

The public may attend the meeting in person or view it online at
<https://www.facebook.com/CityofPrairieVillage>.

**COUNCIL MEETING AGENDA
CITY OF PRAIRIE VILLAGE
Monday, May 1, 2023
6:00 PM**

I. CALL TO ORDER

II. ROLL CALL

III. PLEDGE OF ALLEGIANCE

IV. APPROVAL OF THE AGENDA

V. INTRODUCTION OF STUDENTS AND SCOUTS

VI. PRESENTATIONS

- Start Seeing Monarchs Day proclamation
- National Gun Violence Awareness Day proclamation
- Asian American and Pacific Islander Heritage Month proclamation

VII. PUBLIC PARTICIPATION

Participants may speak for up to three minutes. To submit written comment to the Council regarding current agenda items, please email cityclerk@pvkansas.com prior to 3 p.m. on May 1. Comments will be shared with Councilmembers prior to the meeting.

VIII. 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. Consider approval of regular City Council meeting minutes - April 17, 2023
2. Consider approval of expenditure ordinance #3025
3. Consider appointment to the Tree Board
4. Consider approval of Prairie Village Foundation donation policies
5. Consider approval of short-term special use permit for the Prairie Village Art Fair at the Prairie Village Shops

IX. COMMITTEE REPORTS

Planning Commission

- PC2023-105 Consider Ordinance 2483 to approve an amendment of a special use permit for Highlawn Montessori School at 3531 Somerset Drive
Nickie Lee

X. **MAYOR'S REPORT**

XI. **STAFF REPORTS**

XII. **OLD BUSINESS**

XIII. **NEW BUSINESS**

COU2023-28 Consider approval of second addendum to contract for planning advisory services
Nickie Lee

2024 Capital Infrastructure Program budget presentation
Keith Bredehoeft / Melissa Prenger

COU2023-33 Consider 2024-2028 County Assistance Road System (CARS) program
Melissa Prenger

COU2023-29 Consider approval for the Harmon Park inclusive playset package
Melissa Prenger

COU2023-33 Consider construction contract for Harmon Park inclusive playset improvements
Melissa Prenger

COU2023-30 Consider approval of design agreement with BBN Architects, Inc. for the design of park improvements at Harmon Park
Melissa Prenger

COU2023-31 Consider agreement with Black and McDonald for streetlight maintenance services
Keith Bredehoeft

COU2023-32 Consider agreement with Integrity Locating Services for underground line location services related to the streetlight system
Keith Bredehoeft

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

Council meeting recording / livestreaming discussion
Tim Schwartzkopf

XV. **ANNOUNCEMENTS**

XVI. **ADJOURNMENT**

CITY OF PRAIRIE VILLAGE

Proclamation

May 6, 2023

WHEREAS, the majestic and iconic Monarch butterflies are known for their spectacular multi-generational 3000-mile migration from eastern Canada through the United States to the forests of central Mexico each year; and

WHEREAS, over 45 years ago entomologists discovered for the first time the Mexican overwintering grounds of the Monarch butterfly and simultaneously realized the many risks threatening the species; and

WHEREAS, shortly thereafter, scientists across North America sounded the alarm about the vulnerable state of the Monarch butterfly population which has declined over 90% in the last twenty years; and

WHEREAS, multiple organizations and agencies went to work to raise awareness of the plight of the Monarch and to increase the public understanding of the importance and specificity of the Monarch habitat; and

WHEREAS, Prairie Village endeavors to be a regional leader on environmental and sustainability opportunities and has thus committed time and resources toward this effort for decades; and

WHEREAS, the Prairie Village community exists as part of the same unique, diverse, remarkable, and fragile ecosystem as the Monarchs, requiring diligent attention to maintenance of the delicate balance between nature and human activity; and

WHEREAS, Monarch caterpillars rely exclusively on milkweed, wildflowers in the genus *Asclepias*, for their food supply and habitat during this early and critical two-week period of their brief lives, as well as nectar from other native pollinators as they continue to develop; and

WHEREAS, by taking action, Prairie Village has the potential to increase the amount of invaluable shelter and habitat available to a wide array of native plants, animals, and insects, including the Monarch butterfly, each in their own way contributing to maintaining the fragile ecosystem.

Now therefore, I, Eric Mikkelson, Mayor of Prairie Village, Kansas, in celebration of Monarch butterflies and in recognition of all that they and other pollinators contribute to the ongoing health of our environment, do hereby proclaim May 6, 2023, as

Start Seeing Monarchs Day

In the City of Prairie Village and encourage citizens of all ages to enjoy and celebrate the majestic Monarchs as they repose in our community this season along their great journey south and to do what we each can to provide safe harbor for them.

Mayor Eric Mikkelson

Adam Geffert, City Clerk

CITY OF PRAIRIE VILLAGE

Proclamation

National Gun Violence Awareness Day - June 2, 2023

Whereas, gun violence touches every segment of our society and impacts people of all ages; it increases the probability of death in incidents of domestic violence; raises the likelihood of fatality by those who intend to injure others and among those who attempt suicide; it places children and young people at increased risk of physical harm and injury; and disproportionately affects communities of color; and

Whereas, Gun Violence Awareness Day honors the many lives that have been cut short by gun violence in our country and supports efforts to reduce gun-related crimes in the United States; and

Whereas, it is important to recognize community organizations which assist families that have been directly impacted by gun violence and provide a continuum of care to grieving parents or spouses who must continue to provide for surviving family members; and

Whereas, the City supports continued statewide efforts to strengthen gun safety laws and educate the community on safe gun storage; and

Whereas, it is appropriate to set aside time to honor those Americans whose lives are cut short each year by gun violence, and the countless survivors whose lives are forever altered;

Now, Therefore I, Eric Mikkelson, Mayor of the City of Prairie Village, Kansas, do hereby proclaim June 2, 2023 as National Gun Violence Awareness Day in Prairie Village, to honor and remember all victims and survivors of gun violence and to declare that we as a country must do more to reduce gun violence.

Mayor Eric Mikkelson

Adam Geffert, City Clerk

CITY OF PRAIRIE VILLAGE

Proclamation

Asian American and Pacific Islander Heritage Month

Whereas, Asian American and Pacific Islander Heritage Month is a month to celebrate and pay tribute to the contributions of Asian-Pacific Americans to American history, society, and culture, and

Whereas, Asian American and Pacific Islander Heritage Month originated in a congressional bill in June 1977. On March 28, 1979, President Jimmy Carter issued Presidential Proclamation 4650, proclaiming the week beginning on May 4, 1979, as Asian-Pacific American Heritage week; and

Whereas, on May 1, 2009, President Barack Obama issued Presidential Proclamation 8369 proclaiming May 2009 as Asian American and Pacific Islander Heritage month; and

Whereas, Asian American and Pacific Islanders comprise many ethnicities and languages, and their many achievements embody the American experience; and

Whereas, Asian American and Pacific Islanders are leaders in all aspects of American life: government and industry, science and medicine, the arts and Armed Forces, education, and sports;

Now, therefore, I, Eric Mikkelson, Mayor of the City of Prairie Village, formally designate the month of May 2023 as

Asian American and Pacific Islander Heritage Month

And encourage everyone in our community to commemorate this important occasion in recognition of the numerous contributions made by the Asian American and Pacific Islander communities locally, nationally, and globally.

Mayor Eric Mikkelson

Adam Geffert, City Clerk



**CITY COUNCIL
CITY OF PRAIRIE VILLAGE
APRIL 17, 2023**

The City Council of Prairie Village, Kansas, met in regular session on Monday, April 17 at 6:00 p.m. Mayor Mikkelson presided.

ROLL CALL

Roll was called by the City Clerk with the following Councilmembers in attendance: Chad Herring, Cole Robinson, Inga Selders, Ron Nelson, Lauren Wolf, Bonnie Limbird, Dave Robinson, Piper Reimer, Greg Shelton, Courtney McFadden, Ian Graves and Terrence Gallagher (via Zoom). Staff present: Byron Roberson, Chief of Police; Melissa Prenger, Public Works; City Attorney David Waters, attorney with Spencer Fane LLP; Wes Jordan, City Administrator; Nickie Lee, Deputy City Administrator; Tim Schwartzkopf, Assistant City Administrator; Meghan Boom, Assistant City Administrator; Jason Hannaman, Finance Director; Adam Geffert, City Clerk.

PLEDGE OF ALLEGIANCE

APPROVAL OF AGENDA

Mr. Nelson made a motion to amend the agenda for April 17, 2023, by moving the quarterly report from Consolidated Fire District #2 Chief Chick from Staff Reports to Presentations. Mr. Shelton seconded the motion, which passed unanimously.

INTRODUCTION OF STUDENTS AND SCOUTS

No students or scouts were present at the meeting.

PRESENTATIONS

- Teen Council graduation - Ms. Reimer recognized graduating Teen Council members David Allegri, Ava Van Alstyne, Ainsley Pyle, Abigail Swanson, and Sneha Thomas
- Arbor Day proclamation - Mr. Graves read a proclamation declaring April 28, 2023, as Arbor Day in Prairie Village.
- Chief Steve Chick provided a first quarter report for Consolidated Fire District #2.

PUBLIC PARTICIPATION

- The following residents voiced concerns regarding the proposed community center:



**PRAIRIE VILLAGE
KANSAS**

- Pam Justus
- Barbara Cantrell

- Resident Barb Wheeler shared concerns about certain proposals recommended by the Ad Hoc Housing Committee

- Resident Justin Schmeltz stated he disagreed with signing the liability waiver that is required to use the swimming pool facility.

CONSENT AGENDA

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

1. Consider approval of regular City Council meeting minutes - April 3, 2023
2. Consider mattress removal and recycling agreement with Sleepyhead Beds

Mr. Nelson made a motion to approve the consent agenda as presented. A roll call vote was taken with the following votes cast: “aye”: Herring, C. Robinson, Selders, Nelson, Wolf, Limbird, D. Robinson, Reimer, Shelton, McFadden, Graves, Gallagher. The motion passed unanimously.

COMMITTEE REPORTS

- **Prairie Village Foundation: Consider approval of Prairie Village Foundation donation policies**

Ms. Buom stated that the Prairie Village Foundation had several donation levels for commemoration, which were originally developed in 1997:

- \$5,000 - A bench at a mutually agreed upon location with a commemorative plaque bearing the name of the donor or honoree.
- \$5,000 - A tree at a mutually agreed upon location, of a mutually agreed upon species, with a commemorative plaque bearing the name of the donor or honoree.
- \$500 - A new tree at a mutually agreed upon location, of a mutually agreed upon species, planted without a memorial plaque.
- \$500 - Commemoration on a brass plaque on the memorial board in the municipal building.
- Less than \$500 - Listing in a memorial book to be maintained in the municipal building.

In 2019, the Prairie Village Foundation initially discussed potential changes to donation levels, but the discussion was tabled in favor of other projects. Because of



the impact on City parks and the arboretum, the Parks and Recreation Committee and Tree Board were asked to provide input on the process. Following consultation with the committees, the foundation reviewed and made recommendations for changes to the donation policies, with final approval by the City Council.

Ms. Buum said that both committees preferred to maintain a \$5,000 donation level for commemoration on trees and benches, and that the Tree Board decided to eliminate the \$500 tree donation. The Foundation Board later voted to remove the \$500 donation levels completely and require a donation of \$15,000 for plaque commemoration for a tree or bench, with a 10-year placement. Plaque commemoration would only be available in memory of a deceased person, with exceptions approved by the Council.

Mr. Gallagher stated that he felt the increased minimum donation of \$15,000 was too large. Ms. Selders agreed, adding that she felt a 10-year placement period was too short.

Mr. Nelson made a motion to adopt the recommendations made by the Foundation. Mr. Dave Robinson seconded the motion.

After further discussion, Ms. Selders made a motion to amend the motion to increase the placement period to 25 years. There was no second to the motion.

The original motion passed 11-1, with Mr. Gallagher in opposition.

- Ms. Reimer stated that Overland Park “Recycling Extravaganza” event would be held on Saturday, April 22. She noted that the Environmental Committee helped fund the event and would be providing volunteers.
- Mrs. McFadden said the VillageFest Committee had met to continue planning for the Independence Day event. She added that the committee was seeking nominations for spirit awards and participants in the pie-baking contest.
- Mr. Cole Robinson reported that the Diversity Committee met April 11, and that Jewish Community Relations Bureau Executive Gavriella Gellar gave a presentation on issues affecting the Jewish community. A town hall event on the topic would likely be scheduled for the summer. He said that the committee was also reviewing legislation affecting transgender people in the state, and that planning continued for the Juneteenth Freedom Celebration.

Mr. Robinson also noted that 2022 had been a difficult year for the City’s pension fund due to the poor performance of equity markets. The Pension Committee met with an actuary in an effort to continue toward achieving a fully funded program.



The committee recommended a larger contribution to the fund from the City, which would be presented to Council at a future meeting.

- Ms. Limbird said that the Arts Council’s Art of Photography exhibit would be installed at City Hall on May 6, and a reception would be held on May 10. She added that the council was working on a public art purchasing policy, and that the 2023 Parade of Hearts exhibit had begun.
- Mr. Gallagher shared that pool passes were available to be purchased at a discounted rate through the end of April. He also noted the Shawnee Mission Post’s survey of the best parks in Johnson County included Meadowbrook Park and Porter Park.
- Mr. Graves stated that the Tree Board met April 5, and welcomed two new members. He added that an Arbor Day celebration would be held at Porter Park on April 29.

Mr. Nelson made a motion for the City Council to move up the community center discussion item on the agenda. Ms. Reimer seconded the motion, which passed unanimously.

Mr. Shelton made a motion for the City Council to move to the Council Committee of the Whole portion of the meeting. The motion was seconded by Ms. Reimer and passed unanimously.

COUNCIL COMMITTEE OF THE WHOLE

Community Center discussion

- Survey results - Cathy Morrissey of Wiese Research Group, provided information about the results of the survey on the feasibility of a community center, which was nearly identical to one that had been completed in 2019. She noted that a phone survey had been completed, which included 400 residents both inside Prairie Village and several surrounding zip codes. Additionally, post cards with a link to an online survey had been sent to over 11,000 addresses within the City, 1,378 of which were completed. Including residents that participated in the phone survey, a total of 1,459 Prairie Village residents were surveyed.

Phone surveys yielded the following results: assuming reasonable cost, 15% of respondents said they “definitely would” use a community center, 18% “probably would”, 21% “might”, and 46% “probably or definitely would not”. Respondents who were middle-aged and had higher incomes were the most supportive.



Among Prairie Village residents surveyed by phone and online, 43% said they “definitely would” use a community center, 20% said they “probably would”, 17% “might”, and 20% “probably or definitely not”.

Ms. Morrissey also shared survey results related to various price points. Generally, older residents and those with families were willing to pay higher membership fees. Respondents were largely positive about the YMCA’s involvement in the project and were generally more supportive of a sales tax increase to fund the center rather than a property tax, though a combination of the two was also favored. Lastly, respondents were most supportive of an increase of up to \$10 per month, rather than a higher amount.

Mrs. McFadden noted that the percentage of respondents to the phone survey who stated they would “definitely” or “probably” use the facility had dropped slightly since the 2019 survey. Ms. Morrissey acknowledged that the number had dropped, but not by a statistically significant amount.

Mr. Cole Robinson asked how many respondents closed the survey prior to completing it. Ms. Morrissey said she didn’t have a specific number but that it was a minimal amount.

Mr. Shelton asked for details about how the survey was weighted for age. Ms. Morrissey stated that the online survey respondents were primarily older residents, and therefore the results had to be adjusted (mostly for ages 25 - 34) to accurately reflect the population of the City. No adjustment was needed for the phone survey.

- YMCA partnership - Mark Hulet, YMCA Interim President and Chief Executive Officer, stated that the survey results were very encouraging. He noted that the next steps would include an RFP to consider site design based on community engagement, and that if the project were to proceed with the YMCA as the operating partner, a feasibility study would be taken to determine how the YMCA could contribute financially through fundraising efforts.
- Next steps - Mr. Jordan said that the Council would need to consider whether to move forward with the following steps:
 - Consider whether the YMCA would be the operational manager of the community center, and direct staff to outline a memorandum of understanding (MOU) that specifies, but is not limited to, financial commitment, partnership expectations, and agreed cost sharing of the public engagement and site design process.
 - Consider an MOU with the Johnson County library outlining similar details.



- Draft a request for qualifications (RFQ) for an owner's representative who has expertise in this field.

Mr. Jordan added that staff would also work to identify what type of secondary operational and real estate agreements would be needed with both parties for a community center and co-location of the library, should the project move forward. An RFQ (request for qualifications) would also need to be drafted for an owner's representative who had expertise in the field.

Mr. Shelton made a motion to approve the next phase in consideration of a community center and library as outlined by staff. The motion was seconded by Mr. Robinson.

Ms. Reimer asked what the cost of the proposed next steps would be. Mr. Jordan said that the most significant cost would be for the site design RFP, which would likely be \$150,000 to \$200,000, of which the City would contribute approximately \$75,000. There would also be additional costs for procuring an owner's representative.

Ms. Reimer also asked if the proposed community center would ultimately be placed on a ballot for residents to consider. Mr. Jordan stated that that was a decision for the Council to make. He stated that if the Council chose to do so, it would likely be through a mail-in ballot process.

After further discussion, the motion passed 10-2, with Mrs. McFadden and Mr. Gallagher in opposition.

Mr. Dave Robinson moved that the City Council end the Council Committee of the Whole portion of the meeting. The motion was seconded by Mr. Cole Robinson and passed unanimously.

MAYOR'S REPORT

- The Mayor stated he had participated in the following events since the prior Council meeting:
 - The Johnson County State of the County address
 - A ribbon-cutting event at Claridge Court
 - A ribbon-cutting event at the Big Biscuit restaurant
- The Mayor noted the following upcoming events:
 - A ribbon-cutting event at the new playground at Meadowbrook Park
 - A Mid-America Regional Council First Suburbs Coalition meeting
 - An Arbor Day event at Porter Park on April 29



STAFF REPORTS

None

OLD BUSINESS

None

NEW BUSINESS

COU2023-18 Consider approval of contract with Kansas Heavy Construction for the 2023 concrete repair program

Ms. Prenger stated that on March 22, 2023, the following five bids were opened for the 2023 concrete repair program:

- JM Fahey \$805,075.00
- Phoenix Concrete \$788,430.12
- Superior Bowen \$640,163.55
- PCC \$617,566.53
- Kansas Heavy Construction \$580,667.55

- Engineers Estimate \$594,694.50

Ms. Prenger noted that the budget for the project was \$600,000 and that the contract award was set at \$595,000 annually. Locations of repairs would be increased to utilize the budget, and the remaining \$5,000 would be used for testing. The program would include repairs to deteriorated concrete sidewalks, curbs, and ADA ramps. After reviewing the bids for accuracy, staff recommended awarding the project to the lowest responsible bidder, Kansas Heavy Construction.

Mrs. McFadden made a motion to approve the construction contract with Kansas Heavy Construction for the 2023 concrete repair program for \$595,000. The motion was seconded by Mr. Graves and passed unanimously.

COU2023-19 Consider approval of contract with McConnell & Associates for the 2023 street repair program

Ms. Prenger said that on March 22, 2023, the following five bids were opened for the 2023 street repair program:

- Harbour Construction \$311,575.30
- McAnany Construction \$214,930.00
- Metro Asphalt \$212,643.00



- Superior Bowen \$211,630.60
- McConnell & Associates \$175,401.00

- Engineer's Estimate \$143,637.50

She stated that the program consisted of asphalt street repairs at various locations throughout the City where settlement or deterioration had occurred. Though the engineer's estimate was calculated using past low bidder unit prices, Current prices had increased significantly due to inflation.

Ms. Prenger said that the budget for the project was \$200,000, and the contract award was set at \$200,000. Locations of repairs would be increased to utilize the full budget. City staff reviewed the bids for accuracy and recommended awarding the project to the lowest responsible bidder, McConnell & Associates.

Mr. Graves made a motion to approve the construction contract with McConnell & Associates for the 2023 street repair program for \$200,000. The motion was seconded by Mr. Herring and passed unanimously.

COU2023-20 Consider change order #1 for inclusion of additional drainage repair program improvements into the drainage repair program contract

Ms. Prenger stated that on August 23, 2022, the Council awarded the storm drainage repair program construction contract to Infrastructure Solutions, LLC. The program replaced deteriorated drainage pipes at various locations in the fall of 2022 with some landscape restoration remaining for the spring of 2023.

She noted that the change order would add a pipe replacement location near 63rd Street and Nall Avenue to fix a failed pipe in a drainage easement. The failure had resulted in a sinkhole near the parking lot and east property line of the Nall Avenue Church of the Nazarene.

Change order #1 would increase the contract amount by \$43,380.00 to \$349,780.00. Funding would be transferred from the DRAIN-23X project to DRAIN-22X:

- Original contract: \$306,400.00
- Change order #1: \$43,380.00
- New total: \$349,780.00

Mr. Shelton made a motion to approve change order #1 for inclusion of additional drainage repair program improvements into the drainage repair program contract. The motion was seconded by Ms. Reimer and passed unanimously.



COU2023-21 Consider adjustment to property tax rebate program

Mr. Geffert said that in 2022, the City Council voted to allocate \$20,000 from the City's general fund to a property tax rebate program designed to alleviate some of the burden of home ownership due to rising property values. To increase participation in 2023, the City Council voted to raise the income limits of applicants at its December 5, 2022, meeting. The Council also approved the option to allocate additional funds if a significant number of applications were received in 2023. Staff requested an additional \$5,000 in funding for the remainder of the year at the April 3, 2023, Council meeting, which was approved.

Mr. Geffert stated that a two-person household in Ward 3 had applied for the program, and although they met the maximum property value criteria, their combined income exceeded the limit for a two-person household by \$4.00. Staff reached out to Ward 3 Councilmembers Limbird and Wolf to gather their thoughts on whether an exception should be made for these residents since the overage was so minimal. Both Councilmembers were supportive of providing a refund to the applicants.

Staff discussed various options to present to Council for consideration and determined that adding \$100 to the maximum income for each household size was the most reasonable choice. Doing so could provide other residents that may have been slightly over the income limit the opportunity to apply and would not limit exceptions to a single applicant.

Ms. Reimer and Ms. Selders stated that they were concerned raising the limit would lead to future situations in which requests would be made to raise the limit further.

Mr. Cole Robinson made a motion to approve the recommendation as presented. The motion was seconded by Ms. Wolf and passed 10-2, with Ms. Selders and Ms. Reimer in opposition.

Mr. Herring made a motion for the City Council to move to the Council Committee of the Whole portion of the meeting. The motion was seconded by Mr. Graves and passed unanimously.

COUNCIL COMMITTEE OF THE WHOLE

Budget: 2023 estimated revenue and 2024 preliminary general fund revenue assumptions

Mr. Hannaman shared the following information about the 2023 City budget:

- Most revenue sources had recovered to pre-COVID levels.
- Property taxes comprised approximately 40% of total City revenue.
- Franchise fees were expected to decrease based on on-going trends.
- Sales and use taxes were expected to decrease slightly.



- Cost pressures continued due to inflation and labor shortages.
- General fund revenue was estimated to be approximately 1% higher in 2023 compared to 2022.

Mr. Hannaman also shared the following preliminary general fund revenue assumptions for the 2024 budget:

- A projected 9.3% increase in overall general fund revenue (roughly \$2.3 million) over the 2023 budget, and a 2.6% growth over 2022 actuals, assuming the mill levy did not change.
- The Johnson County Appraiser's office had projected a total assessed value increase of 13.7% for 2023. If the mill levy were held flat, this would result in a projected 12.5% increase in 2024 property tax revenue over the 2023 budget with the mill levy at the 2023 rate of 18.309.

Mr. Hannaman noted that no decision packages had been received from the Council.

COU2023-22 Consider funding for VillageFest in the 2024 budget

Mrs. McFadden presented the proposed VillageFest budget, noting that the committee was requesting \$37,000, which was approximately a 5.7% increase over 2023 due to increases in costs.

Ms. Limbird made a motion to approve the 2024 VillageFest budget as presented. Ms. Reimer seconded the motion, which passed unanimously.

COU2023-23 Consider funding for JazzFest in the 2024 budget

Mr. Dave Robinson presented the proposed JazzFest budget, noting that the request for \$35,000 was equivalent to the prior year.

Mrs. McFadden made a motion to approve the 2024 JazzFest budget as presented. Ms. Wolf seconded the motion, which passed unanimously.

COU2023-24 Consider funding for the Arts Council in the 2024 budget

Ms. Limbird presented the proposed Arts Council budget. She noted that the council was requesting \$10,000 for 2024, with an additional \$10,000 contribution to the Public Arts Fund.

Mrs. McFadden made a motion to approve the 2024 Arts Council budget as presented. Ms. Wolf seconded the motion, which passed unanimously.



COU2023-25 Consider funding for the Diversity Committee in the 2024 budget

Mr. Cole Robinson presented the proposed Diversity Committee budget, stating that the committee was requesting a total of \$27,500: \$12,500 for the committee budget and \$15,000 for the Juneteenth Freedom Celebration event. He noted that beginning in 2023, funding for the committee had been transitioned to transient guest tax revenue.

Mrs. McFadden made a motion to approve the 2024 Diversity Committee budget as presented. Ms. Limbird seconded the motion, which passed unanimously.

COU2023-26 Consider funding for the Environmental Committee in the 2024 budget

Ms. Reimer presented the proposed Environmental Committee budget, stating that it was requesting \$8,000, an equivalent amount to the past several years.

Ms. Shelton made a motion to approve the 2024 Environmental Committee budget as presented. Ms. Wolf seconded the motion, which passed unanimously.

Ms. Limbird moved that the City Council end the Council Committee of the Whole portion of the meeting. The motion was seconded by Ms. Reimer and passed unanimously.

ANNOUNCEMENTS

Announcements were included in the Council meeting packet.

ADJOURNMENT

Mayor Mikkelson declared the meeting adjourned at 9:36 p.m.

Adam Geffert
City Clerk

CITY TREASURER'S WARRANT REGISTER

DATE WARRANTS ISSUED:

Warrant Register Page No. 1

May 1, 2023

**Copy of Ordinance
3025**

Ordinance Page No. _____

An Ordinance Making Appropriate for the Payment of Certain Claims.

Be it ordained by the governing body of the City of Prairie Village, Kansas.

Section 1. That in order to pay the claims hereinafter stated which have been properly audited and approved, there is hereby appropriated out of funds in the City treasury the sum required for each claim.

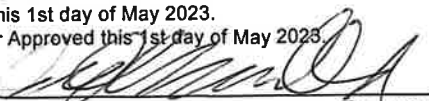
NAME	DATE	AMOUNT	TOTAL
EXPENDITURES:			
Accounts Payable			
28023-28085	3/3/2023	660,370.64	
28086-28095	3/10/2023	25,812.97	
28096-28173	3/17/2023	517,373.83	
28174-28181	3/24/2023	86,034.35	
28182-28254	3/31/2023	737,094.59	
Payroll Expenditures			
3/10/2023		417,763.62	
3/24/2023		398,768.96	
Electronic Payments			
Electronic Pmnts	3/1/2023	1,309.92	
	3/8/2023	61.90	
	3/10/2023	15,097.19	
	3/14/2023	637.94	
	3/15/2023	4,681.41	
	3/20/2023	351.21	
	3/22/2023	82.15	
	3/28/2023	31656.69	
	3/31/2023	6162.09	
TOTAL EXPENDITURES:			2,903,259.46
VOIDED CHECKS	Check #	(Amount)	
Johnson County Police Chiefs Association	28054	(200.00)	
Elizabeth Cruz	28207	(32.00)	
Grass Pad Inc.	28213	(70.35)	
Kansas Golf and Turf Inc.	28221	(116.88)	
TOTAL VOIDED CHECKS:			(419.23)
GRAND TOTAL CLAIMS ORDINANCE			2,902,840.23

Section 2. That this ordinance shall take effect and be in force from and after its passage.


Passed this 1st day of May 2023.

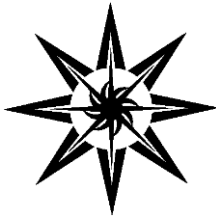
Signed or Approved this 1st day of May 2023.

ATTEST:


City Treasurer

ATTEST:


Finance Director



MAYOR

**Council Meeting Date: May 1, 2023
CONSENT AGENDA**

Consider Appointment to the Tree Board

RECOMMENDATION

Mayor Mikkelson requests Council ratification of the appointment of Kirk Walters to the Tree Board.

BACKGROUND

Kirk has spent the past 14 years working in the construction industry and would like to use his construction knowledge to help the City. He had his family moved to Prairie Village in 2019.

ATTACHMENTS

Volunteer application

PREPARED BY

Adam Geffert
City Clerk

Date: April 25, 2023

Submission # 2158234
IP Address 136.37.199.175
Submission Recorded On 12/31/2022 3:28 PM
Time to Take Survey 23 minutes, 35 seconds

Page 1

Full Name

Kirk Walters

Full Address

8108 Beverly
Prairie Village KS 66208

***Email**

kwalters@debruce.net

Phone

(816) 715-0824

Select your City Ward ?

Ward 4

***Please select your FIRST committee choice ?**

Planning Commission

***Please select your SECOND committee choice**

Tree Board

***Please select your THIRD committee choice**

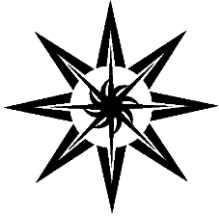
Parks & Recreation

***Please tell us about yourself, listing any special skills or experiences you have.**

My name is Kirk Walters and my family moved to Prairie Village in the spring of 2019 from Mission, Kansas. We picked Prairie Village for its larger homes, shopping centers like Corinth, parks, and great neighbors. For the past 14 years I have worked in the Construction Industry for JE Dunn Construction, McCownGordon and Alexander Mechanical and would like to use my construction knowledge to help Prairie Village move in the right direction through the committees I listed above.

This application is available November 1 through December 31 or when there are specific mid-year vacancies. Appointments are typically made by the end of February.

Thank you for your interest in serving our community.



PARKS AND RECREATION

Parks & Recreation Meeting: January 11, 2023

Tree Board Meeting: February 1, 2023

Prairie Village Foundation Meeting: March 28, 2023

City Council Meeting: April 17, 2023

Consent Agenda: May 1, 2023

COU2023-27

Consider approval of Prairie Village Foundation Donation Policies

Background

In 1997, the Prairie Village Foundation established several donation levels for commemoration:

- \$5,000 - A bench at a mutually agreed upon location with a commemorative plaque bearing the name of the donor or honoree.
- \$5,000 - A tree at a mutually agreed upon location, of a mutually agreed upon species, with a commemorative plaque bearing the name of the donor or honoree.
- \$500 - A new tree at a mutually agreed upon location, of a mutually agreed upon species, would be planted with no memorial plaque. *(Cost to plant a tree is currently estimated at \$1,000)*
- \$500 - Commemoration on a brass plaque on the memorial board in the municipal building *(said board has not been updated or displayed in 10+ years)*
- Less than \$500 - Listing in a memorial book to be maintained in the municipal building *(said book has not been updated or displayed in 10+ years)*

In 2019, the Prairie Village Foundation discussed potential changes to the donation levels however the discussion was tabled in favor of other projects. The discussion is currently being revisited. Because of the impact on the city parks and arboretum, the Parks and Recreation Committee and Tree Board were asked to provide input on the process. Following consultation with the appropriate committees, the Prairie Village Foundation reviewed and made recommendations for changes to the donation policies, with final approval by the City Council.

Donation History

Year	Memorial Bench	Memorial Tree	\$500 tree
2012	0	0	0
2013	0	0	0
2014	1	0	3
2015	0	0	0
2016	0	0	0
2017	1	0	1
2018	0	0	1
2019	1	1	0
2020	1	0	0
2021	1	0	1
2022	1	0	1
2023	3	0	0
TOTAL	9	1	6

Parks & Recreation Considerations

- A sentiment has been expressed among previous Foundation/Parks and Recreation members that they don't want to turn city parks into memorial grounds.
- The bench cost, including freight, plaque, and concrete pad, totals \$2,145, leaving \$2,855 in revenue.
- Staff recommends the Parks & Recreation Committee evaluate potential expenditures from the fund annually in January and make recommendations to the Foundation at their annual meeting in March. The funds can accrue as needed if the committee desires to save for a more substantial purchase.
- Staff recommended leaving a fund balance of \$5,000 for maintenance.
- Staff recommended maintaining the \$5,000 donation level to receive commemoration.

Update 1/11/23: The Parks and Recreation committee affirmed their desire to maintain the \$5,000 donation level for commemoration on benches only, maintain a \$5,000 fund balance, and review potential expenditures annually.

Tree Board Considerations

- The cost of trees has exceeded the \$500 donation level, not including staff and maintenance needs. Water, mulch, staking, and replacement (if necessary) has been absorbed in the Public Works budget. The total cost is estimated at \$1,000.
- The Prairie Village arboretum has been well maintained, and space for new tree plantings is limited while maintaining desired open green space.
- Staff recommends removing the \$500 tree donation; donations at any level would continue to be accepted, however, they would not be able to specify use.
- Staff recommended leaving a fund balance of \$1,500 for maintenance.
- Staff recommended maintaining the \$5,000 donation level to receive commemoration.
- Staff recommended the annual Arbor Day honoree continue to be recognized with a tree and plaque at no charge.

Update 2/1/23: The Tree Board affirmed their desire to remove the \$500 tree donation, maintain the \$5,000 donation level for commemorative trees, maintain a \$1,500 fund balance, and continue with the annual Arbor Day honoree program.

General Foundation Considerations

- Donation level can be cost prohibitive.
- Maintaining donated items for perpetuity can be challenging - adding additional plaques or items could prove difficult to track and maintain.
- The memorial board and book have not been maintained and do not seem to be enticing incentives to donate.

Update 3/38/23: The Foundation Board voted to remove the \$500 donation levels. The board voted to require a donation of \$15,000 for plaque commemoration for a tree or bench, with a 10-year expected placement. Plaque commemoration would be available in memory of a deceased person only, with exceptions to be approved by the City Council.

City Council - Final Consideration

At the April 17, 2023 City Council meeting, the Governing Body considered the feedback provided by the Parks and Recreation Committee, Tree Board, and Prairie Village Foundation. Following discussion, the Council moved to approve the donation levels as outlined by the Prairie Village Foundation:

- To be eligible for a memorial commemoration, a donation must be made to the Prairie Village Foundation in the amount of \$15,000.
- Available memorial commemorations include a plaque placed on a bench or in front of a tree. Locations are determined in partnership with the donor and City Staff.
- The expected placement of the plaque is 10 years.
- Commemorations are available in memory of a deceased person only.
- Exceptions are to be approved by the City Council.

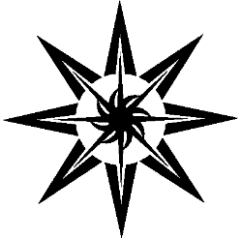
Staff drafted the enclosed Council Policy based on the approval by the Governing Body.

ATTACHMENTS

Council Policy 006

PREPARED BY

Meghan Buum
Assistant City Administrator
Updated: April 25, 2023



City Council Policy: CP006 - Prairie Village Foundation Donation Policy

Effective Date: May 1, 2023

Amends:

Approved By: City Council

I. **SCOPE**

II. **PURPOSE**

A. To establish donation levels for commemoration through the Prairie Village Foundation.

III. **RESPONSIBILITY**

A. Governing Body, Prairie Village Foundation Board, and City Staff

IV. **DEFINITIONS**

V. **POLICY**

A. To be eligible for a memorial commemoration, a donation must be made to the Prairie Village Foundation in the amount of \$15,000.

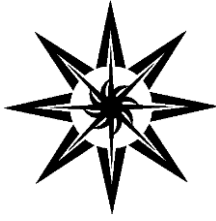
B. Available memorial commemorations include a plaque placed on a bench or in front of a tree. Locations are determined in partnership with the donor and City Staff.

C. The expected placement of the plaque is 10 years.

D. Commemorations are available in memory of a deceased person only.

E. Exceptions are to be approved by the City Council.

VI. **PROCEDURES**



ADMINISTRATION

City Council Date: May 1, 2023
CONSENT AGENDA

Consider approval of short-term special use permit for the Prairie Village Art Fair at the Prairie Village Shops

BACKGROUND

The Prairie Village Merchants Association will be holding its annual Art Fair June 2 - 4, 2022. Per the Kansas Alcoholic Beverage Control Division, a City ordinance is not required for the extension because the event will be held entirely on private property. Tenants that wish to serve alcohol outside of their normal facilities will still be required to get a temporary premise extension from the State. The Prairie Village Police Department is aware of the event and will coordinate with the shopping center as needed.

RECOMMENDED MOTION

Staff recommends that the City Council approve a short-term special use permit approving the Prairie Village Art Fair at the Prairie Village Shops.

ATTACHMENTS:

Short-Term Special Use Permit application
Site Map

PREPARED BY:

Adam Geffert
City Clerk
April 25, 2023



**SHORT-TERM SPECIAL USE PERMIT
APPLICATION
City of Prairie Village, Kansas**

Application Date: April 3, 2023

\$25 Application fee

Name Ashley Da Costa

Email address adacosta@firstwash.com (circle one) Mail copy OR Email copy to me

Organization GRI Shops of Prairie Village Phone 714-966-6476
c/o First Washington Realty

Address 6971 Tomakawk Road City / State / Zip Prairie Village, KS 66208

Is the organization (check all that apply):

Non-profit Civic Incorporated
 Authorized to do business in the State of Kansas

USE: Sale / activity Trade show Street Fair
 Exposition Promotional venture / entertainment

Please give a complete description of proposed use: The 2023 Prairie Village Art Show will feature 100 artists, food and drink, activities, and live music.

Location: 6950 Mission Lane, Prairie Village, KS 66208

Attach any descriptive materials such as plans, maps or size dimensions, etc. to better illustrate the proposed use.

