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**COUNCIL MEETING AGENDA
CITY OF PRAIRIE VILLAGE
Council Chambers
Monday, September 18, 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

- National Suicide Prevention Month proclamation
- Diaper Needs Awareness Week proclamation
- National Co-Responder and Crisis Responder Week proclamation
- Every presentation – Tisha Johnson / Scott Jones

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 September 18. 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 – September 5, 2023

IX. COMMITTEE REPORTS

X. MAYOR'S REPORT

XI. STAFF REPORTS

XII. OLD BUSINESS

XIII. **NEW BUSINESS**

COU2023-54 Consider purchase request for police vehicles
Chief Roberson

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

COU2023-55 Consider approval of the purchase of a new telephone system and
service agreement with Allegiant Technologies
Tim Schwartzkopf

XV. **ANNOUNCEMENTS**

XVI. **ADJOURNMENT**

If any individual requires special accommodations - for example, qualified interpreter, large print, reader, hearing assistance - in order to attend the meeting, please notify the City Clerk at 913-385-4616, no later than 48 hours prior to the beginning of the meeting.
If you are unable to attend this meeting, comments may be received by e-mail at cityclerk@pvkansas.com.

CITY OF PRAIRIE VILLAGE

Proclamation

National Suicide Prevention Awareness Month

WHEREAS, September is known around the United States as National Suicide Prevention Awareness Month and is intended to help promote awareness surrounding each of the suicide prevention resources available to us and our community. The simple goal is to learn how to help those around us and how to talk about suicide without increasing the risk of harm; and

WHEREAS, Suicidal thoughts can affect anyone regardless of age, gender, race, orientation, income level, religion, or background; and

WHEREAS, According to the CDC, each year more than 41,000 people die by suicide, or one every 12 minutes; and

WHEREAS, Suicide is the 10th leading cause of death among adults in the US, and the 2nd leading cause of death among people aged 10-24; and

WHEREAS, Many people who struggle with thoughts of suicide have not received effective behavioral health services for many reasons, including the difficulty of accessing services, the stigma of behavioral health treatment and the stigma associated with losing a loved one to suicide; and

WHEREAS, every member of our community should understand that throughout life's struggles we all need the occasional reminder that we are all silently fighting our own battles; and

WHEREAS, we encourage all residents to take the time to inquire as to the well-being of their family, friends, and neighbors over the next few days and to genuinely convey their appreciation for their existence by any gesture they deem appropriate. A simple phone call, message, handshake, or hug can go a long way towards helping someone realize that suicide is not the answer.

Now, therefore, I, Eric Mikkelson, Mayor of the City of Prairie Village, do hereby proclaim the month of September 2023 as

NATIONAL SUICIDE PREVENTION AWARENESS MONTH

in the City of Prairie Village, dated this 18th day of September 2023.

Mayor Eric Mikkelson

Adam Geffert, City Clerk

CITY OF PRAIRIE VILLAGE

Proclamation

Diaper Need Awareness Week – September 18 through September 24, 2023

WHEREAS, diaper need, the condition of not having a sufficient supply of clean diapers to keep babies and toddlers clean, dry, and healthy, can adversely affect the health and well-being of babies, toddlers, and their families; and

WHEREAS, national surveys and research studies report that nearly one in two families struggle with diaper need, and 48 percent of families delay changing a diaper to extend the available supply; and

WHEREAS, a daily or weekly supply of diapers is generally an eligibility requirement for babies and toddlers to participate in childcare programs and quality early-education programs that enable children to thrive and parents to work; and

WHEREAS, many parents struggling with diaper need report missing an average of five days of work each month due to an insufficient supply of diapers; and

WHEREAS, without enough diapers, babies and toddlers risk infections and health problems that may require medical attention resulting in medical costs, and parents may be prevented from accessing childcare needed to go to work or school, thereby destabilizing the family's economic prospects and well-being; and

WHEREAS, the people of Prairie Village recognize that diaper need is a public health issue, and addressing diaper need can lead to economic opportunity for the city's families and communities and improved health for children, thus ensuring all children and families have access to the basic necessities required to thrive and reach their full potential; and

WHEREAS, Prairie Village acknowledges trusted community-based organizations such as HappyBottoms, that recognize the importance of diapers in ensuring health and providing economic stability for families and thus distribute diapers to families through various channels; and

WHEREAS, through their important work of addressing diaper need, diaper banks play a critical role in supporting families, improving infant health and well-being, and advancing our local and state economic growth.

