated to begin in Summer 2019.

1. 71st Street (East of Mission) - Culvert bridge replacement. The design of the culvert replacement will also include a study of the channel downstream of this crossing and review possible solutions to flooding that occurs on the church property at 7039 Mission Road.
2. Stateline Road (72nd Street to 74th Street) - Replacement of deteriorated storm pipe.
3. 87th Terrace and Catalina - Additional curb inlets and storm pipe to reduce roadway flooding.

Affinis Corp was selected to be the City's construction administration consultant through qualification based selection in 2017 for a three-year contract.

FUNDING SOURCE

CIP Funding is available for design in the capital project: DRAIN19x.

ATTACHMENTS

1. Design Agreement with Affinis Corp.

PREPARED BY

Cliff Speegle, Stormwater Project Manager

January 15, 2019

AGREEMENT FOR PROFESSIONAL ENGINEER

For

DESIGN SERVICES

Of

PROJECT - DRAIN 19X
2019 STORM DRAINAGE REPAIR PROGRAM

THIS AGREEMENT, made at the Prairie Village, Kansas, this ___ day of _____, by and between the City of Prairie Village, Kansas, a municipal corporation with offices at 7700 Mission Road, Prairie Village, Kansas, 66208, hereinafter called the "City", and Affinis Corp, a corporation with offices at 8900 Indian Creek Parkway, Suite 450, Overland Park, KS, 66210 hereinafter called the "Consultant".

WITNESSED, THAT WHEREAS, the City has determined a need to retain a professional engineering firm to provide civil engineering services for the Design of the 2019 Storm Drainage Repair Program hereinafter called the "Project",

AND WHEREAS, the City is authorized and empowered to contract with the Consultant for the necessary consulting services for the Project,

AND WHEREAS, the City has the necessary funds for payment of such services,

NOW THEREFORE, the City hereby hires and employs the Consultant as set forth in this Agreement effective the date first written above.

Article I City Responsibilities

- A. **Project Definition** The City is preparing to design and construct roadway and stormwater improvements throughout the city as part of Storm Drainage Repair Program.
- B. **City Representative** The City has designated, Cliff Speegle, Public Works Stormwater Project Manager, to act as the City's representative with respect to the services to be performed or furnished by the Consultant under this Agreement. Such person shall have authority to transmit instructions, receive information, interpret and define the City's policies and decisions with respect to the Consultant's services for the Project.
- C. **Existing Data and Records** The City shall make available to the Consultant all existing data and records relevant to the Project such as, maps, plans, correspondence files and other information possessed by the City that is relevant to the Project. Consultant shall not be responsible for verifying or ensuring the accuracy of any information or content supplied by City or any other Project participant unless specifically defined by the scope of work, nor ensuring that such information or content does not violate or infringe any law or other third party rights. However, Consultant shall promptly advise the City, in writing, of any inaccuracies in the information provided or any other violation or infringement of any law or third party rights that Consultant observes. City shall

indemnify Consultant for any infringement claims resulting from Consultant's use of such content, materials or documents.

- D. **Review For Approval** The City shall review all criteria, design elements and documents as to the City requirements for the Project, including objectives, constraints, performance requirements and budget limitations.
- E. **Standard Details** The City shall provide copies of all existing standard details and documentation for use by the Consultant for the project.
- F. **Submittal Review** The City shall diligently review all submittals presented by the Consultant in a timely manner.
- G. The City has funded the 2019 Storm Drainage Repair Program which includes the following project sites:
 - 1. Site 1: State Line Road (72nd Street to 74th Street) - Storm sewer replacement
 - a. Replace deteriorated concrete pipe
 - 2. Site 2: 87th Terrace and Catalina - New storm sewer and flood review
 - a. Add new inlets and concrete pipe to existing system
 - 3. Site 3: 71st Street, east of Mission Road - RCB replacement
 - a. Perform hydrologic/hydraulic analysis of RCB and existing channel
 - b. Replace RCB
 - c. Remove existing pedestrian bridge and provide pedestrian crossing with new RCB crossing
 - d. Consider options to mitigate flooding of Colonial Church parking lot and east entrance

Article II Consultant Responsibilities

- A. **Professional Engineering Services** The Consultant shall either perform for or furnish to the City professional engineering services and related services in all phases of the Project to which this Agreement applies as hereinafter provided.
- B. **Prime Consultant** The Consultant shall serve as the prime professional Consultant for the City on this Project.
- C. **Standard Care** The standard of care for all professional consulting services and related services either performed for or furnished by the Consultant under this Agreement will be the care and skill ordinarily used by members of the Consultant's profession, practicing under similar conditions at the same time and in the same locality.
- D. **Consultant Representative** Designate a person to act as the Consultant's representative with respect to the services to be performed or furnished by the Consultant under this Agreement. Such person shall have authority to transmit instructions, receive information, and make decisions with respect to the Consultant's services for the Project.

Article III Scope of Services

- A. **Design Phase:** Upon receipt of notice to proceed from the City, the Consultant shall provide all consulting services related to this project including, but not limited, to these phases and tasks. The scope is generally defined below.
 - 1. Schedule and attend one startup meeting with City to confirm project goals, schedule, budget and expectations.
 - 2. Schedule and attend up to three (3) utility coordination meetings. Request utility comments, coordinate planned relocations among agencies and verify relocation/adjustment schedule.
 - 3. Conduct field reconnaissance with City to evaluate and identify:
 - a. Design issues.

- b. Identify existing drainage components in project area (location, size, material, capacity, storm design adequacy and condition).
 - c. Need for drainage improvements.
 - d. Construction access, traffic control, and phasing.
 - e. Utility locations and conflicts.
 - f. Tree conflicts.
4. Perform full topographic survey of the three (3) sites and prepare base maps for design.
 - a. Gather property owner information, and aerial and topographic data from Johnson County AIMS mapping to supplement topographically surveyed.
5. Complete the following stormwater design elements:
 - a. Drainage area maps
 - b. Inlet structure sizing
 - c. Pavement spread calculations
 - d. Overflow calculations
 - e. Flood depth calculations
 - f. Hydraulic modeling to generate the 10-year and 100-year hydraulic grade line elevations
6. Perform structural design and layout, and prepare details for RCB replacement and special structures.
7. Once design is 30% complete, prepare an opinion of project cost. Compare the project cost to the City's budget and coordinate with the City to determine priorities.
8. Prepare preliminary construction plans (60%).
 - a. Project title sheet.
 - b. General site plan showing and identifying surface features such as street right-of-way, edge of pavement, sidewalks, driveways, boring locations, trees, house outline, address, owner name based on latest AIMS coverage data, irrigation systems, known electronic dog fences and any other pertinent surface feature.
 - c. Plan sheets for street and storm sewer improvements showing all utilities, sanitary sewer, water, gas, electric, telephone, traffic signals, and street lights, as well as all conflicts and test pits. Profiles will be provided for streets when a topographic survey is performed.
 - d. Typical sections for streets and channel.
 - e. Cross sections for streets with a detailed topographic survey. Intersection details showing the elevation and drainage pattern information.
 - f. Construction phasing showing temporary traffic control measures per MUTCD for various phases of construction.
 - g. Pavement marking and signing measures per MUTCD.
 - h. City details drawings and other special details pertinent to the project.
9. Submit one set (one full size and one half size) of preliminary (60% completion) construction plans for City review.
 - a. Present one set (half size) of preliminary plans to appropriate governmental agencies and utility companies requesting comments and verification of potential conflicts.
10. Perform field check with City.
11. Right-Of-Way and Easements

- a. Describe right-of-way and easements necessary to complete project. Twenty-two (22) properties are assumed to be impacted.
 - (1)Furnish legal descriptions sealed by an RLS licensed in the state of Kansas. Legal descriptions are also to be provided in a digital format compatible with Microsoft Word 2003.
 - (2)Furnish an ownership and easement spreadsheet to include Owner Name; Owner Address; Site Address and proposed easements to include type and square footage.
 - (3)Prepare the front end easement documents for the City.
- b. Maps and sketches as follows:
 - (1)Plan and profile sheets showing existing and proposed right-of-way and easement limits.
 - (2)Individual drawings of takings for each ownership, including:
 - (3)Title block, including a graphical scale and north arrow.
 - (4)Ownership boundaries and information.
 - (5)Existing landmarks items protected or removed by the project (trees, buildings, fences, shrubs, landscape beds, etc.).
 - (6)Existing right-of-ways and easements.
 - (7)Proposed takings identified with text and graphically.
 - (8)Legend for taking type.
 - (9)Legal description of all takings.
12. Schedule, prepare for and attend two (2) public meetings and one (1) council meeting for the 2019 Storm Drainage Repair Program. The City will be responsible for sending notifications to the residents and property owners.
13. Present a detailed opinion of probable construction cost of City defined construction pay items with quantities and current unit costs. Add to the total construction cost, a contingency of 15 percent.
14. Attend and prepare minutes for up to three (3) project meetings and disperse the minutes to City representative and all other attendees within five working days.
15. Permitting:
 - a. The RCB replacement is expected to be completed under the Nationwide Permit 14 as a maintenance project. A request for determination will be submitted.
 - b. Kansas Department of Agriculture, Department of Water Resources: Assuming the project disturbs more than one (1) acre, a Notice of Intent for Stormwater Runoff for Construction Activities Permit would be required.
 - c. This would include the preparation of a Storm Water Pollution Prevention Plan (SWPPP) for the project which shall conform to KDHE requirements, including project narrative, analyses of site, description of all project controls and locations. Two (2) copies of SWPPP notebook will be provided to the city at time of bidding.
16. Prepare final documents based of review and comments from City and other review agencies of the preliminary plans.
 - a. Submit one half size set of final (95%) plans and specifications for City review.

- b. Submit one half-size set of final (95%) plans and specifications to other appropriate governmental agencies and utility companies with identification of significant changes to preliminary design plans.
 - c. Prepare a final opinion of probable construction cost.
17. Prepare project manual using the City's standard documents.
 18. Prepare bid documents for distribution. Provide one hard copy and electronic copy of any report or plans. Provide files of the plans in PDF Format.

B. Bidding Services Phase

Bidding services will be provided for each program separately and include the following.

1. Provide the City a notice of bid for publication.
2. Post advertisement for bid on electronic plan room (Drexel Technologies) and provide bid documents for reproduction.
3. Via electronic plan room provide all bid documents for potential bidders to purchase.
4. Provide all utilities with bid set of plans and request attendance at pre-bid meeting.
5. Conduct a pre-bid meeting. Prepare minutes of pre-bid meeting and disperse to City representative and all other attendees within five working days.
6. Prepare and distribute addenda prior to bid opening. Assist bidders with questions during bidding.
7. Provide to the City an Engineer's Estimate and bid tab sheet prior to the bid opening.
8. Attend bid opening.
9. Check accuracy of bids, evaluate the bidders and make a recommendation of award to the City.
10. Prepare five sets construction documents including bonds for execution by the contractor and the City.
11. Provide one hard copy and electronic copy of any report or drawings. Provide files of the plans or drawings in PDF Format.

C. Construction Services Phase

Construction services will be provided for each program separately and include the following.

1. Prepare for attend preconstruction meeting with City and Contractor. Prepare and distribute meeting notes.
2. Provide periodic consultation by telephone or email to assist with construction issues.
 - a. Consultation will be initiated by Client and/or Construction Representative.
 - b. Consultant shall provide documentation on invoice that provides a brief description of the issue and/or activity.
 - c. Any consultation resulting from a design error by the Consultant shall be excluded from this scope of work and shall be provided at the expense of the Consultant.
3. Review shop drawings and submittals.
4. Prepare plan revisions as necessitated by conditions encountered in the field during construction, with the exception of traffic control plans.

5. Prepare final record drawings which reflect:
 - a. Minor design changes.
 - b. Changes made in the field by City representatives and are marked on the construction plan set.
6. Submit to the City electronic CAD files and TIFF images of the revised sheets.
7. Attend construction progress meetings as directed/requested by the Client. Four (4) meetings are budgeted.

Article IV Time Schedule

- A. **Timely Progress** The Consultant's services under this Agreement have been agreed to in anticipation of timely, orderly and continuous progress of the Project.
- B. **Authorization to Proceed** If the City fails to give prompt written authorization to proceed with any phase of services after completion of the immediately preceding phase, the Consultant shall be entitled to equitable adjustment of rates and amounts of compensations to reflect reasonable costs incurred by the Consultant as a result of the delay or changes in the various elements that comprise such rates of compensation.
- C. **Default** Neither City nor Consultant shall be considered in default of this Agreement for delays in performance caused by circumstances beyond the reasonable control of the nonperforming party. For purposes of this Agreement, such circumstances include, but are not limited to, abnormal weather conditions; floods; earthquakes; fire; epidemics; war, riots, and other civil disturbances; strikes, lockouts, work slowdowns, and other labor disturbances; sabotage; judicial restraint; and delay in or inability to procure permits, licenses, or authorizations from any local, state, or federal agency for any of the supplies, materials, accesses, or services required to be provided by either City or Consultant under this Agreement. Should such circumstances occur, the consultant shall within a reasonable time of being prevented from performing, give written notice to the City describing the circumstances preventing continued performance and the efforts being made to resume performance of this Agreement.
- D. **Completion Schedule** Recognizing that time is of the essence, the Consultant proposes to complete the scope of services as specified in the Scope of Services:

Design Phase	Due by May 18, 2019
Bid Advertisement Date	June 1, 2019
Letting Date	June 28, 2019

Article V Compensation

- A. **Maximum Compensation** The City agrees to pay the Consultant as maximum compensation as defined in Exhibit B for the scope of services the following fee is \$96,200.00
- B. **Invoices** The compensation will be invoiced by phase, detailing the position, hours and appropriate hourly rates (which include overhead and profit) for Consultant's personnel classifications and the Direct Non-Salary Costs.
- C. **Direct Non-Salary Costs** The term "Direct Non-Salary Costs" shall include the Consultant payments in connection with the Project to other consultants, transportation, and reproduction costs. Payments will be billed to the City at actual cost. Transportation, including use of survey vehicle or automobile will be charged at the IRS rate in effect during the billing period. Reproduction work and materials will be charged at actual cost for copies submitted to the City.
- D. **Monthly Invoices** All invoices must be submitted monthly for all services rendered in the previous month. The Consultant will invoice the City on forms approved by the City. All properly prepared

invoices shall be accompanied by a documented breakdown of expenses incurred and description of work accomplished.

- E. **Fee Change** The maximum fee shall not be changed unless adjusted by Change Order mutually agreed upon by the City and the Consultant prior to incurrence of any expense. The Change Order will be for major changes in scope, time or complexity of Project.

Article VI General Provisions

- A. **Opinion of Probable Cost and Schedule:** Since the Consultant has no control over the cost of labor, materials or equipment furnished by Contractors, or over competitive bidding or market conditions, the opinion of probable Project cost, construction cost or project schedules are based on the experience and best judgment of the Consultant, but the Consultant cannot and does not guarantee the costs or that actual schedules will not vary from the Consultant's projected schedules.
- B. **Quantity Errors:** Negligent quantity miscalculations or omissions because of the Consultant's error shall be brought immediately to the City's attention. The Consultant shall not charge the City for the time and effort of checking and correcting the errors to the City's satisfaction.
- C. **Reuse of Consultant Documents:** All documents including the plans and specifications provided or furnished by the Consultant pursuant to this Agreement are instruments of service in respect of the Project. The Consultant shall retain an ownership and property interest upon payment therefore whether or not the Project is completed. The City may make and retain copies for the use by the City and others; however, such documents are not intended or suitable for reuse by the City or others as an extension of the Project or on any other Project. Any such reuse without written approval or adaptation by the Consultant for the specific purpose intended will be at the City's sole risk and without liability to the Consultant. The City shall indemnify and hold harmless the Consultant from all claims, damages, losses and expenses including attorney's fees arising out of or resulting reuse of the documents.
- D. **Reuse of City Documents** In a similar manner, the Consultant is prohibited from reuse or disclosing any information contained in any documents, plans or specifications relative to the Project without the expressed written permission of the City.
- E. **Insurance** The Consultant shall procure and maintain, at its expense, the following insurance coverage:
1. Workers' Compensation -- Statutory Limits, with Employer's Liability limits of \$100,000 each employee, \$500,000 policy limit;
 2. Commercial General Liability for bodily injury and property damage liability claims with limits of not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate;
 3. Commercial Automobile Liability for bodily injury and property damage with limits of not less than \$1,000,000 each accident for all owned, non-owned and hired automobiles;
 4. Errors and omissions coverage of not less than \$1,000,000. Deductibles for any of the above coverage shall not exceed \$25,000 unless approved in writing by City.
 5. In addition, Consultant agrees to require all consultants and sub-consultants to obtain and provide insurance in identical type and amounts of coverage together and to require satisfaction of all other insurance requirements provided in this Agreement.
- F. **Insurance Carrier Rating** Consultant's insurance shall be from an insurance carrier with an A.M. Best rating of A-IX or better, shall be on the GL 1986 ISO Occurrence form or such other form as may be approved by City, and shall name, by endorsement to be attached to the certificate of insurance, City, and its divisions, departments, officials, officers and employees, and other parties as specified by City as additional insureds as their interest may appear, except that the additional insured requirement shall not apply to Errors and Omissions coverage. Such endorsement shall be

ISO CG2010 11/85 or equivalent. "Claims Made" and "Modified Occurrence" forms are not acceptable, except for Errors and Omissions coverage. Each certificate of insurance shall state that such insurance will not be canceled until after thirty (30) days' unqualified written notice of cancellation or reduction has been given to the City, except in the event of nonpayment of premium, in which case there shall be ten (10) days' unqualified written notice. Subrogation against City and City's Agent shall be waived. Consultant's insurance policies shall be endorsed to indicate that Consultant's insurance coverage is primary and any insurance maintained by City or City's Agent is non-contributing as respects the work of Consultant.