Please indicate what types of signs, flags or other devices will be used to attract attention:

Banners will be hung, and signs will be temporarily in the ground around The Shops of Prairie Village to promote the 2023 Art Show through the Month of May and early June. We will also have a balloon arch at the entry of the art show booths from June 2-4, 2023.

Date(s) of Event June 2, 2023 - June 4, 2023

Hours of Operation: 10:00 AM - 8:00 PM

Estimated accumulation of automobiles 1,000 and persons 10,000 (over 3 days)

Other characteristics and effects on neighborhood:

We will have live music playing from 5-8 PM on Friday, June 2nd and Saturday, June 3rd.

Submitted by:


(Signature of applicant)

See reverse for conditions of approval

Amount received _____ **Date** _____ **Rec'd by** _____

As outlined in Chapter 19.34 of the Prairie Village Municipal Code, the City Council may, upon application by the proponent, issue a short-term temporary use permit for a period of no more than thirty days for the use of a specific parcel of land for such temporary uses as charitable, civic, or sales and activities, trade shows, street fairs, expositions, promotional ventures and entertainment, without publication or posted notice, provided the following conditions are met:

1. The applicant shall submit in written form a complete description of the proposed use, including drawings of proposed physical improvements, estimated accumulation of automobiles and persons, hours of operation, length of time requested, and other characteristics and effects on the neighborhood;
2. If approved, a specific time period shall be determined and the short-term permit shall not be operated longer than the period stipulated in the permit;
3. Upon the cessation of the short-term permit, all materials and equipment shall be promptly removed and the property restored to its normal condition. If, after giving full consideration to the effect of the requested short-term permit on the neighborhood and the community, the Mayor or his/her designee deems the request is reasonable, the permit for the short-term use may be approved. Conditions of operation, provision for surety bond, and other reasonable safeguards may be written into the permit. **In addition, the Chief of Police and/or the Fire Chief may impose requirements or restrictions when public safety or the general welfare of the public is a matter of concern based on the venue or expected volume of participants.** Such permit may be approved in any zoning district.
4. A fee of twenty-five dollars shall be charged for the applicant for each short-term special use permit.
5. If the applicant is not the property owner, a letter shall be supplied to the City from the Owner, and the tenant, if applicable; stating that the activity meets their approval.

If you plan on having a large tent or open flames, contact Consolidated Fire District No. 2 at 913-432-1105.

If you are serving food, contact the Kansas Department of Agriculture, Food Safety & Lodging at 785-296-5600.

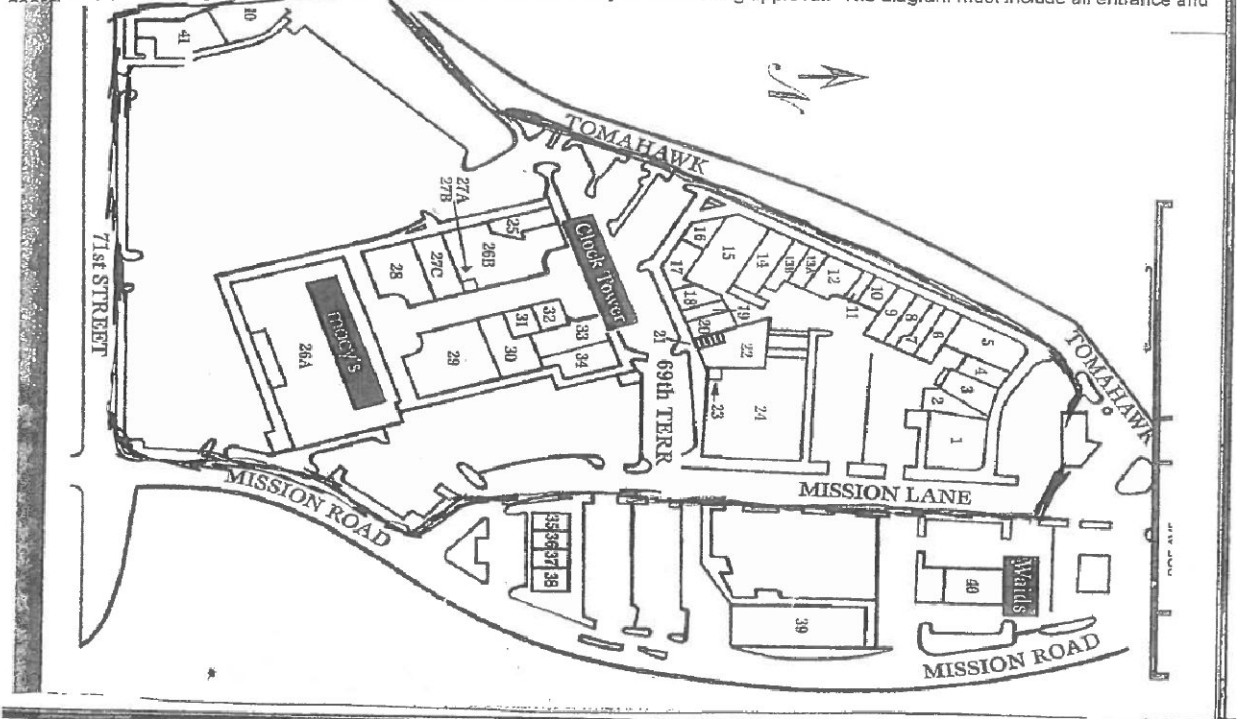
Date application approved: _____

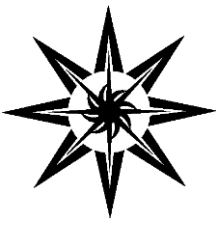
Conditions of approval:

Mayor Eric Mikkelson

SECTION 6 – DIAGRAM: Complete for On-Premise and Special Events only.

In the space below, in ink, a complete sketch of the premises which you are seeking approval. The diagram must include all entrance and





PC2023-105: Consider Ordinance 2483 to approve an amendment of a special use permit for Highlawn Montessori School at 3531 Somerset Drive

RECOMMENDATION

Make a motion to accept the Planning Commission's recommendation and approve PC2023-105.

BACKGROUND

The applicant is requesting an amendment to their Special Use Permit to include an additional property to the west (3401 Somerset Drive), for open space and playground expansion. The lot currently includes a single-family house which will be removed. The application included a proposed plan of the playground expansion and landscape, and including a conceptual drive lane which was later removed.

Highlawn Montessori School was established in 1963 in Prairie Village and originally was located in the "Old Wolf Farmhouse" behind the library. They purchased 3531 Somerset Drive in 1969 subject to certain private restrictions limiting the use of the property to a school or residential. The Governing Body approved the first phase of the Highlawn Montessori School as a Special Use Permit on March 7, 1977; the second phase was approved in April 1984; a third phase was approved in October 1993; in June 2009 the expansion the east lot or playground and open space was approved; and in March 2012 and December 2014, the additions for new second floor classrooms were approved. Currently the Highlawn Montessori School has a capacity of approximately 216 students and nine classrooms.

The Planning Commission held a public hearing on April 4. Comments were submitted before the meeting and made during the meeting. The comments involved concerns pertaining to runoff from the proposed synthetic turf and the proposed driveway. The commission discussed synthetic turf, and runoff concerns will be addressed at the time of permitting through drainage review and construction specifications. The proposed driveway was removed from the application and could only be proposed through a future amendment to the SUP. The Planning Commission voted to recommend approval of this amended Special Use Permit to the City Council without the driveway, subject to the following conditions:

1. The use continues to comply with all conditions of the original special use permit and renewals from application 2014-08 noted above, and all other applicable standards of the zoning ordinance.
2. The plant specifications (species, size, quantity) for the landscape along the front fence and any associated shade trees is subject to the City's landscape standards and shall be approved by the City's landscape architect at the time of permitting.
3. Replacement of street trees is subject to the City's tree preservation requirements, and subject to review and approval by Public Works.
4. The proposed monument sign is conceptual; the specific location and design shall be subject to City standards and reviewed at the time of a specific sign permit.
5. This special use permit is associated with the current owner and accessory to the operation at 3531 Somerset drive, and if the property is sold to a different owner the special use permit and authorizations of this application applied to 3401 Somerset Drive shall be void.

The applicant held a neighborhood meeting on March 20, 2023, in accordance with the City's Resident Participation Policy, and has provided background on the meeting to supplement the application.

An excerpt of the meeting minutes pertaining to the application are attached for the Council's review.

A special use permit application requires the City Council to act in its quasi-judicial role. When acting in this capacity, rather than a legislative capacity, the governing body must set aside personal opinions and, like a judge, apply the law to facts presented in the public record, taking into consideration the following criteria, commonly referred to as the "Golden" factors:

1. The character of the neighborhood.
2. The zoning and uses of property nearby.
3. The suitability of the property for the uses to which it has been restricted under its existing zoning.
4. The extent that a change will detrimentally affect neighboring property.
5. The length of time of any vacancy of the property.
6. The relative gain to public health, safety, and welfare by destruction of value of the applicant's property as compared to the hardship on other individual landowners.
7. City staff recommendations.
8. Conformance with the Comprehensive Plan.

An analysis of all of these factors is provided in the attached Planning Commission staff report.

According to Section 19.52.040 of the Zoning Regulations, the Governing Body can take the following actions on a special use permit recommendation from the Planning Commission:

1. Adopt the Planning Commission's recommendation by a simple majority of members present.
2. Override the Planning Commission's recommendation by a 2/3 majority vote of the entire Governing Body (9 votes including the Mayor)
3. Return the recommendation to the Planning Commission with a statement specifying the basis for the Governing Body's failure to approve or disapprove by a simple majority. The Planning Commission can then submit the original recommendation or submit a new and amended recommendation. The Governing Body then can adopt or amend the recommendation by a simple majority (7 votes) or take no further action.

The applicant will be present in case there are any questions.

ATTACHMENTS

Ordinance 2483

Planning Commission Staff Report

Special Use Permit Application

Excerpt from April 4, 2023 Planning Commission Minutes

PREPARED BY

Nickie Lee

Deputy City Administrator

Date: April 17, 2023

ORDINANCE NO. 2483

AN ORDINANCE APPROVING A RENEWAL OF A SPECIAL USE PERMIT FOR THE HIGHLAWN MONTESSORI LOCATED AT 3531 SOMERSET DRIVE

WHEREAS, the City of Prairie Village, Kansas, previously approved a certain Special Use Permit for property commonly known and numbered as 3531 Somerset Drive, Prairie Village, Kansas, as such Special Use Permit may have been renewed from time-to-time;

WHEREAS, an application for renewal of such Special Use Permit (Case No. PC2023-105) has heretofore been made, and notice of said application was duly given as required by law by publication and mailing; and

WHEREAS, a public hearing on such Special Use Permit renewal was held pursuant to law before the Planning Commission of the City of Prairie Village, Kansas.

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

Section 1. Approval and Conditions. That the Governing Body, having received a recommendation from the Planning Commission, having found favorably on the findings of fact, proper notice having been given and hearing held as provided by law, and under the authority of and subject to the provisions of the Zoning Regulations of the City of Prairie Village, Kansas, hereby approves the renewal of a Special Use Permit for Highlawn Montessori located at 3531 Somerset Drive, subject to the following conditions:

1. The use continues to comply with all conditions of the original special use permit and renewals from application 2014-08 noted above, and all other applicable standards of the zoning ordinance.
2. The plant specifications (species, size, quantity) for the landscape along the front fence and any associated shade trees is subject to the City's landscape standards and shall be approved by the City's landscape architect at the time of permitting.
3. Replacement of street trees is subject to the City's tree preservation requirements, and subject to review and approval by Public Works.
4. The proposed monument sign is conceptual; the specific location and design shall be subject to City standards and reviewed at the time of a specific sign permit.
5. This special use permit is associated with the current owner and accessory to the operation at 3531 Somerset drive, and if the property is sold to a different owner the special use permit and authorizations of this application applied to 3401 Somerset Drive shall be void.

Section 2. Findings of the Governing Body. That at its meeting on May 1, 2023, and by its adoption of this ordinance, the Governing Body adopted and does hereby adopt by specific reference the findings of fact as contained in the Minutes of the Planning Commission meeting dated April 4, 2023, and the recommendations of the Planning Commission, including the above-described conditions.

Section 3. To the extent required by law, the City is hereby directed to amend the official zoning district map of the City in accordance with the foregoing. The official zoning district map of the City is hereby amended in accordance with this ordinance, and is hereby reincorporated by reference.

Section 4. This ordinance shall take effect and be in force from and after its publication in the official city newspaper as provided by law.

PASSED by the City Council of the City of Prairie Village, Kansas on _____, 2023.

APPROVED:

Eric Mikkelson, Mayor

ATTEST:

Adam Geffert, City Clerk

APPROVED AS TO LEGAL FORM:

David E. Waters, City Attorney

STAFF REPORT

TO: Prairie Village Planning Commission
FROM: Chris Brewster, Multistudio, Planning Consultant
DATE: April 4, 2023, Planning Commission Meeting

Application: PC 2023-105

Request: Amendment of Special Use Permit – Private Montessori School

Action: *A Special Use Permit requires the Planning Commission to evaluate facts and weigh evidence, and based on balancing the factors and criteria in the zoning ordinance, make a recommendation to the City Council.*

Property Address: 3531 & 3401 Somerset Drive, Prairie Village, KS

Applicant: Friends of Montessori Association (owner) / Kathy Morrison, Director Highlawn Montessori

Current Zoning and Land Use: R-1A Single-Family Residential– Montessori School & Single-family House

Surrounding Zoning and Land Use: **North:** R-1A Single-Family Residential – Single Family Dwellings
East: R-1 Single-Family Residential – Single Family Dwellings (Leawood, KS)
South: R-1A Single-Family Residential – Public Works Facility and R-1 Single-Family Residential – Single Family Dwellings (Leawood, KS)
West: RP-4 Planned Condominium District - Townhomes

Legal Description: Unplatted – Metes and Bounds, SOMERSIDE LOT 16, and SOMERSIDE LOT 15

Property Area: 2.18 acres, 77,129 sq. ft. total; 0.41 acres, 17,887.14 sq. ft. subject property

Related Case Files: PC 2014-08 Amend SUP to Add Classrooms
PC 2012-03 Amend SUP to Add Two Classrooms
PC 2009-08 Amend SUP to Add Somerside Lot 16
PC 2001-01 Amend SUP to Expand to Somerside Lot 16 (withdrew)
PC 93-08 Amend SUP to Expand Building
PC 87-105 Approval of Filed Plans for Expansion
PC 87-07 SUP to Expand
PC 84-108 SUP to Expand
PC 77-01 SUP for Initial Approval

Attachments: Application, conceptual playground plan

General Location Map



Aerial Map



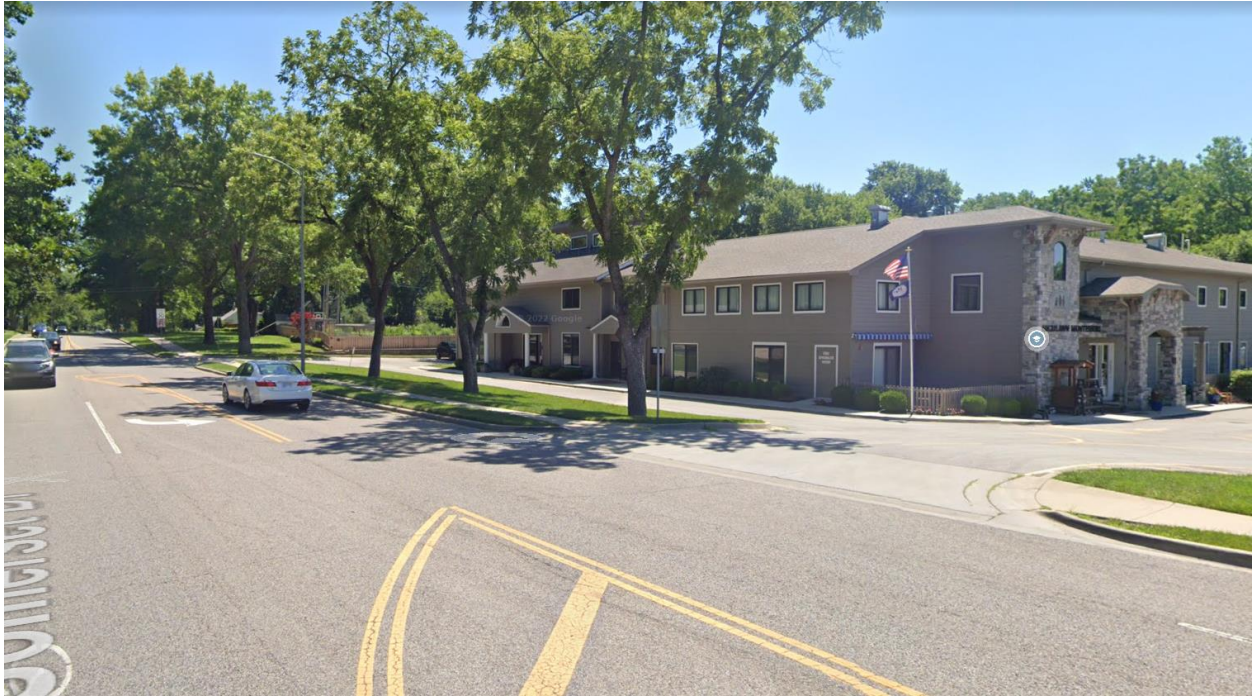
Site



Birdseye



Street Views



Looking east on Somerset Drive



Looking west on Somerset Drive – subject lot on left.

Looking northwest from the intersection of 95th & Mission

Background:

The applicant is requesting an amendment to their Special Use Permit to include an additional property to the west (3401 Somerset Drive), for open space and playground expansion. The lot currently includes a single-family house which will be removed. The application includes a conceptual plan of the playground expansion, landscape, and a future drop off drive land along the Somerset Drive frontage. The drop off drive would utilize existing driveways on the playground lot and on 3401 Somerset Drive. This portion of the concept plan is subject to further review by Public Works and may require more specific plans prior to permitting and construction.

Highlawn Montessori School was established in 1963 in Prairie Village and originally was located in the "Old Woolf Farmhouse" behind the library. They purchased 3531 Somerset Drive in 1969 subject to certain private restrictions limiting the use of the property to a school or residential. The Governing Body approved the first phase of the Highlawn Montessori School as a Special Use Permit on March 7, 1977; the second phase was approved in April 1984; a third phase was approved in October 1993; in June, 2009 the expansion the east lot or playground and open space was approved; and in March 2012 and December 2014, the additions for new second floor classrooms were approved. The latest expansion Currently the Highlawn Montessori School has a capacity of approximately 216 students and nine classrooms.

The conditions for approval for the 2014 SUP Amendment are as follows:

1. That any outdoor lighting installed shall be in accordance with the lighting ordinance.
 2. That the following requirements be implemented to address traffic:
 - a. The Montessori School shall coordinate the parent and staff traffic education program with the Prairie Village Police Department Traffic Unit.
 - b. If traffic is an issue for either the preschool or elementary classes, as determined by the Police Department, the applicant's traffic engineer will work with the Police Department to resolve the issue. This may result in staggering start times. This will be observed on a semester basis and adjustments will be made accordingly.
 3. That the applicant use the driveway on the east lot to accommodate at least two parking spaces for staff.
 4. That the materials be the same as the existing structure, with the exception of adding stone, and that the applicant construct the addition in accordance with the plans dated 10/3/2014.
 5. That the Special Use Permit be approved for a maximum of nine classrooms (5 primary and 4 elementary) and one multi-purpose room with a maximum enrollment of 24 students per classroom for a total that does not exceed 120 primary and 96 elementary students.
 6. That the applicant protect existing major trees during the demolition and installation of new improvements.
-

7. That the Special Use Permit be approved for an indefinite period of time provided that the applicant obtains a building permit and starts construction within two years after the date of approval by the Governing Body.
8. If the applicant is found to be in non-compliance with the conditions of the Special Use Permit, the permit will become null and void within 90 days of notification of non-compliance, unless the non-compliance is corrected.

The current application is for expansion of the playground and open space only and does not include any additional capacity or classroom expansions.

The applicant held a neighborhood meeting on March 20, 2023, in accordance with the City's Resident Participation Policy, and has provided background on the meeting to supplement the application.

Zoning Requirements:

The property is zoned R-1A Single-family Residential District, and both private schools and day care centers are allowed by special use permit. 3531 Somerset Drive is the location of the school authorized by the original special use permit and amendments. 3409 Somerset is the location of the existing playground and is authorized by the special use permit amendment in 2009. 3401 Somerset includes a single-family house and is the subject of this proposed amendment. All lots meet the R-1A zoning standards, as well as the conditions and criteria of the existing special use permit. This application is an amendment to the current special use permit to allow expansion of playground and open space on the residential lot to the east.

Special Use Permit Factors:

The Planning Commission shall make findings of fact to support its recommendation to approve, conditionally approve, or disapprove this Special Use Permit. It is not necessary that a finding of fact be made for each factor. However, there should be a conclusion that the request should be approved or denied based upon consideration of as many factors as are applicable. The factors to be considered in approving or disapproving a Special Use Permit include the following [19.28.035]:

A. The proposed special use complies with all applicable provisions of these regulations, including intensity of use regulations, yard regulations and use limitations.

The existing use covers two properties, and this proposal is to add a third lot on the east side. All of the existing properties comply with both the R-1A standards and the existing special use conditions. The conceptual proposal for playground and open space involves only accessory structures and uses associated with the special use permit, and complies all applicable R-1A and special use permit regulations and limitations.

B. The proposed special use at the specified location will not adversely affect the welfare or convenience of the public.

The proposal is to support an existing use with additional play and outdoor space but does not involve any expansion. There are no adverse effects anticipated by the existing use and amendment to the special use permit. However, by expanding the outdoor play area to the east, this will increase the boundary of this area with

residential property. This is a current situation on the north and east with the subject lot. The plans screen this area with a 6-foot fence similar to the fence on the rear of the playground lot. This fence would extend east and tie into existing rear fences on property to the south. Additionally, the application proposes replacing an existing chain link fence on the east boundary (located on 3317 West. 81st Street) with a 6-foot privacy fence located on the applicant's property.

The front fence will also be continued with the same style and size of fencing along the frontage of 3401 Somerset, specifically a 4-foot wooden boxed fence.

C. The proposed special use will not cause substantial injury to the value of other property in the neighborhood in which it is to be located.

Similar to the analysis in B. above, there will not be substantial injury to the value of other property. There are no proposed changes to the existing use, other than expansion of the outdoor play area and open space. This is also an expansion of the current situation, and if treated in a similar way should have a similar relationship to adjacent property.

D. The location and size of the special use, the nature and intensity of the operation involved in or conducted in connection with it, and the location of the site with respect to streets giving access to it are such that the special use will not dominate the immediate neighborhood so as to hinder development and use of neighboring property in accordance with the applicable zoning district regulations. In determining whether the special use will so dominate the immediate neighborhood consideration shall be given to:

- 1. The location, size, nature and height of buildings, structures, walls, and fences on the site; and**
- 2. The nature and extent of landscaping and screening on the site.**

There are no changes to the proposed site, other than the expansion of the open space area to the east and demolition of an existing single-family structure. Prior to removal of this structure, the applicant shall comply with all demolition permit procedures and requirements. Additionally, prior to any permits for construction of any of the play area or open space elements, a detailed site plan shall be prepared demonstrating compliance with all site design standards and conditions of the special use permit. Specifically, all requirements of the landscape standards in Chapter 19.47, including the buffer and screening standards in 19.47.040 and the tree protection standards in 19.47.060 shall be met prior to construction.

E. Off-street parking and loading areas will be provided in accordance with the standards set forth in these regulations, and such areas will be screened from adjoining residential uses and located so as to protect such residential uses from any injurious effect.

The application involves an existing site and building, with no additional capacity or buildings proposed. Therefore, no parking or loading issues are impacted by this application. The existing parking and loading areas are on the west side of the property away from residential uses.

F. Adequate utility, drainage, and other such necessary facilities have been or will be provided.

The application involves an existing site and building, with no expansion of capacity. Construction only involves landscape, and construction of accessory play facilities. There are adequate utilities in the area, and there have been no reports of drainage issues caused by the existing site layout. Prior to construction of any accessory outdoor uses or open space, construction plans will address any details regarding utilities, drainage or other necessary facilities.

G. Adequate access roads or entrance and exit drives will be provided and shall be so designed to prevent traffic hazards and to minimize traffic congestion in public streets and alleys.

There are no proposed changes to the access or intensity and operations for the principal building and site. The concept plan includes a future drop off / drive lane using the driveway entrance for the single-family house on the subject lot, and a driveway remaining on the current playground lot. Prior to construction of this drive, detailed plans shall be submitted and reviewed by Public Works according to the City's driveway standards and specifications.

H. Adjoining properties and the general public shall be adequately protected from any hazardous or toxic materials, hazardous manufacturing processes, obnoxious odors or unnecessarily intrusive noises.

There are no hazardous materials or processes, or obnoxious odors associated with this proposal. The expansion of the outdoor play area may have noise impacts. However, this is a continuation of a current situation and will occur only during daytime school hours. The plan shows a fence similar to the existing situation, and any anticipated impacts should be adequately addressed by expansion of the fence and landscape.

I. Architectural style and exterior materials are compatible with such style and materials used in the neighborhood in which the proposed building is to be built or located.

No changes are proposed for the building or site, and the site meets all applicable standards and conditions of previous approvals. Should any changes be proposed in the future the application shall be subject to the standard in effect at that time.

Recommendation:

Staff considers that the facts support the requisite findings of fact required for the Planning Commission, and that the Planning Commission should recommend that the City Council approve the renewal of the special use permit subject to the following: recommends approval of the site plan subject to the following (Planning Commission approval):

1. The use continues to comply with all conditions of the original special use permit and renewals from application 2014-08 noted above, and all other applicable standards of the zoning ordinance.

2. The proposed drive lane along the front is approved in concept, but is subject to further review and permitting by Public Works according to the City's driveway standards and specifications.
 3. The plant specifications (species, size, quantity) for the landscape along the front fence and any associated shade trees is subject to the City's landscape standards and shall be approved by the City's landscape architect at the time of permitting.
 4. Replacement of street trees is subject to the City's tree preservation requirements, and subject to review and approval by Public Works.
 5. The proposed monument sign is conceptual; the specific location and design shall be subject to City standards and reviewed at the time of a specific sign permit.
 6. This special use permit is associated with the current owner and accessory to the operation at 3531 Somerset drive, and if the property is sold to a different owner the special use permit and authorizations of this application applied to 3401 Somerset Drive shall be void.
-

Cust # 001209
App # 0030397

SPECIAL USE PERMIT APPLICATION

CITY OF PRAIRIE VILLAGE, KANSAS

For Office Use Only

Case No.: PC 2023-105
Filing Fees: \$25.00
Deposit: \$500.00



Date Advertised: _____
Date Notices Sent: _____
Public Hearing Date: _____

APPLICANT: Kathy Morrison, Highlawn Montessori School Director PHONE: 913-649-6160

ADDRESS: _____ E-MAIL: kathy@highlawn.org

OWNER: Friends of Montessori Association PHONE: 913-649-6160

ADDRESS: 3531 Somerset Drive. Prairie Village, KS. ZIP: 66208

LOCATION OF PROPERTY: 3401 Somerset Drive. Prairie Village, KS. 66208

LEGAL DESCRIPTION: SOMERSIDE LOT 15 PVC-10469

ADJACENT LAND USE AND ZONING:

	<u>Land Use</u>	<u>Zoning</u>
North	<u>Residential</u>	<u>R-1</u>
South	<u>Residential</u>	<u>R-1</u>
East	<u>Residential</u>	<u>R-1</u>
West	<u>Residential</u>	<u>R-1</u>

Present Use of Property: Single Family Residential

Please complete both pages of the form and return to:
Planning Commission Secretary
City of Prairie Village
7700 Mission Road
Prairie Village, KS 66208

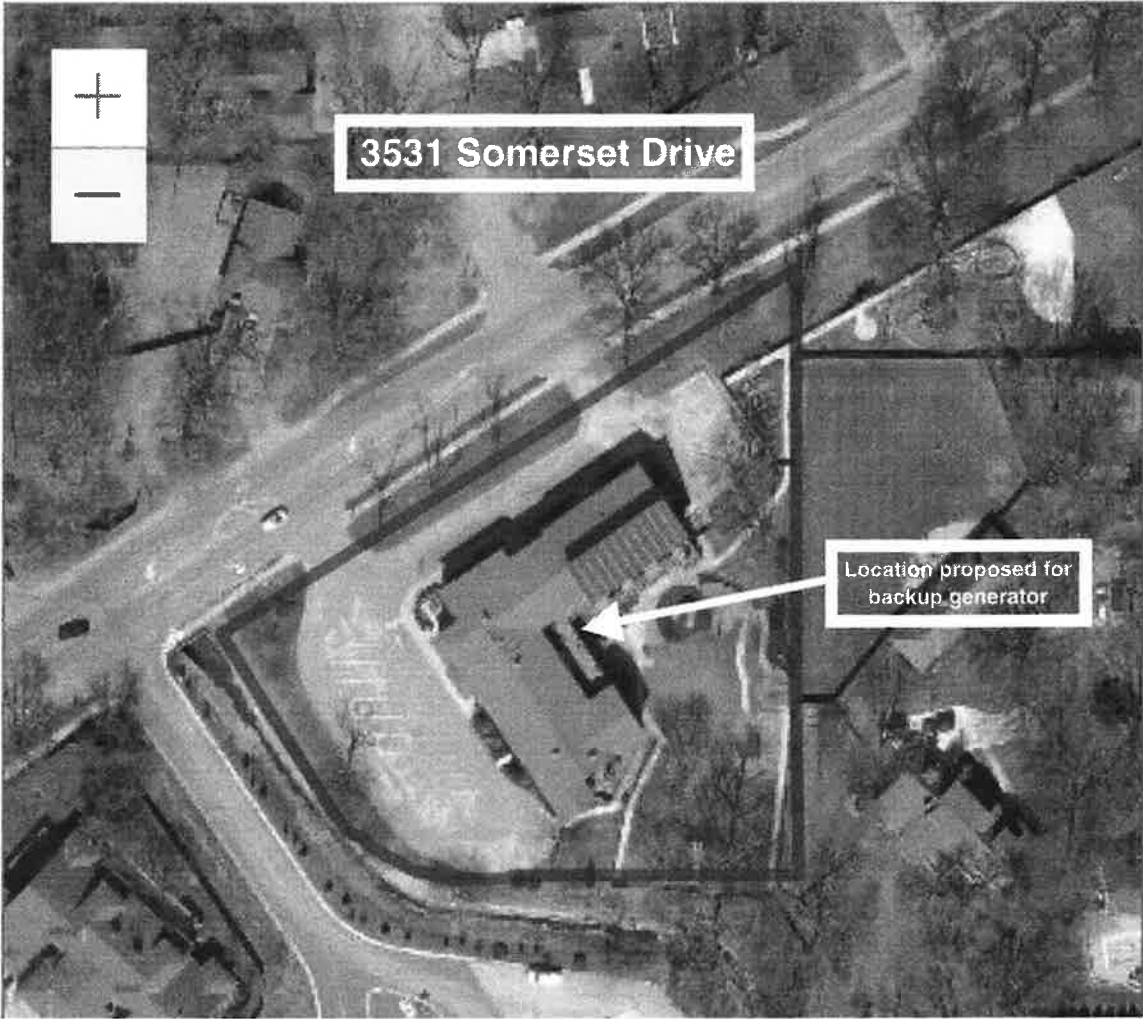
Special Use Permit Application

Highlawn Montessori School

3401 Somerset Drive

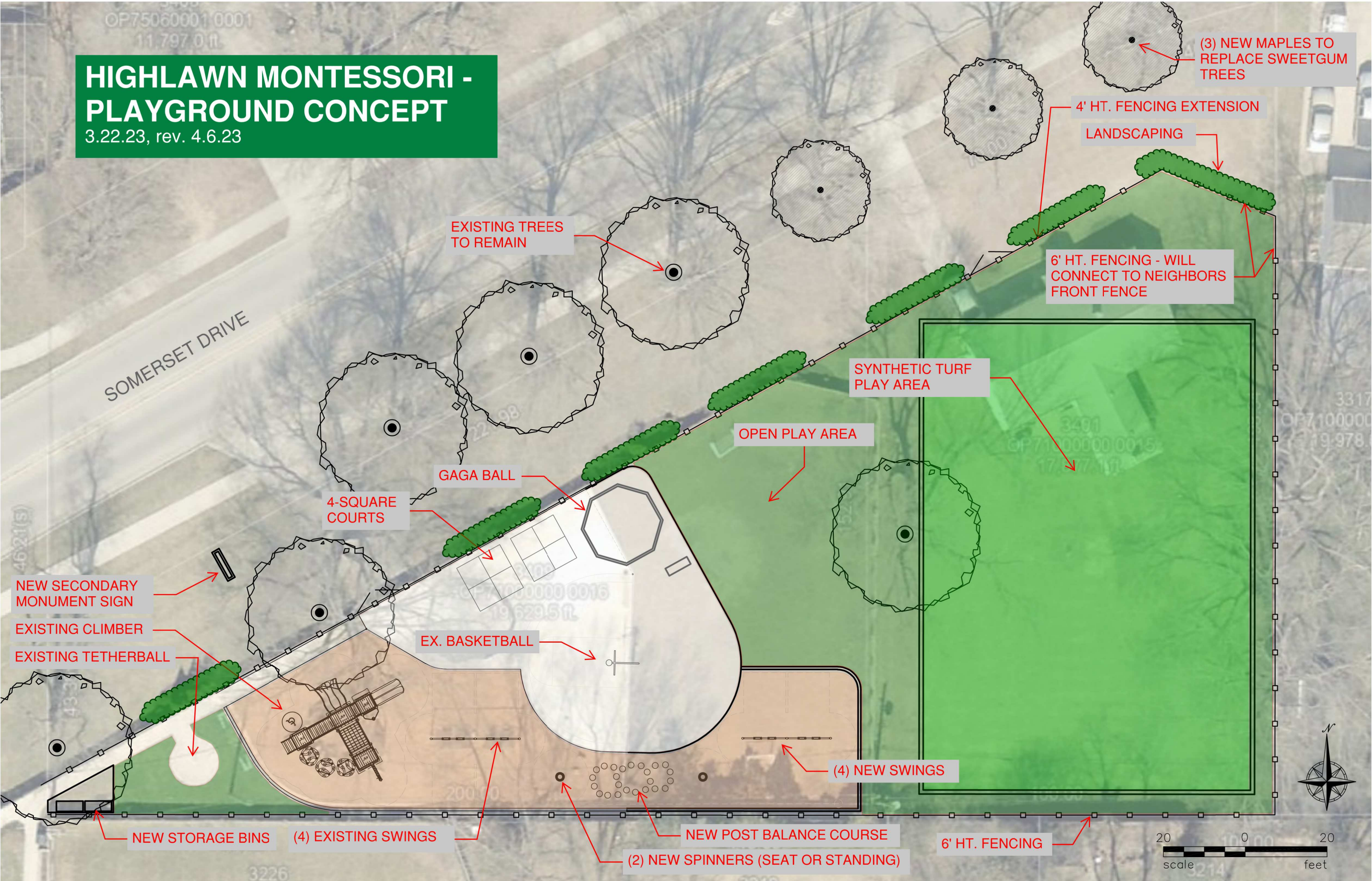
1. No
2. No public health and safety issues have been identified since the property will be used as a playground for Highlawn students.
3. N/A
Property located at 3401 Somerset Drive will only be for playground/green space. No building structures are planned for property.
4. N/A
Permit application is requesting to use space for gardens and outdoor playground area for students.
5. Permit application is requesting to add circular driveway between 3409 Somerset and 3401 Somerset for student pick up during after school clubs.
6. Highlawn Montessori plans to use 3401 Somerset for additional playground area for students. No utilities are required for plan. Underdrain system is noted on site plan. Application requests site approve for backup generator to the building located on 3531 Somerset Drive.

**Proposed Generator Site
3531 Somerset Drive**



HIGHLAWN MONTESSORI - PLAYGROUND CONCEPT

3.22.23, rev. 4.6.23



(3) NEW MAPLES TO REPLACE SWEETGUM TREES

4' HT. FENCING EXTENSION

LANDSCAPING

6' HT. FENCING - WILL CONNECT TO NEIGHBORS FRONT FENCE

SYNTHETIC TURF PLAY AREA

OPEN PLAY AREA

EXISTING TREES TO REMAIN

GAGA BALL

4-SQUARE COURTS

NEW SECONDARY MONUMENT SIGN

EXISTING CLIMBER

EXISTING TETHERBALL

EX. BASKETBALL

(4) NEW SWINGS

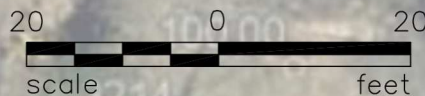
NEW STORAGE BINS

(4) EXISTING SWINGS

(2) NEW SPINNERS (SEAT OR STANDING)

NEW POST BALANCE COURSE

6' HT. FENCING





March 9, 2023

ODAM, CHRISTOPHER MARK
3400 SOMERSET DR
PRAIRIE VILLAGE, KS 66208

RE: Special Use Permit Application for new playground/green space at 3401 Somerset Drive

Dear CHRISTOPHER MARK ODAM,

Highlawn Montessori School is currently under contract to purchase the property located at 3401 Somerset Drive. The school intends to create additional playground space for the elementary program.

The application will be heard by the Prairie Village Planning Commission on Tuesday, April 4, 2023 at 7:00pm CST in the Council Chambers of City Hall located at 7700 Mission Rd, at which time you may appear, if you so desire.

The hearing of this application is not limited to those receiving copies of this notice. If you know of any neighbor or affected property owner who, for any reason, has failed to receive a copy, it would be appreciated if you would inform them of the public hearing.

As part of our application process, we are hosting a neighborhood meeting for all property owners within 200ft of the site. This letter is to serve as your formal invitation to this meeting which will be held at Highlawn Montessori School, 3531 Somerset Drive, on March 20, 2023 at 6:00pm CST.

The intent of this meeting is to provide additional information regarding the application and proposed project, share drawings, and offer a forum for questions.