Now, therefore, I, Eric Mikkelson, Mayor of the City of Prairie Village, do hereby proclaim the week of September 18th through September 24th, 2023, as

NATIONAL DIAPER NEED AWARENESS WEEK

in the City of Prairie Village, and thank HappyBottoms, their staff, volunteers, and donors, for their courageous service during the crisis, and encourage the citizens of the City of Prairie Village to donate generously to diaper banks, diaper drives, and support those organizations that collect and distribute diapers to families struggling with diaper need, so that all the City's children and families can thrive and reach their full potential.

Mayor Eric Mikkelson

Adam Geffert, City Clerk

CITY OF PRAIRIE VILLAGE

Proclamation

National Co-Responder and Crisis Responder Week September 18 – 22, 2023

WHEREAS, Prairie Village, Kansas, has continued to address the rising demand for mental health and substance use services; and

WHEREAS, mental health and substance use challenges can lead to homelessness, incarceration, and emergency room visits, which are more intrusive and costly for communities than earlier interventions and connection to behavioral health services; and

WHEREAS, Prairie Village, Kansas, has recognized the need for additional resources for individuals experiencing mental health crises and identified co-responders and police department training on CIT, as an emerging, effective practice; and

WHEREAS, the Johnson County Mental Health Center's Co-Responder Program was established in 2011 to embed mental health clinicians with law enforcement agencies to respond collaboratively to individuals in crisis, provide the right intervention at the right time to avoid arrests, emergency room visits, and repeated 911 calls by connecting to appropriate resources; and

WHEREAS, today, the co-responder program has 20.5 co-responder positions at 15 partnerships with local law enforcement agencies, two of which are embedded with the Prairie Village Police Department;

NOW THEREFORE, I, Eric Mikkelson, Mayor of the City of Prairie Village, in recognition of their service to our community, the week of September 18th as National Co-Responder and Crisis Responder Week in the City of Prairie Village, Kansas.

Mayor Eric Mikkelson

Adam Geffert, City Clerk



**CITY COUNCIL
CITY OF PRAIRIE VILLAGE
SEPTEMBER 5, 2023**

The City Council of Prairie Village, Kansas, met in regular session on Tuesday, September 5, 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, Ron Nelson, Lauren Wolf, Bonnie Limbird, Dave Robinson, Piper Reimer (via Zoom), Greg Shelton, Courtney McFadden, Ian Graves, and Terrence Gallagher. Staff present: Byron Roberson, Chief of Police; Keith Bredehoeft, Director of Public Works; Attorney Joe Hatley, Spencer Fane LLP; Wes Jordan, City Administrator; Nickie Lee, Deputy City Administrator; Meghan Bum, Assistant City Administrator; Jason Hannaman, Finance Director; Adam Geffert, City Clerk.

PLEDGE OF ALLEGIANCE

APPROVAL OF AGENDA

Mr. Dave Robinson made a motion to approve the agenda as presented. Ms. Limbird seconded the motion, which passed 11-0.

INTRODUCTION OF STUDENTS AND SCOUTS

No students or scouts were present at the meeting.

PRESENTATIONS

- Mr. Nelson read a proclamation declaring September 17 - 23 as Constitution Week in Prairie Village.
- Mayor Mikkelson read a proclamation declaring September 9 as Fetal Alcohol Spectrum Disorders Awareness Day. Kathy White with the Kansas FASD Support Network shared information about the group's goals and accomplishments.
- Mr. Cole Robinson read a proclamation declaring September 15 - October 15 as National Hispanic Heritage Month.

PUBLIC PARTICIPATION

- Tom Clough, Ward 5, provided thoughts on leadership.



CONSENT AGENDA

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

1. Consider approval of special session City Council meeting minutes - August 16, 2023
2. Consider approval of regular City Council meeting minutes - August 21, 2023
3. Consider approval of expenditure ordinance #3029
4. Consider approval of a council policy to establish a public arts fund

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, Nelson, Wolf, Limbird, D. Robinson, Reimer, Shelton, McFadden, Graves, Gallagher. The motion passed 11-0.