- G. Insurance Certificates** Before Consultant performs any portion of the Work, it shall provide City with certificates and endorsements evidencing the insurance required by this Article. Consultant agrees to maintain the insurance required by this Article of a minimum of three (3) years following completion of the Project and, during such entire three (3) year period, to continue to name City, City's agent, and other specified interests as additional insureds thereunder.
- H. Waiver of Subrogation** Coverage shall contain a waiver of subrogation in favor of the City, and its subdivisions, departments, officials, officers and employees.
- I. Consultant Negligent Act** If due to the Consultant's negligent act, error or omission, any required item or component of the project is omitted from the Construction documents produced by the Consultant, the Consultant's liability shall be limited to the difference between the cost of adding the item at the time of discovery of the omission and the cost had the item or component been included in the construction documents. The Consultant will be responsible for any retrofit expense, waste, any intervening increase in the cost of the component, and a presumed premium of 10% of the cost of the component furnished through a change order from a contractor to the extent caused by the negligence or breach of contract of the Consultant or its subconsultants.
- J. Termination** This Agreement may be terminated by either party upon seven days written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party; provided, however, the nonperforming party shall have 14 calendar days from the receipt of the termination notice to cure the failure in a manner acceptable to the other party. In any such case, the Consultant shall be paid the reasonable value of the services rendered up to the time of termination on the basis of the payment provisions of this Agreement. Copies of all completed or partially completed designs, plans and specifications prepared under this Agreement shall be delivered to the City when and if this Agreement is terminated, but it is mutually agreed by the parties that the City will use them solely in connection with this Project, except with the written consent of the Consultant (subject to the above provision regarding Reuse of Documents).
- K. Controlling Law** This Agreement is to be governed by the laws of the State of Kansas.
- L. Indemnity** To the fullest extent permitted by law, with respect to the performance of its obligations in this Agreement or implied by law, and whether performed by Consultant or any sub-consultants hired by Consultant, the Consultant agrees to indemnify City, and its agents, servants, and employees against all claims, damages, and losses, including reasonable attorneys' fees and defense costs, caused by the negligent acts, errors, or omissions of the Consultant or its sub-consultants, to the extent and in proportion to the comparative degree of fault of the Consultant and its sub-consultants.
- M. Severability** Any provision or part of the Agreement held to be void or unenforceable under any law or regulation shall be deemed stricken and all remaining provisions shall continue to be valid and binding upon the City and the Consultant, who agree that the Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision. The provisions of this Article shall not prevent this entire Agreement from being void should a provision which is of the essence of this Agreement be determined void.

- N. Notices** Any notice required under this Agreement will be in writing, addressed to the appropriate party at the address which appears on the signature page to this Agreement (as modified in writing from item to item by such party) and given personally, by registered or certified mail, return receipt requested, by facsimile or by a nationally recognized overnight courier service. All notices shall be effective upon the date of receipt.
- O. Successors and Assigns** The City and the Consultant each is hereby bound and the partners, successors, executors, administrators, legal representatives and assigns of the City and the Consultant are hereby bound to the other party to this Agreement and to the partners, successors, executors, administrators, legal representatives and assigns of such other party in respect of all covenants and obligations of this Agreement.
- P. Written Consent to Assign** Neither the City nor the Consultant may assign, sublet, or transfer any rights under the Agreement without the written consent of the other, which consent shall not be unreasonably withheld; provided, Consultant may assign its rights to payment without Owner's consent, and except to the extent that any assignment, subletting or transfer is mandated by law or the effect of this limitation may be restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Agreement.
- Q. Duty Owed by the Consultant** Nothing in this Agreement shall be construed to create, impose or give rise to any duty owed by the Consultant to any Contractor, subcontractor, supplier, other person or entity or to any surety for or employee of any of them, or give any rights or benefits under this Agreement to anyone other than the City and the Consultant.

IN WITNESS WHEREOF: the parties hereto have executed this Agreement to be effective as of the date first above written.

City:

City of Prairie Village, Kansas

By: _____

Eric Mikkelson, Mayor

Address for giving notices:

City of Prairie Village
Department of Public Works
3535 Somerset Drive
Prairie Village, Kansas 66208

Telephone: 913-385-4640
Email: publicworks@pvkansas.com

ATTEST:

Adam Geffert, City Clerk

Consultant:

Affinis Corp

By: _____

Kristen E. Leathers-Gratton, PE

Address for giving notices:

Affinis Corp
8900 Indian Creek Parkway, Suite 450
Overland Park, KS 66210

Telephone: 913-239-1122
Email: kleathers@affinis.us

APPROVED AS TO FORM BY:

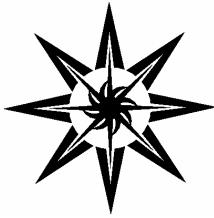
David E. Waters, City Attorney



EXHIBIT B
PROJECT ESTIMATING SHEET
 PV Project Number: DRAIN19X
 2019 Storm Drainage Repair Program
 Prairie Village, Kansas

Revised Date: 12/28/2018
 Made By: KEL/ALR

	PRINCIPAL	PROJECT	ENGINEER	ENGINEER	INTERN	DESIGN	DESIGN	CAD	CAD	PROJ	LAND	LAND	ONE PERSON	SURVEY CREW	SURVEY CREW	LABOR	OTHER DIRECT COSTS	TOTAL	
Tasks	MNGR (EIII)	II	I	ENGINEER (IE)	TECH II	TECH I	TECH II	TECH I	SUPPORT	SURVEYOR II	SURVEYOR I	CREW	MEMBER II	MEMBER I	COSTS	ITEM	COST	FEE	
DESIGN PHASE																			
1 Startup meeting			2		2											\$510		\$510	
2 Utility coordination (3 meetings)			6		16		8									\$3,550		\$3,550	
3 Field Reconnaissance			4		4		4									\$1,480		\$1,480	
4 Field survey (topo)									40		8	16	48	48	48	\$23,080	Mileage	\$200.00	\$23,280
5 Storm drainage design		2	16		48		16									\$9,790		\$9,790	
6 Structural Design and Details		4	16				16		40							\$8,660		\$8,660	
7 Preliminary plans (60%)		4	16		24	4	32		32							\$12,980		\$12,980	
8 Submit plans to City					2											\$220		\$220	
9 Field check			4		4		4									\$1,480		\$1,480	
10 Easements & tract maps (upto 22)									24		16	4				\$4,640		\$4,640	
11 Public Meeting (2)			4		4											\$1,020		\$1,020	
12 OPCC (+15%)			2		8		4									\$1,630		\$1,630	
13 Project Meetings (Monthly) & documentation (3)		3	3		3											\$1,290		\$1,290	
14 Final design documents (95%)	2		8		16	4	24		24							\$9,080		\$9,080	
15 Project manual			4		4					4						\$1,360		\$1,360	
16 Prepare bid documents (all)			2		8		16									\$3,010		\$3,010	
																	Mileage	\$200.00	\$200
																	Repro./Delivery	\$200.00	\$200
DESIGN PHASE - SUBTOTAL HOURS	2	13	87	0	143	8	124	0	160	4	24	20	48	48	48				
DESIGN PHASE - SUBTOTAL FEE	\$520	\$2,275	\$12,615	\$0	\$15,730	\$1,200	\$14,260	\$0	\$15,200	\$340	\$2,880	\$2,200	\$6,720	\$5,280	\$4,560	\$83,780		\$600.00	\$84,380
BIDDING PHASE																			
1 Notice to bidders										1								\$85	
2 Distribute notice to bidders										1								\$85	
3 Provide bidding documents to printer			1				1											\$260	
4 Bid plan submittal to Utilities										1								\$85	
5 Pre-bid Meeting & documentation			2							2								\$460	
6 Addenda & consultation	2		2		8		4											\$2,150	
7 Engineer's estimate			1															\$145	
8 Bid opening			2															\$290	
9 Bid tabulation			2							2								\$460	
10 Prepare construction contracts & documents			2							2								\$460	
11 Deliverables (hard copy & PDF)							2			2								\$400	
																		Mileage	\$50.00
																		Repro./Delivery	\$200.00
BIDDING PHASE - SUBTOTAL HOURS	2	0	12	0	8	0	7	0	0	11	0	0	0	0	0				
BIDDING PHASE - SUBTOTAL FEE	\$520	\$0	\$1,740	\$0	\$880	\$0	\$805	\$0	\$0	\$935	\$0	\$0	\$0	\$0	\$0	\$4,880		\$250.00	
PAVING PROJECT - BIDDING PHASE - SUBTOTAL FEE																			\$5,130
CONSTRUCTION SERVICES PHASE																			
1 Preconstruction meeting & documentation			2															\$290	
2 Periodic construction consultation		2	4	4	16													\$3,190	
3 Shop drawing review			2	4	8													\$1,670	
4 Plan revisions							4											\$460	
5 Record drawings							4											\$460	
6 Deliverables (CAD files & TIFF images)							2											\$230	
7 Progress meeting (1)			2															\$290	
																		Mileage	\$50.00
																		Repro./Delivery	\$50.00
CONST. SERVICES PHASE - SUBTOTAL HOURS	0	2	10	8	24	0	10	0	0	0	0	0	0	0	0				
CONST. SERVICES PHASE - SUBTOTAL FEE	\$0	\$350	\$1,450	\$1,000	\$2,640	\$0	\$1,150	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$6,590		\$100.00	
CONST. SERVICES PHASE - SUBTOTAL FEE																			\$6,690
GRAND TOTAL - STORM DRAINAGE	\$1,040	\$2,625	\$15,805	\$1,000	\$19,250	\$1,200	\$16,215	\$0	\$15,200	\$1,275	\$2,880	\$2,200	\$6,720	\$5,280	\$4,560	\$95,250		\$950	\$96,200



PUBLIC WORKS DEPARTMENT

Council Committee Meeting Date: January 22, 2019
Council Meeting Date: January 22, 2019

COU2019-08 CONSIDER DESIGN AGREEMENT WITH AFFINIS CORP FOR THE BIKE/PED IMPLEMENTATION PLAN.

RECOMMENDATION

Move to approve the design agreement with Affinis Corp for the Bike/Ped Implementation Plan in the amount of \$15,000.00.

BACKGROUND

Council approved the Bike/Pedestrian Plan in May of 2018. As part of 2019 budget discussions \$75,000 was allocated from Economic Development Funds to start implementing the plan. Affinis Corp will help with the implementation of the plan and will focus on the two main areas listed below.

- 1- Study the best route for an 8 foot wide sidewalk from the Village Shops to 67th and Nall. This connection would connect the Prairie Village trail system to the Rock Creek Trail to the north into Mission.
- 2- Create a funding and implementation plan for the different elements of the bike plan, including signing, pavement markings and new 8 foot wide trail from the Village Shops to 67th and Nall. This plan will help determine the future CIP projects to implement the Bike/Pedestrian Plan through the city. It is anticipated that \$60,000 will be used in 2019 to start implementing the plan.

We have reviewed the scope and fee and feel it is appropriate.

The approved Bike/Ped Plan maps are attached for your information.

FUNDING SOURCE

Funding is available for this project in the Economic Development Fund

ATTACHMENTS

1. Design Agreement with Affinis Corp.
2. Bike/Ped Plan Maps

PREPARED BY

Keith Bredehoeft, Public Works Director

January 16, 2019

AGREEMENT FOR PROFESSIONAL ENGINEER

For

DESIGN SERVICES

Of

PROJECT _____ - 2019 CITYWIDE BIKE/PED PLAN IMPLEMENTATION

THIS AGREEMENT, made at the Prairie Village, Kansas, this ___ day of _____, by and between the City of Prairie Village, Kansas, a municipal corporation with offices at 7700 Mission Road, Prairie Village, Kansas, 66208, hereinafter called the “**City**”, and Affinis Corp, a corporation with offices at 8900 Indian Creek Parkway, Suite 450, Overland Park, KS, 66210 hereinafter called the “**Consultant**”.

WITNESSED, THAT WHEREAS, the City has determined a need to retain a professional engineering firm to provide civil engineering services for the 2019 Citywide Bike/Ped Plan Implementation, hereinafter called the “**Project**”,

AND WHEREAS, the City is authorized and empowered to contract with the Consultant for the necessary consulting services for the Project,

AND WHEREAS, the City has the necessary funds for payment of such services,

NOW THEREFORE, the City hereby hires and employs the Consultant as set forth in this Agreement effective the date first written above.

Article I City Responsibilities

- A. **Project Definition** The City is preparing to implement the 2018 Citywide Bike/Ped Plan.
- B. **City Representative** The City has designated, Melissa Prenger, Public Works Senior Project Manager, to act as the City’s representative with respect to the services to be performed or furnished by the Consultant under this Agreement. Such person shall have authority to transmit instructions, receive information, interpret and define the City’s policies and decisions with respect to the Consultant’s services for the Project.
- C. **Existing Data and Records** The City shall make available to the Consultant all existing data and records relevant to the Project such as, maps, plans, correspondence files and other information possessed by the City that is relevant to the Project. Consultant shall not be responsible for verifying or ensuring the accuracy of any information or content supplied by City or any other Project participant unless specifically defined by the scope of work, nor ensuring that such information or content does not violate or infringe any law or other third party rights. However, Consultant shall promptly advise the City, in writing, of any inaccuracies in the information provided or any other violation or infringement of any law or third party rights that Consultant observes. City shall indemnify Consultant for any infringement claims resulting from Consultant’s use of such content, materials or documents.

- D. **Review For Approval** The City shall review all criteria, design elements and documents as to the City requirements for the Project, including objectives, constraints, performance requirements and budget limitations.
- E. **Standard Details** The City shall provide copies of all existing standard details and documentation for use by the Consultant for the project.
- F. **Submittal Review** The City shall diligently review all submittals presented by the Consultant in a timely manner.
- G. The City has requested the following:
 - 1. An investigation of three possible routes for taking bicycle and pedestrian traffic from 71st Street and Mission Road to 67th Street and Roe Avenue
 - a. Alternative 1
 - i. Mission Road from 71st Street to 67th Street
 - ii. 67th Street from Mission Road to Roe Avenue
 - b. Alternative 2
 - i. 71st Street from Mission Road to Tomahawk Road
 - ii. Tomahawk Road from 71st Street to Oxford Road
 - iii. Oxford Road from Tomahawk Road to 69th Street
 - iv. 69th Street from Oxford Road to Roe Avenue
 - v. Roe Avenue from 69th Street to 67th Street
 - c. Alternative 3
 - i. 71st Street from Mission Road to Roe Avenue
 - ii. Roe Avenue from 71st Street to 67th Street
 - 2. A multi-year implementation plan utilizing the 2018 Citywide Bike/Ped Plan with consideration given to priorities, cost, and connectivity.
 - 3. An investigation of both pavement marking materials and placement of bicycle pavement marking
 - 4. Recommendations for a City standard covering bicycle route signing and bicycle pavement marking
 - 5. A review of recent, current, and future projects to determine if coordination with the Citywide Bike/Ped Plan is possible and could result in lower implementation costs for the City

Article II Consultant Responsibilities

- A. **Professional Engineering Services** The Consultant shall either perform for or furnish to the City professional engineering services and related services in all phases of the Project to which this Agreement applies as hereinafter provided.
- B. **Prime Consultant** The Consultant shall serve as the prime professional Consultant for the City on this Project.
- C. **Standard Care** The standard of care for all professional consulting services and related services either performed for or furnished by the Consultant under this Agreement will be the care and skill ordinarily used by members of the Consultant's profession, practicing under similar conditions at the same time and in the same locality.
- D. **Consultant Representative** Designate a person to act as the Consultant's representative with respect to the services to be performed or furnished by the Consultant under this Agreement. Such person shall have authority to transmit instructions, receive information, and make decisions with respect to the Consultant's services for the Project.

Article III Scope of Services

- A. Implementation Plan Phase:** Upon receipt of notice to proceed from the City, the Consultant shall provide all consulting services related to this project including, but not limited, to these phases and tasks. The scope is generally defined below.
1. Conduct field reconnaissance with City to evaluate and identify:
 - a. Proposed bicycle and pedestrian routes.
 - b. Utility locations and conflicts.
 - c. Tree conflicts.
 2. Gather aerial data from Johnson County AIMS mapping for all project locations.
 3. Record location of existing bicycle pavement markings and signing and review for compliance with MUTCD and available bike guidelines.
 4. Prepare investigation results
 - a. Comparison of the 3 alternatives for routing of pedestrians and cyclists from 71st Street and Mission Road to 67th Street and Roe Avenue.
 - b. Map illustrating portions of Citywide Bike/Ped Plan that will be constructed each year along with associated costs.
 - c. Conceptual standards for bicycle pavement marking and signing.
 - d. Maintenance plan and associated cost for bicycle pavement marking and signing.
 - e. Review of recent, current, and future projects in coordination with the Citywide Bike/Ped Plan.
 5. Schedule, prepare for and attend one (1) public meeting for the project. The City will be responsible for sending notifications to the residents and property owners.
 6. Schedule, prepare for and attend two (2) City Council meetings to summarize results and answer questions.
 7. Provide one hard copy and electronic copy of any findings and displays. Provide files in PDF Format.

Article IV Time Schedule

- A. Timely Progress** The Consultant's services under this Agreement have been agreed to in anticipation of timely, orderly and continuous progress of the Project.
- B. Authorization to Proceed** If the City fails to give prompt written authorization to proceed with any phase of services after completion of the immediately preceding phase, the Consultant shall be entitled to equitable adjustment of rates and amounts of compensations to reflect reasonable costs incurred by the Consultant as a result of the delay or changes in the various elements that comprise such rates of compensation.
- C. Default** Neither City nor Consultant shall be considered in default of this Agreement for delays in performance caused by circumstances beyond the reasonable control of the nonperforming party. For purposes of this Agreement, such circumstances include, but are not limited to, abnormal weather conditions; floods; earthquakes; fire; epidemics; war, riots, and other civil disturbances; strikes, lockouts, work slowdowns, and other labor disturbances; sabotage; judicial restraint; and delay in or inability to procure permits, licenses, or authorizations from any local, state, or federal agency for any of the supplies, materials, accesses, or services required to be provided by either City or Consultant under this Agreement. Should such circumstances occur, the consultant shall within a reasonable time of being prevented from performing, give written notice to the City describing the circumstances preventing continued performance and the efforts being made to resume performance of this Agreement.