Sincerely,

Kathy Morrison
Highlawn Montessori School Director

Cc: Adam Geffert (City of Prairie Village via email)



March 9, 2023

HEATHER AND BRADLEY KIEL
3301 SOMERSET DR
PRAIRIE VILLAGE, KS 66206

RE: Special Use Permit Application for new playground/green space at 3401 Somerset Drive

Dear HEATHER AND BRADLEY KIEL

Highlawn Montessori School is currently under contract to purchase the property located at 3401 Somerset Drive. The school intends to create additional playground space for the elementary program.

The application will be heard by the Prairie Village Planning Commission on Tuesday, April 4, 2023 at 7:00pm CST in the Council Chambers of City Hall located at 7700 Mission Rd, at which time you may appear, if you so desire.

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The intent of this meeting is to provide additional information regarding the application and proposed project, share drawings, and offer a forum for questions.

Sincerely,

Kathy Morrison
Highlawn Montessori School Director

Cc: Adam Geffert (City of Prairie Village via email)



March 9, 2023

MULLARKY, TIMOTHY
8014 FALMOUTH ST
PRAIRIE VILLAGE, KS 66208

RE: Special Use Permit Application for new playground/green space at 3401 Somerset Drive

Dear TIMOTHY MULLARKY,

Highlawn Montessori School is currently under contract to purchase the property located at 3401 Somerset Drive. The school intends to create additional playground space for the elementary program.

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The intent of this meeting is to provide additional information regarding the application and proposed project, share drawings, and offer a forum for questions.

Sincerely,

Kathy Morrison
Highlawn Montessori School Director

Cc: Adam Geffert (City of Prairie Village via email)



March 9, 2023

MACK, JOSEPH LEE
8025 WINDSOR ST
PRAIRIE VILLAGE, KS 66208

RE: Special Use Permit Application for new playground/green space at 3401 Somerset Drive

Dear JOSEPH MACK,

Highlawn Montessori School is currently under contract to purchase the property located at 3401 Somerset Drive. The school intends to create additional playground space for the elementary program.

The application will be heard by the Prairie Village Planning Commission on Tuesday, April 4, 2023 at 7:00pm CST in the Council Chambers of City Hall located at 7700 Mission Rd, at which time you may appear, if you so desire.

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The intent of this meeting is to provide additional information regarding the application and proposed project, share drawings, and offer a forum for questions.

Sincerely,

Kathy Morrison
Highlawn Montessori School Director

Cc: Adam Geffert (City of Prairie Village via email)



March 9, 2023

MARTINEK, MATTHEW AND JTOMLINSON, EMILY S
3301 W 81ST ST
PRAIRIE VILLAGE, KS 66206

RE: Special Use Permit Application for new playground/green space at 3401 Somerset Drive

Dear MATTHEW MARTINEK AND EMILY TOMLINSON,

Highlawn Montessori School is currently under contract to purchase the property located at 3401 Somerset Drive. The school intends to create additional playground space for the elementary program.

The application will be heard by the Prairie Village Planning Commission on Tuesday, April 4, 2023 at 7:00pm CST in the Council Chambers of City Hall located at 7700 Mission Rd, at which time you may appear, if you so desire.

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The intent of this meeting is to provide additional information regarding the application and proposed project, share drawings, and offer a forum for questions.

Sincerely,

Kathy Morrison
Highlawn Montessori School Director

Cc: Adam Geffert (City of Prairie Village via email)



March 9, 2023

DIXON, BRADLEY W.
3309 W 81ST ST
PRAIRIE VILLAGE, KS 66206

RE: Special Use Permit Application for new playground/green space at 3401 Somerset Drive

Dear BRADLEY DIXON,

Highlawn Montessori School is currently under contract to purchase the property located at 3401 Somerset Drive. The school intends to create additional playground space for the elementary program.

The application will be heard by the Prairie Village Planning Commission on Tuesday, April 4, 2023 at 7:00pm CST in the Council Chambers of City Hall located at 7700 Mission Rd, at which time you may appear, if you so desire.

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The intent of this meeting is to provide additional information regarding the application and proposed project, share drawings, and offer a forum for questions.

Sincerely,

Kathy Morrison
Highlawn Montessori School Director

Cc: Adam Geffert (City of Prairie Village via email)



March 9, 2023

LENHART LIVING TRUST
3317 W 81ST ST
PRAIRIE VILLAGE, KS 66206

RE: Special Use Permit Application for new playground/green space at 3401 Somerset Drive

Dear LENHART LIVING TRUST,

Highlawn Montessori School is currently under contract to purchase the property located at 3401 Somerset Drive. The school intends to create additional playground space for the elementary program.

The application will be heard by the Prairie Village Planning Commission on Tuesday, April 4, 2023 at 7:00pm CST in the Council Chambers of City Hall located at 7700 Mission Rd, at which time you may appear, if you so desire.

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The intent of this meeting is to provide additional information regarding the application and proposed project, share drawings, and offer a forum for questions.

Sincerely,

Kathy Morrison
Highlawn Montessori School Director

Cc: Adam Geffert (City of Prairie Village via email)



March 9, 2023

LANER, JOEL D. AND LANER, KATHLEEN A.
3408 SOMERSET DR
PRAIRIE VILLAGE, KS 66208

RE: Special Use Permit Application for new playground/green space at 3401 Somerset Drive

Dear JOEL DLANER AND KATHLEEN LANER,

Highlawn Montessori School is currently under contract to purchase the property located at 3401 Somerset Drive. The school intends to create additional playground space for the elementary program.

The application will be heard by the Prairie Village Planning Commission on Tuesday, April 4, 2023 at 7:00pm CST in the Council Chambers of City Hall located at 7700 Mission Rd, at which time you may appear, if you so desire.

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The intent of this meeting is to provide additional information regarding the application and proposed project, share drawings, and offer a forum for questions.

Sincerely,

Kathy Morrison
Highlawn Montessori School Director

Cc: Adam Geffert (City of Prairie Village via email)

Highlawn hosted a neighborhood meeting for Special Use Permit application number PC2023-105 on Monday, March 20 at 6:00pm.

Doug and Shirley Lenhart, 3317 W. 81st. St., attended the meeting along with 2 Highlawn staff members, Kathy Morrison and Lora Kokjer. The school shared the proposed site plan with the Lenhart's after previously meeting with this couple, on March 6, prior to finalizing our site plan and filing our application.

During the 35 minute meeting we discussed the following items:

1. Fencing: The plan calls for replacing the Lenhart's chain link fence, located between our two properties, with a 6 foot privacy fence. The fence will also angle toward their corner front post. We agreed to walk the property with them and the fence contractor prior to work being started.
2. Trees: A concern discussed was regarding the sweetgum trees located on the house side of the city's public sidewalk. There are 3 trees located at 3401 Somerset and 1 tree on the Lenhart's property. Mr. Lenhart spends an enormous amount of time clearing the sidewalk for pedestrians. Mr. Lenhart spent several hours clearing the sidewalk just before we met on March 6. I have attached a picture of the sweet gum ball pile taken that day. These trees not only drop sweetgum balls throughout the year, but also are dropping large limbs due to their advanced age and health. His concerns mimic the school's. Mr. Lenhart reported that there have been several branches with a diameter greater than 6 inches blocking not only the sidewalk, but also the street. Both parties believe that they are a liability to public safety and are requesting for them to be replaced.
3. Driveway: During the meeting we also discussed the proposed circle driveway. The purpose of this driveway is to provide a pick up area for our after school programs when using the playground. Currently, parents will occasionally use the driveway located at 3409 Somerset to pick up their child. It is challenging to back out safely onto Somerset during rush hour, especially as the sun sets during the winter months. The driveway would also provide additional parking during all-school events. The proposed driveway will not be used as part of our current carline procedures as approved on our current Special Use Permit.

In addition to the neighborhood meeting, Mike Shields, a resident of The Villas, contacted the school regarding our pending application. I spoke to him by phone on March 20, 2023. He stated that he was representing the homes association for The Villas. I shared that we are planning to add to our current playground and that we will not be adding a new building, additional students, or changing traffic patterns. I told him I would forward a copy of the final site plan to him after we submit it to the City this week. We also discussed the school's ongoing efforts to mitigate traffic issues surrounding the entrance to The Villas.

Please contact me if you need additional information prior to the Planning Commission meeting on April 4th.

Kathy Morrison
816-510-6864

**EXCERPT OF PLANNING COMMISSION MINUTES
APRIL 4, 2023**

PUBLIC HEARINGS

PC2023-105 Amendment of special use permit for the operation of a private school
Highlawn Montessori School
3401 Somerset Drive
Zoning: R-1A
Applicant: Friends of Montessori Association

Mr. Brewster stated that the applicant was requesting an amendment to an existing special use permit to include an additional property to the east, located at 3401 Somerset Drive, for playground expansion. The lot currently contains a single-family house which will be removed. The application includes a conceptual plan of the playground expansion, landscaping, and a future drop off drive lane along Somerset Drive. The drive lane would utilize existing driveways on the playground lot and on 3401 Somerset Drive for entrance and exit. This portion of the concept plan is subject to further review by Public Works and may require more specific plans prior to permitting and construction.

Mr. Brewster noted that the City Council approved the first phase of the Highlawn Montessori School as a special use permit on March 7, 1977; the second phase was approved in April 1984, and a third phase was approved in October 1993. In June 2009, the expansion to the east lot for a playground and open space was approved, and in March 2012 and December 2014, the additions for new second floor classrooms were approved. Currently, the school has a capacity of approximately 216 students and nine classrooms.

The conditions for approval of the 2014 special use permit amendment are as follows:

1. That any outdoor lighting installed shall be in accordance with the lighting ordinance.
2. That the following requirements be implemented to address traffic:
 - a. The Montessori School shall coordinate the parent and staff traffic education program with the Prairie Village Police Department Traffic Unit.
 - b. If traffic is an issue for either the preschool or elementary classes, as determined by the Police Department, the applicant's traffic engineer will work with the Police Department to resolve the issue. This may result in staggering start times. This will be observed on a semester basis and adjustments will be made accordingly.

3. That the applicant use the driveway on the east lot to accommodate at least two parking spaces for staff.
4. That the materials be the same as the existing structure, with the exception of adding stone, and that the applicant construct the addition in accordance with the plans dated 10/3/2014.
5. That the special use permit be approved for a maximum of nine classrooms (5 primary and 4 elementary) and one multi-purpose room with a maximum enrollment of 24 students per classroom for a total that does not exceed 120 primary and 96 elementary students.
6. That the applicant protect existing major trees during the demolition and installation of new improvements.
7. That the special use permit be approved for an indefinite period provided that the applicant obtains a building permit and starts construction within two years after the date of approval by the Governing Body.
8. If the applicant is found to be in non-compliance with the conditions of the special use permit, the permit will become null and void within 90 days of notification of non-compliance, unless the non-compliance is corrected.

The current application is for expansion of the playground and open space only and does not include any additional capacity or classroom expansions.

Mr. Brewster said that the property is zoned R-1A, Single-family Residential District, and both private schools and day care centers are allowed by special use permit. 3531 Somerset Drive is the location of the school authorized by the original special use permit and amendments. 3409 Somerset is the location of the existing playground and is authorized by the special use permit amendment in 2009. 3401 Somerset Drive includes a single-family house and is the subject of this proposed amendment. All lots meet the R-1A zoning standards, as well as the conditions and criteria of the existing special use permit.

Mr. Brewster stated that staff recommended that the Planning Commission should recommend that the City Council approve the renewal of the special use permit subject to the following:

1. The use continues to comply with all conditions of the original special use permit and renewals from the 2014 amendment noted above, and all other applicable standards of the zoning ordinance.
2. The proposed drive lane along the front is approved in concept but is subject to further review and permitting by Public Works according to the City's driveway standards and specifications.

3. The plant specifications (species, size, quantity) for the landscape along the front fence and any associated shade trees is subject to the City's landscape standards and shall be approved by the City's landscape architect at the time of permitting.
4. Replacement of street trees is subject to the City's tree preservation requirements, and subject to review and approval by Public Works.
5. The proposed monument sign is conceptual; the specific location and design shall be subject to City standards and reviewed at the time of a specific sign permit.
6. This special use permit is associated with the current owner and accessory to the operation at 3531 Somerset Drive, and if the property is sold to a different owner the special use permit and authorizations of this application applied to 3401 Somerset Drive shall be void.

Mrs. Wallerstein asked if parking spaces would be included in the proposed drive lane. Mr. Brewster stated that he believed there would be parallel parking spaces along the curb. Mrs. Wallerstein said that she was concerned for the safety of children walking between parked vehicles and those pulling into the driveway.

Kathy Morrison, Director of Highlawn Montessori School, 3531 Somerset Drive, was present to discuss the application. She stated that safety was the primary priority of the school, and that the new driveway would only be used for the drop-off and pick-up of students participating in after-school programs. She added that expanding the playground would allow for more recess periods for students. Lastly, she noted that she would be working with the City Arborist to discuss the replacement of the existing sweet gum trees on the property.

Mr. Wolf asked for additional information about the proposed synthetic turf area. Ms. Morrison said that adding turf to the playground area would be easier to maintain than grass and would include appropriate drainage based on requirements set forth by Public Works. She added that installation would happen in the future when funding became available.

Mr. Wolf opened the public hearing at 7:30 p.m.

- The following residents shared concerns about the addition of the new driveway, stating that it would result in increased traffic in the surrounding neighborhood as well as remove existing green space:
 - Adam Gasper, 8031 Canterbury Street
 - Jacob Gears, 3225 W. 81st Street

Both residents indicated that they had no objections to the playground expansion.

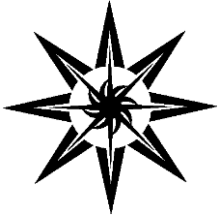
- Douglas Lenhart, 3317 W. 81st Street, shared his support for the proposed changes.

With no one else present to speak, Mr. Wolf closed the hearing at 7:46 p.m.

Mr. Valentino stated that he didn't believe the commission had enough information about the planned driveway to consider approval. He suggested that the application should either be considered with the driveway excluded, or that the entire application should be continued to the next meeting to give Public Works time to evaluate the proposal.

After further discussion, Ms. Morrison agreed to have the Planning Commission consider the proposal without the driveway.

Mr. Valentino made a motion to recommend approval of PC2023-105 to the City Council with removal of the driveway. Mr. Brenneman seconded the motion, which passed 4-2, with Mr. Birkel and Mrs. Wallerstein in opposition.



COU2023-28 Consider Approval of Second Addendum to the Contract for Planning Advisory Services

BACKGROUND

In early 2015, the City issued an RFP for city planning consultant services. City staff and council members interviewed the firms that responded to the RFP and recommended entering into an agreement with Gould Evans (now Multistudio) for city planning services. That original agreement was entered into on June 15, 2015. The agreement does automatically renew for successive one-year terms unless either party chooses to terminate or amend the agreement. In June 2020, the Council approved contract Addendum 1 which increased the rate above and beyond the 3% to keep up with increased staff rates.

The hourly rate in the current contract for city planning services is \$127.91 for Chris Brewster, \$100.79 for Abby Kinney and Yu Jia, and a blended rate of \$141.44 for additional associates. The contract allows for a 3% increase each year. Multistudio has again requested an addendum to their contract this year to increase their rates as follows:

Revised Fee Schedule

Principal	\$244
Associate Principal (Graham Smith)	\$205
Senior Planner (Chris Brewster)	\$154
Planner (Abby Kinney & Yu Jia)	\$108
Landscape Architect (Robert Whitman)	\$165
Architect	\$133

The City budgets \$50,000 per year for city planning services, and we believe that budget is adequate to absorb the requested rate increase, depending on the amount of additional work generated. We plan to increase the 2024 budget to \$60,000. The City has spent the following on planning consulting services the past five years:

2018: \$54,229	2021: \$26,596
2019: \$36,544	2022: \$47,823
2020: \$26,122	

City staff recommends approving the contract addendum and continuing to utilize Multistudio for city planning services. Chris Brewster is an extension of our staff in the Codes Department and plays an important role in our planning and development processes. It is important to have his expertise and knowledge as we continue to see increased development in the community. We have several important projects currently in the works in which Multistudio is playing an important role, including ongoing potential updates to the City’s zoning regulations. In addition, Multistudio wrote the City’s neighborhood design standards for Phase 1 and Phase 2 and is an important resource for myself and our building official in interpreting those standards during the plan review process.

The original contract and the proposed Addendum is attached for the Council’s review

RECOMMENDATION

Authorize the Second Addendum to the Contract for Planning Advisory Services.

PREPARED BY

Nickie Lee
Deputy City Administrator
Date: April 24, 2023

CONTRACT FOR PLANNING ADVISORY SERVICES

THIS AGREEMENT is entered into on June 15, 2015 between the City of Prairie Village, Kansas, hereinafter referred to as "the City", and Gould Evans, P.C., a Missouri corporation, hereinafter referred to as "the Consultant", in consideration of the mutual benefits, terms, and conditions hereinafter specified.

1. **Scope of Services.** The Consultant agrees to perform the services identified on Exhibit A attached hereto, including the provision of all labor, materials, equipment, and supplies.

Time and Performance. The Consultant's services shall commence upon execution of this Agreement by both parties. The Consultant will exercise reasonable skill, care and diligence in the performance of its services, and will carry out its responsibilities in accordance with the customarily accepted planning practices in Consultant's community. The City shall be responsible for the timely delivery of data and support information requested by the Consultant in a manner that will allow the Consultant the ability to perform its services.

2. **Payment.** Payment for the work provided by the Consultant shall be made as provided on Exhibit B, Schedule of Billing Rates, attached hereto. The Consultant shall keep and maintain time records relating to the scope of services described above. As necessary, these records and other appropriate documentation may be required to support invoices submitted to the City. Upon approval thereof, payment will be made to the Consultant in the amount approved.
3. **Ownership and Use of Documents.** All documents, drawings, specifications, and other materials produced by the Consultant in connection with the services rendered under this Agreement shall be the property of the City whether the project for which they are made is executed or not. The Consultant shall be permitted to retain copies, including reproducible copies, of drawings and specifications for information, reference, and use in connection with the Consultant's endeavors. The Consultant shall not be responsible for any use of the said documents, drawings, specifications, or other materials by the City on any project other than the project specified in the Agreement.
4. **Compliance With Laws.** The Consultant shall, in performing the services contemplated by this Agreement, faithfully observe and comply with all federal, state, and local laws, ordinances, and regulations applicable to the services to be rendered under this Agreement.
5. **Indemnification.** The Consultant shall indemnify, defend, and hold harmless the City, its officers, agents, and employees, from and against any and all claims, losses, or liability, including attorneys' fees, arising from injury or death to persons or damage to property occasioned by any act, omission, or failure of the Consultant, its officers, agents, and employees, in performing the work required

by this Agreement. This paragraph shall not apply to any damage resulting from the sole negligence of the City, its agents, and employees. To the extent that any of the damages referenced by this paragraph were caused by or resulted from the concurrent negligence of the City, its agents, or employees, this obligation to indemnify, defend, and hold harmless is valid and enforceable only to the extent of the negligence of the Consultant, its officers, agents, and employees.

6. **Insurance.** Consultant shall maintain, at its own expense, the following insurance with insurance companies reasonably acceptable to City:

- (a) Professional Liability Insurance in the amount of five hundred thousand Dollars (\$500,000.00) (per claim and aggregate, with all coverage retroactive to the earlier of the date of this Agreement and the commencement of Consultant's services under this Agreement) covering personal injury, bodily injury and property damages to the extent caused by consultant's negligent acts, errors or omissions, which coverage shall be maintained for a period of three (3) years after the date of final payment under this Agreement.
- (b) Commercial General Liability Insurance, occurrence form, (including completed operations and broad-form contractual liability) in the amount of five hundred thousand Dollars (\$500,000.00) combined single limit per occurrence and aggregate covering personal injury, bodily injury and property damage, which insurance shall name the City as an additional insured.
- (c) Commercial Automobile Liability Insurance, including owned, hired and non-owned vehicles, if any, in the amount five hundred thousand Dollars (\$500,000.00) covering bodily injury and property damage, which insurance shall name the City as an additional insured.
- (d) Worker's Compensation Insurance, which shall fully comply with applicable law, and employer's liability insurance with limits of not less than one hundred thousand Dollars (\$100,000.00) per accident / \$1 Million disease policy limit / \$1 Million disease each employee. Consultant shall provide a valid waiver executed by its workers compensation and employer's liability insurance carrier of any right of subrogation against City or its employees for any injury to a covered employee working on City's premises.

Upon execution of this Agreement, Consultant shall provide to City Certificates of Insurance reflecting the required coverages at their request. The certificates shall specify the date when such insurance expires. Each policy and each Certificates of Insurance shall provide that City shall be given not less than thirty (30) days' written notice before cancellation, non-renewal of coverage of such insurance except for non-payment. A renewal certificate shall be furnished to City prior to the expiration date of any coverage, and Consultant shall give City written notice of any reduction or other material modification in such insurance no later than thirty (30) days prior to such change.

7. **Independent Contractor.** The Consultant and the City agree that the Consultant is an independent contractor with respect to the services provided pursuant to this Agreement. Nothing in this Agreement shall be considered to create the relationship of employer and employee between the parties hereto. Neither the Consultant nor any employee of the Consultant shall be entitled to any benefits accorded City employees by virtue of the services provided under this Agreement. The City shall not be responsible for withholding or otherwise deducting federal income tax or social security, or for the duties of an employer with respect to the Consultant or any employee of the Consultant.
8. **Assignment.** The Consultant shall not sublet or assign any of the services covered by this Agreement without the express written consent of the City.
9. **Non-Waiver.** Waiver by the City of any provision of this Agreement or any time limitation provided for in this Agreement shall not constitute a waiver of any other provision.
10. **Term and Termination.** This Agreement shall be for an initial term of three (3) years ending June 14, 2018, and shall thereafter automatically renew for successive one (1) year terms unless either party notifies the other at least ninety (90) days prior to the expiration of the then term that the Agreement will not be renewed. Notwithstanding the foregoing, each party may terminate this Agreement with ten (10) days' prior written notice to the other party. In the event of such termination, provided the Consultant is not then in default under this Agreement, the City shall pay the Consultant its compensation to and through the actual date of termination, upon documentation of same by written invoice to the City.
11. **Attorneys' Fees and Costs.** In the event either party shall bring suit against the other to enforce any provision of this Agreement, the prevailing party in such suit shall be entitled to recover its costs, including reasonable attorneys' fees, incurred in such suit from the losing party.
12. **Notices.** Notices to the City shall be sent to the following address:

City of Prairie Village
City Hall
7700 Mission Road
Prairie Village, KS 66206
ATTN: City Clerk

Notices to Consultant shall be sent to the following address:

Gould Evans, P.C.
4041 Mill Street
Kansas City, MO 64111
ATTN:


13. **Applicable Law.** This Agreement is to be governed by the laws of the State of Kansas. Venue for any disputes shall be in the District Court of Johnson County, Kansas.
14. **Integrated Agreement.** This Agreement, together with attachments or addenda, represents the entire and integrated agreement between the City and the Consultant and supersedes all prior negotiations, representations, or agreements, written or oral. This Agreement may be amended only by written instrument signed by both the City and the Consultant.

**CITY OF PRAIRIE VILLAGE,
KANSAS**

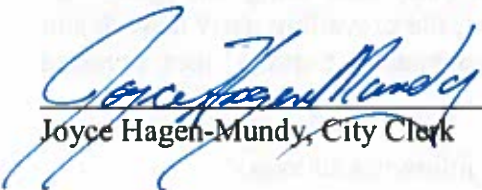
GOULD EVANS, P.C.

By: 

Laura Wassmer, Mayor

By: 
Its: Managing Principal

Attest



Joyce Hagen-Mundy, City Clerk

Approved as to Form:



Catherine P. Logan, City Attorney

EXHIBIT A
SCOPE OF SERVICES

- Provide a general planning advisory service consisting of the review of applications and the preparation of staff reports and the provision of advice regarding planning, zoning/appeals, and subdivision matters.
- Prepare special studies, surveys, designs and reports which may include zoning, subdivision, parks, redevelopment, utilities and other matters in the field of planning.
- Attend regular monthly meetings of the Prairie Village Planning Commission and Board of Zoning Appeals. Also attend Council Committee and City Council meetings as needed.
- Provide GIS/AIMS mapping as needed.

For more involved special projects beyond the routine planning services, a specific scope of services and lump sum or different billing rate may be negotiated if agreed upon by both parties in a written task order.

**SECOND ADDENDUM TO THE CONTRACT FOR PLANNING ADVISORY SERVICES
DATED JUNE 15, 2015**

This Addendum to Agreement is made this 1st Day of May, 2023 by and between the City of Prairie Village, Kansas, a Kansas municipal corporation (hereinafter "City") and Multistudio (formerly Gould Evans, P.C.), a Missouri corporation, (hereinafter referred to as "Consultant").

WHEREAS, on June 15, 2015, the City entered into the Contract for Planning Advisory Services with the Contractor;

WHEREAS, Consultant provides all planning advisory services for the City and has done so for the same fee as approved in Exhibit B of the original Contract since 2015 with no annual increase;

WHEREAS, the Consultant has requested to amend their schedule of billing rates as outlined in Exhibit B of the original Contract;

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein made and contained, it is mutually agreed by the parties that the Contract shall be amended as follows:

1. Payment for the work provided by the Consultant shall be made as provided on Exhibit A, Schedule of Billing Rates, attached hereto. The Consultant shall keep and maintain time records relating to the scope of services described in the original Contract. As necessary, these records and other appropriate documentation may be required to support invoices submitted to the City. Upon approval thereof, payment will be made to the Consultant in the amount approved.
2. The Contractor agrees that it shall abide by the Prairie Village Non-Discrimination Code (Section 5-801 et seq) and shall not discriminate against any person in the performance of work under the present contract because of race, religion, color, sex, sexual orientation, gender identity, disability, age, national origin, or ancestry. If the City determines that the Contractor has violated any applicable provision of any local, state, or federal law, or has discriminated against any person because of race, religion, color, sex, sexual orientation, gender identity, disability, age, national origin, or ancestry, such violation and/or discrimination shall constitute a breach of contract and the City may cancel, terminate, or suspend this agreement in whole or in part.
3. All other provisions and terms contained within the Contract shall continue in applicability and force. As appropriate, the Consultant shall renew or maintain any required bond and insurance requirements and provide to the City sufficient evidence to the same.
4. This Addendum to Agreement was approved by the Governing Body of the City of Prairie Village on the 1st day of May, 2023

IN WITNESS WHEREOF, the parties have hereunder set their hands.

The City of Prairie Village, Kansas

Multistudio

By: _____
Eric Mikkelson
Mayor

By: _____
Name: _____
Title: _____

ATTEST TO:

Adam Geffert
City Clerk

APPROVED AS TO FORM:

David Waters, City Attorney

EXHIBIT A

SCHEDULE OF BILLING RATES

The consulting services required will be billed on an hourly rate basis.

Hourly Rates

Revised Fee Schedule

Principal	\$244
Associate Principal (Graham Smith)	\$205
Senior Planner (Chris Brewster)	\$154
Planner (Abby Kinney & Yu Jia)	\$108
Landscape Architect (Robert Whitman)	\$165
Architect	\$133

The Hourly Rates specified above shall be in effect for one year from the date of this Addendum. Thereafter, consultant may increase the Hourly Rates by not more than 3% per year.



ADMINISTRATION DEPARTMENT

Council Meeting Date: May 1, 2023

2024 Capital Infrastructure Program Budget Presentation

Attached please find the Capital Infrastructure Budget and Road Condition Report Presentation.

The Capital Infrastructure Program Budget includes:

- Infrastructure Condition
- Park Funding
- Drainage Funding
- Street Funding
- Building Funding

ATTACHMENTS:

- 2024 Capital Improvement Program Budget Presentation
-

Prepared by:

Jason Hannaman/Keith Bredehoeft

Date: April 27, 2023



2024 BUDGET DISCUSSION

Public Works CIP



Agenda

- 2023 Projects
- Infrastructure Condition
- Recommended 2024 CIP
- Discussion



Agenda

- 2023 Projects
- Infrastructure Condition
- Recommended 2023 CIP
- Discussion



2023 Current and Planned Work

□ Street Projects

67th Street, Roe to Nall

69th Street, Tomahawk to Oxford

71st Street, Belinder to Mission

80th Street/81 Street Loop off of Roe

Chadwick, 77th to Canterbury

Delmar, 67th to 69th

Village Cul-de-Sac (North)

Rosewood, 76th Street to 76th Terrace

80th Street Cul-de-Sac

□ CARS Project: Nall Avenue | 67th Street to 75th Street (with Overland Park)

□ Drainage Projects

□ Brush Creek Design (Mission and 68th)

□ DRAIN23x

□ Other Projects

□ 2023 Concrete Repair, 2023 Asphalt Repairs, 2023 Crack Seal and Micro Surface, 2023 UBAS

□ Windsor Park Restroom, Harmon Park Inclusive Play, Harmon Restroom/Pavilion Design



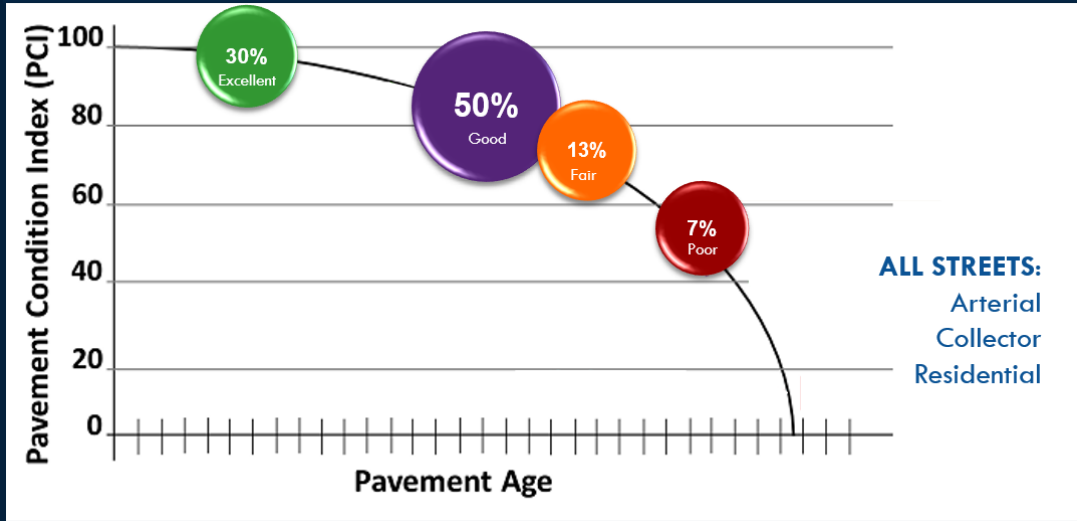
Agenda

- 2023 Projects
- **Infrastructure Condition**
- Recommended 2024 CIP
- Discussion



2022 Condition Summary

Infrastructure Type	Poor	Fair	Good	Excellent
Drainage - Pipes	6%	13%	45%	36%
Drainage - Channels	7%	22%	38%	33%
Drainage - Structures	1%	4%	48%	47%
Streets - Arterial & Collector	5%(2022= 6%)	7%(2022= 9%)	49%(2022= 40%)	39%(2022 =44%)
Streets - Residential	5%(2022= 9%)	16%(2022= 13%)	50%(2022= 52%)	29%(2022= 26%)
Curbs	1%	28%	47%	24%
Ramps	1%	10%	45%	44%

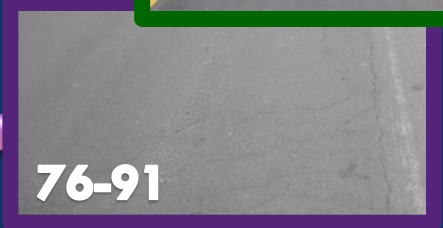


EXCELLENT



92-100

GOOD



76-91

FAIR

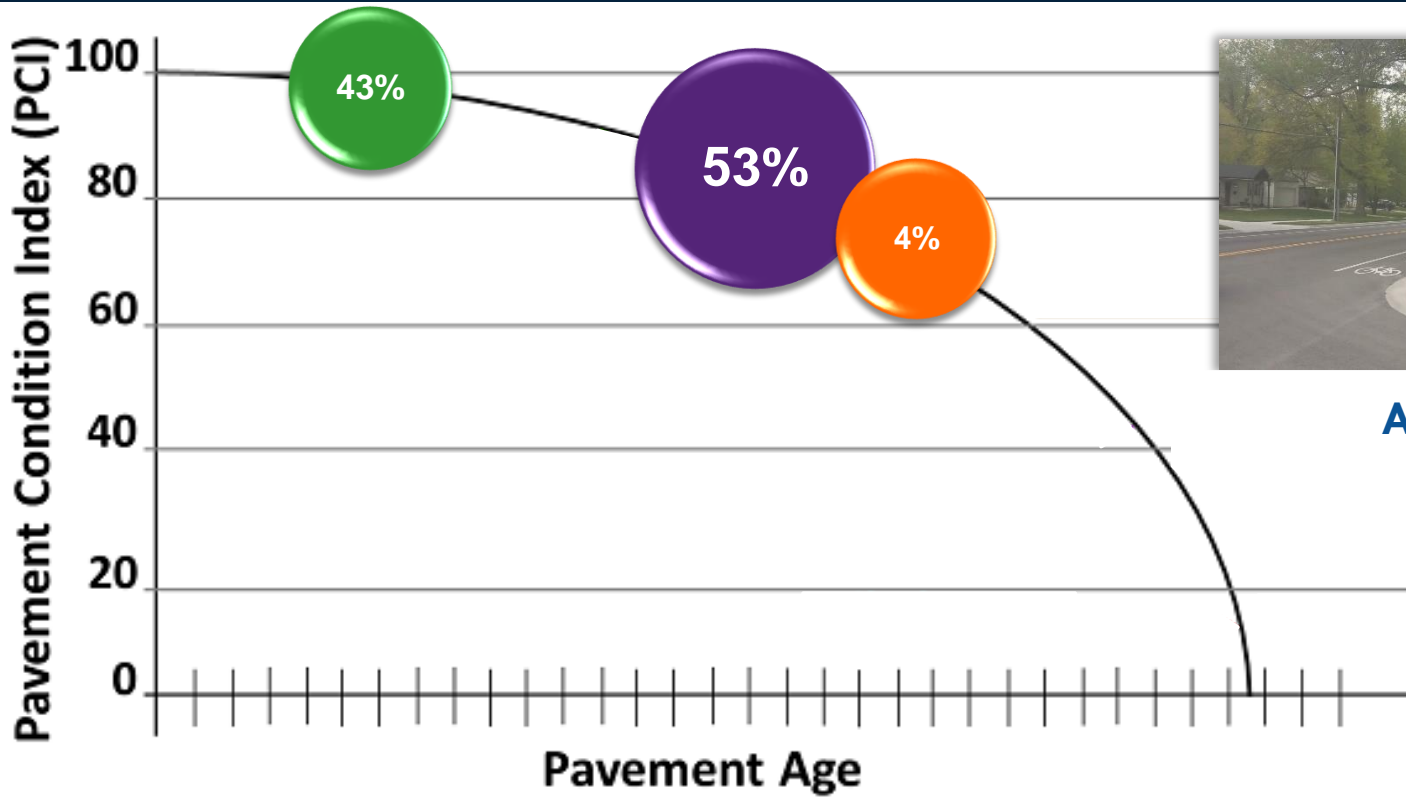


66-75

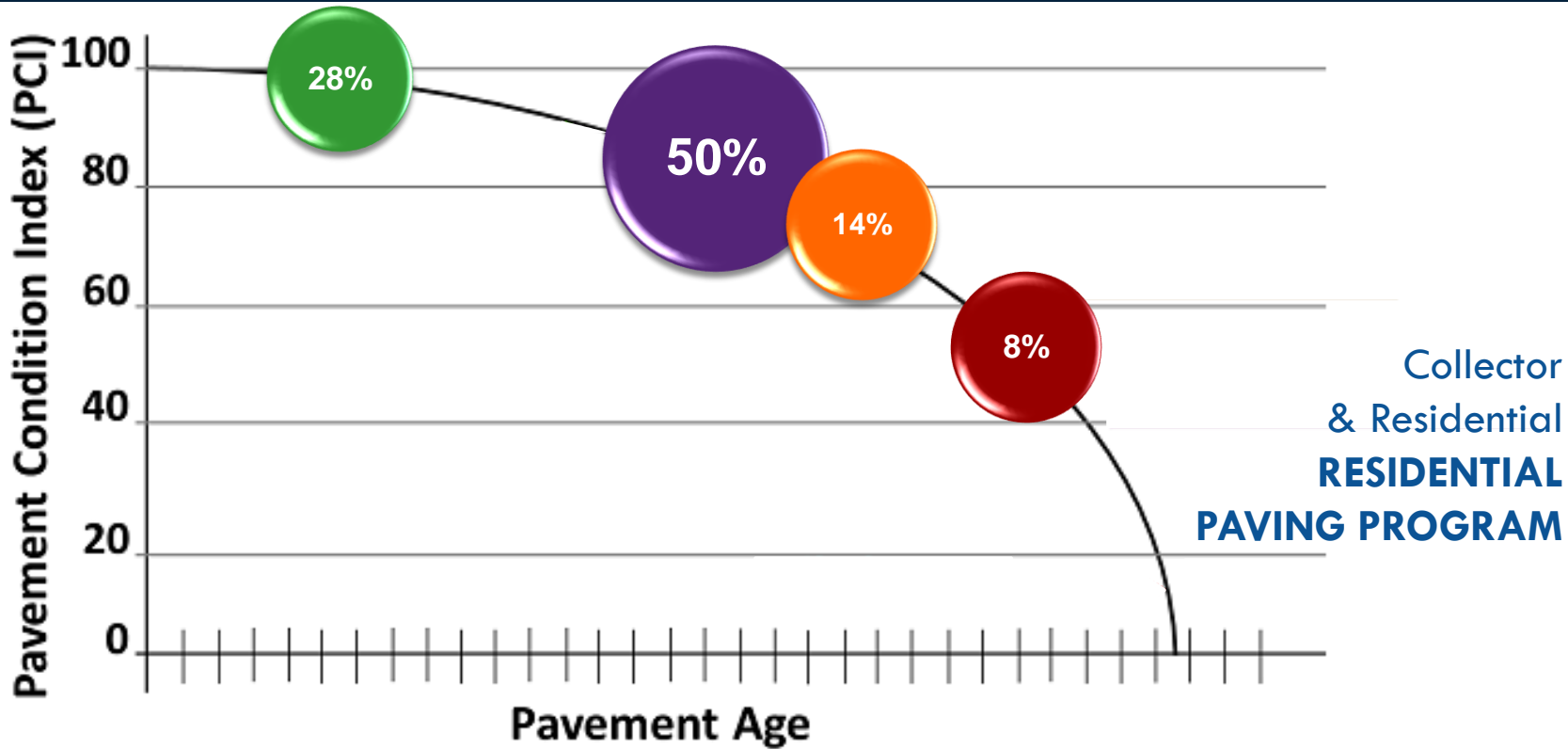
POOR



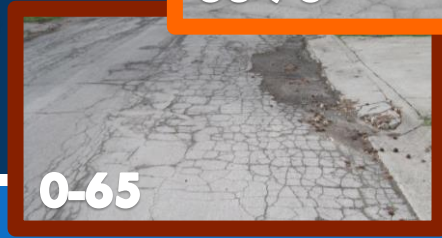
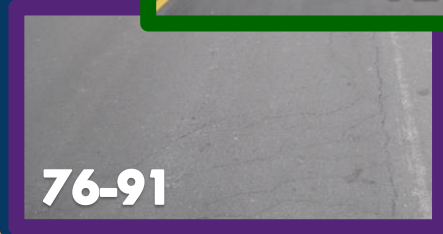
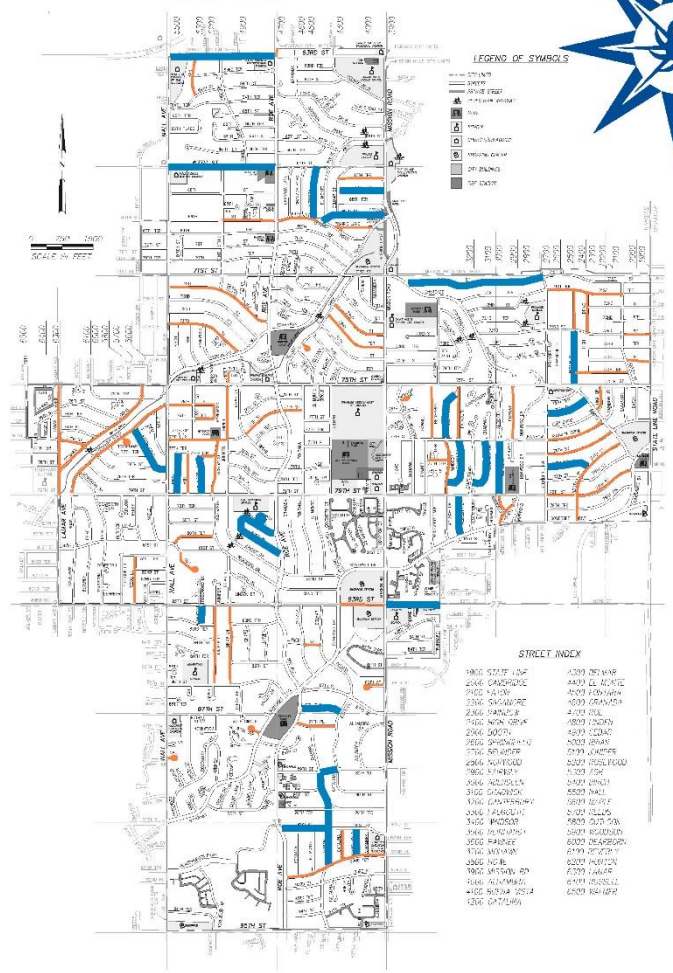
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Arterials Only