COMMITTEE REPORTS

- Mr. Cole Robinson noted that the Diversity Committee had partnered with the Jewish Community Relations Bureau and American Jewish Committee to hold an informational event about the rise of antisemitism at the Meadowbrook Park clubhouse on September 7.
- Ms. Limbird shared that the Arts Council’s State of the Arts event would be held September 13, and that the call for artists for 2024 gallery exhibits had opened.
- Mr. Shelton said that the Environmental Committee held a meeting the prior week, at which an update was provided regarding Johnson County’s “Recycle Right” program. Since the project began in Prairie Village, county staff had visited over 2,000 homes to analyze the contents of recycle bins and provide information about how to correctly recycle items. Mr. Shelton said that the project would continue until all homes in the City had been visited.
- Mr. Dave Robinson stated that the annual JazzFest event would be held on Saturday, September 9.
- Mr. Gallagher thanked pool staff for a successful season and shared that the Parks and Recreation Committee would be considering solutions to reduce the volume level of the pickleball courts at Windsor Park.
- Ms. Reimer noted that recruitment for the Youth Council was underway, and that the application deadline was September 15.



MAYOR'S REPORT

- The Mayor shared that he had participated in Shawnee Mission East's annual Lancer Day parade on August 31
- The Mayor noted the following upcoming events:
 - A Johnson County District Court Judge would provide an opinion on whether three City-related petitions submitted to the Johnson County Election Office should be placed on the November ballot on September 6
 - A meeting of the Johnson County / Wyandotte County Mayor's group on September 6
 - A meeting of the Northeast Johnson County Mayors on September 15
 - A tour of the animal shelter used by the Police Department animal control staff
 - A zoom call with the mayor of Prairie Village's sister-city, Dolyna, Ukraine, to recognize its 1,044th anniversary
 - The Shawnee Mission Education Foundation's annual breakfast on September 13
 - The NAACP Freedom Banquet on September 17

STAFF REPORTS

- Mr. Jordan said that the September plan of action was included in the meeting packet.
- Chief Roberson provided a report on first-half crime statistics for 2023 and noted that the Police Department's Citizens Academy would begin on September 6.
- Ms. Lee stated that a discussion on amending the City's neighborhood design guidelines would be brought to Council to consider at its October 2 meeting.

OLD BUSINESS

None

NEW BUSINESS

COU2023-52

Public hearing to receive comments regarding the City exceeding the revenue neutral rate

Consider Resolution 2023-03 approving a tax rate of mill levy rate in excess of the revenue neutral rate for the 2024 budget year

Mr. Hannaman said that the Governing Body had approved the preliminary budget at its June 20, 2023, meeting and approved the notice to exceed the revenue neutral rate on July 17, 2023. The proposed 2024 budget would maintain the same level of services as



the 2023 budget and would transfer an additional \$1,150,000 to the Bond and Interest Fund in preparation for potential City Hall improvements. Mr. Hannaman noted that the revenue neutral rate was defined as the tax rate in mills that would generate the same property tax in dollars as the previous tax year using the current tax year's total assessed valuation. The 2024 recommended budget was based on a total mill rate of 18.309, the same amount as 2023.

Mr. Hannaman added that per Senate Bill 13, the recommended budget required a public hearing to exceed the revenue neutral rate provided by the County Clerk, which in Prairie Village would be 15.806 mills in 2024. Notice of intent to exceed the revenue neutral rate was provided to the County Clerk prior to July 20 and the public hearing notice was published on July 25, 2023.

Mr. Gallagher asked what would happen if Council did not approve exceeding the revenue neutral rate. Mr. Hannaman stated that doing so would reduce general fund revenue by approximately \$1.5 million in 2024, which would require either cuts to services or the utilization of dollars from the general fund balance which could result in a lower bond rating for the City.

After further discussion, Mayor Mikkelson opened the public hearing to receive comments regarding the City exceeding the revenue neutral rate at 7:10 p.m.

- Tom Clough, Ward 5, provided his perspective on trust between the Council and residents.
- John Anderson, Ward 1, expressed his belief that expenses could be reduced.

With no one else present to speak, Mayor Mikkelson closed the public hearing at 7:14.

Mrs. McFadden made a motion to approve Resolution 2023-03 approving a mill levy rate in excess of the revenue neutral rate for the 2024 budget year. The motion was seconded by Mr. Graves. A roll call vote was taken with the following votes cast: "aye": Herring, C. Robinson, Nelson, Wolf, Limbird, D. Robinson, Reimer, Shelton, McFadden, Graves, Gallagher. The motion passed 11-0.