- D. **Completion Schedule** Recognizing that time is of the essence, the Consultant proposes to complete the scope of services as specified in the Scope of Services:

Implementation Plan Complete

Due by March 15, 2019

Article V Compensation

- A. **Maximum Compensation** The City agrees to pay the Consultant as maximum compensation as defined in Exhibit B for the scope of services the following fees:

2019 Citywide Bike/Ped Plan Implementation

Study Phase	\$ <u>15,000.00</u>
Total Fee for Project	\$ <u>15,000.00</u>

- B. **Invoices** The compensation will be invoiced by phase, detailing the position, hours and appropriate hourly rates (which include overhead and profit) for Consultant's personnel classifications and the Direct Non-Salary Costs.
- C. **Direct Non-Salary Costs** The term "Direct Non-Salary Costs" shall include the Consultant payments in connection with the Project to other consultants, transportation, and reproduction costs. Payments will be billed to the City at actual cost. Transportation, including use of survey vehicle or automobile will be charged at the IRS rate in effect during the billing period. Reproduction work and materials will be charged at actual cost for copies submitted to the City.
- D. **Monthly Invoices** All invoices must be submitted monthly for all services rendered in the previous month. The Consultant will invoice the City on forms approved by the City. All properly prepared invoices shall be accompanied by a documented breakdown of expenses incurred and description of work accomplished.
- E. **Fee Change** The maximum fee shall not be changed unless adjusted by Change Order mutually agreed upon by the City and the Consultant prior to incurrence of any expense. The Change Order will be for major changes in scope, time or complexity of Project.

Article VI General Provisions

- A. **Opinion of Probable Cost and Schedule:** Since the Consultant has no control over the cost of labor, materials or equipment furnished by Contractors, or over competitive bidding or market conditions, the opinion of probable Project cost, construction cost or project schedules are based on the experience and best judgment of the Consultant, but the Consultant cannot and does not guarantee the costs or that actual schedules will not vary from the Consultant's projected schedules.
- B. **Quantity Errors:** Negligent quantity miscalculations or omissions because of the Consultant's error shall be brought immediately to the City's attention. The Consultant shall not charge the City for the time and effort of checking and correcting the errors to the City's satisfaction.
- C. **Reuse of Consultant Documents:** All documents including the plans and specifications provided or furnished by the Consultant pursuant to this Agreement are instruments of service in respect of the Project. The Consultant shall retain an ownership and property interest upon payment therefore whether or not the Project is completed. The City may make and retain copies for the use by the City and others; however, such documents are not intended or suitable for reuse by the City or others as an extension of the Project or on any other Project. Any such reuse without written

approval or adaptation by the Consultant for the specific purpose intended will be at the City's sole risk and without liability to the Consultant. The City shall indemnify and hold harmless the Consultant from all claims, damages, losses and expenses including attorney's fees arising out of or resulting reuse of the documents.

- D. Reuse of City Documents** In a similar manner, the Consultant is prohibited from reuse or disclosing any information contained in any documents, plans or specifications relative to the Project without the expressed written permission of the City.
- E. Insurance** The Consultant shall procure and maintain, at its expense, the following insurance coverage:
1. Workers' Compensation -- Statutory Limits, with Employer's Liability limits of \$100,000 each employee, \$500,000 policy limit;
 2. Commercial General Liability for bodily injury and property damage liability claims with limits of not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate;
 3. Commercial Automobile Liability for bodily injury and property damage with limits of not less than \$1,000,000 each accident for all owned, non-owned and hired automobiles;
 4. Errors and omissions coverage of not less than \$1,000,000. Deductibles for any of the above coverage shall not exceed \$25,000 unless approved in writing by City.
 5. In addition, Consultant agrees to require all consultants and sub-consultants to obtain and provide insurance in identical type and amounts of coverage together and to require satisfaction of all other insurance requirements provided in this Agreement.
- F. Insurance Carrier Rating** Consultant's insurance shall be from an insurance carrier with an A.M. Best rating of A-IX or better, shall be on the GL 1986 ISO Occurrence form or such other form as may be approved by City, and shall name, by endorsement to be attached to the certificate of insurance, City, and its divisions, departments, officials, officers and employees, and other parties as specified by City as additional insureds as their interest may appear, except that the additional insured requirement shall not apply to Errors and Omissions coverage. Such endorsement shall be ISO CG2010 11/85 or equivalent. "Claims Made" and "Modified Occurrence" forms are not acceptable, except for Errors and Omissions coverage. Each certificate of insurance shall state that such insurance will not be canceled until after thirty (30) days' unqualified written notice of cancellation or reduction has been given to the City, except in the event of nonpayment of premium, in which case there shall be ten (10) days' unqualified written notice. Subrogation against City and City's Agent shall be waived. Consultant's insurance policies shall be endorsed to indicate that Consultant's insurance coverage is primary and any insurance maintained by City or City's Agent is non-contributing as respects the work of Consultant.
- G. Insurance Certificates** Before Consultant performs any portion of the Work, it shall provide City with certificates and endorsements evidencing the insurance required by this Article. Consultant agrees to maintain the insurance required by this Article of a minimum of three (3) years following completion of the Project and, during such entire three (3) year period, to continue to name City, City's agent, and other specified interests as additional insureds thereunder.
- H. Waiver of Subrogation** Coverage shall contain a waiver of subrogation in favor of the City, and its subdivisions, departments, officials, officers and employees.
- I. Consultant Negligent Act** If due to the Consultant's negligent act, error or omission, any required item or component of the project is omitted from the Construction documents produced by the Consultant, the Consultant's liability shall be limited to the difference between the cost of adding the item at the time of discovery of the omission and the cost had the item or component been included in the construction documents. The Consultant will be responsible for any retrofit expense, waste, any intervening increase in the cost of the component, and a presumed premium of 10% of the cost

of the component furnished through a change order from a contractor to the extent caused by the negligence or breach of contract of the Consultant or its subconsultants.

- J. **Termination** This Agreement may be terminated by either party upon seven days written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party; provided, however, the nonperforming party shall have 14 calendar days from the receipt of the termination notice to cure the failure in a manner acceptable to the other party. In any such case, the Consultant shall be paid the reasonable value of the services rendered up to the time of termination on the basis of the payment provisions of this Agreement. Copies of all completed or partially completed designs, plans and specifications prepared under this Agreement shall be delivered to the City when and if this Agreement is terminated, but it is mutually agreed by the parties that the City will use them solely in connection with this Project, except with the written consent of the Consultant (subject to the above provision regarding Reuse of Documents).
- K. **Controlling Law** This Agreement is to be governed by the laws of the State of Kansas.
- L. **Indemnity** To the fullest extent permitted by law, with respect to the performance of its obligations in this Agreement or implied by law, and whether performed by Consultant or any sub-consultants hired by Consultant, the Consultant agrees to indemnify City, and its agents, servants, and employees against all claims, damages, and losses, including reasonable attorneys' fees and defense costs, caused by the negligent acts, errors, or omissions of the Consultant or its sub-consultants, to the extent and in proportion to the comparative degree of fault of the Consultant and its sub-consultants.
- M. **Severability** Any provision or part of the Agreement held to be void or unenforceable under any law or regulation shall be deemed stricken and all remaining provisions shall continue to be valid and binding upon the City and the Consultant, who agree that the Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision. The provisions of this Article shall not prevent this entire Agreement from being void should a provision which is of the essence of this Agreement be determined void.
- N. **Notices** Any notice required under this Agreement will be in writing, addressed to the appropriate party at the address which appears on the signature page to this Agreement (as modified in writing from item to time by such party) and given personally, by registered or certified mail, return receipt requested, by facsimile or by a nationally recognized overnight courier service. All notices shall be effective upon the date of receipt.
- O. **Successors and Assigns** The City and the Consultant each is hereby bound and the partners, successors, executors, administrators, legal representatives and assigns of the City and the Consultant are hereby bound to the other party to this Agreement and to the partners, successors, executors, administrators, legal representatives and assigns of such other party in respect of all covenants and obligations of this Agreement.
- P. **Written Consent to Assign** Neither the City nor the Consultant may assign, sublet, or transfer any rights under the Agreement without the written consent of the other, which consent shall not be unreasonably withheld; provided, Consultant may assign its rights to payment without Owner's consent, and except to the extent that any assignment, subletting or transfer is mandated by law or the effect of this limitation may be restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Agreement.
- Q. **Duty Owed by the Consultant** Nothing in this Agreement shall be construed to create, impose or give rise to any duty owed by the Consultant to any Contractor, subcontractor, supplier, other person or entity or to any surety for or employee of any of them, or give any rights or benefits under this Agreement to anyone other than the City and the Consultant.

IN WITNESS WHEREOF: the parties hereto have executed this Agreement to be effective as of the date first above written.

City:

City of Prairie Village, Kansas

By: _____

Eric Mikkelson, Mayor

Address for giving notices:

City of Prairie Village
Department of Public Works
3535 Somerset Drive
Prairie Village, Kansas 66208

Telephone: 913-385-4640

Email: publicworks@pvkansas.com

ATTEST:

Adam Geffert, City Clerk

Consultant:

Affinis Corp

By: _____

Kristen E. Leathers-Gratton, PE

Address for giving notices:

Affinis Corp

8900 Indian Creek Parkway, Suite 450
Overland Park, KS 66210

Telephone: 913-239-1122

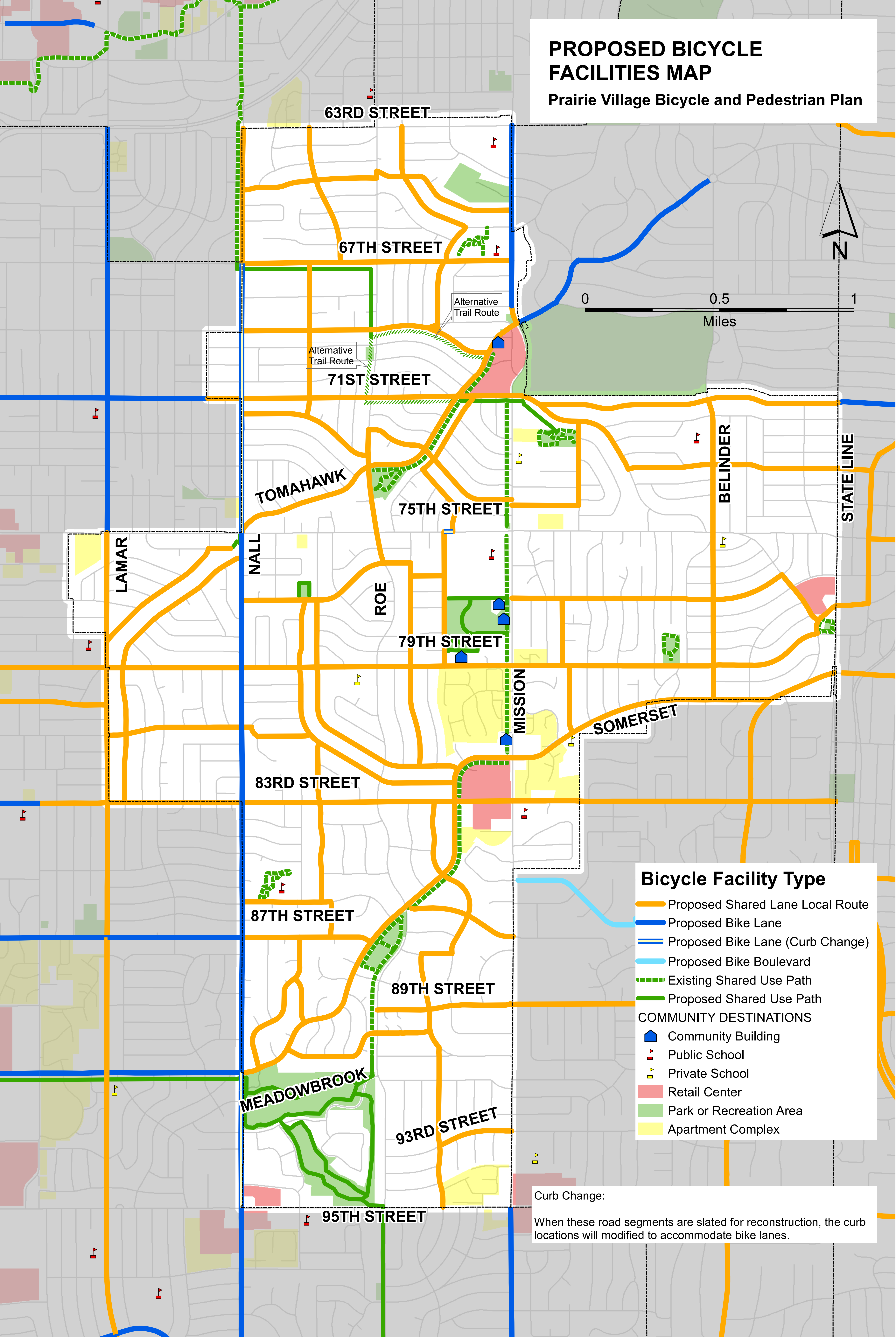
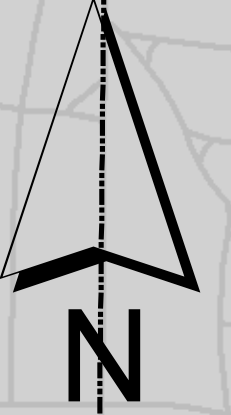
Email: kleathers@affinis.us

APPROVED AS TO FORM BY:

David E. Waters, City Attorney

PROPOSED BICYCLE FACILITIES MAP

Prairie Village Bicycle and Pedestrian Plan



Bicycle Facility Type

- Proposed Shared Lane Local Route
- Proposed Bike Lane
- Proposed Bike Lane (Curb Change)
- Proposed Bike Boulevard
- Existing Shared Use Path
- Proposed Shared Use Path

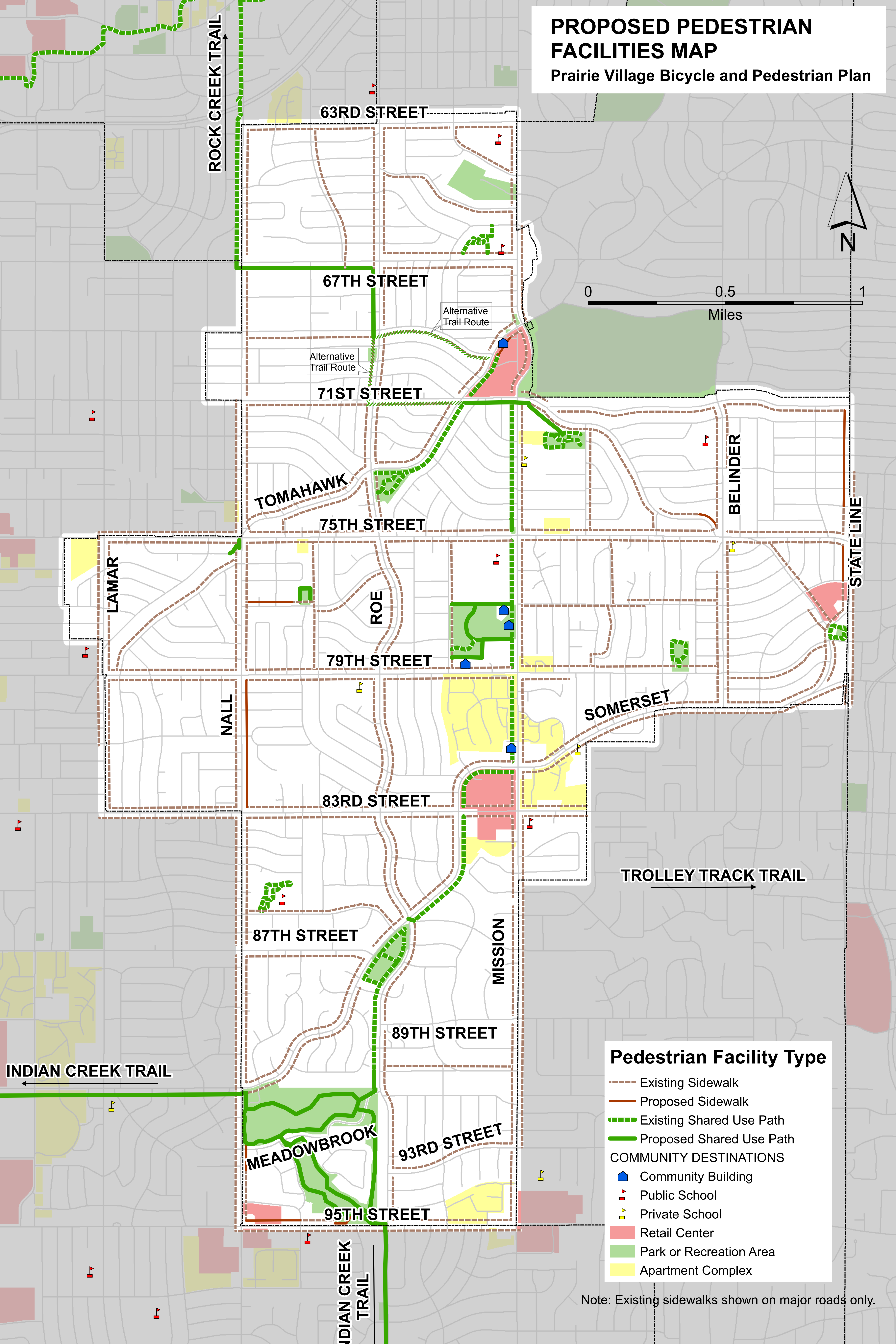
COMMUNITY DESTINATIONS

- Community Building
- Public School
- Private School
- Retail Center
- Park or Recreation Area
- Apartment Complex

Curb Change:
 When these road segments are slated for reconstruction, the curb locations will be modified to accommodate bike lanes.