2023 Streets
Poor & Fair



Crack seal

Micro

\$61k per mile

UBAS

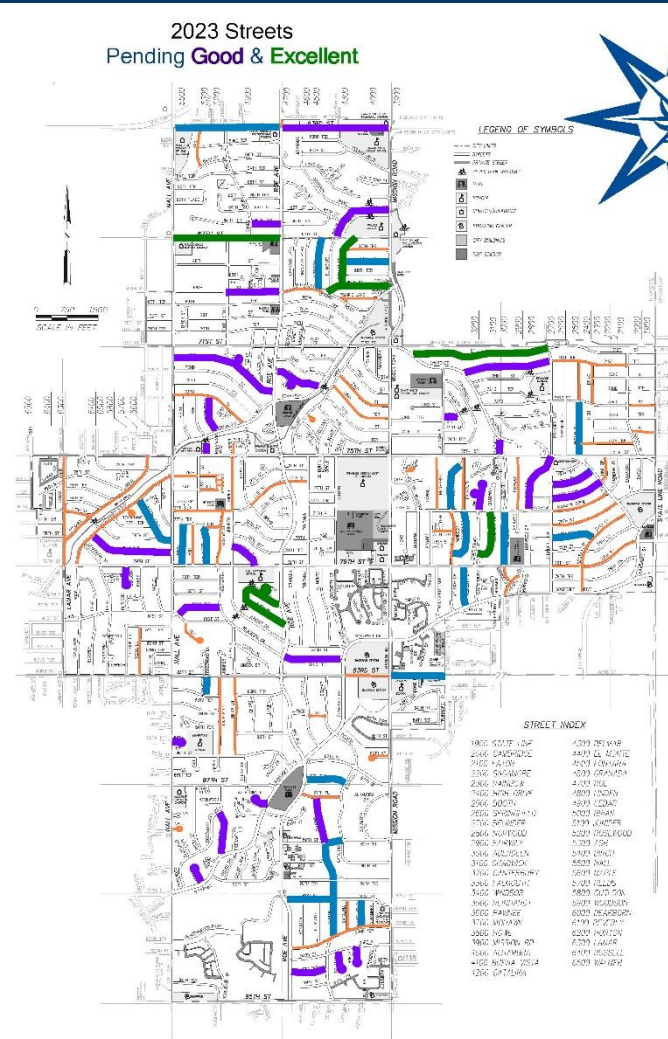
\$190K per mile

Mill/Overlay
with curb and
gutter repair

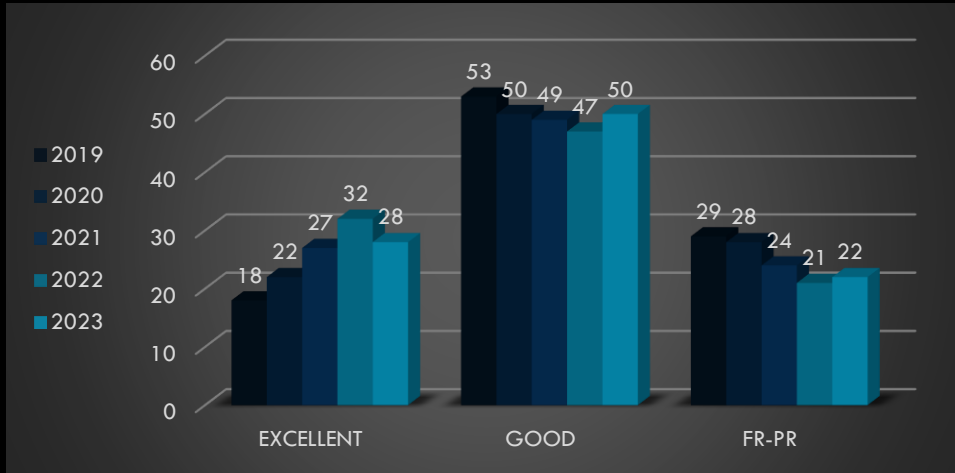
\$1.2M per mile

Reconstruction

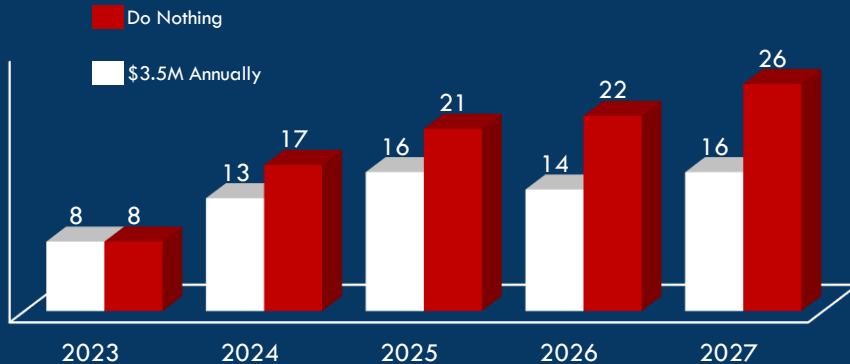
\$2.1M per mile



History of Residential & Collector Streets



Good category 50-54%



Management of POOR Streets With \$3.5M Residential Street Program



Agenda

- 2023 Projects
- Infrastructure Condition
- **Recommended 2024 CIP**
- Discussion



HARMON PARK PLAYSET & IMPROVEMENTS

2023 Harmon Park Inclusive Play and Parking Lot Project-

-Budget- \$1,075,000 (Design and Construction)

-Bid- \$1,595,550.68 (Construction Only)

-Additional Funds Needed- \$620,000 (Includes Design and Construction)

-Add funds from ADA Reserve (\$75,000), Parks Reserve Funds (\$228,000), and the 2024 Harmon Pavilion Project (317,000)

2024 Harmon Park Pavilion Project-

-Will increase funding by \$542,000, \$317,000 due to the change above and \$225,000 to adjust for inflation. New Project total= \$1,350,000

Summary- Both Harmon projects now total \$3,045,000, which is \$845,000 more than planned.





2024 CIP Budget - PARK

PROJECT #	PROJECT DESCRIPTION	PREVIOUS BUDGET	2024 BUDGET	2025 BUDGET	2026 BUDGET	2027 BUDGET	PROJECT TOTAL
PARK							
POOLRESV	Park Infrastructure Reserve	\$ 98,777.61	\$ 105,000.00	\$ 105,000.00	\$ 105,000.00	\$ 105,000.00	\$ 518,777.61
	Lighting at Community Center Basketball Court	\$ 5,000.00	\$ 40,000.00				\$ 45,000.00
	Harmon Park Pavilion & Restrooms	\$ 528,000.00	\$ 822,000.00				\$ 1,350,000.00
	Bennett Park Shelter & Play Area		\$ 195,000.00				\$ 195,000.00
	Franklin Park Historical Marker & Surfacing		\$ 15,000.00	\$ 390,000.00			\$ 405,000.00
	Windsor Trail & Playset			\$ 15,000.00	\$ 350,000.00		\$ 365,000.00
	Porter Shelter & Playset				\$ 25,000.00	\$ 560,000.00	\$ 585,000.00
	Pool Painting				\$ 95,000.00		\$ 95,000.00
	Shaffer Park Fountain Lights Replace & LED			\$ 25,000.00			\$ 25,000.00
PARK TOTAL PER YEAR		\$ 631,777.61	\$ 1,177,000.00	\$ 535,000.00	\$ 575,000.00	\$ 665,000.00	\$ 3,583,777.61



2024 CIP Budget - DRAIN

PROJECT #	PROJECT DESCRIPTION	PREVIOUS BUDGET	2024 BUDGET	2025 BUDGET	2026 BUDGET	2027 BUDGET	PROJECT TOTAL
DRAINAGE							
WDPRRESV	Water Discharge Program Reserve	\$ 47,746.63	\$ 20,000.00	\$ 20,000.00	\$ 20,000.00	\$ 20,000.00	127,746.63
MIRD0007	Mission Road	\$ 2,835,000.00	\$ 20,000.00	\$ 20,000.00	\$ 20,000.00	\$	2,895,000.00
DRAIN24x	Drainage Repair Program		\$ 990,000.00	\$ 990,000.00	\$ 990,000.00	\$ 1,000,000.00	3,970,000.00
DRAINAGE TOTAL PER YEAR		\$ 2,882,746.63	\$ 1,030,000.00	\$ 1,030,000.00	\$ 1,030,000.00	\$ 1,020,000.00	\$ 6,992,746.63



2024 CIP Budget - STREETS

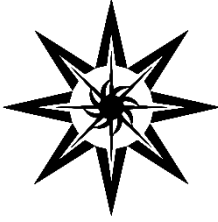
PROJECT #	PROJECT DESCRIPTION	PREVIOUS BUDGET	2024 BUDGET	2025 BUDGET	2026 BUDGET	2027 BUDGET	PROJECT TOTAL
STREETS							
TRAFRESV	Traffic Calming Program Reserve	\$ -	\$ 20,000.00	\$ 20,000.00	\$ 20,000.00	\$ 20,000.00	\$ 80,000.00
PAVP2024	Residential Street Rehabilitation Program		\$ 3,500,000.00	\$ 3,750,000.00	\$ 4,000,000.00	\$ 4,300,000.00	\$ 15,550,000.00
UBAS2024	UBAS Overlay Program		\$ 400,000.00	\$ 400,000.00	\$ 400,000.00	\$ 400,000.00	\$ 1,600,000.00
MIRD0009	Mission Rd - 63rd St to 67th Ter (MH) (CARS)	\$ 85,000.00	\$ 550,000.00				\$ 635,000.00
NAAV0007	Nall Ave - 75t St to 79th St (CARS)	\$ 110,000.00	\$ 1,500,000.00				\$ 1,610,000.00
ROAV0007	Roe Ave - N City Limit to 63rd St (Mission Admin)	\$ 5,000.00	\$ 11,000.00				\$ 16,000.00
SODR0005	Somerset Dr - State Line to Reinhardt UBAS		\$ 20,000.00	\$ 500,000.00			\$ 520,000.00
	63rd St - Roe Ave to Nall Ave (Mission Admin) (CARS)		\$ 30,000.00	\$ 150,000.00			\$ 180,000.00
75ST0002	75th St - State Line to Mission Rd (CARS)		\$ 20,000.00	\$ 762,000.00			\$ 782,000.00
	Roe Ave - 63rd St to 83rd St (CARS)			\$ 50,000.00	\$ 1,463,000.00		\$ 1,513,000.00
83ST0003	83rd St - E City Limit to Nall Ave (CARS)				\$ 160,000.00	\$ 1,630,000.00	\$ 1,790,000.00
NAAV0006	Nall Ave - 63rd St to 67th St UBAS (Mission) (CARS)				\$ 20,000.00	\$ 355,000.00	\$ 375,000.00
	75th St - Mission to Nall (CARS)					\$ 200,000.00	\$ 200,000.00
STREET TOTAL PER YEAR		\$ 200,000.00	\$ 6,051,000.00	\$ 5,632,000.00	\$ 6,063,000.00	\$ 6,905,000.00	\$ 24,851,000.00



2024 CIP Budget - BUILDING/OTHER

PROJECT #	PROJECT DESCRIPTION	PREVIOUS BUDGET	2024 BUDGET	2025 BUDGET	2026 BUDGET	2027 BUDGET	PROJECT TOTAL
BUILDING							
BLDGResv	Building Reserve	\$ 245,431.24	\$ 50,000.00	\$ 50,000.00	\$ 50,000.00	\$ 50,000.00	445,431.24
	PW Salt Barn Repair Siding			\$ 65,000.00			65,000.00
BUILDING TOTAL PER YEAR		\$ 245,431.24	\$ 50,000.00	\$ 115,000.00	\$ 50,000.00	\$ 50,000.00	510,431.24

PROJECT #	PROJECT DESCRIPTION	PREVIOUS BUDGET	2024 BUDGET	2025 BUDGET	2026 BUDGET	2027 BUDGET	PROJECT TOTAL
OTHER							
ADARESvX	ADA Compliance Program Reserve	\$ 41,275.91	\$ 25,000.00	\$ 25,000.00	\$ 25,000.00	\$ 25,000.00	141,275.91
CONC2024	Concrete Repair Program		\$ 600,000.00	\$ 600,000.00	\$ 600,000.00	\$ 600,000.00	2,400,000.00
SIDEWALK & CURB TOTAL PER YEAR		\$ 41,275.91	\$ 625,000.00	\$ 625,000.00	\$ 625,000.00	\$ 625,000.00	2,541,275.91



PUBLIC WORKS DEPARTMENT

Council Meeting: May 1, 2023

COU2023-33 CONSIDER 2024-2028 COUNTY ASSISTANCE ROAD SYSTEM (CARS) PROGRAM

RECOMMENDATION

Staff recommends approval of the 2024-2028 County Assistance Road System (CARS) program.

BACKGROUND

In order to receive CARS funds, the City must annually submit an application containing a list of streets and the estimated costs. The following streets are recommended for the five-year CARS program, 2024-2028. The Public Works Department compiled the list of possible projects below. The work will include, where necessary, full depth pavement repair, curb and gutter replacement, sidewalk repair, new sidewalk, new ADA ramps, milling/overlaying the pavement or UBAS.

It should be noted that the City submits an application annually and can revise future year requests. The 2024 project is the only project that the City is committing to fund and construct. The CARS costs include construction and construction administration, as the CARS program does not fund design. The City is responsible for funding design and the remaining construction costs.

Cities are generally guaranteed to have their first priority project funded. Projects are added or funding reduced based on the available funding in the overall program.

Program Year		Street Segment	From	To	CARS Eligible Costs	CARS Request
2024	1	Mission Road	63 rd Street	67 th Terrace	\$517,000 w/ Mission Hills	\$258,500
	2	Nall Avenue	75 th Steet	79 th Street	\$1,325,000	\$667,500
		Roe Avenue	N City Limit	63 rd Street	Mission is administering	
PV is participating in project, but not using our CARS participation.						
2025	1	75 th Street	State Line	Mission	\$761,620	\$380,810
	2	63 rd Street	Roe	Nall	\$815,000 w/ Mission	\$407,500
2026	1U	Roe Avenue	63 rd Street	83 rd Street	\$1,463,000	\$731,500
2027	1	83 rd Street	City Limit	Nall	\$1,630,000	\$815,000
	2U	Nall Avenue	63 rd Street	67 th Street	\$355,000 w/ Mission	\$177,500
2028	1	75 th Street	Mission	Nall	\$3,100,000	\$1,550,000

FUNDING SOURCE

Funding will be programmed in the CIP.

ATTACHMENTS

Map of Project Locations

PREPARED BY

Melissa Prenger, City Engineer

April 27, 2023

2025 Overlay
63rd St, Roe to Nall

2024 Overlay
Roe Ave, Limits to 63

With Mission

With Fairway

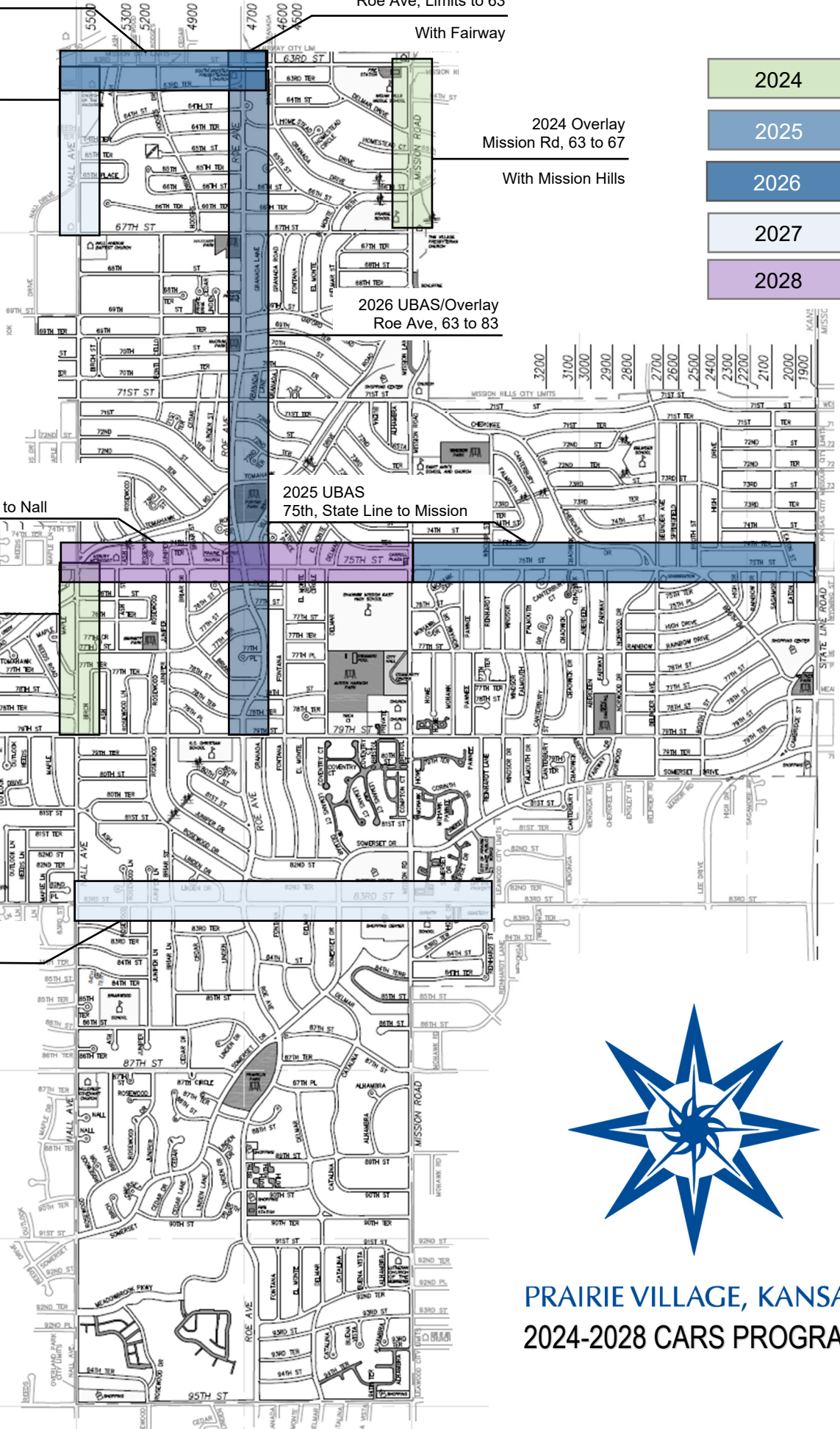
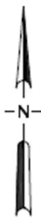
2027 UBAS
Nall Ave, 63 to 67

With Mission

2024 Overlay
Mission Rd, 63 to 67

With Mission Hills

- 2024
- 2025
- 2026
- 2027
- 2028



2028 Overlay
75th, Mission to Nall

2025 UBAS
75th, State Line to Mission

2024 Overlay
Nall Ave, 75 to 79

2027 Overlay
83th, City Limit to Nall



PRAIRIE VILLAGE, KANSAS
2024-2028 CARS PROGRAM



PUBLIC WORKS DEPARTMENT

Council Meeting: May 1, 2023

COU2023-29 CONSIDER APPROVAL FOR THE HARMON PARK INCLUSIVE PLAYSET PACKAGE (BG300003)

RECOMMENDATION

Move to authorize the Mayor to sign the contract with All Inclusive Rec for the Harmon Park Inclusive Playset (BG300003) in the amount of \$735,841.82.

BACKGROUND

The Harmon Park Playset Package includes a complete inclusive playset experience with playsets and play surface. Two public surveys were performed with significant engagement from the community. The first public survey received 138 responses and the public voted on type of play equipment and theme of the play area. The survey results provided direction for the playset vendors during their design process. City Staff and Parks and Recreation Committee Chairs reviewed the submissions and selected 2 vendors based on the overall inclusive nature of the equipment. The second public survey received over 400 responses and provided 2 vendors renderings of their respective designs.

The overwhelming majority of respondents selected the All Inclusive Rec playset.

The cost of the playset is \$562,927.07. The cost of the play surface is the remainder of contract.



FUNDING SOURCES

The funding is available in the CIP as noted in the CIP discussion earlier this evening.

ATTACHMENTS

1. Vendor Agreement
2. Renderings

PREPARED BY

Melissa Prenger, City Engineer

April 27, 2023



PlayPower LT Farmington, Inc.
 878 E. US Hwy 60
 Monett, MO 65708
 1-800-325-8828

Bill To:

City of Prairie Village
 7700 Mission Road
 Prairie Village, KS 66208

Project Name & Location:

Harmon Park Inclusive
 Playground Project

Prepared by:

All Inclusive Rec
 Stewart Mackay
 PO Box 72
 Farmington, MO 63640
 (573) 631-6993 (phone)
 stewart@allinclusiverec.com

Ship to Address:

Harmon Park
 Delmar St & W 77th Pl
 Prairie Village, KS 66208

End User:

City of Prairie Village
 7700 Mission Road
 Prairie Village, KS 66208

Quote Number: 22-S1128338R2
 Quote Date:/// 11/28/2022
 Valid For:/// 30 Days from Quote Date

Ref.	Description	Qty	Unit Price	Total Price
PPLT Rev 2	Playground Package to include Inclusive Playground Design Rev 2 Supply and Installation by certified installers 11500 sq ft Duraplay Poured Rubber Safety Surface @ Various CFH: 67% Color/33% Black Blend over client supplied and installed compacted stone or concrete base. plus 252 Sq ft Poured rubber for Turtle area	1	562,927.07	\$562,927.07
DPISD	4" Stone Base for PNP per manufacturers specifications for upper and lower areas (Does not include slope hill within play area - Needs to be concrete by GC)	1	\$42,986.00	\$42,986.00
IDPS	400 linear ft Subsurface drainage to connect to customer supplied 12" storm drains	1	\$16,950.00	\$16,950.00
		Subtotal:		\$622,863.07
		Equipment Installation:		\$96,395.00
		Freight		\$16,583.75
		Total With (out) Tax:		\$735,841.82

Make Purchase Orders Out To:
PlayPower LT Farmington, Inc.
878 E US Hwy 60
Monett, Missouri, USA 65708

Make Checks Payable To:
PlayPower LT Farmington, Inc.

NOTE:
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A
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Remit Purchase Orders To:
All Inclusive Rec LLC
Stewart Mackay
PO Box 72
Farmington MO 63640
stewart@allinclusiverec.com
573-366 5050

Remit Checks To:
PlayPower LT Farmington, Inc.
P.O. Box 734155
Dallas, TX 75373-4155

ales taxes will be confirmed once order and any tax certificates are received

† Denotes drop ship item.

Unloading, storage, installation, surfacing and site work are not included unless specifically noted on quotation.

Not responsible for filter cloth, irrigation rerouting, grass damage, or checking for underground utilities.

If installation is quoted, it is assumed that the site has been prepared and that any grade slope in any direction does not exceed 2%. In the event that unexpected soil conditions, such as subsurface rock, are encountered during installation, additional costs to the customer will be applicable.

The acceptance signature below serves as authorization to order the items quoted and indicates acceptance of the prices listed. All terms are subject to credit approval.

COMMENTS:

This playground contains 18% recycled content
This playground qualifies for 2 LEED point(s)

This Quote shall not become a binding contract until signed and delivered by both Customer and PlayPower LT Farmington Inc ("PPLT"). Sales Representative is not authorized to sign this Quote on behalf of PPLT or Customer, and signed Quotes cannot be accepted from Sales Representative. To submit this offer, please sign below and forward a complete signed copy of this Quote directly to Stewart @ All Inclusive Rec via email stewart@allinclusiverec.com. Upon acceptance, PPLT will return a fully-signed copy of the Quote to Customer (with copy to Sales Representative) via fax or e mail.

THIS QUOTE IS LIMITED TO AND GOVERNED BY THE TERMS CONTAINED HEREIN. PPLT objects to any other terms proposed by Customer, in writing or otherwise, as material alterations, and all such proposed terms shall be void. Customer authorizes PPLT to ship the Equipment and agrees to pay PPLT the total amount specified. Shipping terms are FOB the place of shipment via common carrier designated by PPLT. Payment terms are met 30 days with approved credit and all charges are due and payable in full at PO Box 734155, Dallas, TX 75373-4155, unless notified otherwise by PPLT in writing. Customer agrees to pay all additional service charges for past due invoices. Customer must provide proper tax exemption certificates to PPLT, and shall promptly pay and discharge all otherwise applicable taxes, license fees, levies and other impositions on the Equipment at its own expense.

CUSTOMER HEREBY SUBMITS ITS OFFER TO PURCHASE THE EQUIPMENT ACCORDING TO THE TERMS STATED IN THIS QUOTE AND SUBJECT TO FINAL APPROVAL BY PPLT.

Submitted By **Printed Name and Title** **Date**

THE FOREGOING QUOTE AND OFFER ARE HEREBY APPROVED AND ACCEPTED BY PLAYPOWER LT FARMINGTON INC.

By: _____ Date: _____

ADDITIONAL TERMS & CONDITIONS OF SALE

1. Use & Maintenance. Customer agrees to regularly inspect and maintain the Equipment, and to provide, inspect and maintain appropriate safety surfacing under and around the Equipment, in accordance with PPLT's product literature and the most current Consumer Product Safety Commission Handbook for Public Playground Safety.

2. Default, Remedies & Delinquency Charges. Customer's failure to pay any invoice when due, or its failure to otherwise comply with the terms of this Quote, shall constitute a default under all unsatisfied invoices ("Event of Default"). Upon an Event of Default, PPLT shall have all remedies available to it at law or equity, including, without limitation, all remedies afforded a secured creditor under the Uniform Commercial Code. Customer agrees to assist and cooperate with PPLT to accomplish its filing and enforcement of mechanic's or other liens with respect to the Equipment or its location or its repossession of the Equipment, and Customer expressly waives all rights to possess the Equipment after an Event of Default. All remedies are cumulative and not alternative, and no exercise by PPLT of a remedy will prohibit or waive the exercise of any other remedy. Customer shall pay all reasonable attorneys' fees plus any costs of collection incurred by PPLT in enforcing its rights hereunder. Subject to any limitations under law, Customer shall pay to PPLT as liquidated damages, and not as a penalty, an amount equal to 1.5% per month of any payment that is delinquent in such month and is not received by PPLT within ten (10) days after the date on which due.

3. Limitation of Warranty/ Indemnity. PPLT MAKES NO EQUIPMENT WARRANTIES EXCEPT FOR THOSE STANDARD WARRANTIES ISSUED WITH THE EQUIPMENT, WHICH ARE INCORPORATED HEREIN BY THIS REFERENCE. PPLT SPECIFICALLY DISCLAIMS ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE AND ANY LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES. CUSTOMER AGREES TO DEFEND, INDEMNIFY AND SAVE PPLT HARMLESS FROM ALL CLAIMS OF ANY KIND FOR DAMAGES OF ANY KIND ARISING OUT OF CUSTOMER'S ALTERATION OF THE EQUIPMENT, ITS FAILURE TO MAINTAIN THE EQUIPMENT, ITS FAILURE TO PROPERLY SUPERVISE EQUIPMENT USE, OR ITS FAILURE TO PROVIDE AND MAINTAIN APPROPRIATE TYPES AND DEPTHS OF SAFETY SURFACING BENEATH AND AROUND THE EQUIPMENT IN ACCORDANCE WITH PPLT'S INSTALLATION AND OWNER'S MANUALS AND THE MOST CURRENT CONSUMER PRODUCT SAFETY COMMISSION HANDBOOK FOR PUBLIC PLAYGROUND SAFETY.

4. Restrictions. Until all amounts due hereunder are paid in full, Customer shall not: (i) permit the Equipment to be levied upon or attached under any legal process; (ii) transfer title to the Equipment or any of Customer's rights therein; or (iii) remove or permit the removal of the Equipment to any location not specified in this Quote.

5. Purchase Money Security Interest. Customer hereby grants, pledges and assigns to PPLT, and PPLT hereby reserves a purchase money security interest in, the Equipment in order to secure the payment and performance in full of all of Customer's obligations hereunder. Customer agrees that PPLT may file one or more financing statements, in order to allow it to perfect, acquire and maintain a superior security interest in the Equipment.

6. Choice of Law and Jurisdiction. All agreements between Customer and PPLT shall be interpreted, and the parties' obligations shall be governed, by the laws of the State of Missouri without reference to its choice of law provisions. Customer hereby consents to the personal jurisdiction of the state and federal courts located in the city and county of St. Louis, Missouri.

7. Title; Risk of Loss; Insurance. PPLT Retains full title to all Equipment until full payment is received by PPLT. Customer assumes all risk of loss or destruction of or damage to the Equipment by reason of theft, fire, water, or any other cause, and the occurrence of any such casualty shall not relieve the Customer from its obligations hereunder and under any invoices. Until all amounts due hereunder are paid in full, Customer shall insure the Equipment against all such losses and casualties.

8. Waiver; Invalidity. PPLT may waive a default hereunder, or under any invoice or other agreement between Customer and PPLT, or cure such a default at Customer's expense, but shall have no obligation to do either. No waiver shall be deemed to have taken place unless it is in writing, signed by PPLT. Any one waiver shall not constitute a waiver of other defaults or the same kind of default at another time, or a forfeiture of any rights provided to PPLT hereunder or under any invoice. The invalidity of any portion of this Quote shall not affect the force and effect of the remaining valid portions hereof.

9. Entire Agreement; Amendment; Binding Nature. This fully-executed Quote, as supplemented by Change Orders and invoices containing exact amounts of estimates provided herein, constitutes the complete and exclusive agreement between the parties. A Change Order is a written instrument signed by the Customer and PPLT stating their agreement as to any amendment in the terms of this Quote. Customer acknowledges that Change Orders may result in delays and additional costs. The parties agree that all Change Orders shall include appropriate adjustments in price and time frames relating to any requested amendments. Upon full execution, this Quote shall be binding upon and inure to the benefit of the parties and their successors and assigns.

10. Counterparts; Electronic Transmission. This Quote, any invoice, and any other agreement between the parties, may be executed in counterparts, each of which shall constitute an original. The facsimile or other electronic transmission of any signed original document, and retransmission of any signed facsimile or other electronic transmission, shall be the same as the transmission of an original. At the request of either party, the parties will confirm facsimile or other electronically transmitted signatures by signing an original document.

All Inclusive Play
Harmon Park Playset Renderings





PUBLIC WORKS DEPARTMENT

Council Meeting Date: May 1, 2023

COU2023-33 CONSIDER CONSTRUCTION CONTRACT FOR HARMON PARK INCLUSIVE PLAYSET IMPROVEMENTS (BG300003)

RECOMMENDATION

Move to authorize the Mayor to sign the construction contract with Combes Construction LLC for the Harmon Park Inclusive Playset Improvements (BG300003).

BACKGROUND

This bid package includes the new construction of a play area, parking lot and relocated practice courts in Harmon Park. The project will also remove some of the existing internal sidewalk connection that will no longer be needed when the existing playset is removed, returning that area to green space.



Bids were originally open on February 22, 2023, receiving only one bidder that was substantially higher than the consultant's estimate. The project plans were re-bid on March 15, 2023, with some changes to the plans and moving the practice tennis court construction to an alternate for budgeting purposes. The City Clerk opened bids for the project. Three (3) acceptable bids were received.

Bidder	Amount
Combes	\$ 859,708.86
Gunter	\$ 919,173.00
Mega KC	\$ 1,049,700.00
Consultant's Est.	\$ 872,783.00

The Engineer then reviewed all bids and recommends award to the lowest responsible

bidder, Combes Construction, in the amount of \$859,708.86. This cost includes the construction of the practice tennis courts in their new location.

FUNDING HISTORY

This project started in the 2017 CIP as a park improvement to the existing playset. The budget at that time was \$106,000.

The project transitioned to an all-inclusive playset in 2019. The project was estimated at \$575,000 based on other inclusive playsets in the area. However, construction was put on hold as the location of the play area was tied to discussions regarding a community center.

January 21, 2021, the Governing Body approved the current location between the two shelters at Harmon Park along with the construction of a new parking lot and practice tennis courts. The project was estimated at that time as \$1,075,000.

During the past 2 years, the industry has seen an increase in costs. These costs vary from project to project based on design, material, and labor force. The overall cost of this project, construction only, is the combination of this contract and the vendor contract for the playset, at \$1,595,550.68. This is an increase of \$160,850 in playset/surfacing costs and the remaining increase is for the labor and materials for the construction of the play area.

FUNDING

Transfers will be made from the following projects/reserves to BG300003 to fully fund the construction of all items bid.

\$	75,000	from ADARESVx
\$	114,000	from POOLRESV
\$	114,000	from PARK UNALLOCATED
\$	317,000	from BG300005
\$	1,075,000	in BG300003
<hr/>		
\$	1,695,000	TOTAL PROJECT COST

This total project cost includes design, construction, and testing.