COU2023-53 Public hearing for the 2024 budget

Consider 2024 budget adoption

Mr. Hannaman stated that the "all in number" for general fund expenditures in the 2024 budget represented a 13% increase over 2023, totaling \$31,586,176. Approximately \$1.2 million of that total represented increased personnel costs from the implementation of the 2022 salary study, an amount in excess of what was originally budgeted as part of the



2023 budget. If the 2023 budget had included the full amount of actual personnel increases, the total 2024 budget increase would equal 8.9%.

At 7:16 p.m., Mayor Mikkelson opened the public hearing to receive comments regarding the proposed 2023 budget.

- Tom Clough, Ward 5, asked if any insurance benefits or other compensation for Councilmembers were included in the budget. Mr. Hannaman stated there were not.

With no one else present to speak, Mayor Mikkelson closed the public hearing at 7:17.

Mr. Herring made a motion to adopt the 2024 budget as certified with ad valorem tax in the amount of \$11,724,185. The motion was seconded by Ms. Limbird. A roll call vote was taken with the following votes cast: “aye”: Herring, C. Robinson, Nelson, Wolf, Limbird, D. Robinson, Reimer, Shelton, McFadden, Graves, Gallagher. The motion passed 11-0.

COUNCIL COMMITTEE OF THE WHOLE

There was no business to come before the Council Committee of the Whole.

EXECUTIVE SESSION

At 7:30 p.m., Mr. Nelson made the following motion:

“I move that the Governing Body recess into Executive Session for 45 minutes for consultation with an attorney regarding petitions which would be deemed privileged in the attorney-client relationship pursuant to KSA 75-4319(b)(2). Present will be the members of the Governing Body, the City Administrator, Deputy City Administrator, Assistant City Administrator, and City Attorney Co-Counsel. The regular meeting will resume at 8:15 p.m.”

Mr. Graves seconded the motion, which passed 11-0.

The regular meeting reconvened at 8:15 p.m.

ANNOUNCEMENTS

Announcements were included in the Council meeting packet.

ADJOURNMENT

Mayor Mikkelson declared the meeting adjourned at 8:16 p.m.

Adam Geffert
City Clerk



POLICE DEPARTMENT

Council Meeting Date: September 18th, 2023

COU2023-54: CONSIDER PURCHASE REQUEST FOR POLICE VEHICLES

RECOMMENDATION

Staff recommends the purchase of two (2) 2023 Chevrolet Tahoe Police SUVs to replace two current patrol vehicles.

COUNCIL ACTION REQUESTED ON September 18th, 2023.

BACKGROUND

On an annual basis, the Police Department replaces older police units due to age, mileage, and/or maintenance problems. The Police Department received authorization to place an order for three new police units in March of 2023. No local vendors chose to participate in the Mid-America Regional Council cooperative bidding process. To date, the Police Department received only one of the ordered vehicles which was a specialty vehicle for the Traffic Unit. The Department has researched alternatives for replacing the ordered vehicles with available stock offered by other car manufacturers. The Chevrolet Tahoe is a commonly used police vehicle that meets all the specifications asked for when ordering the Ford Interceptors. A Wichita area dealership has the vehicles available for purchase. The Police Department inquired with other local Chevrolet dealerships and were advised that there were no local vehicles available. The purchase price for both vehicles will be \$99,000.00

The purchase price of (3) vehicles is \$136,746.00, which was previously approved by the City Council as part of the 2023 Public Safety Budget. The purchase price of the two Chevrolet Tahoe vehicles will cause an overage of \$7,836. This amount can be absorbed within other cost centers in the 2023 approved police budget.

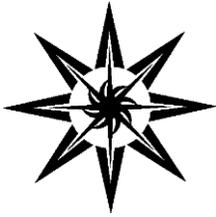
FUNDING SOURCE

01-03-25-8006-000 / \$125,000.00

PREPARED BY

Chief Byron Roberson
Police Chief

Date: September 13th, 2023



ADMINISTRATION

Council Committee Meeting Date: September 18, 2023

COU2023-55

Consider approval of the purchase of a new telephone system and service agreement with Allegiant Technologies

RECOMMENDATION

Motion to approve the purchase of the new telephone system and service agreement with Allegiant Technologies for no more than \$89,330.79.