PROPOSED PEDESTRIAN FACILITIES MAP

Prairie Village Bicycle and Pedestrian Plan



Pedestrian Facility Type

- Existing Sidewalk
- Proposed Sidewalk
- Existing Shared Use Path
- Proposed Shared Use Path
- COMMUNITY DESTINATIONS**
- Community Building
- Public School
- Private School
- Retail Center
- Park or Recreation Area
- Apartment Complex

Note: Existing sidewalks shown on major roads only.



PUBLIC WORKS DEPARTMENT

Council Meeting Date: January 22, 2019

COU2019-09 CONSIDER CONSTRUCTION CONTRACT FOR THE 7208 VILLAGE DRIVE STORM PIPE REPLACEMENT

RECOMMENDATION

Move to authorize the Mayor to sign the construction contract with Essary Plumbing for the emergency storm pipe replacement for \$21,375.00.

BACKGROUND

This project includes replacement of storm sewer pipe between 7208 and 7200 Village Drive. During excavation for the home build project at 7208 Village Drive, the builder notified the City that a section of the existing storm pipe had been damaged. Public works inspected the storm pipe and found the pipe to be in fair to poor condition. The home builder will replace the portion of pipe that they damaged at their cost. Public works has requested that the remainder of the pipe be replaced at the same time based on the condition of the pipe.

The cost of the additional pipe replacement is quoted at \$21,375.00. Staff has compared the replacement cost to existing construction contract prices that were recently competitively bid. The quoted cost is comparable to those contract bid prices.

To speed up the replacement and limit the number of contractors involved, Staff is requesting that the bidding requirement be waived for this contract.

FUNDING SOURCES

Funding is available under the CIP project DRAIN19x.

ATTACHMENTS

1. Construction Quote for Essary Plumbing
2. Location map

PREPARED BY

Cliff Speegle, Stormwater Project Manager

January 15, 2019

Essary Plumbing
6238 Merriam Dr.
Merriam, KS 66203
(913) 522-6222
matt@essaryplumbing.com
www.essaryplumbing.com



ESTIMATE

ADDRESS

City of Prairie Village KS
7700 Mission Rd.
Prairie Village, KS 66208

ESTIMATE # 2749

DATE 12/14/2018

PROJECT

7208 Village Dr.

DATE	ACTIVITY	AMOUNT
12/14/2018	14 Plumbing <ul style="list-style-type: none">- Remove chain link fence- Install approx 120' of 24" pipe- Gravel pipe as per specification- Backfill and grade yard- Provide performance and maintenance bond- Restore homeowners property to existing conditions (seed & straw only for 7200 Village; Restoration of 7208 Village will be done by others)	14,250.00
12/14/2018	14 Plumbing <ul style="list-style-type: none">- Excavate and install (2) concrete junction box per city specifications	11,875.00
12/14/2018	14 Plumbing <ul style="list-style-type: none">- Credit of 40' of 24" pipe	-4,750.00
12/14/2018	Exclusions: <ul style="list-style-type: none">- Underground street light wire to be corrected or fixed by other at completion of project	

Thank you for the opportunity.

TOTAL

\$21,375.00

Accepted By

Accepted Date



7200/7208 Village Drive

Storm pipe replacement

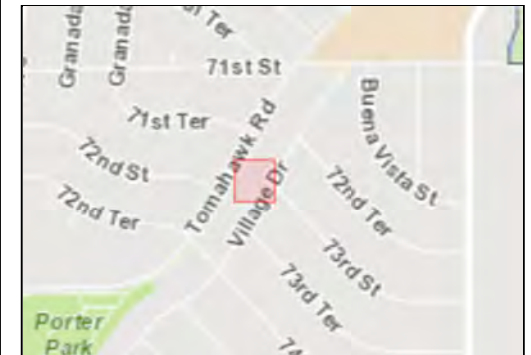
LEGEND

AIMS Imagery: 2018

Parcel Line

- Plat
- Lot Line
- Original Lot

- - - Existing 8' easement
- Existing storm pipe
- Storm pipe replace

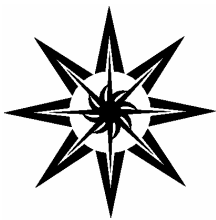


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12/11/2018

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Overview of the 2018 Exterior Grant Program

BACKGROUND

In 2008, the Exterior Grant Program was funded to encourage homeowners within designated improvement boundaries to invest in their home's appearance. Each year, City Staff prepares an annual report for the Governing Body that outlines how Exterior Grant Program funds were utilized. In 2018, the City of Prairie Village allocated \$50,000 from the Economic Development Fund to fund grants through the Exterior Grant Program. The following eligibility criteria were approved as a part of the 2018 program:

- To qualify for funding under the 2018 Exterior Grant Program, applicants must reside in Prairie Village and maintain an appraised home value of \$200,000 or below.
- Current grant awards vary from \$500 to \$2,500 depending on total project cost.
- The minimum project investment is set at \$2,500, and the City reimburses up to 20% of project costs
- New residential construction is not eligible for the Exterior Grant Program.

Brief overview of **2018** program results:

- **33 Grants** awarded totaling **\$47,125.59**
- Total homeowner investment: **\$292,445.57**
- Average grant award: **\$1,428.05**
- Average total project cost: **\$10,290.04**
- **11 Projects** completed outside of previously used eligibility areas.
- **9 Projects** completed below previously used \$5,000 minimum construction cost threshold.
- **3 Code** violations corrected.

If the City Council would like to make changes ahead of the 2019 program, staff would like to receive direction on what those changes should be. Staff would like to recommend that small trash screening projects also be an eligible project under the Exterior Grant program in order to help our code enforcement officers reduce the number of trash screening violations throughout the City, which has been over 700 violations annually for the past couple years.

ATTACHMENTS

2018 Exterior Grant Presentation

PREPARED BY

Jamie Robichaud
Deputy City Administrator
Date: January 16, 2019



2018 Exterior Grant Program

City of Prairie Village

Overview

- ▶ Grants reimburse 20% of total project cost.
- ▶ Awards range from \$500 to \$2,500 depending on total project cost
- ▶ Funds come from the Economic Development fund
- ▶ Projects must be on the list of eligible improvements, must abide by the municipal code, and may require a building permit.

Eligibility

- ▶ No longer using eligibility areas
- ▶ Johnson County appraised value cannot exceed \$200,000
 - ▶ Previous threshold was \$175,000
- ▶ Repairs must total at least \$2,500
 - ▶ Previous threshold was \$5,000
- ▶ Property must be owner-occupied. Or, if the property is a rental property, the rental license must have been in place for the previous 365 days prior to approval

Eligible Improvements

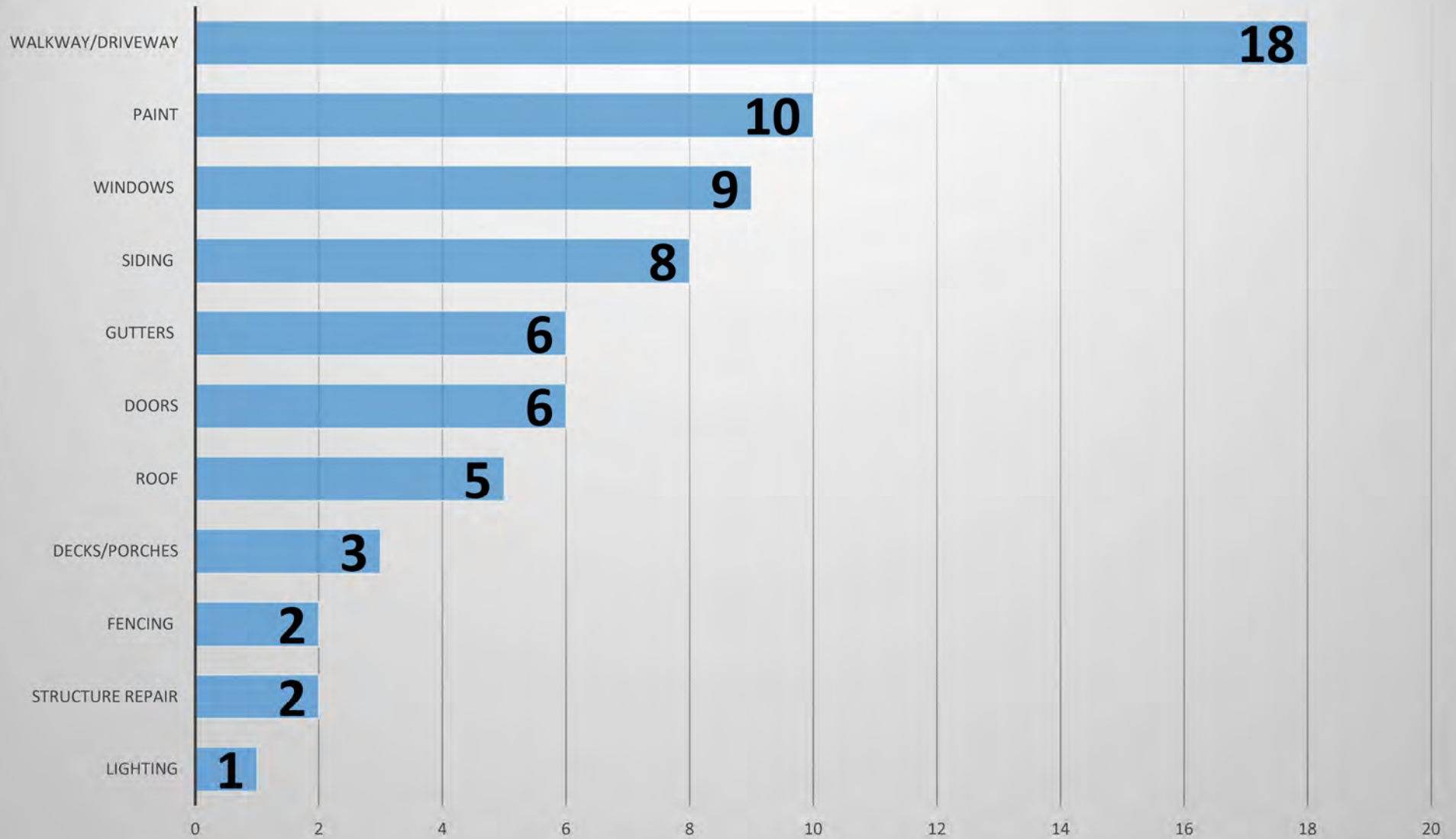
- ▶ Roof
- ▶ Masonry
- ▶ Additions
- ▶ Windows
- ▶ Foundation repair
- ▶ Exterior paint/siding
- ▶ Awnings, Shutters, Gutters
- ▶ Concrete work – sidewalk, stoop, driveway
- ▶ Doors (front & garage) – Fencing and decks (front facing)

Items Not Eligible for Reimbursement

- ▶ Items for reimbursement cannot include:
 - ▶ Ladders
 - ▶ Construction tools
 - ▶ Decks and Fencing (unless front facing)
 - ▶ Material or parts for interior house improvement

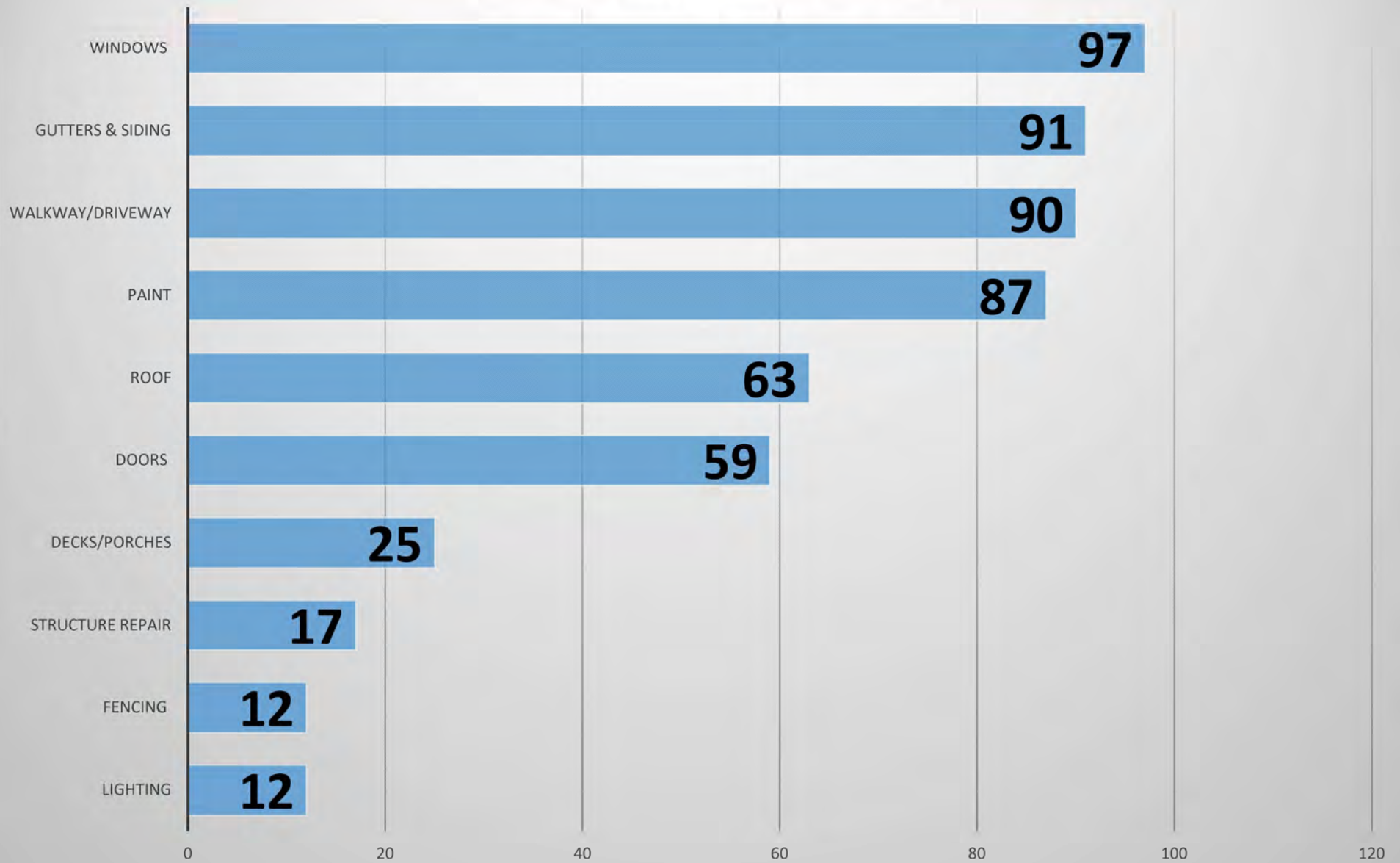
2018 Projects by Category

2018 Exterior Grant Projects



Improvements 2008-2018

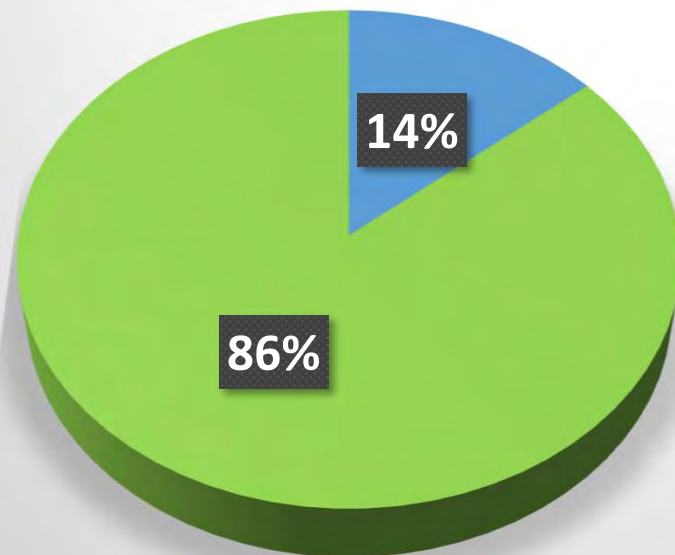
Life-Time Exterior Grant Projects



Value of Improvements 2018

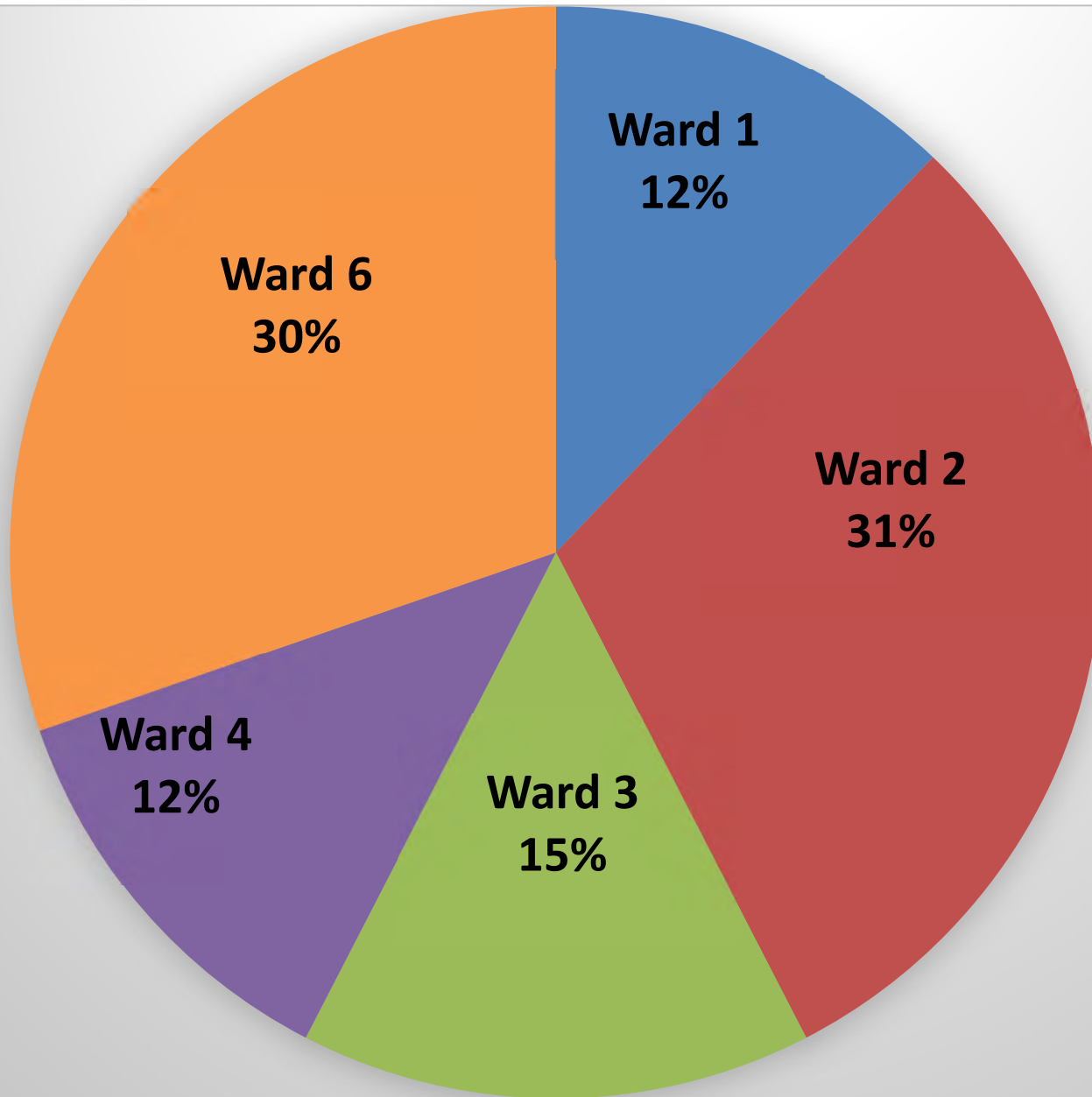
- ▶ Total Grants Awarded by City: \$47,125.59
- ▶ Total Homeowner Investment: \$292,445.57
- ▶ Total Investment: \$339,571.16
- ▶ Total Grants Awarded: 33