ATTACHMENTS

1. Construction Agreement with Combes Construction LLC

PREPARED BY

Melissa Prenger, City Engineer

April 26, 2023

CONSTRUCTION AGREEMENT



**BG300003:
HARMON PARK PLAYSET**

BETWEEN

CITY OF PRAIRIE VILLAGE, KS

AND

COMBES CONSTRUCTION

CONSTRUCTION CONTRACT
FOR
BG300003: HARMON PARK PLAYSET

BETWEEN
THE CITY OF PRAIRIE VILLAGE, KANSAS
AND
COMBES CONSTRUCTION LLC

THIS AGREEMENT, is made and entered into this ____ day of _____, 2023, by and between the City of Prairie Village, Kansas, hereinafter termed the “City”, and COMBES CONSTRUCTION LLC, hereinafter termed in this agreement, “Contractor”, for the construction and completion of Project HARMON PARK PLAYSET, (the “Project”) designated, described and required by the Project Manual and Bid Proposal, to wit:

WITNESSETH:

WHEREAS, the City has caused to be prepared, approved and adopted a Project Manual describing construction materials, labor, equipment and transportation necessary for, and in connection with, the construction of a public improvement, and has caused to be published an advertisement inviting sealed bid, in the manner and for the time required by law;

WHEREAS, the Contractor, in response to the advertisement, has submitted to the City in the manner and at the time specified, a sealed Bid Proposal in accordance with the Bid Documents;

WHEREAS, the City, in the manner prescribed by law, has publicly opened, examined and canvassed the Bid Proposals submitted, and as a result of such canvass has determined and declared the Contractor to be the lowest and best responsible bidder for the construction of said public improvements, and has duly awarded to the said Contractor a contract therefore upon the terms and conditions set forth in this Agreement for the sum or sums set forth herein;

WHEREAS, the Contractor has agreed to furnish at its own cost and expense all labor, tools, equipment, materials and transportation required to construct and complete in good, first class and workmanlike manner, the Work in accordance with the Contract Documents; and

WHEREAS, this Agreement, and other Contract Documents on file with the City Clerk of Prairie Village, Kansas, all of which Contract Documents form the Contract, and are as fully a part thereof as if repeated verbatim herein; all work to be to the entire satisfaction of the City or City’s agents, and in accordance with the laws of the City, the State of Kansas and the United States of America;

NOW, THEREFORE, in consideration of the compensation to be paid the Contractor, and of the mutual agreements herein contained, the parties hereto have agreed and hereby agree, the City for itself and its successors, and the Contractor for itself, himself, herself or themselves, its, his/her, hers or their successors and assigns, or its, his/her, hers or their executors and administrators, as follows:

1. **DEFINITIONS:** Capitalized terms not defined herein shall have the meanings set forth in the General Conditions.
- 1.1 Following words are given these definitions:

ADVERSE WEATHER shall have the meaning set forth in Section 9.3 hereof.

APPLICATION FOR PAYMENT shall mean a written request for compensation for Work performed on forms approved by the City.

BID shall mean a complete and properly signed proposal to do the Work or designated portion thereof, for the price stipulated therein, submitted in accordance with the Bid Documents.

BID DOCUMENTS shall mean all documents related to submitting a Bid, including, but not limited to, the Advertisement for Bids, Instruction to Bidders, Bid Form, Bid Bond, and the proposed Project Manual, including any Addenda issued prior to receipt of Bids.

BID PROPOSAL shall mean the offer or proposal of the Bidder submitted on the prescribed form set forth the prices for the Work to be performed.

BIDDER shall mean any individual: partnership, corporation, association or other entity submitting a bid for the Work.

BONDS shall mean the bid, maintenance, performance, and statutory or labor and materials payment bonds, together with such other instruments of security as may be required by the Contract Documents.

CERTIFICATE FOR PAYMENT shall mean written certification from the Project Manager stating that to the best of the project manager's knowledge, information and belief, and on the basis of the Project Manager's on-site visits and inspections, the Work described in an Application for Payment has been completed in accordance with the terms and conditions of the Contract Documents and that the amount requested in the Application for Payment is due and payable.

CHANGE ORDER is a written order issued after the Agreement is executed by which the City and the Contractor agree to construct additional items of Work, to adjust the quantities of Work, to modify the Contract Time, or, in lump sum contracts, to change the character and scope of Work shown on the Project Manual.

CITY shall mean the City of Prairie Village, Kansas, acting through a duly appointed representative.

CONTRACT or **CONTRACT DOCUMENTS** shall consist of (but not necessarily be limited to) the Plans, the Specifications, all addenda issued prior to and all modifications issued after execution of this Agreement, (modifications consisting of written amendments to the Agreement signed by both parties, Change Orders, written orders for minor changes in the Work issued by the Project Manager) this Construction Contract between the City and Contractor (sometimes referred to herein as the "**Agreement**"), the accepted Bid Proposal, Contractor's Performance Bond, Contractor's Maintenance Bond, Statutory Bond, the Project Manual, the General Conditions, the Special Conditions and any other documents that have bearing the Work prescribed in the Project. It is understood that the Work shall be carried out and the Project shall be constructed fully in accordance with the Contract Documents.

CONTRACT PRICE shall be the amount identified in the Construction Agreement between the City and the Contractor as the total amount due the Contractor for Total Completion of the Work as per the Contract Documents.

CONTRACT TIME shall be the number of calendar days stated in the Contract Documents for the completion of the Work or shall be a specific date as designated in the Construction Agreement.

CONTRACTOR shall mean the entity entering into the Contract for the performance of the Work covered by this Contract, together with his/her duly authorized agents or legal representatives.

DEFECTIVE WORK shall mean Work, which is unsatisfactorily, faulty or deficient, or not in conformity with the Project Manual.

FIELD ORDER shall mean a written order issued by the Project Manager that orders minor changes in the Work, but which does not involve a change in the Contract Price or Contract Time.

FINAL ACCEPTANCE shall mean the date when the City accepts in writing that the construction of the Work is complete in accordance with the Contract Documents such that the entire Work can be utilized for the purposes for which it is intended and Contractor is entitled to final payment.

GENERAL CONDITIONS shall mean the provisions in the document titled "General Conditions - General Construction Provisions" attached hereto and incorporation herein by reference.

INSPECTOR shall mean the engineering, technical inspector or inspectors duly authorized by the City to monitor the work and compliance tests under the direct supervision of the Project Manager.

NOTICE TO PROCEED shall mean the written notice by the City to the Contractor fixing the date on which the Contract Time is to commence and on which the Contractor shall start to perform its obligations under the Contract Documents. Without the prior express written consent of the City, the Contractor shall do no work until the date set forth in the Notice to Proceed.

PAY ESTIMATE NO. ____ or FINAL PAY ESTIMATE shall mean the form to be used by the Contractor in requesting progress and final payments, including supporting documentation required by the Contract Documents.

PLANS shall mean and include all Shop Drawings which may have been prepared by or for the City as included in the Project Manual or submitted by the Contractor to the City during the progress of the Work, all of which show the character and scope of the work to be performed.

PROJECT shall mean the Project identified in the first paragraph hereof.

PROJECT MANAGER shall mean the person appointed by the Public Works Director for this Contract.

PROJECT MANUAL shall contain the General Conditions, Special Conditions, Specifications, Shop Drawings and Plans for accomplishing the work.

PROJECT SEGMENTS shall have the meaning set forth in Section 7.1 hereof.

PUBLIC WORKS DIRECTOR shall mean the duly appointed Director of Public Works for the City of Prairie Village or designee.

SHOP DRAWINGS shall mean all drawings, diagrams, illustrations, schedules and other data which are specifically prepared by the Contractor, a Subcontractor, manufacturer, fabricator, supplier or distributor to illustrate some portion of the Work, and all illustrations, brochures, standard schedules, performance charts, instructions, diagrams and other information prepared by a manufacturer, fabricator, supplier or distribution and submitted by the Contractor to illustrate material or equipment for some portion of the Work.

SPECIFICATIONS shall mean those portions of the Project Manual consisting of written technical descriptions of materials, equipment, construction methods, standards and workmanship as applied to the Work and certain administrative details applicable thereto. They may include, but not necessarily be limited to: design specifications, e.g. measurements, tolerances, materials, inspection requirements and other information relative to the work; performance specifications, e.g., performance characteristics required, if any; purchase description specifications, e.g. products or equipment required by manufacturer, trade name and/or type; provided, however, equivalent alternatives (including aesthetics, warranty and manufacturer reputation) may be substituted upon written request and written approval thereof by the City.

SPECIAL CONDITIONS shall mean the provisions in the document titled "Special Conditions" attached hereto and incorporation herein by reference.

SUBCONTRACTOR shall mean an individual, firm or corporation having a direct contract with the Contractor or with another subcontractor for the performance of a part of the Work.

SUBSTANTIAL COMPLETION shall be defined as being less than 100 percent of the Work required that will be completed by a specified date as agreed to in writing by both parties.

TOTAL COMPLETION shall mean all elements of a Project Segment or the Total Project Work is complete including all subsidiary items and "punch-list" items.

TOTAL PROJECT WORK shall have the meaning set forth in Section 7.1 hereof.

UNIT PRICE WORK shall mean Work quantities to be paid for based on unit prices. Each unit price shall be deemed to include the Contractor's overhead and profit for each separately identified item. It is understood and agreed that estimated quantities of times for unit price work are not guaranteed and are solely for the purpose of comparison of bids and determining an initial Contract Price. Determinations of actual quantities and classifications of unit price work shall be made by the City.

UNUSUALLY SEVERE WEATHER shall have the meaning set forth in Section 9.4 hereof.

WORK shall the mean the work to be done to complete the construction required of the Contractor by the Contract Documents, and includes all construction, labor, materials, tools, equipment and transportation necessary to produce such construction in accordance with the Contract Documents.

WORK SCHEDULE shall have the meaning set forth in Section 7.2 hereof.

- 1.2 Whenever any word or expression defined herein, or pronoun used instead, occurs in these Contract Documents; it shall have and is mutually understood to have the meaning commonly given. Work described in words, which so applied have a well-known technical or trade meaning shall be held to refer to such, recognized standards.
- 1.3 Whenever in these Contract Documents the words “as ordered,” “as directed,” “as required”, “as permitted”, “as allowed”, or words or phrases of like import are used, it is understood that the order, direction, requirement, permission or allowance of the Project Manager is intended.
- 1.4 Whenever any statement is made in the Contract Documents containing the expression “it is understood and agreed”, or an expression of like import, such expression means the mutual understanding and agreement of the parties hereto.
- 1.5 The words “approved”, “reasonable”, “suitable”, “acceptable”, “properly”, “satisfactorily”, or words of like effect in import, unless otherwise particularly specified herein, shall mean approved, reasonable, suitable, acceptable, proper or satisfactory in the judgment of the Project Manager.
- 1.6 When a word, term or phrase is used in the Contract, it shall be interpreted or construed, first, as defined herein; second, if not defined, according to its generally accepted meaning in the construction industry; and, third, if there is no generally accepted meaning in the construction industry, according to its common and customary usage.
- 1.7 All terms used herein shall have the meanings ascribed to them herein unless otherwise specified.

2. ENTIRE AGREEMENT:

The Contract Documents, together with the Contractor's Performance, Maintenance and Statutory bonds for the Work, constitute the entire and exclusive agreement between the City and the Contractor with reference to the Work. Specifically, but without limitation, this Contract supersedes all prior written or oral communications, representations and negotiations, if any, between the City and the Contractor. The Contract may not be amended or modified except by a modification as hereinabove defined. These Contract Documents do not, nor shall they be construed to, create any contractual relationship of any kind between the City and any Subcontractor or remote tier Subcontractor.

3. INTENT AND INTERPRETATION

- 3.1 The intent of the Contract is to require complete, correct and timely execution of the Work. Any Work that may be required, including construction, labor, materials, tools, equipment and transportation, implied or inferred by the Contract Documents, or any one or more of them, as necessary to produce the intended result, shall be provided by the Contractor for the Contract Price.
- 3.2 All time limits stated in the Contract Documents are of the essence of the Contract.
- 3.3 The Contract is intended to be an integral whole and shall be interpreted as internally consistent. What is required by any one Contract Document shall be considered as required by the Contract.
- 3.4 The specification herein of any act, failure, refusal, omission, event, occurrence or condition as constituting a material breach of this Contract shall not imply that any other, non-specified

- act, failure, refusal, omission, event, occurrence or condition shall be deemed not to constitute a material breach of this Contract.
- 3.5 The Contractor shall have a continuing duty to read, carefully study and compare each of the Contract Documents and shall give written notice to the Project Manager of any inconsistency, ambiguity, error or omission, which the Contractor may discover, or should have discovered, with respect to these documents before proceeding with the affected Work. The review, issuance, or the express or implied approval by the City or the Project Manager of the Contract Documents shall not relieve the Contractor of the continuing duties imposed hereby, nor shall any such review be evidence of the Contractor's compliance with this Contract.
- 3.6 The City has prepared or caused to have prepared the Project Manual. **HOWEVER, THE CITY MAKES NO REPRESENTATION OR WARRANTY AS TO ACCURACY OR FITNESS FOR PARTICULAR PURPOSE INTENDED OR ANY OTHER WARRANTY OF ANY NATURE WHATSOEVER TO THE CONTRACTOR CONCERNING SUCH DOCUMENTS.** By the execution hereof, the Contractor acknowledges and represents that it has received, reviewed and carefully examined such documents, has found them to be complete, accurate, adequate, consistent, coordinated and sufficient for construction, and that the Contractor has not, does not, and will not rely upon any representation or warranties by the City concerning such documents as no such representation or warranties have been made or are hereby made.
- 3.7 As between numbers and scaled measurements in the Project Manual, the numbers shall govern; as between larger scale and smaller scale drawings, (e.g. 10:1 is larger than 100:1) the larger scale shall govern.
- 3.8 The organization of the Project Manual into divisions, sections, paragraphs, articles (or other categories), shall not control the Contractor in dividing the Work or in establishing the extent or scope of the Work to be performed by Subcontractors.
- 3.9 The Contract Documents supersedes all previous agreements and understandings between the parties, and renders all previous agreements and understandings void relative to these Contract Documents.
- 3.10 Should anything be omitted from the Project Manual, which is necessary to a clear understanding of the Work, or should it appear various instructions are in conflict, the Contractor shall secure written instructions from the Project Manager before proceeding with the construction affected by such omissions or discrepancies.
- 3.11 It is understood and agreed that the Work shall be performed and completed according to the true spirit, meaning, and intent of the Contract Documents.
- 3.12 The Contractor's responsibility for construction covered by conflicting requirements, not provided for by addendum prior to the time of opening Bids for the Work represented thereby, shall not extend beyond the construction in conformity with the less expensive of the said conflicting requirements. Any increase in cost of Work required to be done in excess of the less expensive work of the conflicting requirements will be paid for as extra work as provided for herein.
- 3.13 The apparent silence of the Project Manual as to any detail, or the apparent omission from them of a detailed description concerning any point, shall be regarded as meaning that only

the best general practice is to be used. All interpretations of the Project Manual shall be made on the basis above stated.

- 3.14 The conditions set forth herein are general in scope and are intended to contain requirements and conditions generally required in the Work, but may contain conditions or requirements which will not be required in the performance of the Work under contract and which therefore are not applicable thereto. Where any stipulation or requirement set forth herein applies to any such non-existing condition, and is not applicable to the Work under contract, such stipulation or requirement will have no meaning relative to the performance of said Work.
- 3.15 KSA 16-113 requires that non-resident contractors appoint an agent for the service of process in Kansas. The executed appointment must then be filed with the Secretary of State, Topeka, Kansas. Failure to comply with this requirement shall disqualify the Contractor for the awarding of this Contract.

4. CONTRACT COST

The City shall pay the Contractor for the performance of the Work embraced in this Contract, and the Contractor will accept in full compensation therefore the sum (subject to adjustment as provided by the Contract) of ***Eight Hundred-Fifty Nine Thousand, Seven Hundred-Eight and 86/100 DOLLARS (\$859,708.86)*** for all Work covered by and included in the Contract; payment thereof to be made in cash or its equivalent and in a manner provided in the Contract Documents.

5. WORK SUPERINTENDENT

- 5.1 The Contractor shall provide and maintain, continually on the site of Work during its progress, an adequate and competent superintendent of all operations for and in connection with the Work being performed under this Contract, either personally or by a duly authorized superintendent or other representative. This representative shall be designated in writing at the preconstruction meeting.
- 5.2 The superintendent, or other representative of the Contractor on the Work, who has charge thereof, shall be fully authorized to act for the Contractor, and to receive whatever orders as may be given for the proper prosecution of the Work, or notices in connection therewith. Use of Subcontractors on portions of the Work shall not relieve the Contractor of the obligation to have a competent superintendent on the Work at all times.
- 5.3 The City shall have the right to approve the person who will be the Superintendent based on skill, knowledge, experience and work performance. The City shall also have the right to request replacement of any superintendent.
- 5.4 The duly authorized representative shall be official liaison between the City and the Contractor regarding the signing of pay estimates, change orders, workday reports and other forms necessary for communication and Work status inquiries. Upon Work commencement, the City shall be notified, in writing, within five (5) working days of any changes in the Contractor's representative. In the absence of the Contractor or representative, suitable communication equipment, which will assure receipt of messages within one (1) hour during the course of the workday, will also be required.
- 5.5 The Contractor will be required to contact the Project Manager daily to advise whether and/or where the Contractor and/or the Subcontractor's crews will be working that day, in order that the Project Manager's representative is able to monitor properly the Work.

6. PROJECT MANAGER

- 6.1 It is mutually agreed by and between the parties to this Agreement that the Project Manager shall act as the representative of the City and shall observe and inspect, as required, the Work included herein.
- 6.2 In order to prevent delays and disputes and to discourage litigation, it is further agreed by and between the parties to this Agreement that the Project Manager shall, in good faith and to the best of its ability, determine the amount and quantities of the several kinds of work which are to be paid for under this Contract; that the Project Manager shall determine, where applicable, questions in relation to said Work and the construction thereof; that Project Manager shall, where applicable decide questions which may arise relative to the execution of this Contract on the part of said Contractor; that the Project Manager's decisions and findings shall be the conditions precedent to the rights of the parties hereto, to any action on the Contract, and to any rights of the Contractor to receive any money under this Contract provided, however, that should the Project Manager render any decision or give any direction which, in the opinion of either party hereto, is not in accordance with the meaning and intent of this Contract, either party may file with the Project Manager and with the other party, within thirty (30) days a written objection to the decision or direction so rendered and, by such action, may reserve the right to submit the question to determination in the future.
- 6.3 The Project Manager, unless otherwise directed or agreed to by the City in writing, will perform those duties and discharge those responsibilities allocated to the Project Manager as set forth in this Contract. The Project Manager shall be the City's representative from the effective date of this Contract until final payment has been made. The Project Manager shall be authorized to act on behalf of the City only to the extent provided in this Contract. The City and Project Manager may, from time to time, designate Inspectors to perform such functions.
- 6.4 The City and the Contractor shall communicate with each other in the first instance through the Project Manager.
- 6.5 The Project Manager shall be the initial interpreter of the requirements of the Project Manual and the judge of the performance by the Contractor. The Project Manager shall render written graphic interpretations necessary for the proper execution or progress of the Work with reasonable promptness on request of the Contractor.
- 6.6 The Project Manager will review the Contractor's Applications for Payment and will certify to the City for payment to the Contractor those amounts then due the Contractor as provided in this Contract. The Project Manager's recommendation of any payment requested in an Application for Payment will constitute a representation by Project Manager to City, based on Project Manager's on-site observations of the Work in progress as an experienced and qualified design professional and on Project Manager's review of the Application for Payment and the accompanying data and schedules that the Work has progressed to the point indicated; that, to the best of the Project Manager's knowledge, information and belief, the quality of the Work is in accordance with the Project Manual (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, to the results of any subsequent tests called for in the Project Manual, to a final determination of quantities and classifications for Unit Price Work if such is called for herein, and to any other qualifications stated in the recommendation); and that Contractor is entitled to payment of the amount recommended. However, by recommending any such payment Project Manager will not thereby be deemed to have represented that exhaustive or continuous on-site inspections have been made to check the quality or the quantity of the Work beyond the responsibilities

specifically assigned to Project Manager in the Project Manual or that there may not be other matters or issues between the parties that might entitle Contractor to be paid additionally by the City or the City to withhold payment to Contractor.

- 6.7 The Project Manager may refuse to recommend the whole or any part of any payment if, in Project Manager's opinion, it would be incorrect to make such representations to City. Project Manager may also refuse to recommend any such payment, or, because of subsequently discovered evidence or the results of subsequent inspections or tests, nullify any such payment previously recommended, to such extent as may be necessary in the Project Manager's opinion to protect the City from loss because:
- The Work is defective, or completed Work has been damaged requiring correction or replacement,
 - The Contract Price has been reduced by Written Amendment or Change Order,
 - The City has been required to correct Defective Work or complete Work in accordance with the Project Manual.
- 6.8 The City may refuse to make payment of the full amount recommended by the Project Manager because claims have been made against City on account of Contractor's performance or furnishing of the Work or liens have been filed in connection with the Work or there are other items entitling City to a set-off against the amount recommended, but City must give Contractor written notice (with a copy to Project Manager) stating the reasons for such action.
- 6.9 The Project Manager will have the authority to reject Work which is defective or does not conform to the requirements of this Contract. If the Project Manager deems it necessary or advisable, the Project Manager shall have authority to require additional inspection or testing of the Work for compliance with Contract requirements.
- 6.10 The Project Manager will review, or take other appropriate action as necessary, concerning the Contractor's submittals, including Shop Drawings, Product Data and Samples. Such review, or other action, shall be for the sole purpose of determining general conformance with the design concept and information given through the Project Manual.
- 6.11 The Project Manager shall have authority to order minor changes in the Work not involving a change in the Contract Price or in Contract Time and consistent with the intent of the Contract. Such changes shall be effected by verbal direction and then recorded on a Field Order and shall be binding upon the Contractor. The Contractor shall carry out such Field Orders promptly.
- 6.12 The Project Manager, upon written request from the Contractor shall conduct observations to determine the dates of Substantial Completion, Total Completion and the date of Final Acceptance. The Project Manager will receive and forward to the City for the City's review and records, written warranties and related documents from the Contractor required by this Contract and will issue a final Certificate for Payment to the City upon compliance with the requirements of this Contract.
- 6.13 The Project Manager's decisions in matters relating to aesthetic effect shall be final if consistent with the intent of this Contract.

- 6.14 The Project Manager will **NOT** be responsible for Contractor's means, methods, techniques, sequences, or procedures or construction, or the safety precautions and programs incident thereto and will not be responsible for Contractor's failure to perform the Work in accordance with the Project Manual. The Project Manager will not be responsible for the acts or omissions of the Contractor or any Subcontractor or any of its or their agents or employees, or any other person at the site or otherwise performing any of the Work except as may otherwise be provided.
- 6.15 Any plan or method of work suggested by the Project Manager, or other representatives of the City, to the Contractor, but not specified or required, if adopted or followed by the Contractor in whole or in part, shall be used at the risk and responsibility of the Contractor, and the Project Manager and the City will assume no responsibility therefore.
- 6.16 It is agreed by the Contractor that the City shall be and is hereby authorized to appoint or employ, either directly or through the Project Manager, such City representatives or observers as the City may deem proper, to observe the materials furnished and the work performed under the Project Manual, and to see that the said materials are furnished, and the said work performed, in accordance with the Project Manual therefore. The Contractor shall furnish all reasonable aid and assistance required by the Project Manager, or by the resident representatives for proper observation and examination of the Work and all parts thereof.
- 6.17 The Contractor shall comply with any interpretation of the Project Manual by the Project Manager, or any resident representative or observer so appointed, when the same are consistent with the obligations of the Project Manual. However, should the Contractor object to any interpretation given by any subordinate Project Manager, resident representative or observer, the Contractor may appeal in writing to the City Director of Public Works for a decision.
- 6.18 Resident representatives, observers, and other properly authorized representatives of the City or Project Manager shall be free at all times to perform their duties, and intimidation or attempted intimidation of any one of them by the Contractor or by any of its employees, shall be sufficient reason, if the City so decides, to annul the Contract.
- 6.19 Such observation shall not relieve the Contractor from any obligation to perform said Work strictly in accordance with the Project Manual.

7. WORK SCHEDULE:

- 7.1 The Work is comprised of one large project (sometimes referred to as "**Total Project Work**") and, in some cases, is partitioned into smaller subprojects referred to in this Agreement as "**Project Segments.**" A Contract Time shall be stated in the Contract Documents for both the Total Project Work and, when applicable, the Project Segments.
- 7.2 At the time of execution of this Contract, the Contractor shall furnish the Project Manager with a schedule ("**Work Schedule**") setting forth in detail (in the critical path method) the sequences proposed to be followed, and giving the dates on which it is expected that Project Segments will be started and completed within the Contract Time. The Work Schedule is subject to approval by the City.
- 7.3 Monthly Work Schedule reports shall accompany the Contractor's pay request for Work completed. Where the Contractor is shown to be behind schedule, it shall provide an accompanying written summary, cause, and explanation of planned remedial action.

Payments or portions of payments may be withheld by the City upon failure to maintain scheduled progress of the Work as shown on the approved Work Schedule.

- 7.4 At a minimum the Contractor shall update and submit the Work Schedule for review weekly, unless otherwise agreed upon by the City.
- 7.5 The Contractor, within ten (10) calendar days after being instructed to do so in a written notice from the City, shall commence the Work to be done under this Contract.
- 7.6 If at any time, in the opinion of the Project Manager or City, proper progress is not being maintained; changes shall be proposed in the Work Schedule and resubmitted for consideration and approval.
- 7.7 If the Contractor has not completed Project Segments and is within a non-performance penalty period, it shall not be allowed to undertake a new Project Segment until the Project Segment in dispute is completed, unless expressly permitted by the City.
- 7.8 The operation of any tool, equipment, vehicle, instrument, or other noise-producing device is prohibited to start before or continue after the hours of 7 AM and 10 PM, Monday through Friday (except Fridays which shall be until Midnight) and 8 AM and midnight on Weekends (except Sunday which shall be 10 PM). Violation of this requirement is Prima Facia Violation of City Municipal Code 11-202.
- 7.9 No work shall be undertaken on Saturdays, Sundays and Holidays (Christmas, New Years, Martin Luther King's Birthday, President's Day, Memorial Day, Independence Day, Labor Day and Thanksgiving) without the express written approval of the City Project Manager. If it is necessary to perform proper care, maintenance, or protection of work already completed or of equipment used, or in the case of an emergency verbal permission may be obtained through the Project Manager.
- 7.10 Night work may be established by the Contractor, as a regular procedure, with the written permission of the City; such permission, however, may be revoked at any time by the City if the Contractor fails to maintain adequate equipment for the proper prosecution and control of all operations performed as part of the Work.
- 7.11 The Contractor shall provide 24 hours notice prior to commencing any work to the City Project Manager. The Contractor shall communicate immediately any changes in the Work Schedule to the Project Manager for approval by the City.

8. DELAYS AND EXTENSIONS OF TIME

- 8.1 In executing the Contract, the Contractor expressly covenants and agrees that, in undertaking the completion of the Work within the Contract Time, it has taken into consideration and made allowances for all of the ordinary delays and hindrances incident to such Work, whether growing out of delays in securing materials, workers, weather conditions or otherwise. No charge shall be made by the Contractor for hindrances or delays from any cause during the progress of the Work, or any portion thereof, included in this Contract.
- 8.2 Should the Contractor, however, be delayed in the prosecution and completion of the Work by reason of delayed shipment orders, or by any changes, additions, or omissions therein ordered in writing by the City, or by strikes or the abandonment of the Work by the persons engaged thereon through no fault of the Contractor, or by any act taken by the U.S. Government such as the commandeering of labor or materials, embargoes, etc., which would

affect the fabrication or delivery of materials and/or equipment to the Work; or by neglect, delay or default of any other contractor of the City, or delays caused by court proceedings; the Contractor shall have no claims for damages or additional compensation or costs for any such cause or delay; but it shall in such cases be entitled to such extension of the time specified for the completion of the Work as the City and the Project Manager shall award in writing on account of such delays, provided, however, that claim for such extension of time is made by the Contractor to the City and the Project Manager in writing within one (1) week from the time when any such alleged cause for delay shall occur.

9. ADVERSE WEATHER:

9.1 Extensions of time for Adverse Weather shall be granted only under the conditions as hereinafter provided.

9.2 For conditions of weather or conditions at the site, so unusual as not to be reasonably anticipated, as determined by the Project Manager, an average or usual number of inclement days when work cannot proceed are to be anticipated during the construction period and are not to be considered as warranting extension of time.

9.3 **“Adverse Weather”** is defined as atmospheric conditions or the impact thereof at a definite time and place, which are unfavorable to construction activities such that they prevent work on critical activities for 50 percent or more of the Contractor’s scheduled workday.

9.4 **“Unusually Severe Weather”** is defined as weather, which is more severe than the adverse weather anticipated for the season, location, or activity involved.

9.5 Time Extensions for Unusually Severe Weather: In order for any request for time extension due to Unusually Severe Weather to be valid, the Contractor must document all of the following conditions:

- The weather experienced at the Work site during the Contract period is more severe than the Adverse Weather anticipated for the Work location during any given month.
- The Unusually Severe Weather actually caused a delay to the completion of the Work.
- The delay must be beyond the control and without fault or negligence by the Contractor.

9.6 The following schedule of monthly-anticipated Adverse Weather delays will constitute the baseline for monthly weather time evaluations. The Contractor’s Work Schedule must reflect these anticipated adverse weather delays in all weather affected activities:

MONTHLY ANTICIPATED ADVERSE WEATHER DELAY
WORK DAYS BASED ON FIVE (5) DAY WORK WEEK

JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
10	8	7	6	7	7	5	5	5	4	5	9

9.7 Upon receipt of the Notice to Proceed, and continuing throughout the Contract, the Contractor shall record on its daily construction report, the occurrence of Adverse Weather and resultant impact to the Work Schedule.

9.8 The number of actual Adverse Weather delay days shall include days affected by actual Adverse Weather (even if Adverse Weather occurred in the previous month), and shall be

calculated chronologically from the first to the last day of each month, and be recorded as full workdays.

- 9.9 If the number of actual Adverse Weather delay days in a given month exceeds the number of days anticipated above, the difference shall be multiplied by 7/5 to convert any qualifying workday delays to calendar days. The resulting number of qualifying lost days shall be added to the Contract Time.
- 9.10 The determination that Unusually Severe Weather occurred does not automatically mean an extension of time will be granted. The Contractor must substantiate the Unusually Severe Weather delayed work activities on the critical path of the Work Schedule.
- 9.11 Full consideration for equivalent fair weather workdays shall be given. If the number of actual Adverse Weather delays in a given month is less than the number of days anticipated as indicated above, the difference shall be multiplied by 7/5 to convert any workday increases to calendar days. The resulting number of qualifying extra days will be accumulated and subtracted from any future month's days lost due to unusually severe weather.
- 9.12 The net cumulative total of extra days/lost days shall not result in a reduction of Contract Time and the date of Substantial Completion shall not be changed because of unusually favorable weather.
- 9.13 In converting workdays to calendar days, fractions 0.5 and greater shall be rounded up to the next whole number. Fractions less than 0.5 shall be dropped.
- 9.14 The Contractor shall summarize and report all actual Adverse Weather delay days for each month to the Project Manager by the tenth (10th) day of the following month. A narrative indicating the impact of Adverse Weather conditions on the Work Schedule shall be included.
- 9.15 Any claim for extension of time due to Unusually Severe Weather shall be submitted to the Project Manager within 7 days of the last day of the commencement of the event giving rise to the delay occurred. Resolution of any claim shall follow the procedures described above.
- 9.16 The Contractor shall include and indicate the monthly-anticipated Adverse Weather days, listed above, in the Work Schedule. (Reference Section 7.1 for Work Schedule requirements)
- 9.17 The Contractor shall indicate the approved Adverse Weather days (whether less or more than the anticipated days) in its Work Schedule updates.

10. LIQUIDATED DAMAGES

- 10.1 Contractor agrees that time is of the essence and any term pertaining to Contractor timely performing so as to achieve Total Completion within the Contract Time is a material provision of this Contract. Further, the parties acknowledge that City's damages in the event of delay are difficult to ascertain and consequently agree that, in the event and to the extent that actual date of Total Completion is delayed beyond the Contract Time for the Total Project Work or Project Segments attributable solely or concurrently to (i) an act or omission of Contractor or any of its subcontractors or suppliers, or (ii) in whole or in part, to any other event or condition within the Contractor's reasonable control (and not for reasons solely attributable to City), the Contractor shall be assessed a liquidated damage, and not as a penalty, in the amount set forth in the Special Conditions for each calendar day beyond the applicable Contract Time. Such amount shall be deducted from any amounts due Contractor under this Agreement.

10.2 Further, the Contractor agrees that, in the event Contractor does not carry out such Work at such rates of progress as required by the Work Schedule approved by the City, the City may, at its option and without Contractor receiving any additional compensation therefore, require Contractor to increase the number of qualified supervisory personnel and/or workers and the amount of equipment employed in the performance of the Work to such extent as City may deem necessary or desirable. In addition, City, at its option, may supplement Contractor's manpower by entering into contracts with other contractors to perform the Work. All costs that are incurred by City, in this regard, including reasonable attorney's fees, shall be deducted from any sums due Contractor or City may make demand on Contractor for reimbursement of such costs.

11. PAYMENT PROCEDURE

11.1 Based upon Applications for Payment submitted to the Project Manager by the Contractor and Certificates for Payment issued by the Project Manager, the City shall make progress payments on account of the contract sum to the Contractor as provided below and elsewhere in the Contract Documents.

11.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month or on a mutually agreed date by City and Contractor.

11.3 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the City no later than the time of payment. The Contractor further warrants that upon submittal on the first day of each month of an Application for Payment, all Work for which payments have been received from the City shall be free and clear of liens, claims, security interest or other encumbrances in favor of the Contractor or any other person or entity whatsoever.

11.4 Each application for payment must be submitted with Contractor's waiver for period of construction covered by application. Each Application for Payment will be submitted with executed waivers from the subcontractors or sub-contractors and suppliers for the previous period of construction covered by the previous application. The final payment application must be submitted together with or preceded by final or complete waivers from every entity involved with performance of the Work covered by the payment request.

11.5 The Contractor will submit waivers on forms, and executed in a manner, acceptable to City.

11.6 The Contractor shall promptly pay each Subcontractor out of the amount paid to the Contractor because of such Subcontractor's Work the amount to which such Subcontractor is entitled. In the event the City becomes informed that the Contractor has not paid a Subcontractor as herein provided, the City shall have the right, but not the duty, to issue future checks in payment to the Contractor of amounts otherwise due hereunder naming the Contractor and such Subcontractor as joint payees. Such joint check procedure, if employed by the City, shall be deemed payment to the Contractor but shall create no rights in favor of any person or entity beyond the right of the named payees to payment of the check and shall not be deemed to commit the City to repeat the procedure in the future.

11.7 The Project Manager will, upon receipt of a written Application for Payment from the Contractor, review the amount of Work performed during the preceding period and the value thereof at the unit prices contracted. From the amounts so ascertained, there shall be deducted ten percent (10%) to be retained until after final completion of the entire Work to the satisfaction of the City. The Project Manager will submit an estimate each month to the

City for payment to the Contractor, except that no amount less than \$500.00 will be submitted unless the total amount of the Contract remaining unpaid is less than \$500.00.

- 11.8 Deductions will be made from progress payments if the Contract includes a provision for a lump sum or a percentage deduction. Lump sum deductions will be that portion of the stated lump sum computed as the ratio that the amount earned bears to the Contract Price. Percentage deductions will be computed at the stated percentage of the amount earned.
- 11.9 No progress payment, nor any use or occupancy of the Work by the City, shall be interpreted to constitute an acceptance of any Work not in strict accordance with this Contract.
- 11.10 The City may decline to make payment, may withhold funds, and, if necessary, may demand the return of some or all of the amounts previously paid to the Contractor, to protect the City from loss because of:
- Defective Work not remedied by the Contractor;
 - Claims of third parties against the City or the City's property;
 - Failure by the Contractor to pay Subcontractors or others in a prompt and proper fashion;
 - Evidence that the balance of the Work cannot be completed in accordance with the Contract for the unpaid balance of the Contract Price;
 - Evidence that the Work will not be completed in the time required for substantial or final completion;
 - Persistent failure to carry out the Work in accordance with the Contract;
 - Damage to the City or a third party to whom the City is, or may be, liable;
 - Evidence that the Work is not progressing according to agreed upon schedule by both parties.
- 11.11 In the event that the City makes written demand upon the Contractor for amounts previously paid by the City as contemplated in this subparagraph, the Contractor shall promptly comply with such demand and refund such monies to the City.
- 11.12 Neither the observation by the City or any of the City's officials, employees, or agents, nor any order by the City for payment of money, nor any payment for, or acceptance of, the whole or any part of the Work by the City or Project Manager, nor any extension of time, nor any possession taken by the City or its employees, shall operate as a waiver of any provision of this Contract, or of any power herein reserved to the City, or any right to damages herein provided, nor shall any waiver of any breach in this Contract be held to be a waiver of any other or subsequent breach.

12. COMPLETION AND FINAL PAYMENT

- 12.1 Upon Total Completion, when the Contractor is ready for a final inspection of the Total Project Work, it shall notify the City and the Project Manager thereof in writing. Thereupon, the Project Manager will make final inspection of the Work and, if the Work is complete in accordance with this Contract, the Project Manager will promptly issue a final Certificate for Payment certifying to the City that the Work is complete and the Contractor is entitled to the

remainder of the unpaid Contract Price, less any amount withheld pursuant to this Contract. If the Project Manager is unable to issue its final Certificate for Payment and is required to repeat its final inspection of the Work, the Contractor shall bear the cost of such repeat final inspection(s), which cost may be deducted by the City from the Contractor's full payment.

- 12.2 The Contractor shall not be entitled to any payment unless and until it submits to the Project Manager its affidavit that all payrolls, invoices for materials and equipment, and other liabilities connected with the Work for which the City, or the City's property might be responsible, have been fully paid or otherwise satisfied; releases and waivers of lien from all Subcontractors and Suppliers of the Contractor and of any and all other parties required by the City; and consent of Surety, if any, to final payment. If any third party fails or refuses to provide a release of claim or waiver of lien as required by the City, the Contractor shall furnish a bond satisfactory to the City to discharge any such lien or indemnify the City from liability.
- 12.3 The City shall make final payment of all sums due the Contractor within thirty days of the Project Manager's execution of a final Certificate for Payment.
- 12.4 Acceptance of final payment shall constitute a waiver of all claims against the City by the Contractor except for those claims previously made in writing against the City by the Contractor, pending at the time of final payment, and identified in writing by the Contractor as unsettled at the time of its request for final inspection.