Distribution of Investment



- City Investment
- Homeowner Investment

Breakdown By Ward



Summary

- ▶ 31 Owner Occupied Homes
- ▶ 2 Rental Homes
- ▶ Average grant award: \$1,428.05
- ▶ Average total project cost: \$10,290.04
- ▶ Code violations corrected: 3
- ▶ 12 Properties were originally placed on the waitlist
 - ▶ All 12 eventually received grants

Previous Eligibility Areas

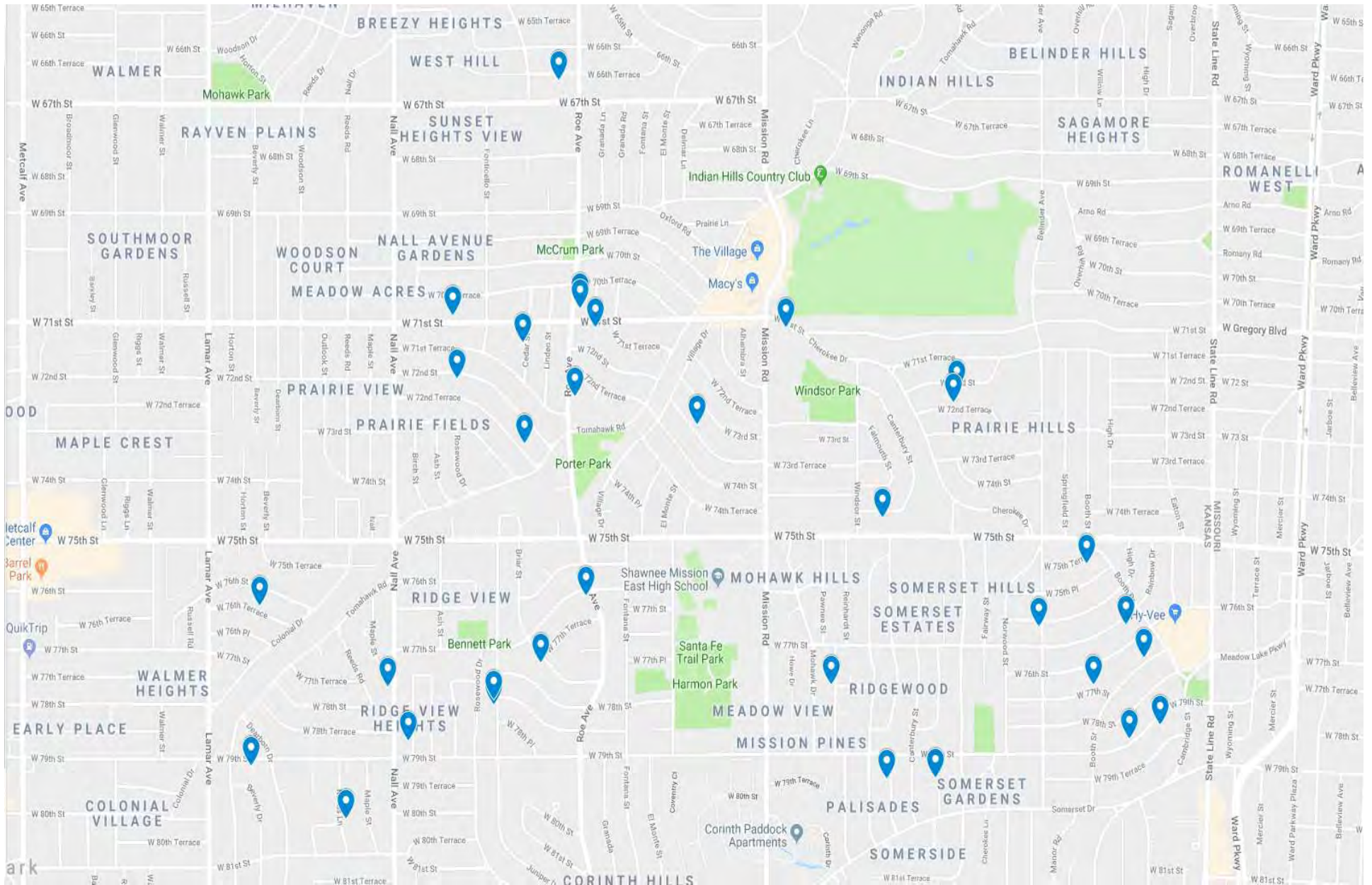


Area 1



Area 2

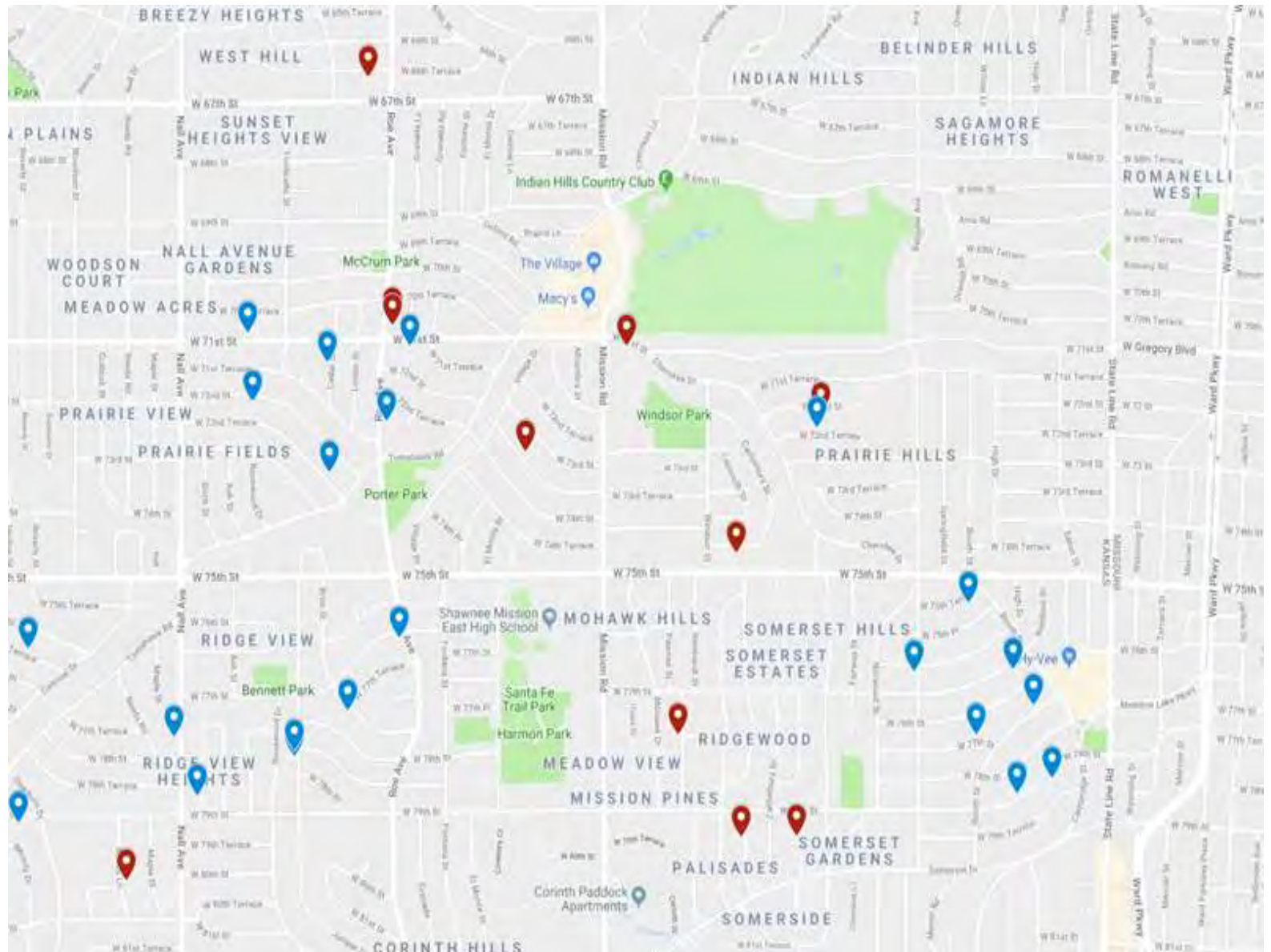
Area 3

2018 Participants



2018 Eligibility Comparison

-  -Not Previously Eligible
-  -Previously Eligible



Successes (Before)



Successes (After)



Successes (Before)



Successes (After)



Successes (Before)



Successes (After)



Successes (Before)



Successes (After)



Successes (Before)



08/17/2018 10:22

Successes (After)



Program Results 2008-2018

YEAR	AWARDED	OWNER	TOTAL
2008	\$32,772	\$185,479	\$218,251
2009	\$42,984	\$235,657	\$278,641
2010	\$40,727	\$257,418	\$298,145
2011	\$34,320	\$149,808	\$184,128
2012	\$39,252	\$233,957	\$273,209
2013	\$46,208	\$295,858	\$342,066
2014	\$33,219	\$209,121	\$242,340
2015	\$44,768	\$237,941	\$282,709
2016	\$35,949	\$198,066	\$234,015
2017	\$42,211	\$237,392	\$279,603
2018	\$47,126	\$292,446	\$339,571
TOTAL	\$439,536	\$2,533,143	\$2,972,678

Possible Program Changes for 2019

- ▶ **Increase appraised value maximum?**

- ▶ Current threshold is \$200,000
 - ▶ 2,117 homes < \$200,000
 - ▶ 1,159 homes between \$200,000 and \$225,000
 - ▶ 1,004 homes between \$225,000 and \$250,000
 - ▶ 968 homes between \$250,000 and \$275,000
 - ▶ 3,696 homes appraised above \$275,000

Possible Program Changes for 2019

- ▶ **Allow trash container screening to be included**
 - ▶ City reimburses 50% or \$100, whichever is less
 - ▶ Minimum appraised value requirement would still apply
 - ▶ \$2,500 minimum investment would not apply to trash screening projects
 - ▶ All other exterior grant rules would still apply

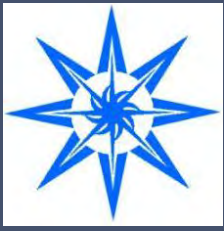


City of Prairie Village
2018 Code Enforcement
Annual Update



Goals of Code Enforcement

- Address and correct code violations with a reasonable and uniform approach
- Promote beautification of the community through the enforcement of responsible property maintenance
- Gain compliance before resorting to punitive measures



Overview of Enforcement Guidelines

Violation vs. Enforcement Action

- Screening trash containers: 30 > 60 days
- Chipped/peeling paint: 30 > 60 > 90 days
- Roof replacement: 30 > 60 > 90 days
- Rotted wood: 30 days
- Driveway replacement: 30 > 60 > 90 days
- Guttering: 45 days
- Drainage issues: 48 hours – 30 days
- Shed in disrepair: 30 days



Overview of Enforcement Guidelines

Violation vs. Enforcement Action

- Fence repairs/replacement: 30 > 60 days
- Trash and debris: 48 hours – 7 days
- Tall grass/weeds: 5 days for occupied property;
10 days from publication for vacant property
- Ground cover: 30 days
- Dead trees: 30 days
- Outside storage: 48 hours – 7 days
- Screening RVs, boats, & trailers: 30 days
- Truck parking (driveways): 48 hours
- Animal sanitation: 48 hours
- Inoperable vehicles: 48 hours for repairs in driveway;
7 days for unlicensed/not running



Construction Site Code Enforcement

Expectations provided to contractors:

- Construction debris placed in dumpster (no loose or blowing debris)
- Weeds must be cut down or killed
- Erosion control/silt fencing must be replaced immediately if damaged
- Be a good neighbor – be proactive and discuss with neighbors if property will be affected
- Be mindful of construction vehicle traffic and its impact on neighborhood; ensure emergency vehicles have enough clearance on all streets
- Jobsites should be cleaned daily (including mud and rocks on streets and sidewalks)
- Adhere to the City's noise ordinance – any violations reported to Codes by the police department result in a ticket and notice to appear in municipal court.

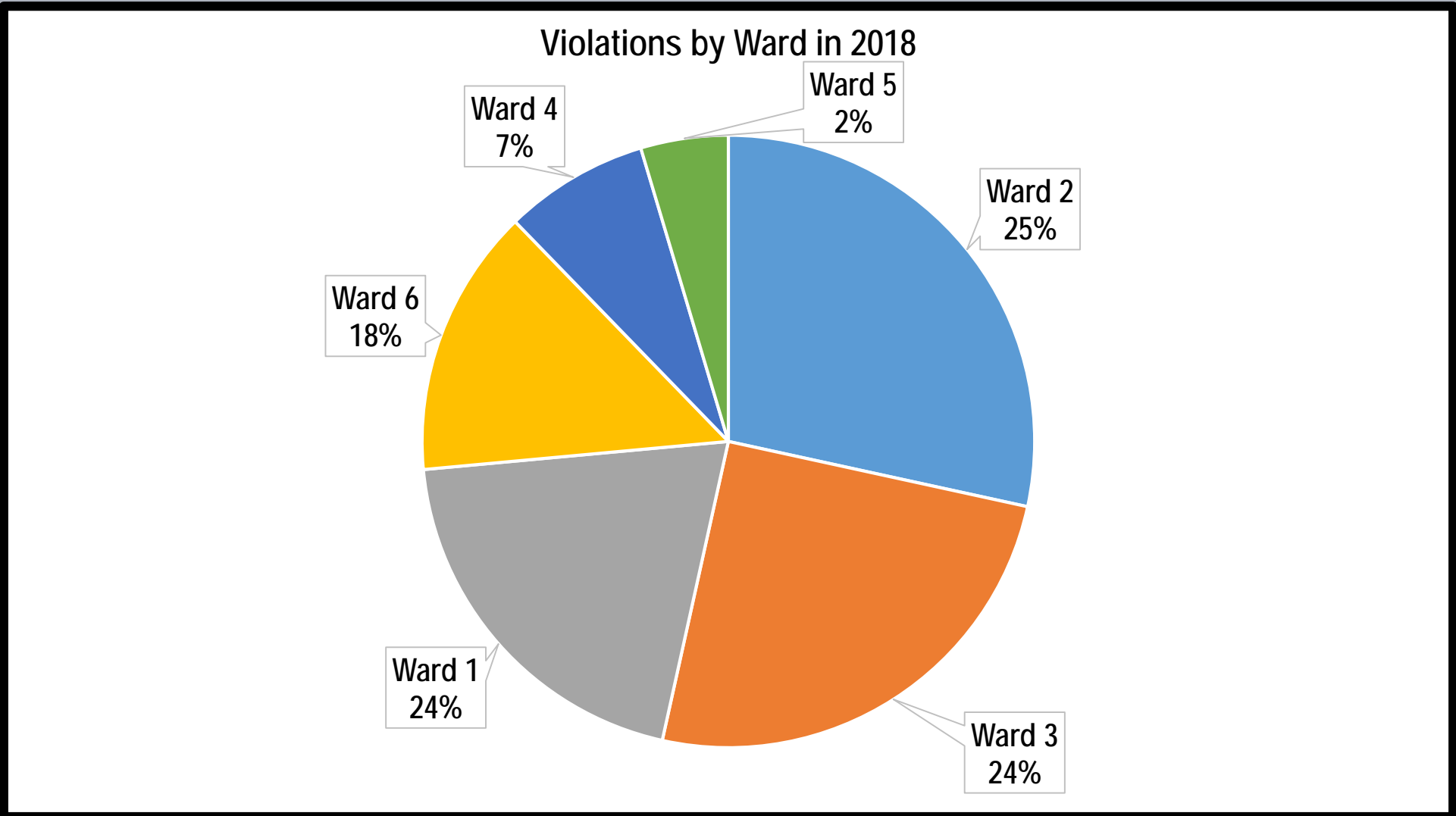


2018 Code Enforcement By the Numbers

- 1,401 = cases opened
- 1,722 = code violations addressed
- 28 days = average time to reach voluntary compliance on code enforcement cases
- 96 days = average time for compliance when sent to municipal court
- 1,031 cases opened by proactive code enforcement
- 347 cases opened as a result of a complaint
- 95 violations from rental inspections
- 838 trash container violations
- 63 cases sent to municipal court
- 42 cases opened that did not result in a code violation



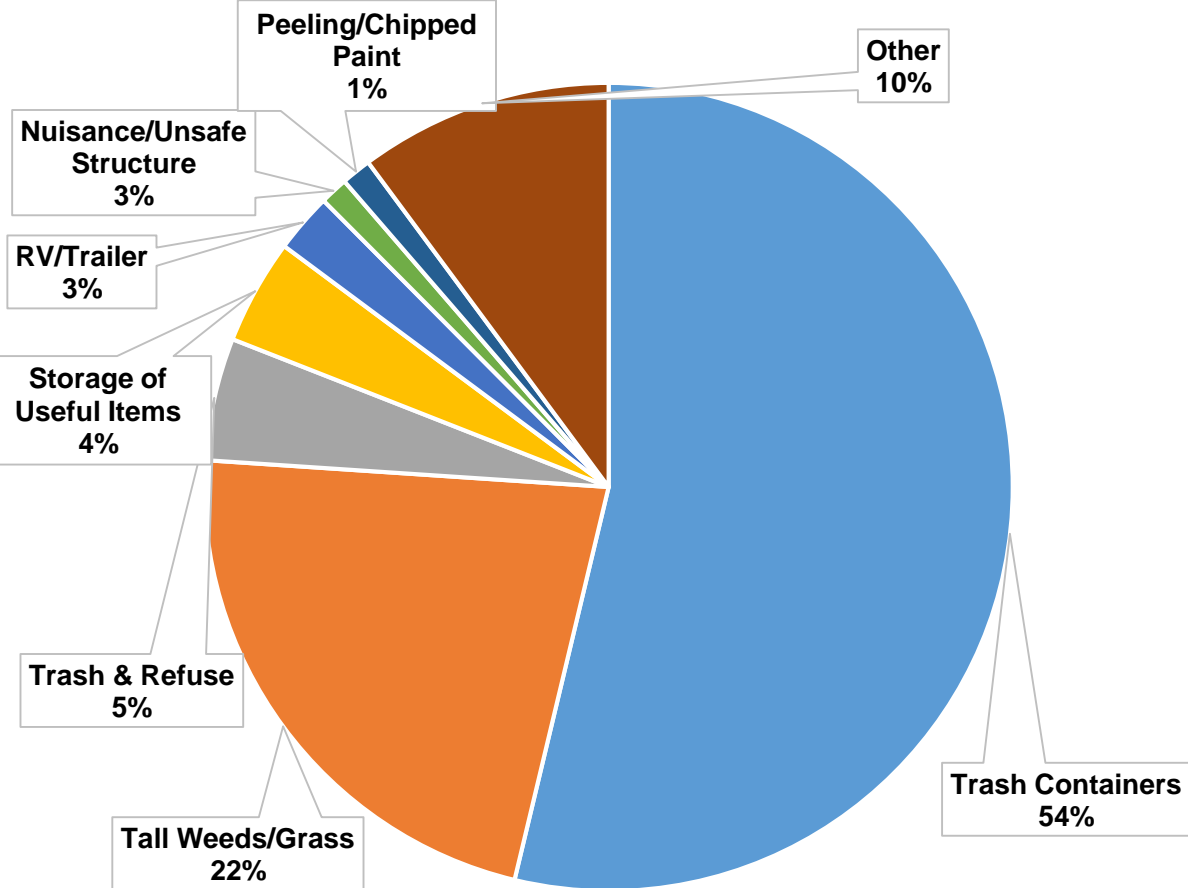
2018 Code Enforcement Cases by Ward



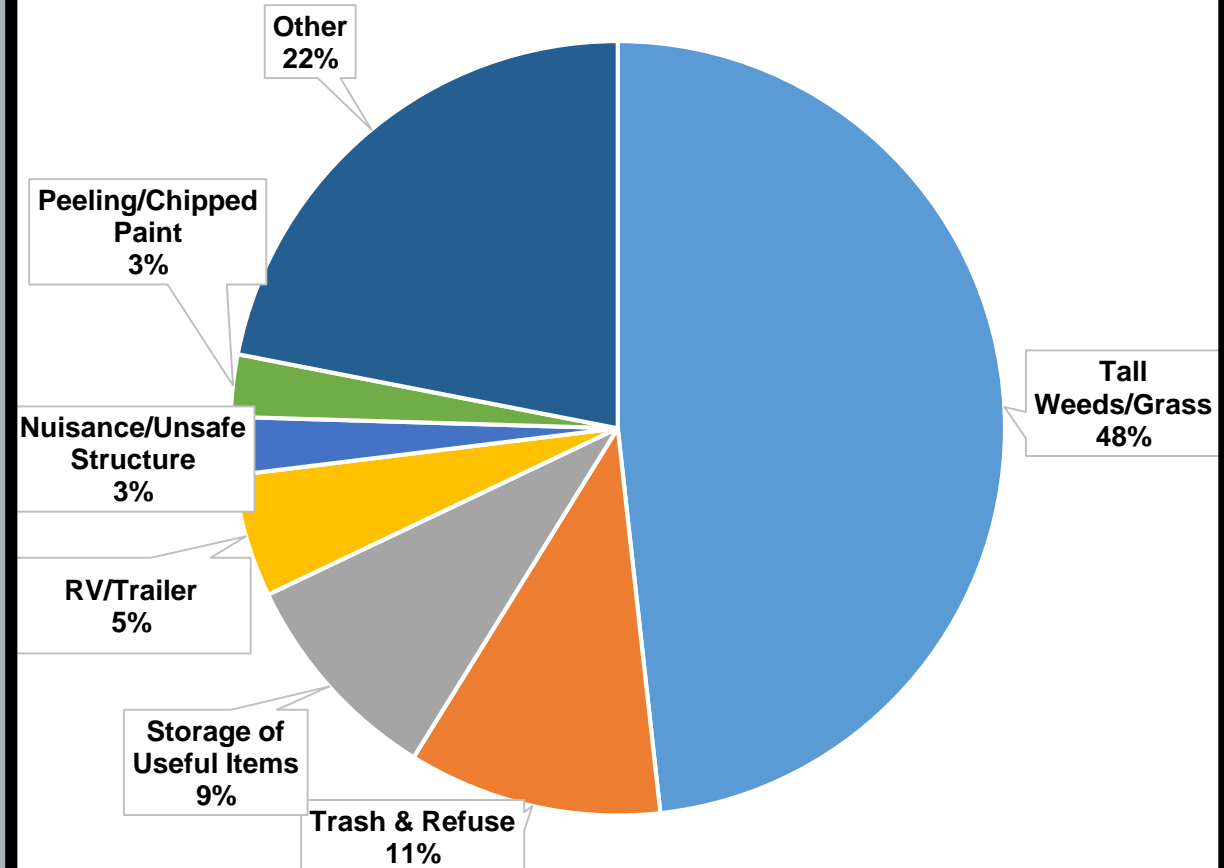


Most Common Violations in 2018

Most Common Violations in 2018



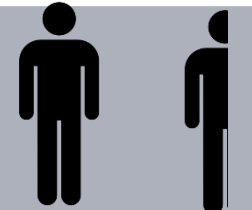
Most Common Violations in 2018
(excluding trash containers)





Code Enforcement FTEs

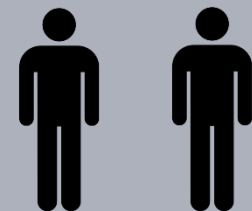
2014



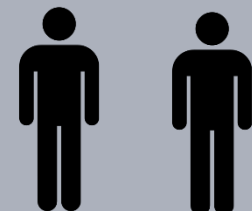
2015



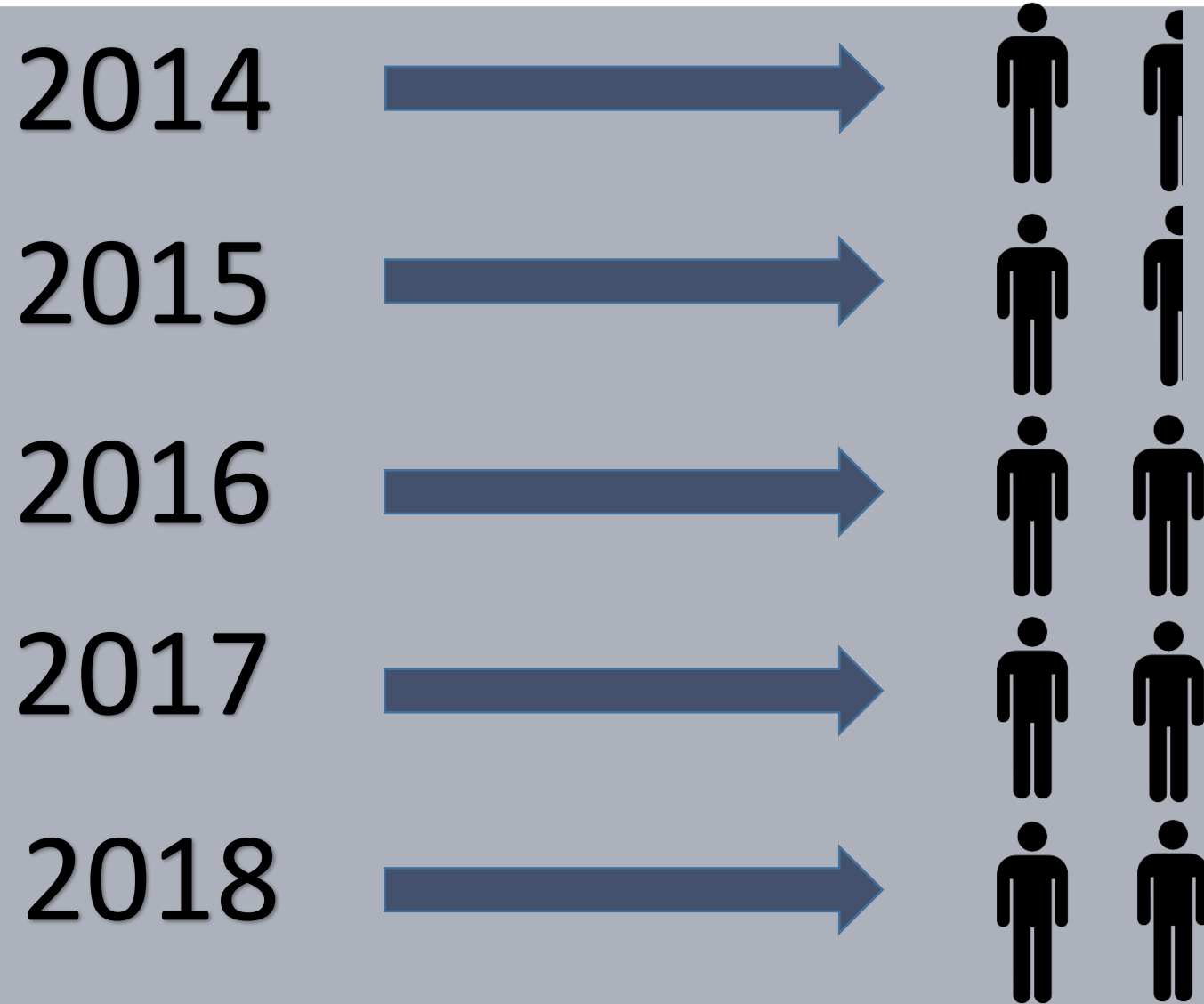
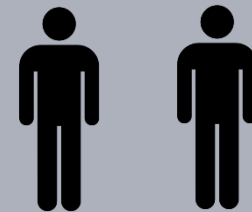
2016