13. CLAIMS BY THE CONTRACTOR

- 13.1 All Contractor claims shall be initiated by written notice and claim to the Project Manager. Such written notice and claim must be furnished within seven calendar days after occurrence of the event, or the first appearance of the condition, giving rise to the claim.
- 13.2 The Contractor shall diligently proceed with performance of this Contract whether or not there be such a claim pending and the City shall continue to make payments to the Contractor in accordance with this Contract. The resolution of any claim shall be reflected by a Change Order executed by the City, the Project Manager and the Contractor.
- 13.3 Should concealed and unknown conditions which could not, with reasonable diligence, have been discovered in the performance of the Work (a) below the surface of the ground or (b) in an existing structure differ materially with the conditions indicated by this Contract, or should unknown conditions of an unusual nature differing materially from those ordinarily encountered in the area and generally recognized as inherent in Work of the character provided by this Contract, be encountered, the Contract Price shall be equitably adjusted by the Change Order upon the written notice and claim by either party made within seven (7) days after the first observance of the condition. As a condition precedent to the City having any liability to the Contractor for concealed or unknown conditions, the Contractor must give the City written notice of, and an opportunity to observe, the condition prior to disturbing it. The failure by the Contractor to make the written notice and claim as provided in this Subparagraph shall constitute a waiver by the Contractor of any claim arising out of or relating to such concealed or unknown condition.
- 13.4 If the Contractor wishes to make a claim for an increase in the Contract Price, as a condition precedent to any liability of the City therefore, the Contractor shall give the City written notice of such claim within seven (7) days after the occurrence of the event, or the first appearance of the condition, giving rise to such claim. Such notice shall be given by the Contractor before proceeding to execute any additional or changed Work. The failure by the Contractor to give

- such notice and to give such notice prior to executing the Work shall constitute a waiver of any claim for additional compensation.
- 13.5 The City reserves the right to increase or decrease quantities, and alter the details of construction including grade and alignment as the Project Manager may consider necessary or desirable, by approved Change Order. Such modifications shall not invalidate the Contract nor release the surety. Unless such alterations and increases or decreases change the total cost of the Work, based on the originally estimated quantities and the unit prices bid, by more than 25 percent, or change the total cost of any major item, based on the originally estimated quantities and the unit price bid, by more than 25 percent, the Contractor shall perform the work altered, increased or decreased, at a negotiated price or prices. (A major item shall mean any bid item, the total cost of which exceeds 12-1/2 percent of the total Contract Price based on the proposed quantity and the contract unit price).
- 13.6 When the alterations cause an increase or decrease in excess of the 25 percent indicated above, either the Contractor or the Project Manager may request an adjustment of the unit price to be paid for the item or items.
- 13.7 If a mutually agreeable adjustment cannot be obtained, the City reserves the right to terminate the Contract as it applies to the items in question and make such arrangements as may be deemed necessary to complete the Work.
- 13.8 In connection with any claim by the Contractor against the City for compensation in excess of the Contract Price, any liability of the City for the Contractor's costs shall be strictly limited to direct costs incurred by the Contractor and shall not include standby costs, indirect costs or consequential damages of the Contractor. The City shall not be liable to the Contractor for claims of third parties.
- 13.9 If the Contractor is delayed in progressing any task which at the time of the delay is then critical or which during the delay becomes critical, as the sole result of any act or neglect to act by the City or someone acting in the City's behalf, or by changes ordered in the Work, unusual delay in transportation, unusually adverse weather conditions not reasonably anticipated, fire or any causes beyond the Contractor's control including delays resulting from the COVID-19 pandemic or any similar event, then the date for achieving Final Acceptance of the Work shall be extended upon the written notice and claim of the Contractor to the City, for such reasonable time as the City may determine. Any notice and claim for an extension of time by the Contractor shall be made not more than seven calendar days after the occurrence of the event or the first appearance of the condition-giving rise to the claim and shall set forth in detail the Contractor's basis for requiring additional time in which to complete the Work. In the event the delay to the Contractor is a continuing one, only one notice and claim for additional time shall be necessary. If the Contractor fails to make such claim as required in this subparagraph, any claim for an extension of time shall be waived.
- 13.10 The Contractor shall delay or suspend the progress of the work or any part thereof, whenever so required by written order of the City, and for such periods of time as required; provided, that in the event of such delay or delays or of such suspension or suspensions of the progress of the work, or any part thereof, the time for completion of work so suspended or of work so delayed by such suspension or suspensions shall be extended for a period equivalent to the time lost by reason of such suspension or suspensions; but such order of the City or Project Manager shall not otherwise modify or invalidate in any way, any of the provisions of this Contract. In the event that the work shall be stopped by written order of the City, any expense,

which, in the sole opinion and judgment of the City, is caused by the City, shall be paid by the City to the Contractor.

- 13.11 In executing the Contract Documents, the Contractor expressly covenants and agrees that, in undertaking to complete the Work within the time herein fixed, it has taken into consideration and made allowances for all hindrances and delays incident to such work, whether growing out of delays in securing materials or workers, normal weather conditions, the COVID-19 pandemic or any similar event, or otherwise provided, however, such hindrances and delays could be anticipated by Contractor at the time of execution. No charge shall be made by the Contractor for hindrances or delays from any cause during the progress of the work, or any portion thereof, included in this Contract, except as provided herein.
- 13.12 Notwithstanding the foregoing or anything in the Contract to the contrary, Contractor acknowledges and agrees that the work, and the performance thereof, may be subject to current and future governmental orders or directives regarding safety protocols related COVID-19 or similar event, and Contractor agrees that all Work shall be performed in accordance with the same, including but not limited to directives regarding social distancing, hygiene and other efforts to slow the spread of COVID-19 or similar event. Failure of Contractor to comply with such order or directive shall be deemed an event of default under this Contract, and City shall not be responsible for any increase in the Contract Sum or the Contract Time related to City's enforcement of such orders or directives, or Contractor's failure to comply with such orders or directives. If Work on the Critical Path is delayed due to COVID-19 or similar event reasons outside the control of the contractor, an equitable adjustment in the Contract Sum and/or the Contract Time shall be made to the Contract as the City may reasonably decide.
- 13.13 In addition to the Project Manual particular to Mobilization found elsewhere in this document, additional mobilization shall not be compensable for work outside of the designated areas for work deemed essential by the City. A quantity of work equal to as much as 10% of the total Contract may be required to be performed beyond the boundaries of the designated work areas.

14. CHANGES IN THE WORK

- 14.1 Changes in the Work within the general scope of this Contract, consisting of additions, deletions, revisions, or any combination thereof, may be ordered without invalidating this Contract, by Change Order or by Field Order.
- 14.2 The Project Manager shall have authority to order minor changes in the Work not involving a change in the Contract Price or in Contract Time and consistent with the intent of the Contract. Such changes shall be effected by verbal direction and then recorded on a Field Order and shall be binding upon the Contractor. The Contractor shall carry out such Field Orders promptly.
- 14.3 Any change in the Contract Price resulting from a Change Order shall be by mutual agreement between the City and the Contractor as evidenced by the change in the Contract Price being set forth in the Change Order, and, together with any conditions or requirements related thereto, being initialed by both parties.
- 14.4 If no mutual agreement occurs between the City and the Contractor relative to a change in the Work, the Contractor shall proceed with the Work that is the subject of the Change Order,

and the change in the Contract Price, if any, shall then be determined by the Project Manager on the basis of the reasonable expenditures or savings of those performing, deleting or revising the Work attributable to the change, including, in the case of an increase or decrease in the Contract Price, a reasonable allowance for direct job site overhead and profit. In such case, the Contractor shall present, in such form and with such content to the City, as the Project Manager requires, an itemized accounting of such expenditures or savings, plus appropriate supporting data for inclusion in a Change Order. Reasonable expenditures or savings shall be limited to the following: reasonable costs of materials, supplies or equipment, including delivery costs, reasonable costs of labor, including social security, old age and unemployment insurance, fringe benefits required by agreement or custom, and worker's compensation insurance, reasonable rental costs of machinery and equipment exclusive of hand tools, whether rented from the Contractor or others, permit fees, and sales, use or other taxes related to the Work, and reasonable cost of direct supervision and job site field office overhead directly attributable to the change. In no event shall any standby time or any expenditure or savings associated with the Contractor's home office or other non-job site overhead expense be included in any change in the Contract Price. Further, in no event shall the Contractor's overhead expense exceed ten (10%) percent of the reasonable expenditures. Pending final determination of reasonable expenditures or savings to the City, payments on account shall be made to the Contractor on the Project Manager's Certificate for Payment.

14.5 If unit prices are provided in the Contract, and if the quantities contemplated are so changed in a proposed Change Order that the application of such unit prices to the quantities of Work proposed would cause substantial inequity to the City or to the Contractor, the applicable unit prices shall be equitably adjusted.

14.6 The execution of a Change Order by the Contractor shall constitute conclusive evidence of the Contractor's agreement to the ordered changes in the Work, this Contract as thus amended, the Contract Price and the Contract Time. The Contractor, by executing the Change Order, waives and forever releases any claim including impact against the City for additional time or compensation for matters relating to or arising out of or resulting from the Work included within or affected by the executed Change Order.

15. INSURANCE AND BONDS.

15.1 The Contractor shall secure and maintain, throughout the duration of the agreement, insurance (on an occurrence basis unless otherwise agreed to) of such types and in at least such amounts as required herein. Contractor shall provide certificates of insurance and renewals thereof on forms acceptable to the City. The City shall be notified by receipt of written notice from the insurer or the Contractor at least thirty (30) days prior to material modification or cancellation of any policy listed on the Certificate.

15.2 The Contractor, upon receipt of notice of any claim in connection with this Agreement, shall promptly notify the City, providing full details thereof, including an estimate of the amount of loss or liability. The Contractor shall monitor and promptly notify the City of any reduction in limits of protection afforded under any policy listed in the Certificate (or otherwise required by the Contract Documents) if the Contractor's limits of protection shall have been impaired or reduced to such extent that the limits fall below the minimum amounts required herein. The Contractor shall promptly reinstate the original limits of liability required hereunder and shall furnish evidence thereof to the City.

15.3 Minimum Requirements Commercial General Liability Policy Limits -

General Aggregate:	\$2,000,000
Products / Completed Operations Aggregate:	\$2,000,000
Personal & Advertising Injury:	\$1,000,000
Each Occurrence:	\$1,000,000

Policy MUST include the following conditions:

- A. Pollution Liability (Applicable only to contracts involving pollutants such as asbestos & lead abatement, sludge or other waste abatement, etc.)
- B. NAME CITY OF PRAIRIE VILLAGE AS “ADDITIONAL INSURED”

15.4 Automobile Liability Policy shall protect the Contractor against claims for bodily injury and/or property damage arising from the ownership or use of any owned, hired and/or non-owned vehicle.

Limits (Same as Commercial General Liability) -
 Combined Single Limits, Bodily Injury and Property Damage - Each Accident:

Policy MUST include the following condition:
 NAME CITY OF PRAIRIE VILLAGE AS “ADDITIONAL INSURED”

15.5 Umbrella Liability. The Umbrella / Excess Liability must be at least as broad as the underlying general liability and automobile liability policies.

Limits -

Each Occurrence	\$1,000,000
General Aggregate	\$1,000,000

15.6 Workers' Compensation. This insurance shall protect the Contractor against all claims under applicable state workers' compensation laws. The Contractor shall also be protected against claims for injury, disease or death of employees which, for any reason, may not fall within the provisions of workers' compensation law. The policy limits shall not be less than the following:

Workers' Compensation:	Statutory
Employer's Liability:	
Bodily Injury by Accident	\$100,000 each accident
Bodily Injury by Disease	\$500,000 policy limit
Bodily Injury by Disease	\$100,000 each employee

15.7 The City will only accept coverage from an insurance carrier who offers proof that it:

- Is authorized to do business in the State of Kansas;
- Carries a Best's policy holder rating of A- or better; and
- Carries at least a Class VIII financial rating, **or**
- Is a company mutually agreed upon by the City and Contractor.

- 15.8 Subcontractor's Insurance. If a part of the Agreement is to be sublet, the Contractor shall either:
- A. Cover all subcontractor's in its insurance policies, or
 - B. Require each subcontractor not so covered to secure insurance which will protect subcontractor against all applicable hazards or risks of loss as and in the minimum amounts designated.
- Whichever option is chosen, Contractor shall indemnify and hold harmless the City as to any and all damages, claims or losses, including attorney's fees, arising out of the acts or omissions of its Subcontractors.
- 15.9 Prior to commencing any work, Contractor shall provide City with certificates evidencing that (1) all Contractor's insurance obligations required by the contract documents are in full force and in effect and will remain in effect until Contractor has completed all of the work and has received final payment from City and (2) no insurance coverage will be canceled, renewal refused, or materially changed unless at least thirty (30) days prior written notice is given to City. Contractor's property insurance shall not lapse or be canceled if City occupies a portion of the work. Contractor shall provide City with the necessary endorsements from the insurance company prior to occupying a portion of the work.
- 15.10 Waiver of Subrogation. All insurance coverage required herein shall contain a waiver of subrogation in favor of the City. Contractor's insurance policies shall be endorsed to indicate that Contractor's insurance coverage is primary and any other insurance maintained by City is non-contributing as respects the work of Contractor.
- 15.11 Additional Insurance. Excess Liability coverage or additional insurance covering special hazards may be required on certain projects. Such additional insurance requirements shall be as specified in Special Conditions.
- 15.12 Bonds and Other Performance Security. Contractor shall provide a Performance Bond, Maintenance Bond and a Statutory Bond in the amount of one hundred percent (100%) of the Contract Price to cover the entire scope of Work and any other specific performance security that may be indicated in this Contract. With each bond there shall be filed with the City one copy of "Power of Attorney" certified to include the date of the bonds.

16. INDEMNITY

- 16.1 For purposes of indemnification requirements as set forth throughout the Contract, the following terms shall have the meaning set forth below:

"The Contractor" means and includes Contractor, all of his/her affiliates and subsidiaries, his/her Subcontractors and material men and their respective servants, agents and employees; and **"Loss"** means any and all loss, damage, liability or expense, of any nature whatsoever, whether incurred as a judgment, settlement, penalty, fine or otherwise (including attorney's fees and the cost of defense), in connection with any action, proceeding, demand or claim, whether real or spurious, for injury, including death, to any person or persons or damages to or loss of, or loss of the use of, property of any person, firm or corporation, including the parties hereto, which arise out of or are connected with, or are claimed to arise out of or be connected with, the performance of this Contract whether arising before or after the completion of the work required hereunder.

- 16.2 For purposes of this Contract, and without in any way limiting indemnification obligations that may be set forth elsewhere in the Contract, the Contractor hereby agrees to indemnify, defend and hold harmless the City from any and all Loss where Loss is caused or incurred or alleged to be caused or incurred in whole or in part as a result of the negligence or other actionable fault of the Contractor, his/her employees, agents, Subcontractors and suppliers.
- 16.3 It is agreed as a specific element of consideration of this Contract that this indemnity shall apply notwithstanding the joint, concurring or contributory or comparative fault or negligence of the City or any third party and, further, notwithstanding any theory of law including, but not limited to, a characterization of the City's or any third party's joint, concurring or contributory or comparative fault or negligence as either passive or active in nature.
- 16.4 Nothing in this section shall be deemed to impose liability on the Contractor to indemnify the City for Loss when the negligence or other actionable fault the City is the sole cause of Loss.
- 16.5 With respect to the City's rights as set forth herein, the Contractor expressly waives all statutory defenses, including, but not limited to, those under workers compensation, contribution, comparative fault or similar statutes to the extent said defenses are inconsistent with or would defeat the purpose of this section.
- 17. SUCCESSORS AND ASSIGNS**
- 17.1 The City and Contractor bind themselves, their successors, assigns and legal representatives to the other party hereto and to successors, assigns and legal representatives of such other party in respect to covenants, agreements and obligations contained in this Contract.
- 17.2 The Contractor shall not assign or sublet the work, or any part thereof, without the previous written consent of the City, nor shall it assign, by power of attorney or otherwise, any of the money payable under this Contract unless by and with the like written consent of the City. In case the Contractor assigns all, or any part of any moneys due or to become due under this Contract, the instrument of assignment shall contain a clause substantially to the affect that it is agreed that the right of the assignee in and to any moneys due or to become due to the Contractor shall be subject to all prior liens of all persons, firms and corporations for services rendered or materials supplied for the performance of the Work called for in this Contract.
- 17.3 Should any Subcontractor fail to perform in a satisfactory manner, the work undertaken, its subcontract shall be immediately terminated by the Contractor upon notice from the City. Performing in an unsatisfactory manner is defined as consistently having more than 10% of work unacceptable. The Contractor shall be as fully responsible to the City for the acts and omissions of the subcontractors, and of persons either directly or indirectly employed by them, as Contractor is for the acts and omissions of persons directly employed. Nothing contained in this Contract shall create any contractual relations between any Subcontractor and the City, nor shall anything contained in the Contract Documents create any obligation on the part of the City to pay or to see to the payment of any sums due any Subcontractor.
- 17.4 The Contractor shall not award subcontracts which total more than forty-five (45%) of the Contract Price and shall perform within its own organization work amounting to not less than fifty-five percent (55%) of the total Contract Price. Approval by the City of any Subcontractor shall not constitute a waiver of any right of the City to reject Defective Work, material or equipment not in compliance with the requirements of the Contract Documents. The Contractor shall not make any substitution for any Subcontractor accepted by the City unless the City so agrees in writing.

- 17.5 The Contractor shall not subcontract, sell, transfer, assign or otherwise dispose of the Contract or any portion thereof without previous written consent from the City. In case such consent is given, the Contractor, shall be permitted to subcontract a portion thereof, but shall perform with his/her own organization work amounting to not less than fifty five (55%) of the total Contract Price. No subcontracts, or other transfer of Contract, shall release the Contractor of its liability under the Contract and bonds applicable thereto.
- 17.6 The Contractor shall cause appropriate provisions to be inserted in all subcontracts relative to the Work to bind Subcontractors to the Contractor by the terms of the Contract Documents insofar as applicable to the work of the Subcontractor and to give the Contractor the same power to terminate any Subcontract as the City has to terminate the Contractor under any provisions of the Contract Documents.
- 17.7 Prior to the City's approval of the Contract bid, the successful bidder shall submit to the City for acceptance, a list of names of all Subcontractors proposed for portions of the work and shall designate which work each is to perform.
- 17.8 The City shall, prior to the City's approval of the Contract bid, notify the successful bidder, in writing, if the City, after due investigation, has reasonable objection to any Subcontractor on such list, and the Contractor shall substitute a Subcontractor acceptable to the City at no additional cost to the City or shall be allowed to withdraw his/her Bid, and the City shall either re-bid the Work or accept the next best lowest and responsible bidder. The failure of the City to make objection to a Subcontractor shall constitute an acceptance of such Subcontractor but shall not constitute a waiver of any right of the City to reject Defective Work, material or equipment not in conformance with the requirements of the Project Manual.

18. NON-DISCRIMINATION LAWS

- 18.1 The Contractor agrees that:
- A. The Contractor shall observe the provisions of the Kansas Act Against Discrimination (K.S.A. 44-1001 et seq.) and shall not discriminate against any person in the performance of Work under the present contract because of race, religion, color, sex, disability, national origin, ancestry or age;
 - B. In all solicitations or advertisements for employees, the Contractor shall include the phrase, "equal opportunity employer," or a similar phrase to be approved by the Kansas Human Rights Commission (Commission);
 - C. The Contractor further agrees that it shall abide by the Prairie Village Non Discrimination Code (Section 5-801 et seq) and shall not discriminate against any person in the performance of Work under the present contract because of sexual orientation or gender identity. If the City determines that the Contractor has violated any applicable provision of any local, state or federal law, or has discriminated against any person because of race, religion, color, sex, sexual orientation, gender identity, disability, age, national origin, or ancestry, such violation and/or discrimination shall constitute a breach of contract and the City may cancel, terminate or suspend this agreement in whole or in part. The parties do not intend this provision to subject any party to liability under local, state or federal laws unless it applies.
 - D. If the Contractor fails to comply with the manner in which the Contractor reports to the commission in accordance with the provisions of K.S.A. 44-1031 and amendments thereto, the Contractor shall be deemed to have breached the present contract and it

may be cancelled, terminated or suspended, in whole or in part, by the contracting agency;

- E. If the Contractor is found guilty of a violation of the Kansas Act Against Discrimination under a decision or order of the Commission which has become final, the Contractor shall be deemed to have breached the present contract and it may be cancelled, terminated or suspended, in whole or in part, by the contracting agency; and
 - F. The Contractor shall include the provisions of Subsections A through D in every subcontract or purchase order so that such provisions will be binding upon such Subcontractor or vendor.
 - G. The provisions of this Section shall not apply to a contract entered into by a Contractor: (1) Who employs fewer than four employees during the term of such contract; or (2) Whose contracts with the City cumulatively total \$5,000 or less during the fiscal year of the City.
- 18.2 The Contractor further agrees that it shall abide by the Kansas Age Discrimination In Employment Act (K.S.A. 44-1111 et seq.) and the applicable provision of the Americans With Disabilities Act (42 U.S.C. 12101 et seq.) as well as all other federal, state and local laws.

19. FEDERAL LOBBYING ACTIVITIES

[THIS PROVISION ONLY APPLIES IF THE CITY IS RECEIVING FEDERAL FUNDS]

- 19.1 31 USCS Section 1352 requires all subgrantees, Contractors, Subcontractors, and consultants/Architects who receive federal funds via the City to certify that they will not use federal funds to pay any person for influencing or attempting to influence a federal agency or Congress in connection with the award of any federal contract, grant, loan, or cooperative agreements.
- 19.2 In addition, contract applicants, recipients, and subrecipients must file a form disclosing any expenditure they make for lobbying out of non-federal funds during the contract period.
- 19.3 Necessary forms are available from the City and must be returned to the City with other Contract Documents. It is the responsibility of the general contractor to obtain executed forms from any Subcontractors who fall within the provisions of the Code and to provide the City with the same.

20. RELATIONS WITH OTHER CONTRACTORS:

- 20.1 The Contractor shall cooperate with all other contractors who may be performing work on behalf of the City, and workers who may be employed by the City, or any other entity on any work in the vicinity of the Work to be done under this Contract, and the Contractor shall so conduct his/her operations as to interfere to the least possible extent with the work of such contractors or workers. The Contractor shall be responsible for any injury or damage, that may be sustained by other contractors, workers, their work or employees of the City, because of any fault or negligence on the Contractor's part, and shall, at his/her own expense, repair or pay for such injury or damage. If the work of the Contractor is delayed because of any acts or omissions of any other Contractor or Contractors, the Contractor shall have no claim against the City on that account other than for an extension of time.

- 20.2 When two or more Contracts are being executed at one time in such manner that work on one Contract may interfere with that on another, the City shall decide which Contractor shall progress at which time.
- 20.3 Other projects the Contractor may have to coordinate shall be listed in the Special Conditions.
- 20.4 When the territory of one Contract is the necessary or convenient means of access for the transportation or movement of workers, materials, or appliances required for the execution of another Contract, such privileges of access or any other responsible privilege may be granted by the City to the Contractor so desiring, to the extent such may be reasonably necessary.
- 20.5 Upon execution of the Contract, the Contractor shall furnish the City, in writing, the names of persons or entities proposed by the Contractor to act as a Subcontractor on the Work. The City shall promptly reply to the Contractor, in writing, stating any objections the City may have to such proposed Subcontractor. The Contractor shall not enter into a Subcontract with a proposed Subcontractor with reference to whom the City has made timely objection. The Contractor shall not be required to Subcontract with any party to whom the Contractor has objection.

21. RIGHT OF CITY TO TERMINATE

- 21.1 If the Contractor persistently or repeatedly refuses or fails to prosecute the Work in a timely manner, or supply enough properly skilled workers, supervisory personnel or proper equipment or materials, or if it fails to make prompt payment to Subcontractors or for materials or labor, or persistently disregards laws, ordinances, rules, regulations or orders of any public authority having jurisdiction, or if this Contract is assigned by Contractor without authorization or if Contractor is adjudged as bankrupt, or if a general assignment of assets be made for the benefit of creditors; or if a receiver is appointed, or otherwise is guilty of a substantial violation of a provision of this Contract, then the City may by written notice to the Contractor, without prejudice to any right or remedy, terminate the employment of the Contractor and take possession of the site and of all materials, equipment, tools, construction equipment and machinery thereon owned by the Contractor and may finish the Work by whatever methods it may deem expedient. In such case, the Contractor and its surety shall be liable to the City for all excess cost sustained by the City because of such prosecution and completion including any additional legal, Project Manager or bid-letting costs therefore. In such case, the Contractor shall not be entitled to receive further payment. In the event the Contractor is found in a court of law to have been wrongfully terminated for cause, then such termination shall be deemed a termination for convenience and the Contractor shall be compensated as provided herein. Any termination of the Agreement for alleged default by Contractor that is ultimately determined to be unjustified shall automatically be deemed a termination for convenience of the City.
- 21.2 The City, within its sole discretion, may elect to terminate the Contract with the Contractor for convenience upon three (3) days written Notice to Contractor. In the event of such termination, Contractor shall cease immediately all operations and shall be compensated for all work performed as of the date of termination in accordance with the terms of payment in this contract. Contractor shall not be entitled to any anticipatory profits, consequential damages or other costs other than direct costs of demobilization.

22. MISCELLANEOUS:

- 22.1 The Contractor warrants to the City that all labor furnished to progress the Work under the Contract will be competent to perform the tasks undertaken, that the product of such labor will yield only first-class results, that materials and equipment furnished will be of good quality and new unless otherwise permitted by this Contract, and that the Work will be of good quality, free from faults and defects and in strict conformance with the Project Manual. All Work not conforming to these requirements may be considered defective.
- 22.2 The Contractor shall obtain and pay for all permits, fees and licenses necessary or ordinary for the Work. The Contractor shall comply with all lawful requirements, including federal and state laws, City and County laws and ordinances and building codes, applicable to the Work and shall give and maintain copies of all notices required by applicable law pertaining to the Work.
- 22.3 Provision for Emergencies. Whenever, in the opinion of the City, the Contractor has not taken sufficient precaution for the safety of the public or the protection of the Work to be constructed under this Contract, or of adjacent structures or property which may be injured by process of construction, and whenever, in the opinion of the City, an emergency shall arise and immediate action shall be considered necessary in order to protect property interests and to avoid personal injury and/or death, then the City, with or without notice to the Contractor, shall provide suitable protection to the said interests by causing such Work to be done and materials to be furnished at places as the City may consider necessary and adequate. The cost and expense of such Work and material so furnished shall be borne by the Contractor and, if the same shall not be paid on presentation of the bills therefore, such costs shall be deducted from any amounts due or to become due the Contractor. The performance of such emergency Work shall in no way relieve the Contractor of responsibility for damages which may occur during or after such precaution has been duly taken.
- 22.4 Both the business address of the Contractor given in the Bid or proposal upon which this Contract is founded, and the Contractor's Office near the Work, is hereby designated as the places to which all notices, letters, and other communications to the Contractor may be mailed or delivered. The delivering at either of the above named addresses, or depositing in any mailbox regularly maintained by the Post Office, of any notice, letter or other communication so addressed to the Contractor, and the date of said service shall be the date of such delivery or mailing. Such addresses may be changed at any time by an instrument in writing, executed by the Contractor, presented, and delivered to the Project Manager and to the City. Nothing herein contained shall be deemed to preclude or render inoperative the service of any notice, letter, or communication upon the Contractor personally.
- 22.5 It is mutually agreed by and between the parties to this Contract that all royalties and fees for and in connection with patents, or patent infringement, claims for materials, articles, apparatus, devices or equipment (as distinguished from processes) used in or furnished for the work shall be included in the Contract Price and the Contractor shall satisfy all demands that may be made at any time for such, and the Contractor shall at its cost and expense, defend any and all suits or proceedings that may be instituted at any time against the City for infringement or alleged infringement of any such patents involved in the work, and Contractor shall pay any award of damages.
- 22.6 The right of general administration of the City shall not make the Contractor an agent of the City, and the liability of the Contractor for all damages to persons, firms, and corporations, arising from the Contractor's execution of the Work, shall not be lessened because of such general administration, but as to all such persons, firms, and corporations, and the damages,

- if any, to them or their property. The Contractor herein is an independent Contractor in respect to the work.
- 22.7 For a period of time, from the inception of the Contract to three (3) years from the date of final payment under the Contract, the Contractor and subcontractors shall maintain books, accounts, ledgers, invoices, drafts, pages and other records pertaining to the performance of this Contract. At all reasonable times during this period these records shall be available within the State of Kansas at a field or permanent business office for inspection by authorized representatives of the City or of any other agency, which has contributed funds in connection with the Contract or to which the City is obligated to make such inspections available. In addition, this requirement shall be included in all subcontracts entered into in connection with this Contract.
- 22.8 Titles, subheadings used herein, and other Contract Documents are provided only as a matter of convenience and shall have no legal bearing on the interpretation of any provision of the Contract Documents.
- 22.9 No waiver of any breach of this Contract shall be construed to be a waiver of any other subsequent breach.
- 22.10 Should any provision of this Agreement or other Contract Documents be determined to be void, invalid, unenforceable or illegal for whatever reason, such provision(s) shall be null and void; provided, however, that the remaining provisions of this Agreement and/or the other Contract Documents shall be unaffected thereby and shall continue to be valid and enforceable.
- 22.11 Without in any manner limiting Contractor's responsibilities as provided elsewhere in the Contract Documents, the Contractor shall assume full responsibility for the protection of all public and private property, structures, sewers, and utilities, for both above ground and underground facilities, along, beneath, above, across or near the site or sites of the Work being performed under this Agreement, or which are in any manner affected by the prosecution of the Work or the transportation of men/women or materials in connection therewith. Barriers shall be kept in place at all times to protect persons other than those engaged on or about the Work from accident, and the Contractor will be held responsible for all accidents to persons or property resulting from the acts of Contractor or its employees.
- 22.12 The Contractor shall keep fully informed of all existing and current regulations of the City, county, state, and federal laws, which in any way limit or control the actions or operations of those engaged upon the work, or affecting materials supplied, to or by them. The Contractor shall at all times observe and comply with all ordinances, laws, and regulations, and shall protect and indemnify the City and the City's officers and agents against any claims or liability arising from or based on any violation of the same.
- 22.13 Nothing contained in the Contract Documents shall create, or be interpreted to create, privity or any other contractual agreement between the City and any person or entity other than the Contractor.
- 22.14 Duties and obligations imposed by the Contract Documents, rights, and remedies available hereunder shall be in addition to and not a limitation of duties, obligations, rights and remedies otherwise imposed or available by law.
- 22.15 No action or failure to act by the City, Project Manager or Contractor shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act

constitute approval or acquiescence in a breach hereunder, except as may be specifically agreed in writing.

- 22.16 Contractor specifically acknowledges and confirms that: (i) it has visited the site, made all inspections it deems appropriate and has read and fully understands the Contract Documents, including all obligations and responsibilities undertaken by it as specified herein and in other Contract Documents and knowingly accepts the same; (ii) it has furnished copies of all Contract Documents to its insurance carrier(s) and its surety(ies); and (iii) its insurance carrier(s) and surety(ies) agree to be bound as specified herein, in the Contract Documents and in the insurance policy(ies) and bonds as to liability and surety coverage.
- 22.17 It is specifically agreed between the parties executing this Agreement that the Contract Documents are not intended to create any third party beneficiary relationship nor authorize anyone not a party to this Agreement to maintain a suit for personal injuries or property damage pursuant to the terms or provisions of this Agreement. The duties, obligations and responsibilities of the parties to this Agreement with respect to third parties shall remain as imposed by law.
- 22.18 This Agreement is entered into, under and pursuant to, and is to be construed and enforceable in accordance with the laws of the State of Kansas. Venue of any litigation arising in connection with this Agreement shall be the State courts of Johnson County, Kansas.

IN WITNESS WHEREOF, the City has caused this Agreement to be executed in its behalf, thereunto duly authorized, and the said Contractor has executed five (5) counterparts of this Contract in the prescribed form and manner, the day and year first above written.

CITY OF PRAIRIE VILLAGE

COMBES CONSTRUCTION LLC

(typed company name)

By: _____
(signed)

By: _____
(signed)

Eric Mikkelson

(typed name)

Mayor

(typed title)

City of Prairie Village

COMBES CONSTRUCTION LLC

(typed company name)

7700 Mission Road

6946 W 207TH STREET

(typed address)

Prairie Village, Kansas 66208

BUCYRUS, KS 66013

(typed city, state, zip)

913-782-9400

(typed telephone number)

(date of execution)

(date of execution)

SEAL

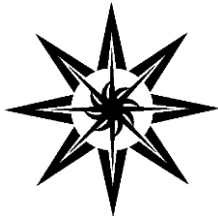
ATTEST:

APPROVED BY:

City Clerk, Adam Geffert

City Attorney, David Waters

(If the Contract is not executed by the President of the Corporation, general partner of the Partnership, or manager of a limited liability company, please provide documentation, which authorizes the signatory to bind the corporation, partnership or limited liability company. If a corporation, the Contractor shall furnish the City a current certificate of good standing, dated within ten (10) days of the date of this Contract.)



PUBLIC WORKS DEPARTMENT

Council Meeting Agenda: May 1, 2023

COU2023-30 CONSIDER APPROVAL OF DESIGN AGREEMENT WITH BBN ARCHITECTS, INC. FOR THE DESIGN OF PARK IMPROVEMENTS AT HARMON PARK (BG500003)

RECOMMENDATION

Move to approve the design agreement with BBN Architects, Inc. for the design of the park improvements associated with the construction of the Harmon Park Pavilion and Restroom (BG300005) in the amount of \$99,280.

BACKGROUND

The current CIP funding for 2023 includes costs for design for this project. The proposed CIP for 2024 adds dollars to this project to anticipate increased construction costs.

The design scope includes concepts to be presented to the public and the Governing Body, design and cost estimating. One early concept is shown below.



BBN was selected in 2018 and has provided excellent service. At this time, when staff has multiple projects in construction and in development, the working relationship developed over the past 5 years becomes vital in getting projects completed in a timely manner within established procedures and consistent aesthetics. Staff recommends utilizing BBN's services for an additional year.

FUNDING SOURCE

There is funding for the design in the CIP project Harmon Park Pavilion and Restroom (BG300005).

ATTACHMENTS

1. BBN Professional Services Agreement

PREPARED BY

Melissa Prenger, City Engineer

May 1, 2023



AGREEMENT

For

DESIGN SERVICES

Of

**Harmon Park Pavilion and Restroom
BG30 0005**

THIS AGREEMENT, made at the Prairie Village, Kansas, this ____ day of _____ 2023, 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 **BBN ARCHITECTS, INC.**, a corporation with offices at 411 Nichols Road Suite 246, Kansas City MO 64112, 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 Harmon Park Pavilion and Restroom, 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 improvements to Harmon Park Playset including constructing a new all-inclusive playset relocated from the existing playset, relocated parking lot and practice tennis courts.
- 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. **Correspondence to Property Owners** Obtain mailing list and approve all correspondence to property owners in the project area. Typical, but not all inclusive, correspondence is:
 - 1. Frequently Asked Questions (FAQ)
 - 2. Intent to begin construction
 - 3. Website survey
 - 4. Public Information meeting
- H. The City has funded the Project which may include: 2023 and 2024 CIP for design and construction.

Article II Consultant Responsibilities

- A. **Professional Services** The Consultant shall either perform for or furnish to the City professional services and related engineering 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

See Attachment A - SUPPLEMENT FOR PROJECT SCOPE

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	November 1, 2023
Issued to Contractor	January 3, 2024

Article V Compensation

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

Concept Phase/Survey	\$ 26,490.00
Design Phase	\$ 54,590.00
<u>Construction Services Phase</u>	<u>\$ 18,200.00</u>
Total Fee for Project	\$ 99,280.00

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. Attachment C is provided for information purposes.

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.
- R. Non-Discrimination** The Consultant agrees that it shall abide by the Prairie Village Non Discrimination Code (Section 5-801 et seq) and shall not discriminate against any person in the performance of Work under the present contract because of race, religion, color, sex, sexual orientation, gender identity, disability, age, national origin, or ancestry. If the City determines that the Consultant has violated any applicable provision of any local, state or federal law, or has discriminated against any person because of race, religion, color, sex, sexual orientation, gender identity, disability, age, national origin, or ancestry, such violation and/or discrimination shall constitute a breach of contract and the City may cancel, terminate or suspend this agreement in whole or in part.

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:

BBN Architects, Inc.

By _____

Address for giving notices:

BBN Architects, Inc.
411 Nichols Road, #246
Kansas City, MO 64112

Telephone: 816-753-2550

Email: sbingham@bbnarchitects.com

APPROVED AS TO FORM BY:

David Waters, City Attorney

Prairie Village – 2023 Harmon Park Restroom and Pavilion
ATTACHMENT A – SUPPLEMENT FOR PROJECT SCOPE
April 18, 2023

This supplemental section further defines the project scope of services and fee proposal for the park structures at Harmon Park. The design team for this work includes architects and landscape architects from BBN Architects, with the following subconsultants: SK Design Group (civil engineering), Leigh & O’Kane (structural engineering) and Antella (M/E/P engineering). It is assumed the steering committee will include City Staff and members of the Prairie Village Parks and Recreation Committee.

Please find the following description of our proposed scope of services, anticipated schedule, and proposed fee for your consideration.

Assumptions

1. The demolition of the existing Harmon Pavilion and the associated restroom will be included in the scope.
2. The restroom structure at the park will be similar in style to the restroom constructed at Taliaferro Park, but will consist of a male, female and family restroom. The restrooms will also include additional inclusive features. Typical to other park restrooms in the city, the restroom will be heated and vented, but not air-conditioned.
3. The large existing pavilion will be replaced with two to three shelters with an approximate total capacity of 80-100 people that can function independently and in conjunction with each other.
4. The public engagement will consist of a Survey Monkey administered by the City.
5. The civil engineering scope assumes that the existing storm and sewer infrastructure will remain in place and that the project will not require a sewer main extension. An additional service is identified to facilitate a new sanitary sewer service if deemed necessary.
6. This proposal assumes that the increase in impervious area will be insignificant so stormwater detention, a stormwater study and stormwater quality best management practices are excluded from this proposal.
7. None of the proposed structures will impact the flood plain nor require grading within the flood plain. Consequently, a flood plain study, elevation certificate, USACE permitting, and/or FEMA permitting will not be required.
8. This proposal excludes replatting, modifications to existing plats, and updates to existing JCW as-builts that may be requested by JCW as part of the project.
9. This proposal assumes that the prior topographic and utility survey provided in 2021 will be utilized for this project. As-built spot elevations of the adjacent pavement proposed as part of the playground work will also be utilized if provided by the City. This proposal does not include any survey work.
10. This proposal excludes a Stormwater Pollution Prevention Plan (SWPPP), all Notice of Intent to Disturb Land notifications to the Kansas Department of Health and Environment

Prairie Village – 2023 Harmon Park Restroom and Pavilion
ATTACHMENT A – SUPPLEMENT FOR PROJECT SCOPE
April 18, 2023

(KDHE), and any local erosion control permitting. Basic erosion control measures will be identified on the demolition plan.