2017

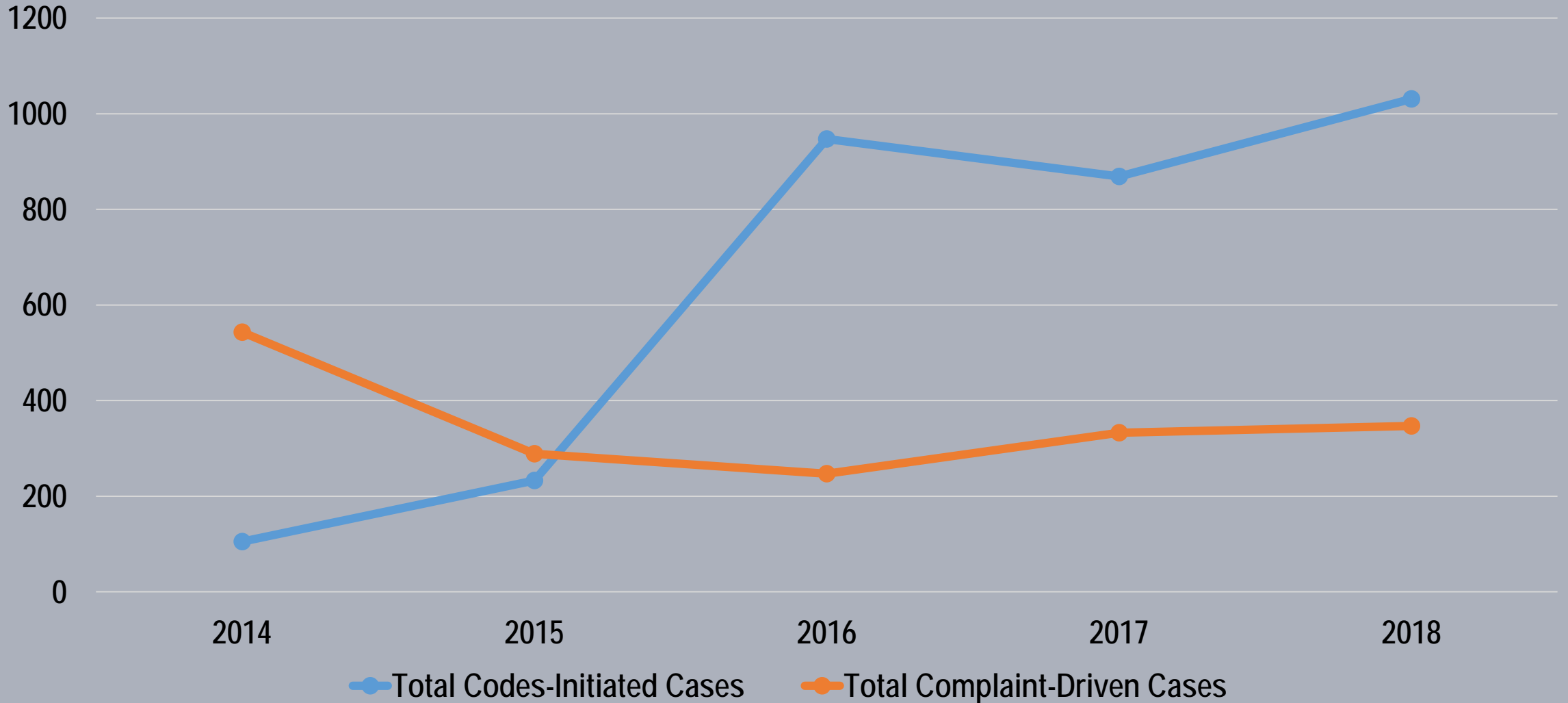


2018



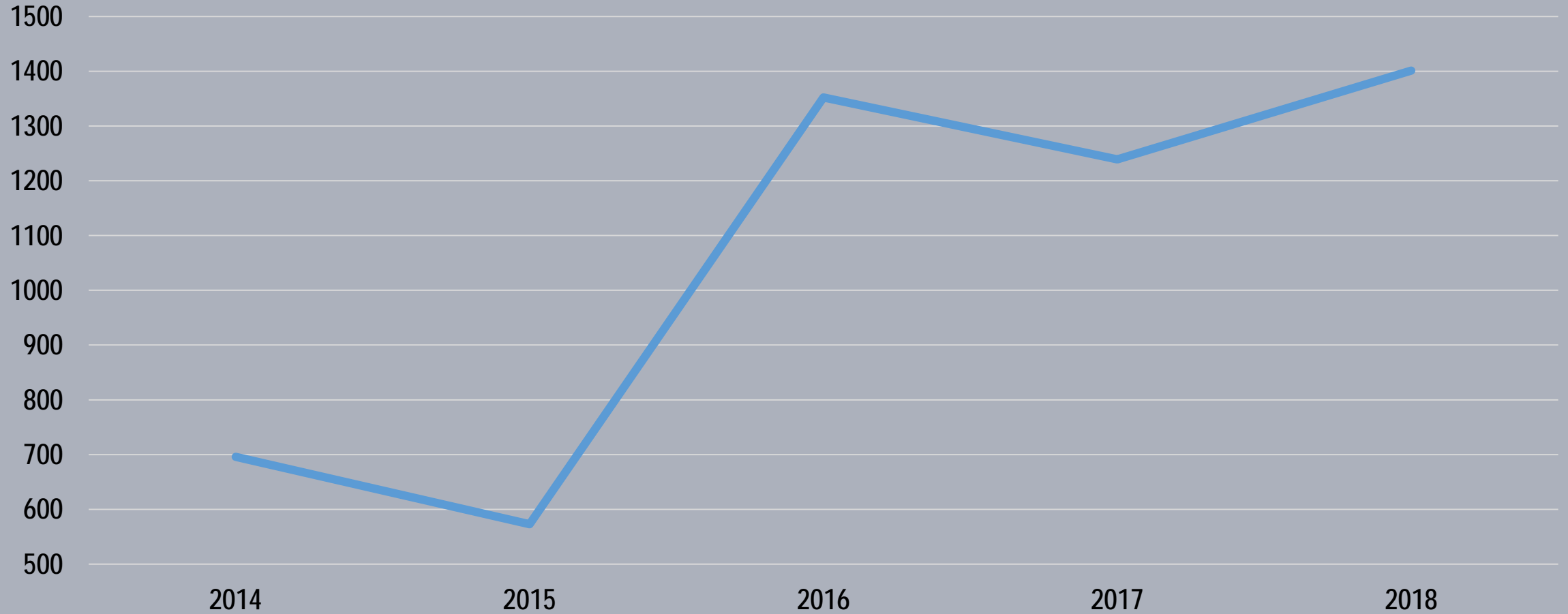


Proactive vs. Reactive Cases 2014 - 2018





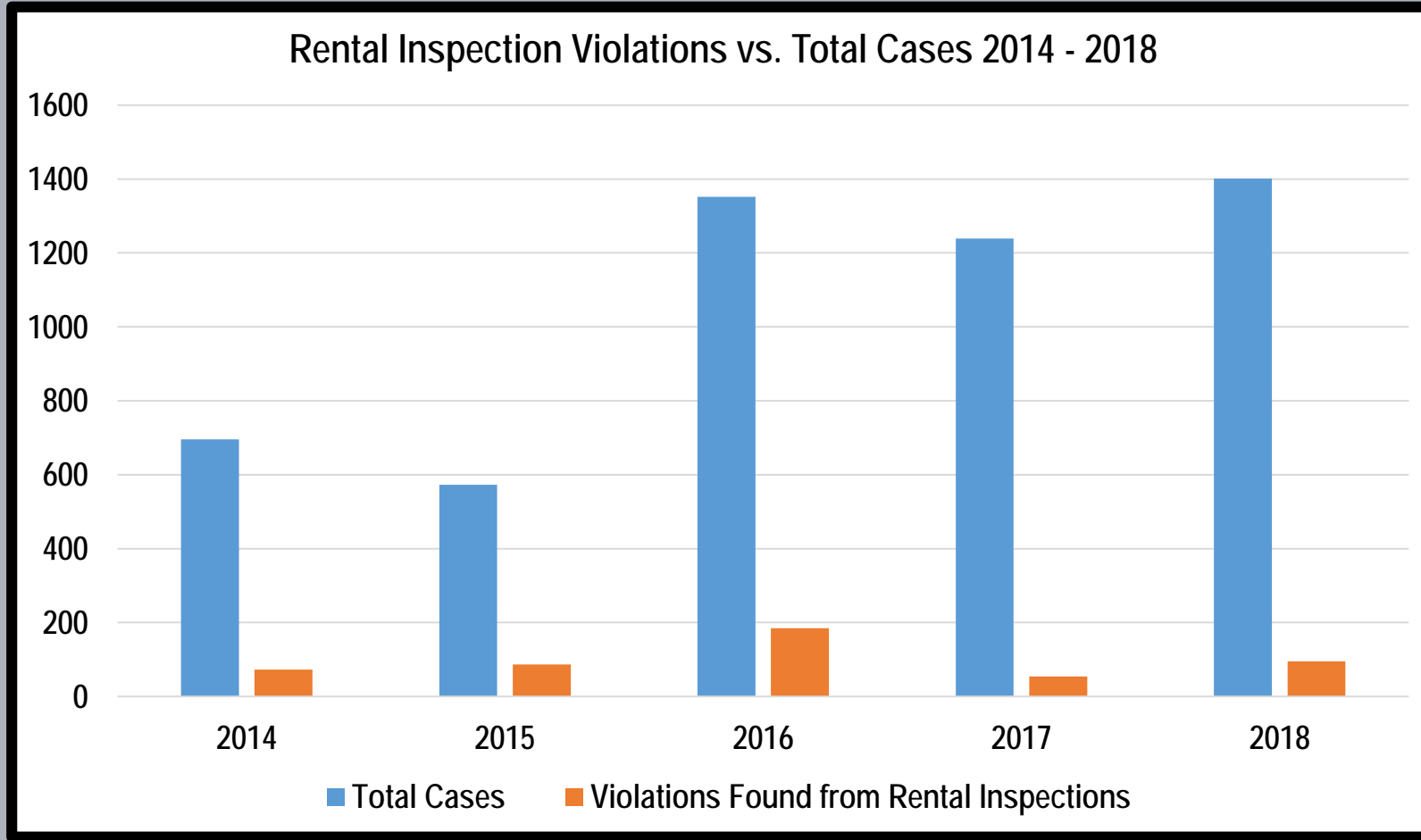
Total Number of Cases Citywide 2014 - 2018



Total number of annual code enforcement cases increased 101% from 2014 to 2018

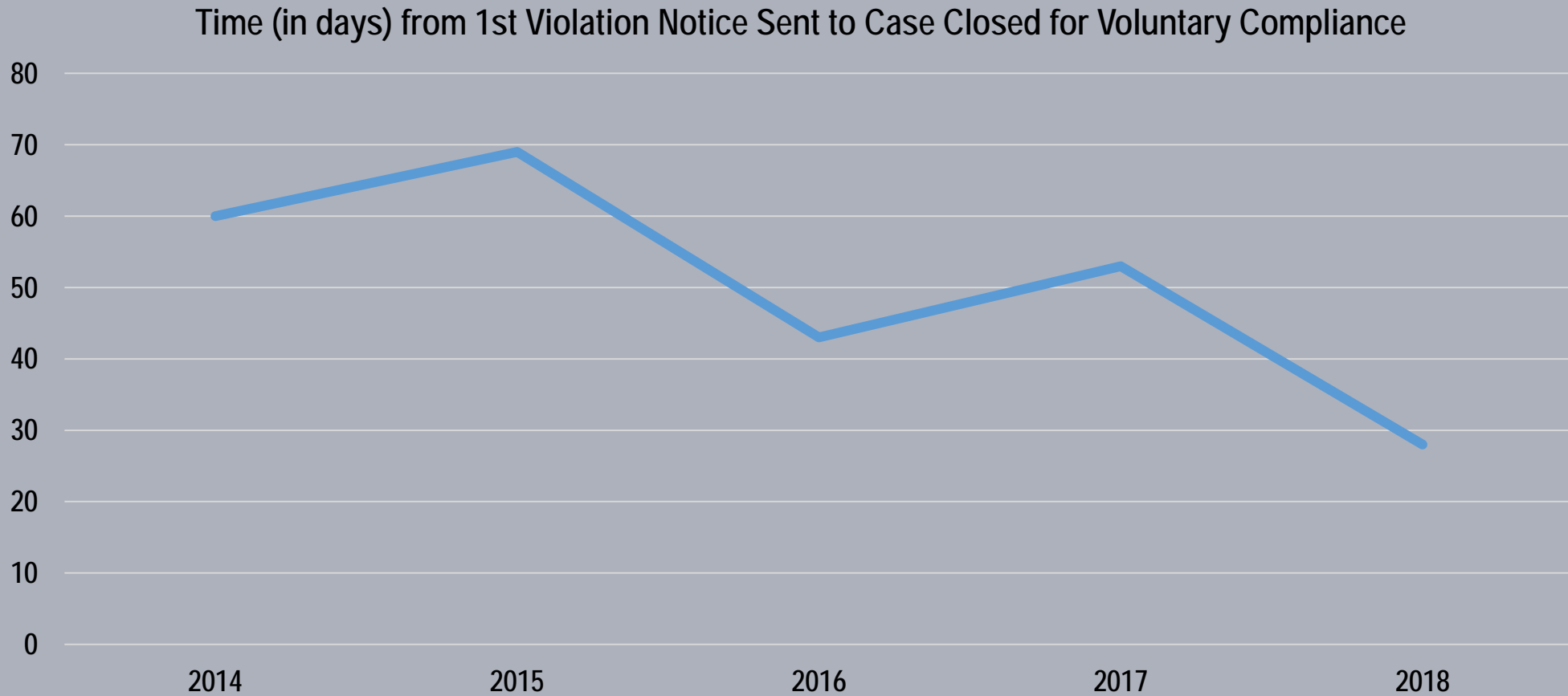


2018 Rental Inspections





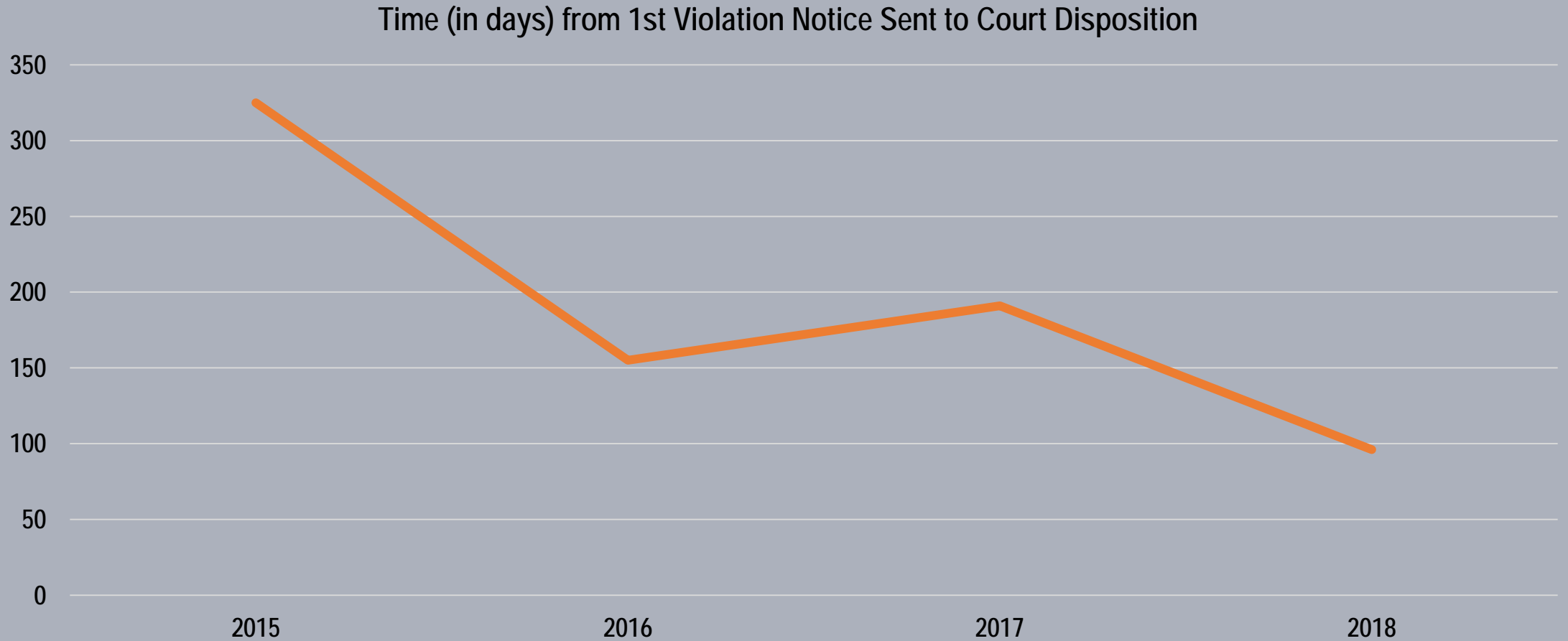
Resolution Time with Voluntary Compliance, 2014 - 2018



The average time to close a case for voluntary compliance decreased 53% since 2014 and 47% just since last year



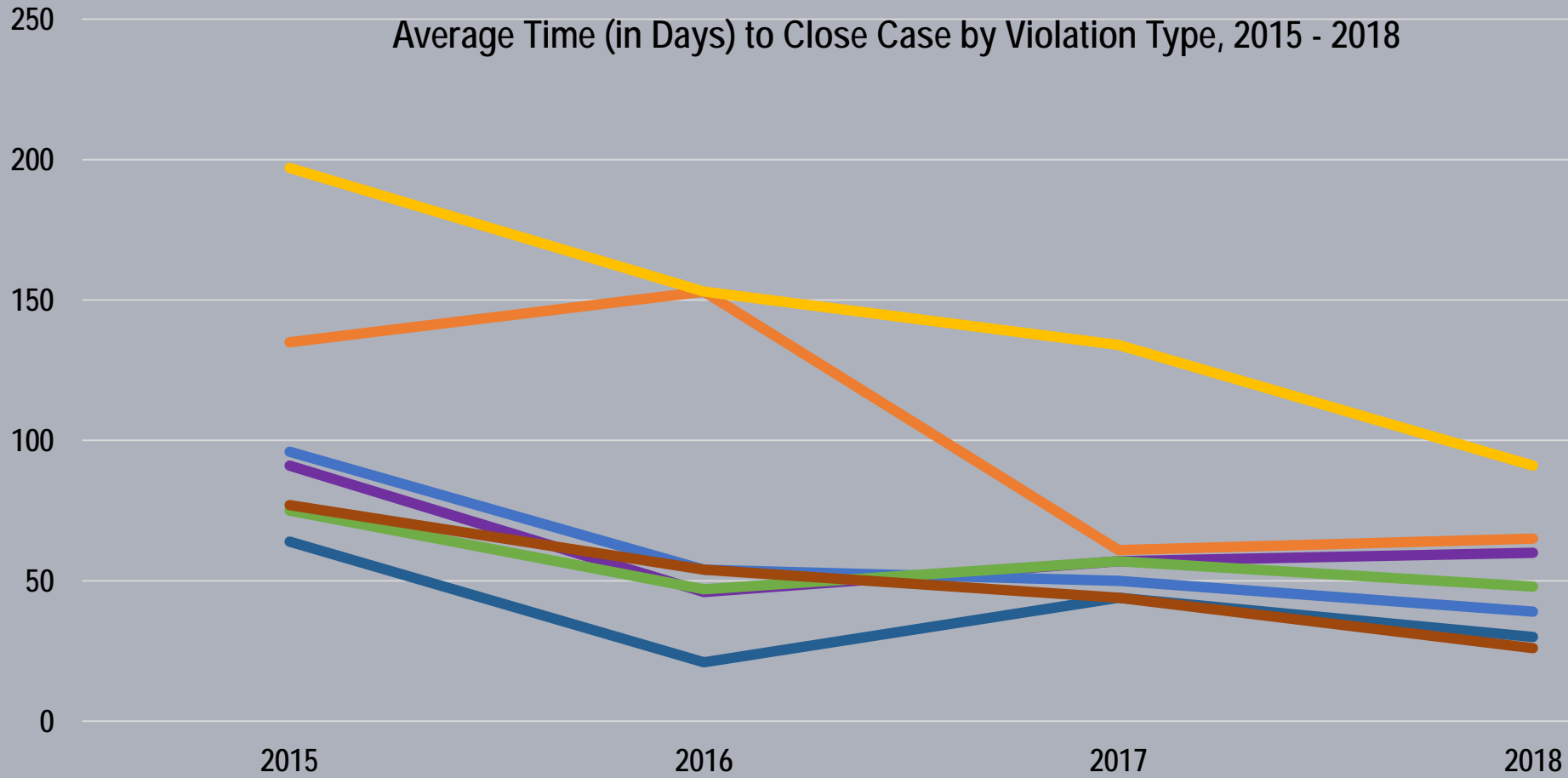
Resolution Time in Municipal Court, 2015 - 2018



The average time to close a case from the time the first violation notice was sent until the time of disposition in municipal court decreased 70% since 2014 and decreased 49% just in the last year



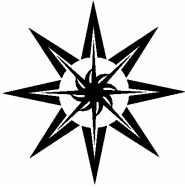
Time to Close by Violation Type, 2014 - 2018



Driveway in Disrepair
Trash & Refuse
Tall Weeds and Grass

Nuisance or Unsafe Structure
Storage of Useful Items

Peeling Paint
Trash Containers



COUNCIL COMMITTEE

Council Committee Meeting Date: January 22, 2019

COU2019-10 Consider formally naming the new public park at W. 67th and Roe Avenue as “Wassmer Park” in accordance with Council Policy 501.

CONSIDERATION

In Accordance with Council Policy 501, Mayor Mikkelson requests that the City Council name what has been referred to as “North Park” as “Wassmer Park”. Public Works has reached a point where a formal name of the new park at W. 67th and Roe Avenue is needed for signage, bid documents, contractual language, etc. as this project moves toward completion. Mayor Mikkelson discussed this recommendation with Councilman Herring (Park Chair) and the City Administrator, who both concur with this recommendation. Former Mayor Wassmer served as a City Councilmember for 17 years and 4 years as Mayor. She has been devoted to park enhancements and acquisition of new park properties during her tenure. Specific to this consideration, Mayor Wassmer was instrumental in the purchase agreement with Faith Lutheran Church to acquire this property as a park. Over the course of several meetings with Church Officials and an assembly of the congregation, Mayor Wassmer was able to earn their approval of a park setting while paying historical recognition to their church community.

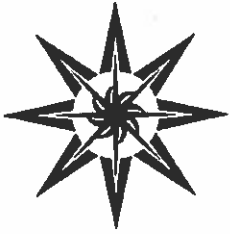
Council Policy 501.....”Upon completion of at least a four-year term of office as Mayor of the City of Prairie Village, Kansas, a City Park will be dedicated and renamed for the Mayor.....subject to availability”

ATTACHMENTS

- Council Policy 501

Prepared By:

Wes Jordan
City Administrator
Date: January 17, 2019



City Council Policy: CP501 - Naming of City Parks

Effective Date: October 6, 2003

Amends:

Approved By: City Council

I. SCOPE

A. This policy applies to all public parks that have not been previously named for a Mayor within the jurisdiction of the City of Prairie Village, Kansas.

II. PURPOSE

A. To provide guidelines for the future naming and renaming of public parks in the City of Prairie Village.

III. RESPONSIBILITY

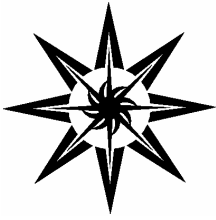
IV. DEFINITIONS

V. POLICY

A. Upon completion of at least a four-year term of office as Mayor of the City of Prairie Village, Kansas a City Park will be dedicated and renamed for the Mayor.