11. This scope does not include utilities associated with communications or gas.
12. Foundations for the restrooms will take a conservative approach and follow International Building Code standards rather than conducting a geotechnical study of the site.
13. Construction administration progress meetings will be held bi-weekly during the active construction period. Requested site meetings beyond the stated maximum will be charged on an hourly basis (see Attachment C for the hourly rate schedule). The city will provide site inspections and any required field testing.

Scope of Services

- 1) **Assessment of existing conditions and initial concept:** BBN will develop conceptual drawings and share these with City Staff to discuss the initial direction for the concept development, including the structures' locations, forms, and the supporting site improvements. Deliverables will include (2) conceptual alternatives for the layout of the structures, alternative elevation sketches of the proposed structures, and a preliminary palette of proposed building materials. The concepts will include different combination of shelter sizes and quantities, along with different allocations of restroom types (family versus male/female).
- 2) **Preliminary Design:** Based on the direction given by City Staff, the design team will develop a preliminary design for the proposed structures. BBN will present the preliminary design for the structures. Deliverables will include floor plans, elevations and a site plan to relate it to the existing park for the restroom building and pavilions with corresponding order of magnitude cost estimate. Additionally, two color perspectives will be produced depicting the restroom and the shelters.
- 3) **Public Engagement:** BBN supply City Staff with the graphics provided in the previous tasks to be used for an online survey. The purpose of this survey will be to receive feedback on aspects of the design and educate the public on how and when the improvements will be undertaken. It is assumed that City Staff will produce and administer the survey.
- 4) **Final Concept:** At the conclusion of the survey, BBN will meet with City Staff to discuss the results. The objective of this meeting will be to reach consensus on any adjustments or preferences to the proposed design. BBN will then produce and share a final concept for these elements and their projected costs with City Staff. It is assumed City Staff will present these documents to City Council for comment. Deliverables will include final concept site drawings and supporting images along with projected construction costs.
- 5) **Bid Documents:** Based on the direction given by City Staff, the BBN team will develop construction bid documents for the Harmon Park Restroom and Pavilion. This will include

Prairie Village – 2023 Harmon Park Restroom and Pavilion
ATTACHMENT A – SUPPLEMENT FOR PROJECT SCOPE
April 18, 2023

drawings and specifications for the proposed work. The bid documents, along with the projected costs, will be reviewed with City Staff at 50% and 95% progress milestones.

- 6) **Bidding:** BBN will provide the bid documents to the city for bidding and will attend a city-led pre-bid meeting. The design team will respond to bidder inquiries and issue addenda if needed. After bidding, BBN will review the bids with City Staff and make a recommendation to award. Deliverables for this task will include bid addenda, bid evaluation (bid tab) and a recommendation to award.

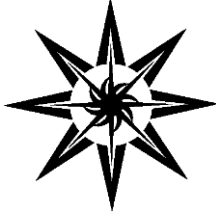
- 7) **Construction Administration:** During the course of construction, the BBN team will attend (10) contractor-led pre-construction meetings at the site and observe the work being done. This will include substantial and final punch list reviews documenting items observed that are not in conformance with the bid documents. The BBN team will respond to contractor requests for information, review submittals and issue any additional documentation as necessary. Deliverables will include construction administration documents and correspondence.

HARMON PARK RR AND PAVILION FEE - CONTRACT AMOUNT																	
Task	Principal Arch Hrs	Principal Arch Fee	Principal LA Hrs	Principal LA Fee	Cost Estimator Hrs	Cost Estimator Fee	Project Arch Hrs	Project Arch Fee	Arch Intern Hrs	Arch Intern	BBN Hours	BBN Fee	Greg Grant Survey	SK Design Fee	Leigh O'Kane Fee	Antella Fee	Team Fee
Rate	\$ 245		\$ 170		\$ 160		\$ 135		\$ 90								
EXISTING CONDITIONS ASSESSMENT & INITIAL DIRECTION	8	\$ 1,960	16	\$ 2,720		\$ -	12	\$ 1,620	8	\$ 720	44.0	\$ 7,020		\$ 500			\$ 7,520.00
CONCEPT DEVELOPMENT	0	\$ -	16	\$ 2,720	4	\$ 640	30	\$ 4,050	28	\$ 2,520	78.0	\$ 9,930		\$ 500			\$ 10,430.00
PUBLIC ENGAGEMENT	0	\$ -	4	\$ 680	0	\$ -	8	\$ 1,080	0	\$ -	12.0	\$ 1,760					\$ 1,760.00
FINAL CONCEPT	0	\$ -	8	\$ 1,360	4	\$ 640	20	\$ 2,700	12	\$ 1,080	44.0	\$ 5,780		\$ 500	\$ 500		\$ 6,780.00
BID DOCUMENTS	0	\$ -	40	\$ 6,800	8	\$ 1,280	40	\$ 5,400	90	\$ 8,100	178.0	\$ 21,580		\$ 3,500	\$ 13,000	\$ 13,000	\$ 51,080.00
BIDDING	0	\$ -	8	\$ 1,360	2	\$ 320	8	\$ 1,080	0	\$ -	18.0	\$ 2,760					\$ 2,760.00
CONSTRUCTION ADMINISTRATION	0	\$ -	30	\$ 5,100	0	\$ -	40	\$ 5,400	30	\$ 2,700	100.0	\$ 13,200		\$ 1,000	\$ 2,000	\$ 2,000	\$ 18,200.00
EXPENSES											250		\$ 500		\$ -		\$ 750
Total Project	8	\$ 1,960	122	\$ 20,740	18	\$ 2,880	158	\$ 21,330	168	\$ 15,120	474.0	\$ 62,280	\$ -	\$ 5,500	\$ 16,000	\$ 15,500	\$ 99,280.00

Prairie Village – 2023 Park Projects
ATTACHMENT C – SUPPLEMENT FOR PROJECT FEE

Schedule of Hourly Rates

Principal Architect	\$245.00
Principal Landscape Architect	\$170.00
Cost Estimator	\$160.00
Project Architect	\$135.00
Architectural Intern	\$90.00
Structural Engineer	\$145.00
Structural Engineering Technician	\$90.00
Structural Construction Admin	\$135.00
Structural Administrative	\$65.00
M/E/P Administrative/Clerical	\$ 75.00
2-D CADD Technician	\$ 90.00
3-D Revit Designer	\$120.00
Mechanical/Electrical Designer 2	\$110.00
Mechanical/Electrical Designer 1	\$133.00
Mechanical/Electrical Engineer 2	\$144.00
Mechanical/Electrical Engineer 1	\$160.00
Lighting Designer	\$165.00
M/E/P Project Manager	\$167.00
M/E/P Principal	\$186.00



PUBLIC WORKS DEPARTMENT

Council Meeting Date: May 1, 2023

COU2023-31

CONSIDER AGREEMENT WITH BLACK AND MCDONALD FOR STREETLIGHT MAINTENANCE SERVICES.

RECOMMENDATION

Execute the agreement with Black and McDonald for the maintenance of the streetlight system.

BACKGROUND

This agreement includes the yearly cost to maintain the streetlight system which consists of approximately 2,140 streetlights. This is the third time we have bid these services since we purchased the streetlight system from KCPL in 2016. We publicly bid these services and only one bid was received, it is summarized below. One other electrical company picked up the bid, but they did not submit. This agreement will renew for two one year periods for a total of three years.

Bid from Black and McDonald

<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
\$36.00 per pole	\$37.44 per pole	\$39.60 per Pole
\$77,040.00 Yearly Total	\$80,121.60 Yearly Total	\$84,744.00 Yearly Total

This current average cost per pole is \$29.40 which is \$62,916.00 per year. The yearly increase is \$14,124. Black and McDonald currently maintains the streetlights in Prairie Village and was EVERGY's contractor that maintained the streetlights in Prairie Village. Given the above information we recommend award of the contract to Black and McDonald.

This agreement also established Unit Prices for changes and modifications to the street light system that are not considered maintenance. Streetlight pole replacements and other work will be completed yearly as needed. These prices were reviewed and are reasonable.

FUNDING SOURCES

Funds for the work under this agreement are budgeted in the City's operations budget for streetlights.

ATTACHMENTS

Agreement with Black and McDonald

PREPARED BY

Keith Bredehoeft, Public Works Director

April 26, 2023

AGREEMENT FOR STREET LIGHT MAINTENANCE SERVICES

This Agreement, made this _____, by and between *Black & McDonald* hereinafter referred to as Contractor, and the CITY OF PRAIRIE VILLAGE, KANSAS, hereinafter referred to as City.

The Contractor proposes and agrees to provide all necessary machinery, tools, and equipment; and to do all the work specified in this Agreement in the manner herein prescribed and according to the requirements of the City as herein set forth.

This document will be the only executed Agreement. Any additions or changes must be added as a written supplement to this Agreement at time of proposal. In addition to the provisions of Section 2.9 below, the City must approve each year the terms of this Agreement based on the budgetary allowance, per the Kansas budget laws and cash-basis laws, as amended.

1.0 Service Specifications

- 1.1 The Contractor will provide services as set forth in Exhibit A attached herein and incorporated herein by reference, (hereinafter the "Services").
- 1.2 The Contractor is required to have a valid City of Prairie Village Business License while under contract with the City. License and information can be obtained at the Codes Office located at 7700 Mission Road.
- 1.3 The Contractor will supply a contact name, direct phone number and email and will notify the City if this contact information changes during the term of this Agreement.
- 1.4 The Contractor shall ensure that their employees will be properly attired, refrain from abusive language, refrain from improper behavior, and be aware that they are representing the City.

2.0 General

- 2.1 This signed Agreement will be the authorization for the Contractor to provide the described Services as requested by the City.
- 2.2 Public Works Director, will be the City coordinator for the Contractor for providing any service and responding to any special needs.
- 2.3 The Contractor will contact the Public Works Director to schedule work. All routine work should be performed between 7am through 7pm weekdays unless otherwise scheduled or approved by the City.
- 2.4 All work performed by the Contractor will be of acceptable workmanlike quality and installation normally associated with this trade and shall occur to the satisfaction of the City before payment will be made by the City to the Contractor.
- 2.5 All invoices should be grouped by location, with a copy of the service report attached, and are to be sent to the Public Works Director.
- 2.6 Invoices shall be submitted for payment within sixty days of completion of work.

2.7 Insurance.

- A. The Contractor shall procure and maintain, at its expense, the following insurance coverage: (a) Workers' Compensation -- Statutory Limits, with Employer's Liability limits of \$100,000 each employee, \$500,000 policy limit; (b) 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; and (c) 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.
- B. All property damaged shall be repaired or replaced to a condition immediately prior to the time of damage, and to the satisfaction of the City.
- C. All loss or damage arising out of the nature of the work to be done, or from the action of the elements, or from floods or overflows, or from ground water, or from unusual obstructions or difficulties, or any other natural or existing circumstances either known or unforeseen, which may be encountered in the prosecution of the said work shall be sustained and borne by the Contractor at its own cost and expense.
- D. The City shall be a named insured on such policies. Satisfactory certificates of insurance shall be filed with the City prior to starting any construction work on this Contract. The certificates shall state that thirty (30) days written notice will be given to the City before any policy coverage thereby is changed or canceled.

2.8 It is the express intent of the parties that this Agreement shall not create an employer-employee relationship. Employees of the Contractor shall not be deemed to be employees of the City and employees of the City shall not be deemed to be employees of the Contractor. The Contractor and the City shall be responsible to their respective employees for all salary and benefits. Neither the Contractor's employees nor the City's employees shall be entitled to any salary, wages, or benefits from the other party, including but not limited to overtime, vacation, retirement benefits, workers' compensation, sick leave or injury leave. Contractor shall also be responsible for maintaining workers' compensation insurance, unemployment insurance for its employees, and for payment of all federal, state, local and any other payroll taxes with respect to its employees' compensation.

2.9 Term: The initial term of this Agreement is for one (1) year (the "Initial Term") commencing for the period of May 1, 2023 through May 1, 2024 with the option to extend the term of this Agreement for two (2) additional one (1) year periods. At the end of this Initial Term, this Agreement will automatically renew for another two (2) one (1) year periods each unless City provides notice to Contractor in writing of the intent not to renew the Agreement within thirty (30) days prior to the expiration of the Initial Term or the first renewal term (as the case may be) or unless the Agreement is terminated as provided herein. City may terminate this Agreement by giving sixty (60) days prior written notice to Contractor for City's convenience, or City may terminate this Agreement immediately upon a default by Contractor.

- 2.10 The Contractor will commence work within ten (10) calendar days from and after receiving instructions from the City.
- 2.11 To the fullest extent permitted by law, with respect to the performance of its obligations in this Contract or implied by law, and whether performed by Contractor or any permitted subcontractors hired by Contractor, the Contractor agrees to indemnify City, and its agents, servants, and employees from and against any and all claims, damages, and losses arising out of personal injury, death, or property damage, caused by the negligent acts, errors, or omissions of the Contractor or its subcontractors, to the extent and in proportion to the comparative degree of fault of the Contractor and its subcontractors. Contractor shall also pay for City's reasonable attorneys' fees, expert fees, and costs incurred in the defense of such a claim.
- 2.12 Applicable Laws and Permits.
- A. The Contractor shall observe and comply with all applicable federal, state, and local laws, regulations, standards, ordinances or codes and shall be in compliance with all applicable licensure and permitting requirements at all times.
- B. Pursuant to K.S.A. 16-113, if the Contractor does not have a resident agent in the State of Kansas, it shall execute and file "Certificate of Appointment of Process of Agent" with the Clerk of the District Court at the Johnson County, Kansas Courthouse. These forms may be obtained at the Office of the Clerk of the District Court. After execution of the documents, it shall be filed with the Clerk of the District Court. Contractor shall be responsible for the filing fee. This certificate is pursuant to the General Statutes of Kansas, and shall be filed prior to the commencement of any Services. City may terminate this Agreement immediately upon failure of Contractor to comply with these requirements.
- 2.13 The Contractor warrants to the City that any materials furnished under this Contract will be of good quality and new unless the Contract Documents require or permit otherwise. The Contractor further warrants that the Work will conform to the requirements of the Contract Documents and will be free from defects, except for those inherent in the quality of the Work the Contract Documents require or permit. Work, materials, or equipment not conforming to these requirements may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear under normal usage. The Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment. This warranty shall be in addition to and not in limitation of any other warranty or remedy required by law or by the Contract Documents.
- 2.14 The Contractor may not use any subcontractors without the prior written consent of the City, which may be withheld for any reason at the City's discretion.
- 2.15 If, on account of a continued default or breach by either party of such party's obligations under the terms of this agreement after any notice and opportunity to cure as may be required hereunder, it shall be necessary for the other party to

employ one or more attorneys to enforce or defend any of such other party's rights or remedies hereunder, then, in such event, any reasonable amounts incurred by such other party, including but not limited to attorneys' fees, experts' fees and all costs, shall be paid by the breaching or defaulting party.

- 2.16 This Contract shall not be assigned by Contractor to any other party without first obtaining the written consent of the City, which may be withheld for any reason at the City's discretion.
- 2.17 This Contract shall be governed by and interpreted in accordance with the laws of the State of Kansas. Venue for all actions relating to this contract shall be in the district court of Johnson County, Kansas.
- 2.18 Supplemental Agreements: This Agreement may be amended to provide for additions, deletions and revisions in the Services or to modify the terms and conditions thereof by a written supplemental agreement. If notice of any change in Services affecting the general scope or provisions of the Agreement is a requirement of any insurance policy held by the Contractor as a requirement of this Agreement, the giving of such notice shall be the Contractor's responsibility.
- 2.19 The City acknowledges that the schedule for this Contract may be impacted by the COVID-19 pandemic. Commencement and progress of the work shall be performed by the Contractor with due consideration to the health and safety of workers and the public and directives from health authorities and various levels of government.
 - A. If the Contractor is delayed in the performance of the work by reason of the COVID-19 pandemic, the work schedule may be adjusted by a period of time equal to the time lost due to such delay and costs related to such delay will be determined as identified herein.
 - B. A minimum of five (5) calendar days prior to the commencement of work, the Contractor shall declare whether COVID-19 will affect the start date. If the Contractor declares that COVID-19 will affect the start date, the Contractor shall provide sufficient evidence that the delay is directly related to COVID-19, including but not limited to evidence related to availability of staff, availability of material or work by others.
 - C. For any delay related to COVID-19 and identified after work has commenced, the Contractor shall within five (5) calendar days of becoming aware of the anticipated delay declare the additional delay and shall provide sufficient evidence as indicated in s. 2.24, above.
 - D. Any time or cost implications as a result of COVID-19, and in accordance with the above, shall cause both parties to consider a change order.

3.0 Non-Discrimination Laws

3.1 The Contractor agrees that:

- A. The Contractor shall observe the provisions of the Kansas Act Against Discrimination (K.S.A. 44-1001 et seq.) and shall not discriminate against any person in the performance of Work under the present contract because of race, religion, color, sex, disability, national origin, ancestry or age;
- B. In all solicitations or advertisements for employees, the Contractor shall include the phrase, "equal opportunity employer," or a similar phrase to be approved by the Kansas Human Rights Commission (Commission);
- C. The Contractor further agrees that it shall abide by the Prairie Village Non Discrimination Code (Section 5-801 et seq) and shall not discriminate against any person in the performance of Work under the present contract because of sexual orientation or gender identity. If the City determines that the Contractor has violated any applicable provision of any local, state or federal law, or has discriminated against any person because of race, religion, color, sex, sexual orientation, gender identity, disability, age, national origin, or ancestry, such violation and/or discrimination shall constitute a breach of contract and the City may cancel, terminate or suspend this agreement in whole or in part. The parties do not intend this provision to subject any party to liability under local, state or federal laws unless it applies.
- D. If the Contractor fails to comply with the manner in which the Contractor reports to the commission in accordance with the provisions of K.S.A. 44-1031 and amendments thereto, the Contractor shall be deemed to have breached the present contract and it may be cancelled, terminated or suspended, in whole or in part, by the contracting agency;
- E. If the Contractor is found guilty of a violation of the Kansas Act Against Discrimination under a decision or order of the Commission which has become final, the Contractor shall be deemed to have breached the present contract and it may be cancelled, terminated or suspended, in whole or in part, by the contracting agency; and
- F. The Contractor shall include the provisions of Subsections A through D in every subcontract or purchase order so that such provisions will be binding upon such Subcontractor or vendor.
- G. The provisions of this Section shall not apply to a contract entered into by a Contractor: (1) Who employs fewer than four employees during the term of such contract; or (2) Whose contracts with the City cumulatively total \$5,000 or less during the fiscal year of the City.

3.2 The Contractor further agrees that it shall abide by the Kansas Age Discrimination In Employment Act (K.S.A. 44-1111 et seq.) and the applicable provision of the Americans With Disabilities Act (42 U.S.C. 12101 et seq.) as well as all other federal, state and local laws.

4.0 Total Fee: City agrees to pay Contractor for the actual work performed at the unit costs set forth in Exhibit A, which is attached hereto and incorporated by reference into this Agreement. If any additional services beyond the Services outlined in the Scope of Services set forth in Exhibit A are deemed necessary, the compensation for said services shall be outlined in a supplemental agreement as required above.

A

1. **Unit Price Services.** The Unit Price Services (Line ~~B~~ of Unit Price Proposal) unit price to maintain approximately 2140 LED lights as described in Exhibit A is as follows. A "unit" is described as one fixture.

Year 1- \$ 77,040.00, Year 2- \$ 80,121.60, Year 3- \$ 84,744.00

The annual Unit Price Service invoicing shall be billed in 12 equal monthly installments. Monthly invoices will be submitted to the City on the first of each month for the proceeding monthly maintenance services.

The total number of streetlights may vary or lights may be added to the inventory. The total amount paid for the Unit Price Service will be based on the actual number of streetlights on a per unit per year price.

2. **Added Cost Work Billing.** The Added Cost Work Services (Line ~~C~~ ^{**B**} of Unit Price Proposal) unit prices as described in Exhibit A represent an estimated annual service expense of (Line B Total) as shown below.

Year 1- \$ 140,536.02, Year 2- \$ 149,493.32, Year 3- \$ 150,160.62

This line item represents only an estimated annual quantity, based on need and available annual budget, and not a guaranteed service quantity amount.

Monthly invoices for this work will be submitted to the City on the first of each month for the proceeding completed monthly maintenance services. City agrees to pay Contractor for invoiced services within thirty (30) days of invoice.

IN WITNESS WHEREOF, the parties have executed this Agreement effective as of the date and year first above written.

CONTRACTOR:

Black & McDonald

By: *Jennifer L. Mathes*

Printed Name: *Jennifer L. Mathes*

Title: *Manager, SELTS. Maint Svs.*

CITY:

CITY OF PRAIRIE VILLAGE, KANSAS

By: _____

Eric Mikkelson
Mayor

ATTEST:

By: _____

Adam Geffert
City Clerk

APPROVED AS TO LEGAL FORM:

By: _____

David E. Waters
City Attorney

STREET LIGHT MAINTENANCE AGREEMENT

EXHIBIT A

SCOPE OF WORK

I. GENERAL

The scope of work generally intended under this Agreement is to maintain and keep in good repair approximately 2140 designated street lights which were mostly purchased from KCP&L in 2016. The specific performed tasks shall include routine and non-routine maintenance and/or repair work as specified herein.

II. CONTRACTOR REQUIREMENTS

A. The Contractor shall be authorized to operate in the state of Kansas, if doing business under an assumed name, i.e. an individual, association, partnership, corporation, or otherwise, shall be registered with the appropriate state and local agencies.

B. The Contractor shall assume full responsibility for damage to City property caused by the Contractor's employees or equipment as determined by designated personnel.

C. The Contractor shall perform all work in a safe manner and be solely responsible for the safety and well-being of its employees and others relative to the Contractor's work, work procedure, material, equipment, transportation, traffic control, and related activities and equipment. This includes all traffic control measures when working on lights/poles which hang over street areas.

D. The Contractor shall possess and keep in force all licenses and permits required to perform the services of this Agreement.

E. Upon request, Contractor shall submit its company safety program to the City. The program shall include requirements applicable to the scope of its work and the protection of the Contractor's employees and the public relative to the Contractor's work. The safety program documents may be reviewed and approved by the City prior to notice to proceed.

III. WORK DESCRIPTION

A. Unit Price Services

Line Item- Annual Street Light Maintenance

The Contractor shall maintain and keep in good repair each of the designated street lights for annual unit price service fee per light. The Annual Street Light Maintenance Fee unit price services shall include the following:

- a. Customer Service/Dispatch. Contractor shall provide a twenty-four (24) hour customer service/dispatch contact number, and email, for lighting inquiries, outage reports and make safe needs identified by City. City shall primarily receive initial calls and notify Contractor. Contractor is

responsible for repairs and return notification via email to City so that City may respond to customer as required. The Contractor and the City will develop a procedural means to record the Contractor's work in the City's work order management system. Lucity is the City's current work management system.

- b. **Outage Monitoring.** Contractor shall regularly monitor all of the designated street lights for outages. In addition to reports made to the Contractor's call center, the Contractor shall conduct a night patrol of designated street lights once every 3 months and provide a written summary report.
- c. **Records and Monthly Reporting.** Contractor shall provide monthly report to verify repair activity, response times, and source of repair request. Contractor's records will be made available to the City and in a format allowing the records to be integrated into the City's existing work order management system. Where reasonably practical this may include having the Contractor directly enter their work order history into the City's computer data base.
- d. **Streetlight System Data.** The City will provide available street light system data to the Contractor who will maintain and manage an electronic database of the designated street lights covered under this Agreement.
- e. **Material Management.** The Contractor shall purchase and maintain, at its cost, a parts inventory of sufficient quantity to be able to perform these services. All parts and material costs which are part of the performance of Unit Price Services for Annual Street Light Maintenance is considered incidental. The Contractor warrants that products furnished conform to the requirements specified, are of good merchantable quality and suitable for the purpose intended.
- f. **Maintenance Incidentals.** In addition to the incidental materials, all labor and equipment to repair/replace the light components, conductors, cables, fix leaning poles to remediate danger to the public, inspect all components and make incidental repairs are also considered incidental to the annual service fee.
- g. **Third Party Damages (knockdowns and cable cuts).** Contractor shall make safe all repairs to downed poles or cut cables at no additional cost to the City. Contractor shall be subrogated to the City's interest and rights of recovery in all street lights which Contractor repairs or replaces, as part of maintenance services provided as a result of any actions by a third party. The City agrees to provide necessary information and assistance to the Contractor for enforcement of its subrogation rights to the extent that such information is uniquely available to the Contractor only from the City, and to the extent such information is not otherwise privileged.
- h. **Poles and Mast Arms.** Contractor is responsible for maintaining, replacing and/or repairing all parts of the designated street lights including the structural components.

- i. **Make-Safe Services.** Contractor shall remove conditions of public peril within one (1) hour of notification of such condition. Conditions include, but are not limited to downed poles and/or power lines from streets associated with street lighting. Conditions not considered to present public peril shall be removed within four (4) hours. Upon securing and making the area safe to the general public, the Contractor will immediately notify the City's Public Works Department:

913-385-4647 (If not during business hours, leave a message indicating location, type of incident, and time it was made safe.)

- j. **Spot Relamping.** Contractor shall commence repairs of early lamp burnouts or day burners within two (2) business days of notification or patrol discovery; repairs will include lens cleaning and interior wiping of the luminaire. Contractor shall furnish lamps and photocells.
- k. **Repair Response.** Contractor to respond to light out calls within two (2) business days. In most cases, repairs will be made immediately. However, some maintenance may require the crew to leave the site to obtain the necessary materials or equipment to complete such repairs. In the event extensive repairs are required; Contractor shall complete as soon as reasonably possible; however, not longer than fourteen (14) days after knowledge of the outage.
- l. **Decorative Poles.** The maintenance services will include any decorative poles and fixtures under the same provisions. The City will work with the Contractor on selection of replacement decorative poles.
- m. **Permits and Responsibilities.** The Contractor shall be responsible for obtaining any necessary licenses and permits, and for complying with any Federal, State and municipal laws, codes and regulations applicable to the performance of work. The City agrees to furnish permits required by the City to the Contractor at no charge.

B. Added Cost Work

Repair services shall be made by the Contractor at the request of the City to address unexpected repairs to the street lighting system that are outside of the scope as defined for Unit Price Services. Repair work shall be paid by the unit for items as identified in the Unit Price Proposal and further defined in this Scope of Work.

The estimated services in the Unit Cost Proposal are only an annual estimate and do not guaranty the availability or extent of the City services needed during the term of the Agreement.

Line Items-

1. **Remove and Replace Mast Arm.** Contractor shall remove an existing LED and mast arm at the request of the City and replace it with a new LED and mast arm.

2. **Remove and Replace Steel Pole.** Contractor shall provide all labor, materials, and equipment to remove existing pole and install a new pole on the existing base. New pole shall include new pole and bracket cable, new fuse connectors, cable connectors, and a new replacement luminaire. Includes pole makeup as well.
3. **Remove and Replace Steel Pole and Base.** Contractor shall provide all labor, materials, and equipment to remove existing pole and base for complete replacement. New pole shall include new pole and bracket cable, new fuse connectors, cable connectors, new replacement luminaire, and new base. Includes pole makeup as well.
4. **Underground Cable Repair with Splice.** For direct buried cable the Contractor shall expose the damaged cable and repair with underground gel splice kit. Underground repair with splice shall include the repair of up to 2 cables and may require 2 gel kits per splice with a short section of new wire or may require new wire to the adjacent fixture. Restoration of the adjacent ground and associated repairs shall be subsidiary to the item.
5. **Conduit Repair.** Contractor shall repair conduit by exposing damaged area, removing electrical cable, repairing conduit with up to 10 feet of new conduit and replacing electrical wiring. If wiring has been damaged Contractor shall replace the wiring with new from pole to pole or from pole to junction box as directed by the City. New wiring shall be paid for by the lineal foot as bid for Installed Wire in Conduit. Repairs required to splices or pole makeup shall be paid for the appropriate item as required for this repair. All ground restoration and repairs shall be subsidiary to the conduit installation.
6. **Paint Pole.** Contractor shall paint pole with Sherwin Williams Silver-Brite Heavy Duty Rust Resistant Aluminum Paint or approved equal. Metal surfaces shall be properly cleaned in accordance with the manufacturer's recommendations and the appropriate primer shall be applied as needed. When completed, the Contractor shall repaint with black 2-inch stencil the appropriate pole number.
7. **Straighten Leaning Pole.** Contractor shall provide all labor, equipment and materials necessary to straighten and level a leaning pole that is not in danger or causing public harm.
8. **Directional Bore or Trench.** Contractor shall provide conduit in the length requested by the City to be bored or trenched between fixtures or between junction box and fixture. Minimum length of conduit payment shall be 50 feet per location. Restoration of the adjacent ground and associated repairs shall be subsidiary to the item.
9. **Install New Street Light Pole.** Contractor shall install a completely new street light pole and foundation. Unit price includes all labor, equipment, and materials associated with the new installation of a standard City 30-foot streetlight pole, mast arm, LED luminaire, and all cables/conductors/ground wiring. Includes pole makeup as well.

10. **Pole Makeup.** Contractor shall provide all fuse connectors and cable connectors to makeup a complete new connection to a pole. One pole makeup will require 3 fuse kits and 3 cable connectors.
11. **Set Junction Box.** Contractor shall install Type I or Type II junction box as directed by the City. Restoration of the adjacent ground and associated repairs shall be subsidiary to the item.
12. **Set Street Light Controller.** Contractor shall install a concrete pad mounted, photocell controlled, street light control center. Control center will be standard to the Johnson County region (Millbank, Myers, Pacific Utility Products or approved equal) with pad and controller constructed per manufacturer recommendation. Price includes all equipment, labor, materials to construct controller and properly restore disturbed area.
13. **Set Street Light Meter.** Contractor shall provide installed street light meter enclosure and coordinate and pay all non-City fees and permits associated with the installation of the meter by the appropriate power company.
14. **Install 3c #4 in Conduit.** Price per linear foot of 3 conductor #4 wire in conduit as agreed upon between the Contractor and City and directed by the City.

IV. WORK STANDARDS

- A. All of the designated street lights will be field checked by the Contractor for proper operation each month. Street lights found not functioning during the field check will be repaired upon discovery if possible.
- B. All installed material items used will be new, unless otherwise agreed to by the City and be of a type and brand approved by the City.
- C. Most repairs are to be completed within two (2) business days of notification or patrol discovery. Extensive repairs as required, or the replacement of fallen or damaged street lights shall be completed as reasonably as possible; however, not longer than fourteen (14) days of being aware of the incident.

Work approved by the City as Added Cost Work shall also be completed within fourteen (14) days of authorization to proceed.

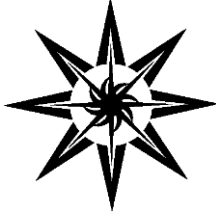
Service	Unit	Estimated Quantity	Year 1 Unit Price	Year 2 Unit Price	Year 3 Unit Price
Unit Price Services (All work associated with keeping the system operational, record keeping, 24-hour services)					
1. Annual Street Light Maintenance per street light	2140		\$36.00	\$37.44	\$39.60
Line A: Total Unit Price Services					
Added Cost Work (Potential work authorized by the City outside of the scope of Unit Price Services)					
1. Remove and Replace Mast Arm	Each	5	\$1,113.54	\$1,183.39	\$1,253.18
2. Remove and Rep Steel Pole	Each	5	\$2,776.38	\$2,995.92	\$3,227.54
3. Remove and Replace Steel Pole and Base	Each	5	\$3,390.22	\$3,662.85	\$3,951.46
4. Underground Cable Repair with Splice	Each	10	\$739.37	\$770.32	\$795.64
5. Conduit Repair	Each	10	\$605.30	\$631.44	\$653.21
6. Paint Pole	Each	5	\$624.32	\$643.50	\$657.57
7. Straighten Leaning Pole	Each	5	\$608.23	\$627.55	\$641.76
8. Directional Bore or Trench	L.F.	2000	\$15.30	\$16.17	\$16.82
9. Install New Street Light Pole	Each	5	\$3,694.97	\$3,986.57	\$4,296.05
10. Pole Makeup	Each	10	\$214.97	\$226.51	\$237.51
11. Set Junction Box	Each	1	\$465.02	\$472.42	\$477.87
12. Set Street Light Controller	Each	2	\$6,488.83	\$6,907.17	\$7,344.78
13. Set Street Light Meter	Each	2	\$2,780.08	\$2,809.67	\$2,831.49
14. Install 3c #4 in Conduit	L.F.	2000	\$7.15	\$7.73	\$8.34
Line B: Total Added Cost Work Services					
			\$140,536.02	\$149,493.32	\$158,160.62

Black & McDonald
Jennifer Mathos
4/21/23

THREE YEAR UNIT PRICE PROPOSAL

	<u>YEAR 1</u>	<u>YEAR 2</u>	<u>YEAR 3</u>
Line A: Total Unit Price Services	\$ <u>77,040.00</u>	\$ <u>80,121.60</u>	\$ <u>84,744.00</u>
Line B: Total Added Cost Work	\$ <u>140,536.02</u>	\$ <u>149,493.32</u>	\$ <u>158,160.62</u>
Line A+B: Total Price Proposal	\$ <u>217,576.02</u>	\$ <u>229,614.92</u>	\$ <u>242,904.62</u>

Black + McDonald
Jennifer R Mathes
4-21-23



PUBLIC WORKS DEPARTMENT

Council Meeting Date: May 1, 2023

COU2023-32

CONSIDER AGREEMENT WITH INTEGRITY LOCATING SERVICES FOR UNDERGROUND LINE LOCATION SERVICES RELATED TO THE STREETLIGHT SYSTEM.

RECOMMENDATION

Execute the agreement with Integrity Line Location Services for underground line location services related to the streetlight system.

BACKGROUND

Prairie Village owns the streetlight system and therefore is required to locate underground wires/conduits for excavations that take place near the streetlight system. City staff cannot provide this service so the City needs to hire a private underground utility location company. We invited two locating services to bid this service and their bid is summarized below. This agreement will renew for two one year periods.

<u>Company</u>	<u>Cost per locate</u>		
	<u>YEAR 1</u>	<u>YEAR 2</u>	<u>YEAR 3</u>
Integrity	\$ 11.00	\$ 12.10	\$ 13.31
USIC	\$ 15.00	\$ 16.05	\$ 17.17

We have been using Integrity Locating Services for the last three years and they have done a great job. We recommend utilizing them again for the next three years. The last three years Integrity’s cost has been \$7.00 per ticket but we do feel the bid this year is acceptable.

The yearly cost for this work will be approximately \$50,000 per year.

FUNDING SOURCES

Funds for the work under this agreement are budgeted in the City’s operations budget for streetlights.

ATTACHMENTS

Agreement with Integrity Locating Services

PREPARED BY

Keith Bredehoeft, Public Works Director

April 26, 2023

**CONTRACT AGREEMENT
UNDERGROUND FACILITIES LOCATING
AND MARKING SERVICES**

THIS AGREEMENT, made this 1st day of May, 2023, by and between Integrity Locating Services, LLC or assigns, hereinafter referred to as "Contractor", and the City of Prairie Village, hereinafter referred to as "City".

WHEREAS, the City and the Contractor desire to enter into an agreement under the terms of which the Contractor will be an independent contractor and will perform jobs of locating and marking underground facilities which City may assign to the Contractor from time to time.

NOW THEREFORE, in consideration of the mutual promises, the work to be done and payments to be made, as hereinafter provided, the parties hereby covenant and agree as follows:

ARTICLE 1: SAFEGUARDS AND GENERAL CONDITIONS

THE CONTRACTOR SHALL:

- 1.01 Perform the locating and marking work with the utmost regard for public safety and welfare, taking all necessary safety precautions as required by the City or local, state and federal authorities to safeguard the lives and property of all concerned or involved.
- 1.02 Acting as an independent contractor, furnish labor, supervision, tools, equipment and transportation as required to perform underground facilities locating and marking services on all jobs assigned by the Company and accepted by the Contractor.
- 1.03 Comply with the provisions of all applicable federal, state, county, and local laws, ordinances, regulations and codes, including, but not limited to the Contractor's obligations as an employer with regard to the health, safety and payment of its employees.

ARTICLE 2: DEFINITIONS

- 2.01 "Agreement": This Agreement
- 2.02 "Business Day": Any day other than Saturday, Sunday or legal holidays. Business day hours will be 8:00 A.M. until 5:00 P.M. CST.
- 2.03 "Excavation": Any operation in which earth, rock, or other material on or below the ground is moved or otherwise displaced by any means.
- 2.04 "Excavation Site": The area where an Excavator intends to do or does excavating.
- 2.05 "Excavator": Any person who engages directly in excavation and/or the design of excavation and requests the location of the Company's Underground Facilities.
- 2.06 "Excavator Notification": Notification given to the Excavator that Underground Facilities and plant are not present at the Excavation Site.
- 2.07 "Facility Owner": The City.
- 2.08 "Identified, But Unlocatable": A City Underground Facility, the presence of which is known, but which cannot be field marked with Reasonable Accuracy.
- 2.09 "Locatable Underground Facility": An Underground Facility which can be field marked with

Reasonable Accuracy by using devices designed to respond to the presence of the City's Underground Facilities.