B. This policy is subject to the availability of Parks deemed appropriate for renaming.

VI. PROCEDURES



COUNCIL COMMITTEE

Council Committee Meeting Date: January 22, 2019

COU2019-11: Discuss draft ordinance (Chapter 11, Article 16) regulating the use of Unmanned Aerial Vehicles (UAVs)

BACKGROUND

As part of the Council Initiative List, the Governing Body asked the City Attorney and Staff to draft an ordinance regulating unmanned aerial vehicles (aka “drones”) that may potentially pose a threat to the public safety as well as welfare concerns such as privacy, nuisance, and trespass concerns.

COUNCIL DIRECTION

The City Attorney/Staff would like to discuss the draft ordinance and receive Council feedback including, but not limited to, violation classification.

ATTACHMENTS

- Draft Ordinance (11-1601 through 11-1605)

Prepared By:

Wes Jordan
City Administrator
Date: January 16, 2019

ORDINANCE NO. _____

AN ORDINANCE RELATED TO THE REGULATION OF UNMANNED AERIAL VEHICLES (UAVs/DRONES), ESTABLISHING NEW ARTICLE 16 ENTITLED "UNMANNED AERIAL VEHICLES" TO CHAPTER XI, PUBLIC OFFENSES & TRAFFIC, TO THE CODE OF THE CITY OF PRAIRIE VILLAGE, KANSAS.

WHEREAS, the Governing Body of and for the City of Prairie Village, Kansas, finds that unregulated use of unmanned aerial vehicles (UAVs) throughout the City has the potential to pose a threat to the public health, safety and welfare and may create public health, safety and welfare concerns, including, but not limited to, privacy, nuisance and trespass concerns.

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

Section 1. A new Article 16 entitled "Unmanned Aerial Vehicles" is hereby established in Chapter XI (Public Offenses & Traffic) of the Code of the City of Prairie Village, Kansas, as follows:

ARTICLE 16. UNMANNED AERIAL VEHICLES

11-1601

DEFINITIONS. For purposes of this Article, the following terms and phrases shall have the meaning set forth below:

- A. "City airspace" means the airspace above the land and waterways within the jurisdiction of the City.
- B. "Hobby or recreational purposes" means a pursuit engaged in for relaxation, and not for business purposes and not for compensation or hire.
- C. "Operate" means to pilot, steer, direct, fly or manage a UAV through the air whether from within the UAV or remotely. The term "operate" includes managing or initiating a computer system that pilots, steers, directs, flies or manages a UAV.
- D. "Surveillance" means the gathering, without permission and in a manner that is offensive to a reasonable person, of visual images, physical impressions, sound recordings, data, or other information involving the private, personal, business, or familial activities of another person, business or entity, or that otherwise intrudes upon the privacy, solitude, or seclusion of another person, business or entity, regardless of whether a physical trespass on to real property owned, leased, or otherwise lawfully occupied by such other person, business or entity, or into the city airspace above real property owned, leased, or otherwise lawfully occupied by such other person, business or entity occurs in connection with such surveillance.
- E. "Unmanned aerial vehicle" or "UAV" means an aircraft that (1) is operated without the possibility of direct human intervention from within or on the aircraft, and (2) weighs less than 55 pounds at the time of operation, including the weight of any payload or fuel.

- F. "Weapon" means any instrument, article or substance that, under the circumstances in which it is used, attempted to be used or threatened to be used, is readily capable of causing death or serious physical injury.

11-1602

OPERATING REGULATIONS. Except as otherwise provided in Section 11-1603, no person shall operate any UAV for recreational or hobby purposes in city airspace:

- A. directly over any person who is not involved in the operation of the UAV, without such person's consent;
- B. over an individual or over an open-air event venue wherein more than one hundred (100) individuals are gathered for such event, without the venue owner's or operator's consent, and without the consent of the event sponsor or organizer;
- C. over property that the operator does not own, without the consent of the property owner or such other person lawfully occupying the property; and subject to any restrictions that may be placed on the operation by the property owner or such other person lawfully occupying the property; provided, that the foregoing shall not prohibit operation of a UAV for recreational or hobby purposes in a city-owned park so long as the operator and UAV comply with all other requirements and restrictions of this Article;
- D. for the purposes of conducting surveillance;
- E. while under the influence of alcohol, or other drug or drugs, that renders the operator incapable of operating the UAV;
- F. that is equipped with a firearm or other weapon; or
- G. in a reckless or careless manner.

11-1603

LIMITATIONS ON OPERATING REGULATIONS.

- A. Operations Authorized by the FAA. Notwithstanding the provisions of Section 11-1602, nothing in this Article shall be construed to prohibit, limit or otherwise restrict any person who is authorized by the Federal Aviation Administration to operate a UAV in city airspace, pursuant to Section 333 of the FAA Modernization and Reform Act of 2012 or a certificate of waiver, certificate of authorization or airworthiness certificate under Section 44704 of Title 49 of the United States Code or other Federal Aviation Administration grant of authority for a specific flight operation(s), from conducting such operations(s) in accordance with authority granted by the Federal Aviation Administration.
- B. Operations Prohibited by FAA—Clarification. Nothing in this Article shall be construed to authorize the operation of UAVs in city airspace in violation of any Federal statute or rules promulgated thereunder, including, but not limited to,

any temporary flight restrictions or notices to airmen issued by the Federal Aviation Administration.

- C. Operations by City for Law Enforcement Purposes. Notwithstanding the provisions of Section 11-1602, nothing in this Article shall be construed to prohibit or restrict the use of a UAV by a law enforcement agency or for emergency response operations in accordance with applicable law.

11-1604 SEVERABILITY. Severability is intended throughout and within the provisions of this Article. If any section, subsection, sentence, clause, phrase, or portion of this Article is held to be invalid, illegal, or unconstitutional by any court of competent jurisdiction, then that decision shall not affect the validity of the remaining portions of this Article.

11-1605 [NOTE TO DRAFT: Discuss adding provision on enforcement, or what class of violation it should be, should this ordinance be breached. Mission Hills ordinance is silent. Violation of Peeping Tom Ordinance is a Class A violation.]

Section 2. This ordinance shall take effect and be enforced from and after its passage, approval, and publication as provided by law.

PASSED by the City Council of the City of Prairie Village, Kansas on _____, 2019

APPROVED:

Eric Mikkelson, Mayor

ATTEST:

Adam Geffert, City Clerk

APPROVED AS TO LEGAL FORM:

David E. Waters, City Attorney

MAYOR'S ANNOUNCEMENTS

Tuesday, January 22, 2019

Committee meetings scheduled for the next two weeks:

Environmental Committee	01/23/2019	5:30 p.m.
VillageFest Committee	01/24/2019	5:30 p.m.
City Council Meeting	02/04/2019	6:00 p.m.
Planning Commission Meeting	02/05/2019	7:00 p.m.
Tree Board Meeting	02/06/2019	5:30 p.m.

=====

The Prairie Village Arts Council is pleased to feature the second annual Future of the Arts Exhibit during the month of January.

City offices will be closed February 18 for Presidents Day. Trash services will not be delayed.

INFORMATIONAL ITEMS
January 22, 2019

1. Legislative Agenda (as amended at 1/14/19 Council Meeting)
2. Mark Your Calendar

PRAIRIE VILLAGE 2019 LEGISLATIVE PLATFORM



PRAIRIE VILLAGE, KANSAS

State and local government are partners providing numerous governmental services that are funded and made available to citizens. Local units of government are closest to the citizens and therefore, are extremely well-positioned to represent the interests of citizens in the communities in which they live. The partnership depends upon stable funding, efficient use of citizens' resources, and responsiveness at the city and county level. We support respect and preservation of local authority, maintenance of local control of local revenue and spending, and oppose the devolution of State duties to local units of government without planning, time and resources.

REPEAL OF THE PROPERTY TAX LID

We strongly oppose any state-imposed limits on the taxing and spending authority of cities and counties and urge the repeal of the property tax lid legislation passed during the 2015 session and revised in the 2016 session of the Kansas Legislature. We believe those elected to manage the affairs of cities and counties can be most responsive to the local taxpayers and make budget and tax decisions that are most reflective of the community's needs and financial interests. We note that these same taxing and spending limits on cities and counties were not placed on state government. State government should abide by the same taxing and spending decisions as they impose upon cities and counties.

Absent repeal, the state-imposed tax lid on local governments should be modified to require a public vote based on a protest petition provision. Additionally, the Kansas Legislature should review and consider including appropriate exemptions that existed largely under the prior tax lid but were not included in the current law, such as human resources costs, KPERS, intellectual and developmental disabilities costs, transit equipment, and mental health services, among other items. Further, the Kansas Legislature should review and consider amending the current statute to include a "hold harmless" provision that would allow local governments to lower property tax rates and, within the subsequent five years, return the property tax rate to prior level if necessary.

STATE FUNDING OF PUBLIC EDUCATION

We strongly support constitutionally adequate, equitable, and responsible funding for the public school system to a level that places Kansas among the leading states in support of a "world class" education. We oppose any further reduction in school funding, including any constitutional amendment releasing the legislature from this important duty.

NON-PARTISAN ELECTIONS

We support continuing local elections on a non-partisan basis. We are opposed to any legislation that would require local elections to be conducted with partisan identification. We also support the return of local control for timing of local elections.

LOCAL GUN CONTROL

We strongly believe the ability to govern how firearms are possessed and transported throughout our community is a matter of local control. Local government should have the ability to regulate and enforce the possession and use of weapons within City-owned facilities, public parks, municipal pools, and City-owned vehicles. We urge state legislators to repeal House Bill No. 2578 that restricts local government from enacting important gun safety measures in their communities.

MAINTAIN LOCAL CONTROL OF REVENUE AND SPENDING

Our local communities across the state are best served and citizens' values and standards are best reflected when local taxing and spending are determined by local voters and taxpayers. We support the retention and strengthening of local home rule authority to allow locally elected officials to conduct the business of their jurisdiction in a manner that best reflects the desires of their constituents and results in maximum benefit to that community.

LIMITS ON APPRAISED VALUATION GROWTH

We strongly support the continuation of the Kansas Legislature's decision not to implement artificial limits on appraised valuation growth by the state. Such limitations prevent local officials from making decisions the public expects of them and reduce bond ratings, resulting in more expensive debt service payments on needed capital projects. This ultimately has a negative effect on local taxpayers by reducing the services they receive for their tax dollars.

TAX POLICY

We support stable revenue sources and urge the Kansas Legislature to avoid applying any further exemptions to the ad valorem property tax base, including exceptions for specific business entities or the state/local sales tax base, as well as industry-specific special tax treatment through exemptions or property classification. The local tax burden has shifted too far to residential property taxes due to state policy changes. We do not support changes in State taxation policy that would narrow the tax base or significantly reduce available funding for key programs. These changes put Kansas counties and cities at a competitive sales tax disadvantage with Missouri.

INTERNET SALES TAX COLLECTIONS

We encourage the Kansas Legislature to pass legislation facilitating the collection of compensating use tax from purchases made from sellers (with no physical presence in a state) based on the U.S. Supreme Court decision in *South Dakota v. Wayfair*. Sales tax collected should be distributed using existing methods/formulas for the state and local governments.

SALES TAX EXEMPTION

We support the current law that exempts local government and public construction projects from sales tax. State-imposed sales tax on government purchases and projects will have only one effect: increased local property taxes. Purchases have to be made and construction must occur; imposition of a sales tax would increase the local tax burden to cover those added costs. This sales tax revenue does not help local government, but, in fact, hurts our local economy and our residents who have to pay much higher property taxes. Increased property and sales taxes ultimately reflect negatively on the state, given our proximity to Missouri.

OPPOSE UNFUNDED MANDATES

We support minimizing the financial and staffing implications of "devolution," the passing down of responsibilities to counties by the state and federal governments, by seeking funding for mandates and reasonable periods of time to phase in new funding responsibilities. Any budget reductions or changes in state taxation that reduce state resources with an impact on government services should be evaluated closely by the state and based on a cost benefit analysis of how such reductions would increase cost demands at either the local or state level. If the State reduces funding for government services, the State should provide greater flexibility and increased local ability to raise revenue beyond primarily sales and property tax sources.

STATUTORY PASS-THROUGH FUNDING

We call for the preservation of local government revenues that pass through the State of Kansas' treasury. These funds come from a longstanding partnership between local governments and the State and are generated via economic activity at the local level. Both alcoholic liquor tax funds and the local portion of motor fuel taxes should not be withheld from local governments and siphoned into the State General Fund. Seizure of these local funding sources may benefit the State, but it will increase the local property tax burden to replace lost revenue. Local governments, in recent years, have had to cope with the Kansas Legislature not funding Local Ad Valorem Tax Reduction (LAVTRF), County City Revenue Sharing (CCRS) demand transfers, and the machinery & equipment property tax "slider." Local governments should not be forced to further aid in balancing the State's budget. Since 1997, more than \$2.2B in formula demand transfers from the state to local governments have not been made. LAVTR dates back to the 1930s, with the existing statutory framework being established in 1965. LAVTR represents the local share of certain cigarette revenue, stamp taxes, and cereal malt beverage taxes that the state removed in exchange for commitment to fund the LAVTR. CCRS was established in 1978 as part of an agreement between the state and local governments regarding a number of different taxes related to cigarette and liquor enforcement.

ABANDONED AND BLIGHTED HOUSING

We support legislation that streamlines and expedites the process for local governments, neighborhood organizations and private businesses to deal with the blight of abandoned, nuisance, foreclosed housing, and commercial structures to protect the rights and property values of surrounding property owners.

COMPREHENSIVE TRANSPORTATION PLAN

The current funding level is far from adequate to address ongoing statewide infrastructure funding needs; therefore, it is critical for our state highway funds to be used for the purpose for which they are collected. To ensure the critical well-being of Kansas infrastructure, funds should be allocated strategically to ensure there is an identifiable long-term return on investment for the entire state. Investing in growth areas is vital to creating a sustainable revenue stream that will address statewide infrastructure needs to support private sector job growth and public safety.

KPERS FUNDING

We support achieving a fully-funded public employee's retirement system within a reasonable period of time. Kansas state government should fully fund its portion of the employer contributions, and the local government KPERS should be separated from the state and school retirement system. The system should accumulate sufficient assets during members' working lifetimes to pay all promised benefits when members retire. Additionally, we support current provisions as they relate to accumulated leave and other human resources policies to determine a retiree's benefit. Possible policy changes could have a negative impact on local government employee recruitment and retention, particularly in the competitive Johnson County employment market.

KANSAS OPEN RECORDS AND OPEN MEETINGS ACT

We believe that an open government is essential to building public confidence. We support the retention of the limited exceptions in the Kansas Open Records Act (KORA) and the permitted subject matters for executive sessions contained in KORA currently found in the law. Additionally, we support the existing allowances for cost recovery for open records included under current law.

We also support amendments to update the Kansas Open Meetings Act (KOMA) and KORA to provide better guidance about the application of KOMA and KORA to all forms of electronic communication, including but not limited to social media. Further, we encourage legislative clarification in regard to the application of KOMA and KORA to subcommittees and working groups formed by local governmental bodies.

LEGISLATIVE PARTICIPATION

We support local officials and their representatives' ability to freely participate in the legislative process through advocacy and education on issues affecting local governments. Local officials, representing their citizens and taxpayers, must retain the authority to make decisions regarding membership in organizations and to participate in the legislative process through advocacy without cumbersome reporting requirements.

LOCAL CONTROL OF RIGHT OF WAY

2016 legislation granting placement of cell towers in city and county owned right of way, with little oversight, should be revised. Regulation of the placement of cell towers should be subject to reasonable local zoning processes, which review important community values such as safety and neighborhood concerns.

STATEWIDE ENERGY POLICY

We support a statewide energy policy standard to financially incentivize energy sources that protect air quality and reduce the dependency on oil. We support the development of a coordinated and comprehensive energy policy, including the use of renewables including wind and solar power, developed with strong input from municipalities.

MEDICAL MARIJUANA

We support the legalization of the exploration of the use of medical marijuana and its derivatives for the purpose of improving the quality of life of individuals with medical conditions that can benefit from its use.

STATEWIDE EXPANSION OF MEDICAID

We support Medicaid expansion through KanCare in Johnson County and throughout Kansas. Providing Medicaid is the responsibility of the state and federal government. The decision to limit Medicaid expansion has an impact on our citizens. Absent the State's participation in Medicaid expansion, taxpayers are required to pay for these services that would otherwise be covered by Medicaid.

RETURN STATE FUNDING LEVELS FOR SOCIAL SAFETY NET

We support the restoration of funding to social services programs. These programs are critical for our most at-risk and vulnerable residents including child welfare, mental health, and our senior citizens.

NON-DISCRIMINATION

We strongly believe all people should be treated fairly and equally under the law. However, in Kansas, a gap currently exists in the applicable state and federal discrimination laws leaving LGBTQ people without protection from discrimination in housing, employment, and public accommodations. While the City of Prairie Village has passed a local non-discrimination ordinance to fill this gap, we urge the State to pass legislation to extend these protections state-wide.

DEVELOPMENT OF A COMPREHENSIVE BUDGETING PLAN

We strongly encourage the State of Kansas to develop a comprehensive budgeting plan to foster and enhance the State's struggling economy. We are in opposition to any financial practices that divert money from the Highway Fund or KPERS, or negatively impact the State's future financial position.

**Council Members
Mark Your Calendars
January 22, 2019**

January, 2019 **Juried Photography Exhibit in the R.G. Endres Gallery**
January 23 Local Government Day in Topeka
January 31 State of the Cities Addresses

February, 2019 **Featured Artists: Shelby Pinderville, Kathleen Kirch, Jason Wagner**
February 4 City Council Meeting
February 8 Artist Reception in the R.G. Endres Gallery
February 18 Presidents Day (Observed) - Offices closed
February 19 (Tues) City Council Meeting