- 2.10 "Locate Service": The process of determining the presence of City owned Underground Facilities, their conflict with proposed Excavations, Marking and staking of the proper places or routes of such facilities within Reasonable Accuracy limits as required.
- 2.11 "Locate or Locating": The completed process of having provided Locating Services at an Excavation Site or adjacent sites on a single one-call ticket notification.
- 2.12 "Locate Request":
 - a. "Normal Locate Request": A request to locate received at least TWO FULL BUSINESS DAYS, not including the request day, but no more than fifteen (15) days prior to the commencement of excavation excluding Saturdays, Sundays, and state and federal holidays.
 - b. "Emergency Locate Request": A request to locate which demands immediate action to prevent significant environmental damage or loss of life, health, property or essential public services.
- 2.13 "Marking": The use of stakes, flags, paint strips, or other clearly identifiable materials at distances of every ten (10) feet and at each divergence from a straight line in accordance with the current marking standards of the American Public Works Association (APWA) to show the field location of Underground Facilities accurately. Contractor shall furnish all paint and flags meeting City standards and specifications.
- 2.14 "One-Call System": A centralized call-in and utility locating coordination center through which subscribing utility members may receive notification of proposed excavations.
- 2.15 "Person": Any individual, partnership, franchise holder, company, corporation, state, city, county or any subdivision or instrumentality of a state and its employees, agents, or legal representatives.
- 2.16 "Reasonable Accuracy": Locating with twenty-four (24) inches horizontally to the centerline of the Underground Facility or the tracer wire for the Underground Facility which ever is closer.
- 2.17 "Underground Facility" or "Underground Plant": Any item buried or placed below the ground for use in connection with the City's street light system or fiber optic network.
- 2.18 "Visual Examination": Determination of the existence of any Underground Facility at the Excavation Site by visual means rather than from the City's maps and records.
- 2.19 "Damage to Plant": Includes the penetration or destruction of any protective coating, sheath, housing, or other protective facility of Underground Plant, the partial or complete severance of Underground Plant, or the rendering of any Underground Plant partially or completely inoperable.
- 2.20 "Site Surveillance": To watch over and protect any Underground Facility during unusual or extensive excavation projects (Le.; road widening projects, sewer projects, etc.) and providing such continuous on-site Locate Services as may be dictated by the nature and scope of the Excavation or as may be required by the Excavator. Also known as standby protection.
- 2.21 "Project or Extended Locate": A single ticket or project requiring the locating and marking of multiple non-adjacent addresses or dig areas in an urban environment or the locating and marking of more than one half mile in a rural environment. Notification will be provided to the City

when project or extended locate activity is initiated.

ARTICLE 3: DESIGNATED WORK AND PERFORMANCE REQUIREMENTS

- 3.01 The Contractor shall receive and record Locate Requests from the One-Call System and on occasion, directly from the City. Locate Requests shall be received from the One-Call System during normal business hours (8:00 A.M. - 5:00 P.M. CST) on business days. The Contractor shall be prepared to receive and record Emergency Locate Requests at any time of any day.
- 3.02 The Contractor shall provide a qualified staff, an office, and appropriate field equipment. Office communication equipment shall include a Teletype printer that is computer compatible with the existing communications equipment of the One-Call system. The Contractor shall also provide all transportation and supplies required to fulfill all of the duties specified under this Agreement.
- 3.03 The Contractor will store and safeguard all City location maps or records made available for locating purposes. Such information shall not be disclosed or given to any person(s) not approved by the City.
- 3.04 The Contractor shall maintain records appropriate to support the invoicing and recording requirements set forth in Article 4.
- 3.05 The Contractor shall be responsible for making arrangements with all Excavators for locate purposes. All Locate Requests will be processed within the required timeframe or contact will be made with the Excavator to arrange an appropriate time to perform the Locate. All Excavators will be called as soon as possible to confirm requested time of appointments to make appropriate arrangements as required.
- 3.06 Each Locate Request shall require Contractor to determine if a conflict exists between the City's Underground Plant and the proposed Excavation. When a conflict does exist, all Underground Facility items shall be located and marked in accordance with the American Public Works Association (APWA) Guidelines and Section 2.13 of this Agreement.
- 3.07 For each Normal Locate Request, the Contractor will complete the requirements of Section 3.06 in accordance with the provisions of the Kansas Underground Utility Damage Prevention Act.
- 3.08 For each Emergency Locate Request the Contractor will respond within 2 hours unless agreed upon with caller.
- 3.09 The Contractor may be requested to provide such additional services as Site Surveillance or Projects, and extended locates requiring standby protection. The Contractor must provide notification to the City prior to commencement of the work and the rate charges will be at the hourly rate as specified in Exhibit "A".
- 3.10 In the event of damage to any Underground Facility, the City will be responsible for the initial response to the report of damage. If the initial investigation indicates possible Contractor responsibility for the damage, the City shall notify Contractor within twenty-four hours (forty-eight hours if the City receives notice of such damages between 5:00 P.M. Friday and 7:00 A.M. Monday unless Monday is a legal holiday in which event such time shall be extended to seventy-two hours) upon receiving notice of any damages. Contractor shall within twenty-four hours (forty-eight hours if Contractor receives notice of such damages between 5:00 P.M. Friday and 7:00 A.M. Monday unless Monday is a legal holiday in which event such time shall be extended to seventy-two hours) of being notified by the City to commence the investigation of all incidents of Damage to Plant when the locate accuracy or lack of locate accuracy, is suspect or questionable, and will submit to City a written report of said investigation within seven calendar days following the actual date of damage notification if requested to do so. If the City does not provide

Contractor with such timely notification of damages as required hereunder, then notwithstanding any other provisions of this Agreement to the contrary, the City shall be solely responsible (as between the City and Contractor) for any such damages. If Contractor is given timely notification of damages as required hereunder but fails to commence an investigation (as between the City and Contractor) for any such damages. For purposes of the provision "to commence an investigation" shall mean Contractor visiting the site of such damages and commencing the gathering of documents. Contractor agrees to reimbursement to the City for actual down time cost in the event of a mislocated line pertaining to the Work Order for the work at the site of such damage. Contractor will maintain a copy of the written report for a period of six years. Contractor will give testimonial support in cases where deemed necessary by the City. In the performance of any work assignment, should Contractor become aware of any damage to any Underground Facility, the Contractor must notify a City representative immediately to facilitate the repair of damage.

If it is determined that the Contractor located an Underground Facility in error, Contractor shall be responsible for all damages resulting from such error, including, but not limited to the following: all costs of repair to damaged Underground Facilities, including labor and materials, all damages to other property, and all personal injuries resulting from such error.

The Contractor agrees to indemnify, defend and hold harmless the City from any and all Loss where Loss is caused or incurred or alleged to be caused or incurred in whole or in part as a result of the negligence or other actionable fault of the Contractor. "Loss" means any and all loss, damage, liability or expense, of any nature whatsoever, whether incurred as a judgment, settlement, penalty, fine or otherwise (including attorney's fees and the cost of defense), in connection with any action, proceeding, demand or claim, whether real or spurious, for injury, including death, to any person or persons or damages to or loss of, or loss of the use of, property of any person, firm or corporation, including the parties hereto, which arise out of or are connected with, or are claimed to arise out of or be connected with, the performance of this Contract whether arising before or after the completion of the work required hereunder.

- 3.11 The Contractor shall locate all of the City Locatable Underground Facilities in accordance with APWA guidelines. The Contractor guarantees the accuracy of locations as marked.
- 3.12 When the Underground Facility is Identified, but Unlocatable, the Contractor must contact the City's representative and advise the representative of the situation. The City's representative shall determine the course of action to be taken. If no course of action is successful, the Contractor shall notify the Excavator of the presence of any Identified, but Unlocatable Underground Facilities of the City and caution the Excavator that any location information supplied may not be within the definition of Reasonable Accuracy.
- 3.13 All locating equipment or devices are subject to the City's approval. All Underground Plant shall be electronically located except where electronically impossible. Where electronically impossible, the procedure identified in paragraph 3.12, above, shall be followed.
- 3.14 The Contractor shall promptly notify the City of any discrepancies or omissions in the records, or other information provided by the Company.
- 3.15 The Excavator is responsible for the maintenance of location marks up to the start of Excavation. A request to remark the location after the start of Excavation will be considered an additional ticket.
- 3.16 Additional visits to the site of the locate which are required due to Excavator request or other Excavator reason, such as, inadequate address, work area not accessible, etc. will be considered an additional ticket.

- 3.17 Locating personnel shall be proficient in the use of approved locating devices, methods, marking procedures, communicative skills and record keeping requirements necessary to perform the Locating and Marking task. They shall represent the City in a courteous and professional manner at all times. The Contractor agrees to take appropriate corrective measures in any situation where Locating performance levels are deemed unsatisfactory by the City.
- 3.18 Upon the execution of this Agreement, the Contractor's representatives will establish lines of communication with the One-Call System and/or the Company representatives for contacts involving normal and emergency work assignments.
- 3.19 In the event that the Contractor fails to meet the demands for Locate Requests, or if the City resources are such to allow the use of its own forces to conduct locates, the City in its sole determination shall have the right to use its own resources to satisfy such needs.
- 3.20 The City shall provide Contractor with a currently effective contact call list of City personnel involved in managing this Agreement.
- 3.21 The Contractor shall provide the City a current employee list showing their qualifications to perform line locating tasks. This employee list will be the sole responsibility of the Contractor to be kept up to date in the event of employee turnover and/or continuing operator qualification updates.

ARTICLE 4: RECORD KEEPING

- 4.01 The Contractor agrees to maintain records to support all work performed and all items billed to the City and shall retain all such records for the term of this Agreement and must forfeit all records to the Company in the event of an Agreement termination.
- 4.02 The Contractor must retain all teletype or email messages for Locate Requests from the One-Call System. In addition, the Contractor will document and retain the name of any Company representative authorizing items of work outside regular hours or on a flat-rate (hourly) basis.
- 4.03 The Contractor shall maintain records to comply with any local, state or federal requirements by law.
- 4.04 The Contractor must maintain a record of each Excavator Notification given in accordance with the One-Call System requirements and to include, but not limited to:
 - a. One-Call notification ticket
 - b. Fax back or email notification
 - c. Record of locations and work performed
- 4.05 The Contractor shall prepare a written report of all investigations for incidents of damages for accuracy of the Locate or Locates including names, dates, time of day, measurements, addresses, methods, pictures or other pertinent information relative to the incident within five business days.
- 4.06 The City shall be responsible for coordinating the updating of One-Call System records.

ARTICLE 5: CONTRACT AREA

- 5.01 The Contractor's costs detailed in the schedule of prices shall be applicable to all work operations assigned within the City's service territory boundaries, (in Kansas, the "Contract Area").
- 5.02 The Contractor acknowledges that the City acquired the Underground Facilities from Kansas City Power and Light Company ("KCP&L") in October, 2016 and that all maps detailing the

Underground Facilities in City's possession were prepared by KCP&L and obtained by the City from KCP&L. To the extent that the City has possession of maps detailing the Underground Facilities, City shall provide Contractor with copies of same. In situations where, the Contractor determines that the map provides insufficient information to accurately complete the Locate Request, the City will provide assistance in determining the location of the Underground Facilities. Contractor shall be responsible for the privacy of such records and shall not provide copies to others without City approval.

ARTICLE 6: CONTRACT PRICE

- 6.01 The City and Contractor agree that compensation to be paid the Contractor under this Agreement for work performed shall be in accordance with Exhibit "A". If the City renews this Agreement for at least one year, before April 1st, 2021, Exhibit "A" will remain in effect.
- 6.02 The charges set forth in Exhibit "A" shall be in effect for the duration of the Agreement unless changed in accordance with Article 8.

ARTICLE 7: METHOD OF PAYMENT

- 7.01 The Contractor agrees to furnish detailed invoices on a monthly basis.
- 7.02 The City agrees to render payment to the Contractor not later than 30 days from the receipt of correct and proper invoices.

ARTICLE 8: CONTRACT CHANGES

- 8.01 At any time during the Agreement period, either party shall have the right to add, delete, change or modify this Agreement with consent of both parties. Changes must be presented, in writing, sixty (60) days prior to the effected change. All change orders shall be numbered sequentially.

ARTICLE 9: CONTRACT PERIOD

- 9.01 The term of this Agreement shall be from May 1, 2023 through May, 2024. The City may, at its option, renew the Agreement for up to (2) one year contract periods by giving written notice to the Contractor.
- 9.02 The City, within its sole discretion, may elect to terminate the Contract with the Contractor for convenience upon three (3) days written Notice to Contractor. Contractor may cancel this contract prior to the scheduled termination date. However, sixty (60) days written notice must be given to the City.
- 9.03 In the event of breach of this agreement by either party, the other party may terminate this agreement by written notice to the other party. within five (5) days' notice. In the event that either party brings a legal action against the other party regarding this Contract, the prevailing party shall be awarded costs of the action including reasonable attorney fees.
- 9.04 Notwithstanding any other provision in this Agreement to the contrary, Contractor acknowledges that City is a municipality under Kansas law and funds for payment under the terms of this Agreement are subject to annual appropriation by the governing body. As such, the terms of this Agreement shall not exceed any one (1) City budget year. This Agreement may be terminated by the City, without any penalty, and not in default, if funds are not appropriated by the governing body to continue the service.

ARTICLE 10: INSURANCE

- 10.1 The Contractor shall procure and maintain, at its expense, the following insurance coverage:
- a. Commercial General Liability for liability including bodily injury and property damage, on the CGL 2013 ISO Occurrence form or such other form as may be approved by City, with limits of not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate, annually;
 - b. Commercial Automobile Liability covering liability including bodily injury and property damage with limits of not less than \$1,000,000 each accident for all owned, non-owned and hired automobiles;

Deductibles for any of the above coverages shall not exceed \$25,000 per claim, per occurrence, or in the aggregate unless approved in writing by City.

- 10.2 All policies required in this Agreement shall name as additional insureds the City and City's departments, officials, officers and employees, and other parties as specified by City as additional insureds as their interest may appear. "Claims Made" and "Modified Occurrence" forms are not acceptable.
- 10.3 Contractor shall not modify, cancel or not renew any policy during the term of this Agreement until after thirty (30) days' unqualified written notice of such action has been given to the City.
- 10.4 Before Contactor performs any portion of the services hereunder, it shall provide City with certificates and endorsements evidencing the insurance required by this Article.
- 10.5 All insurance coverage required herein shall contain a waiver of subrogation in favor of the City, and City's departments, officials, officers and employees. Contractor's insurance policies shall be endorsed to indicate that Contractor's insurance coverage is primary and any other insurance maintained by City, is non-contributing as respects the work of Contractor.

ARTICLE 11: NON-DISCRIMINATION LAWS

- 11.1 The Contractor agrees that:

The Contractor shall observe the provisions of the Kansas Act Against Discrimination (K.S.A. 44-1001 et seq.) and shall not discriminate against any person in the performance of Work under the present contract because of race, religion, color, sex, disability, national origin, ancestry or age;

In all solicitations or advertisements for employees, the Contractor shall include the phrase, "equal opportunity employer," or a similar phrase to be approved by the Kansas Human Rights Commission (Commission);

The Contractor further agrees that it shall abide by the Prairie Village Non Discrimination Code (Section 5-801 et seq) and shall not discriminate against any person in the performance of Work under the present contract because of sexual orientation or gender identity. If the City determines that the Contractor has violated any applicable provision of any local, state or federal law, or has discriminated against any person because of race, religion, color, sex, sexual orientation, gender identity, disability, age, national origin, or ancestry, such violation and/or discrimination shall constitute a breach of contract and the City may cancel, terminate or suspend this agreement in whole or in part. The parties do not intend this provision to subject any party to liability under local, state or federal laws unless it applies.

If the Contractor fails to comply with the manner in which the Contractor reports to the commission in

accordance with the provisions of K.S.A. 44-1031 and amendments thereto, the Contractor shall be deemed to have breached the present contract and it may be cancelled, terminated or suspended, in whole or in part, by the contracting agency;

If the Contractor is found guilty of a violation of the Kansas Act Against Discrimination under a decision or order of the Commission which has become final, the Contractor shall be deemed to have breached the present contract and it may be cancelled, terminated or suspended, in whole or in part, by the contracting agency; and

The Contractor shall include the provisions of Subsections A through D in every subcontract or purchase order so that such provisions will be binding upon such Subcontractor or vendor.

The provisions of this Section shall not apply to a contract entered into by a Contractor: (1) Who employs fewer than four employees during the term of such contract; or (2) Whose contracts with the City cumulatively total \$5,000 or less during the fiscal year of the City.

11.2 The Contractor further agrees that it shall abide by the Kansas Age Discrimination In Employment Act (K.S.A. 44-1111 et seq.) and the applicable provision of the Americans With Disabilities Act (42 U.S.C. 12101 et seq.) as well as all other federal, state and local laws.

ARTICLE 12: CONTRACT NOTIFICATION

12.01 Any contract notification to the Contractor shall be sent to:

Integrity Locating Services
14867 W 95th St
Lenexa, Ks. 66215

12.02 Any contract notification to the City shall be sent to:

City of Prairie Village
3535 Somerset Dr
Prairie Village, Ks. 66208

ARTICLE 12: ADDITIONAL CLAUSES

12.01 The attached Exhibit "A" is made a part of this Agreement.

IN WITNESS WHEREOF, THE PARTIES hereto have executed this Agreement as of the month and day above written.

INTEGRITY LOCATING SERVICES, LLC

By: _____
Jay Van Biber
Managing Member

CITY OF PRAIRIE VILLAGE, KANSAS

By: _____
Eric Mikkelson
Mayor

ATTEST:

By: _____
Adam Geffert
City Clerk

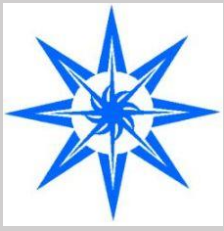
APPROVED AS TO LEGAL FORM:

By: _____
David E. Waters
City Attorney

Exhibit A

Type of Locate	Number Units	Year 1	Year 2	Year 3
Per Ticket	1	\$11.00	\$12.10	\$13.31
Emergency daytime	1	\$25.00	\$27.50	\$30.25
Emergency afterhours	1	\$40.00	\$44.00	\$48.40

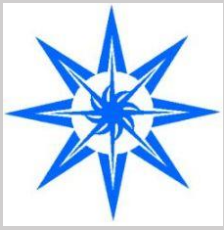
IN WITNESS WHEREOF, THE PARTIES hereto have executed this Agreement as of the month and day above written.



Council Meeting Recording / Livestreaming

At the February 2023 Council Work Session, the City Council requested Staff to provide research and/or feedback on the current Council meeting recording and livestream operations.

Currently, Council meetings and Planning Commission meetings are recorded via Zoom and livestreamed through Facebook.



Current challenges

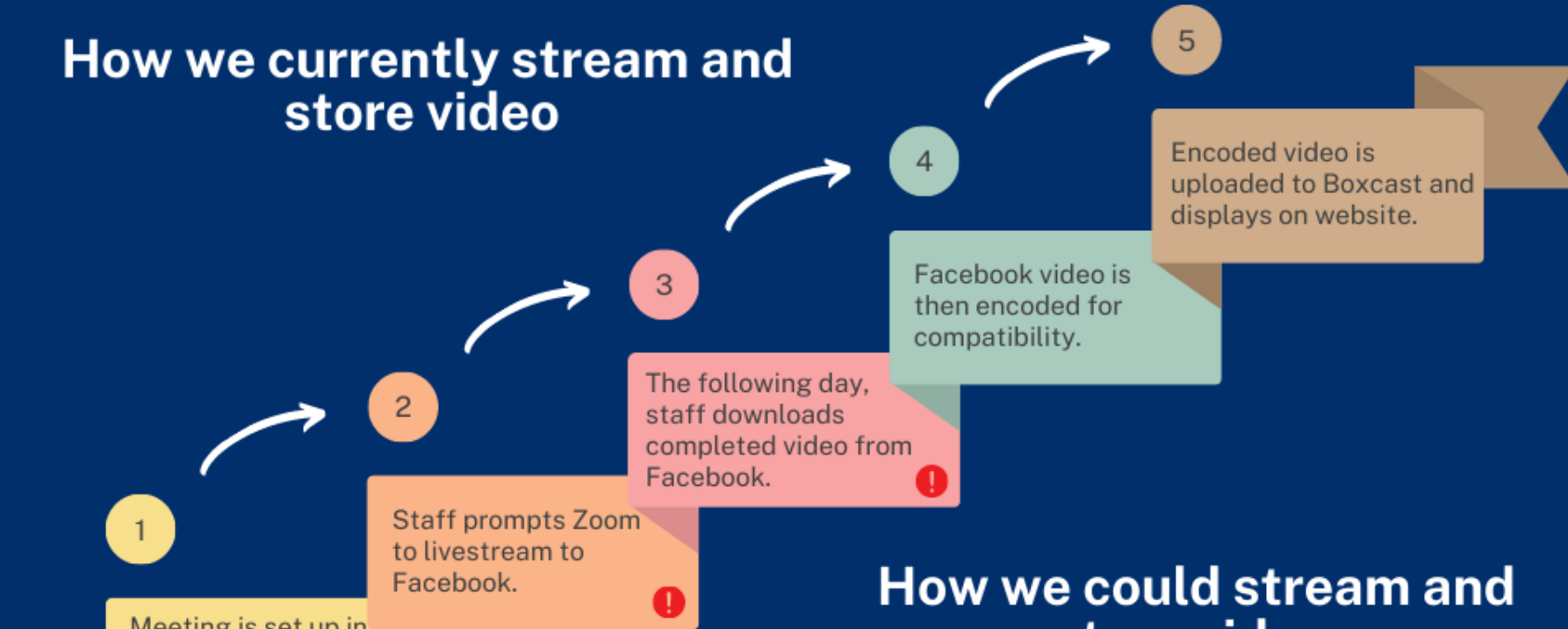
The City uses Zoom for recording / remote access and Facebook for livestreaming.

When one or the other has been down, it has created downtime and/or delaying the start of scheduled Council meetings.

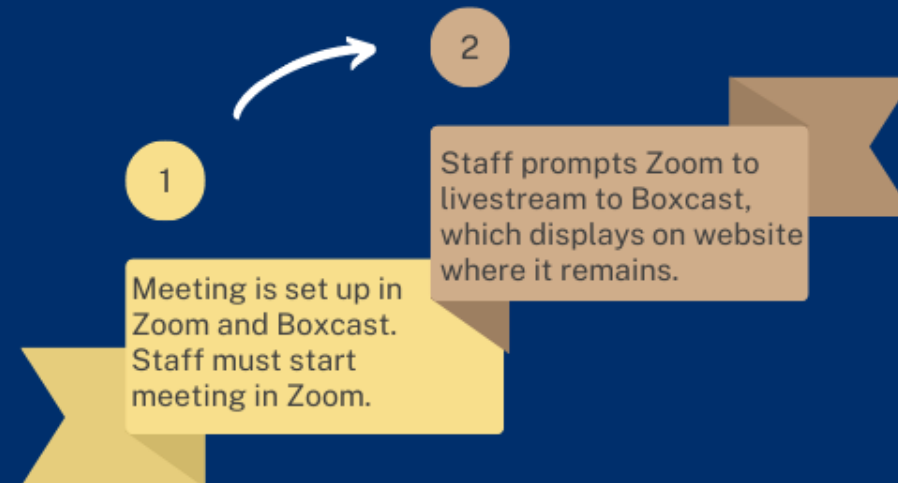
City Staff cannot troubleshoot problems when they occur with a third party. In addition, as changes happen internally with Facebook, this increases the challenges for City staff.

*Livestreaming to Facebook requires a staff member to have a personal Facebook account to access the admin side of the City Facebook page.

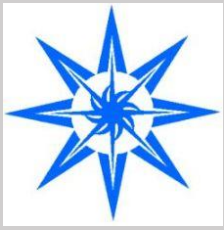
How we currently stream and store video



How we could stream and store video



 Indicates past technical difficulty



Options

- Continue with current operations

- Preferred option:

Record directly through Zoom to Boxcast, which will live stream and post on the City website.

- The public is still able to view meetings in real time through the website.
 - Removes unpaid third party from the equation.
 - This option will automatically record to the website, eliminating staff time to process the recordings.
 - Any Staff member can manage the livestreaming options.
- Research other third-party platforms



Other jurisdictions

Update on jurisdictions (Jan 2022)			
Meetings on Facebook with comments	YouTube w/comments	YouTube w/o comments	No Facebook or YouTube
Prairie Village	De Soto	Gardner	Edgerton
Mission	Fairway	Leawood	Lake Quivira
Sedgwick Co.	Merriam	Roeland Park	Lenexa
	Douglas County	Spring Hill	Mission
		Kansas	Mission Woods
			Olathe
			OP
			Shawnee
			Westwood
			Westwood Hills
			Unified Govt
			KCMO
			Jackson Co.

MAYOR'S ANNOUNCEMENTS
Monday, May 1, 2023

Board of Zoning Appeals	05/02/2023	6:30 p.m.
Planning Commission	05/02/2023	7:00 p.m.
Tree Board	05/03/2023	6:00 p.m.
Diversity Committee	05/09/2023	4:00 p.m.
Arts Council	05/10/2023	5:30 p.m.
Parks and Recreation Committee	05/10/2023	5:30 p.m.
Arts Council Art of Photography Reception	05/10/2023	7:00 p.m.
Peace Officers Memorial Ceremony	05/15/2023	7:30 a.m.
City Council	05/15/2023	6:00 p.m.

INFORMATIONAL ITEMS
May 1, 2023

1. Environmental Committee meeting minutes – March 22, 2023
2. City Council work session prioritization exercise results – April 24, 2023
3. JazzFest meeting minutes – April 25, 2023
4. May plan of action

The Prairie Village Environmental Committee met Wednesday, March 22, 2023, at 5:30 p.m. at the Prairie Village City Hall MPR.

The meeting was called to order at 5:31 pm.

Members in attendance

Piper Reimer (Chair), Greg Shelton (Co-Chair), Ashley Freburg (Staff Liaison), Stephanie Alger, Warren Smith, Paul Winn, Mckenna Owens, Rick Wohlfarth, Johanna Comes, Dave Huyett, Rich Dalton
Nathan Kovac, Travis Carson
Also in attendance, Teen Council member Ainsley Pyle

Approval of the agenda

Johanna moved to approve the agenda. Stephanie seconded the motion. All in favor.

Following discussion, committee members requested that a few paper copies of the meeting agenda be provided at each meeting.

Approval of February 2023 meeting minutes

Nathan moved to approve the minutes. Warren seconded the motion. All in favor.

Presentation

Energy representatives, Kim Winslow, Senior Director of Energy Solutions, and Scott Jones, Senior Community Business Manager, explained energy efficiency programs available to residents, businesses and hard-to-reach customers, followed by question/answer. Some programs Energy currently offers Missouri residents may soon be available to Kansas residents, pending KCC approval.

New Business

2024 Budget Request discussion.

<i>Budget Item</i>	<i>Estimated Cost</i>
<i>Smart Thermostat Pilot Program</i>	<i>\$2,000</i>
<i>OP Recycling Extravaganza Partnership</i>	<i>\$1,400</i>
<i>EC Info Promotions/Marketing</i>	<i>\$1,000</i>
<i>Subsidize Composting</i>	<i>\$1,000</i>
<i>NEJC Shredding/E-cycle event</i>	<i>\$1,000</i>
<i>Supplies for Events</i>	<i>\$500</i>
<i>Total</i>	<i>\$6,900</i>
<i>Unallocated</i>	<i>\$1,100</i>

2024 budget requests are due on April 7. Piper provided a potential budget for 2024, which includes very similar expenses to those for 2023, minus the 2023 one-time expenses. Numbers reflect anticipated increased expenses for the OP Recycling Extravaganza due to the increased cost of tent rental, and the September Community Recycling/Shredding event, which will likely

be based on participation data from this year's event. VillageFest and JazzFest expenses will likely remain similar to 2023. Once we have completed 2023 events, the committee will have more concrete numbers for 2024. The intent of this discussion is to determine the request for the 2024 committee budget and to consider maintaining the previous level of \$8000. Proposed 2024 Budget:

Johanna moved to request \$8000 for the 2024 committee budget. Nathan seconded the motion. All in favor.

Smart Thermostats: discussion tabled until April.

Old Business

Mayor's Monarch Pledge: the Mayor has agreed to recommit to the pledge for 2023. Johanna and Ashley will collaborate to submit this by the 3/31 deadline.

2023 Promotions budget: tabled until April.

Overland Park Recycling Extravaganza: Piper provided a reminder that the event is Saturday, April 22, Earth Day, and that anyone who wants to volunteer can access the link in the email she previously sent, or through the Overland Park website.

Community Recycling/Shredding event update: the participating municipalities have determined a participation fee schedule for this year. The cost for Prairie Village will be approximately \$450. The remainder of the money budget for this event will be spent on promotion.

Curbside Composting: Olathe Food Waste Kiosk: tabled until April.

Announcements

1. 2023 Sustainability Grant funding is still available. Please spread the word.
2. Location of emergency exits: Piper gave a brief overview of the location of the emergency exits, particularly the one located in the MPR, but also the one located in the back of the kitchen off the Council Chambers.
3. Next meeting: April 26, 5:30, secretary: Stephanie, who stated she will likely be out of town.

Adjourn

Rich made a motion to adjourn the meeting. Mckenna seconded the motion. All in favor.

Meeting adjourned at 7:10 p.m.

**City Council Work Session
Monday, April 24, 2023
Prioritization Exercise Results**

***Original Instructions:
Cumulative Voting***

Please spread up to 20 points across the categories below to show emphasis and prioritization for continued study on these topics. You may assign zero points or less than 20, but no more than 20. You may put all of the points on one category or spread in any increment you wish.

Allocating points to an item does not necessarily mean you are in favor of changing anything - just that you believe that item is worthy to continue through the process with additional staff research, public input, Planning Commission feedback, and ultimately Public Hearings and official ordinances.

Prioritization Exercise Results

Topic	Total Points
Housing Study	16
Accessory Dwelling Units	24
Neighborhood Design Guidelines	107
Building Permit Fees/Incentives	25
Lot Size	7
Short Term Rentals	46
Other (Long Term Rentals)	14

Prairie Village Jazz Fest 2023
Committee Meeting
Tuesday April 25, 5:30 p.m.

Attendees

Dave Hassett	Food and Beverage Chair
Amanda Hassett	VIP Services Chair
Joyce Hagen Mundy	Volunteers Chair
J.D. Kinney	Special Events Coordinator, Committee Chair
Elissa Andre	Marketing Chair
Dave Robinson	Prairie Village City Council, Council Liaison
Kyle Vanlanduyt	Master of Ceremonies
Brooke Morehead	Sponsorships Chair

Committee Chair's Report

The 2024 Jazz Fest budget was approved at the City Council Meeting April 17. The budget is the same for 2024 as it was in 2023.

The 2023 Jazz Fest budget is in good shape. We have sufficient funds available to contract with talent and put down deposits for stage and tents.

Fundraising and Sponsorships

Plan to have Inn at Meadowbrook on the back of the fan since they generate the TGT. Elissa to follow up to get refreshed creative.

Talent

Alex Toepfer reported via email that he is in discussion with a number of potential acts. Two are confirmed, three are in negotiations. Our goal is to have all acts under contract by the end of May.

F&B

Dave Hassett reported via email that Crawford Sales confirmed for beer and seltzer donation. Polar Oasis is confirmed and contract is received. The Mad Greek and Butter Fluff Kettle Corn are available and planning to attend contracts pending final signature. 3 other food trucks contacted to gauge interest and availability.

VIP Services

Need to purchase 1 adirondack chair to replace the one that broke in 2022

Stage, Lighting and Technical Services

Jim Barnes reported via email that SECT, Aching Backline and Jones Piano are confirmed.

Infrastructure

Will be contacting AAA Party Rental in May

Marketing

Elissa Andre reported that she was updating our social media. She is confirming that there are no carryovers from the 2022 rainout that we can apply to 2023, and confirming rates with vendors for 2023. We are scheduled for our regular buy with Shawnee Mission Post. Ashley Freburg is working on the design of the stage banner that goes across the front of the canopy above the stage. SECT sent the banner dimensions and specs based on the size of the canopy.

Elissa will be looking into printing a quantity of small posters and matching tent cards to distribute at local merchants and restaurants. Brooke to head up distribution of these posters.

Backstage/Artist Hospitality

10x20 tent for the area adjacent to the 20x20 main backstage tent ordered April 21.

City Committees

Elissa asked if the Johnson County Library might qualify for the same consideration as a City Committee for purposes of setting up a tent to sign attendees up for library cards and highlighting the Library's collection.

The next Jazz Fest Committee meeting was scheduled for Tuesday May 23, 2023, at 5:30 pm in the MultiPurpose Room.

The meeting concluded at 6:00 p.m.


Respectfully submitted: JD Kinney

THE CITY OF PRAIRIE VILLAGE

STAR OF KANSAS

DATE: April 27, 2023

TO: Mayor Mikkelson
City Council

FROM: Wes Jordan 

SUBJECT: MAY PLAN OF ACTION

The following projects will be initiated during the month of May:

- Legislative End of Session Update - Nickie (05/23)
- Finalize 2022 Comprehensive Annual Financial Report - Jason (05/23)
- Juneteenth Celebration Event - Tim (05/23)
- 2024 Budget Process - Staff (05/23)
 - Finance Committee Budget Review
 - CIP Discussion and Road Assessment
 - Establish Solid Waste Fees
 - ARPA Fund
 - Mission Hills Budget
- Community Center - Wes/Keith (05/23)
 - MOU w/YMCA
 - MOU w/Library
 - RFQ Owners Representative
- Renewal of MultiStudio Contract - Nickie (05/23)
- Hy-Vee Gas SUP - Nickie (05/23)
- Update Design Guidelines in R1-B - Nickie/Chris (05/23)
- Short Term Rental Zoning Update - Nickie/Chris (05/23)
- Planning for Housing Forums in R-2/R-3/R-4/Commercial - Nickie/Chris (05/23)
- RFP for Phone System - Tim (05/23)

In Progress

- Summer Tennis Programs & Registration - Meghan (04/23)
- Employee Benefits Broker RFP - Cindy/Tim (04/23)
- Pool Open Planning and Preparation - Meghan (03/23)
- 2022 Financial Audit - Jason/Nickie (03/23)
- KERAMIDA Sustainability Program implementation - Meghan/Ashley (03/23)
- Livestreaming Alternatives - Tim/Staff (03/23)
- 2024 Budget Process - Staff (03/23)
 - Equipment Reserve Fund - Dept. Heads

- Healthcare/Benefit costs - Cindy/Tim
- Merit Pool - Staff
- Personnel Assumption
- Use of TGT Funds
- COPS Grant - PD (03/23)
- Lifeguard and Pool Operational Staff Hiring - Meghan - (01/23)
- Marketing Strategy Evaluation - Ashley/Meghan (01/23)
- Annual Every Update - Wes (12/22)
- Research Federal Infrastructure/Jobs Act Grants - Jason/Nickie (12/22)
- Public Arts Fund program planning - Nickie/Meghan (11/22)
- Park Sign Replacement and Branding Process - Melissa (9/22)
- Lap Pool Repair Project - Keith (08/22)
- Recycle Right Initiative - Ashley/Adam (07/22)
- Subdivision Regulations Amendments/Easement Vacation - Nickie/Chris (04/22)
- Agenda Management Software Evaluation - Adam/Ashley (12/21)
- Phone System Replacement - IS (11/21)
- Researching Department of Energy Solar App+ Program - Nickie (10/21)
- American Rescue Plan Act Fund Uses & Expiration - Staff (04/21)
- 2021 International Energy Conservation Code - Nickie/Mitch (03/21)
- Research Viability of Interior Rental Inspections - Nickie (06/19)

Completed

- Annual Health Risk Assessments - Cindy (01/23)
- Standard Contract Review w/Insurance Carrier - Keith/Melissa (02/23)
- Seven Days Program - Meghan (02/23)
- May/June Village Voice - Ashley/Staff (04/23)
- Johnson County Crime Lab Presentation - Chief (04/23)
- Antisemitism Resolution/Presentation - Tim/Wes (04/23)
- Seven Days Proclamation - Meghan (04/23)
- Property Tax Rebate Program Funding - Adam (04/23)
- Memorial Plaques in Parks Policy Update - Meghan (04/23)
- Community Center Survey Presentation - Wes (04/23)
 - Next Steps Consideration
- 2024 Budget Process - Staff (03/23)
 - Department Budget Reviews by Line Item - Dept. Heads
 - Committee Funding Requests
 - Decision Packages
 - Insurance Cost Assumptions
 - Preliminary Revenue Estimates Report
- Large Item Pickup Coordination/Promotion - Adam/Ashley (03/23)
 - Sleepyhead Bed Mattress Recycling
- New Committee Member Orientation - Staff/Committee Chairs (03/23)
 - Waiver Form
 - Code of Conduct

- Video of CP-001
- Video of KORA Requirements
- Website Update
- Teen Council Presentations - Piper/Meghan (02/23)
- Ad Hoc Housing Committee Recommendations - Nickie/Chris (07/22)
- Ward Boundaries - Nickie/Chris (06/22)
- Teen Council Graduation - Meghan (04/23)
- Special Use Permit Renewal/Hy-Vee Gas - Adam (04/23)
- Insurance Renewal Presentation - Jason (04/23)

Ongoing

- City Hall/PD Feasibility Study - Melissa/Staff (04/22)
- Business Continuity Plan - Tim/Dan/Nickie (03/22)
- Disaster Recovery Plan - Dan/Tim (03/22)
- Diversity Training - Tim/Cindy (06/22)

Tabled Initiatives

- Pool Mural Project - Meghan (04/21) [placed on hold until the Community Center discussion is decided upon]
- Review & update the City Code/Ordinances
- Review & Update City Policies
- Review of Smoking Ordinance/e-cigs
- Single Use Plastic Bag Discussion - Staff (02/20) [[pending Council direction](#)]