COUNCIL ACTION REQUESTED ON: October 2, 2023

BACKGROUND

In November 2022, the City contracted with Swartz Consulting to assist with the selection of a new telephone system. An RFP was sent out in March 2023 and the City received six responses. Along with the consultant, a selection team from the City with representatives from all departments reviewed and graded the RFP responses. Two vendors, Allegiant and Towner Communications, were selected to move forward and provided presentations to the City. After the presentations, City Staff conducted reference checks, and had subsequent follow-up meetings. City staff, along with Swartz Consulting, recommends moving forward with Allegiant Technologies. Allegiant's system final proposal was the most competitive of the vendors. Allegiant currently services our phone system and is familiar with our architecture and should provide a more seamless transition. Allegiant's on-going maintenance and software update costs were higher than Towner, however their responsiveness, service team, and holistic proposed solution resulted in their selection as the preferred vendor.

During the telephone system review, staff determined that Allegiant Technologies could provide a comprehensive solution that meets all our phone system needs. They offer off-site redundancy for the phone system for improved reliability. Their proposal also includes the dial tone services needed to connect the system to the outside world, replacing expensive existing services.

Overall, this solution will improve reliability, reduce monthly costs, and simplify operations by providing staff a single point of contact for all phone system issues, including billing.

The quote for hardware, three years of pre-paid support, and transition to the Allegiant Data Center is \$81,230.79. An additional contingency of 10%, \$8,100.00, is also being requested. One-time costs total no more than \$89,330.79.

The monthly costs include a 500 Mbps fiber connection (\$1,255.84) for access to the new system, Allegiant SIP trunk lines (\$252.50) for the outside dial tone services, and connection to the Allegiant Data Center for redundancy (\$229.99) for a total of approximately \$1,738.33 month (plus applicable taxes) for telephone services.

For comparison, today the City pays \$3,100 per month for the fiber and SIP trunks only, and has no redundancy solution.

The on-going monthly costs will come from the City's operating budget.

The City Attorney has approved the master services agreement as to form.

FUNDING SOURCE

ARPA funds – for one-time costs

Operating Budget – monthly recurring costs

ATTACHMENTS

Allegiant Proposal

Allegiant Master Service Agreement

PREPARED BY

Tim Schwartzkopf

Assistant City Administrator

September 12, 2023

Proposal for City of Prairie Village



Delivering Exceptional User Experiences

Empower your organization's IT and Voice team with the support of our trusted experts

Sourcewell Mitel Pricing for RFP

Quote No: ATQQ12573-01

Prepared On: 7/20/2023

Prepared for:

City of Prairie Village

Dan Clark
(913) 385-4606
dclark@pvkansas.com

Prepared by:

Allegiant Technology

Jim Walker
(913) 402-2232
jim.walker@allegiantnow.com



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Prepared By:
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Quote No: ATQQ12573-01
Prepared On: 7/20/2023
Expires On: 11/1/2023

City of Prairie Village
 7700 Mission Rd
 Prairie Village, KS 66208-4230
 United States

Allegiant Technology
 10983 Granada Lane
 Suite 300

Core Telephony Infrastructure

Qty	Description	Term	Unit Price	Ext. Price
3	MiVoice Business Console Bundle		\$1,092.00	\$3,276.00
2	MiVB on SMB Controller		\$1,230.00	\$2,460.00
2	SMB Controller 8/38G		\$690.00	\$1,380.00
2	SMBC rack mount kit		\$30.00	\$60.00
3	System Module 2 DSPX		\$286.65	\$859.95
1	Enterprise License Group		\$600.00	\$600.00
2	UCCv4.0 STND User for MiVoice Bus x50		\$0.00	\$0.00
1	NPUM Record A Call		\$0.00	\$0.00
3	MiCb NPUM Mailbox Calldir x1		\$0.00	\$0.00
5	MiVoice Bus License - Enterprise User		\$0.00	\$0.00
1	MiCClient Licnse - Peering Adv Server		\$0.00	\$0.00
1	MiCClient Licnse - Federation Adv Server		\$0.00	\$0.00
1	MiCollab Virtual Appliance		\$0.00	\$0.00
3	MiCollab Client presence for MiVB Consl		\$0.00	\$0.00
3	MiCb Client user for MiVBC operator		\$0.00	\$0.00

Allegiant Technology

10983 Granada Lane, Suite 300

Overland Park, KS 66211

24/7/365 Help Desk: 913.599.6900

allegiantnow.com

ATQQ12573-01

CONFIDENTIAL

Devices

Qty	Description	Term	Unit Price	Ext. Price
89	6920w IP Phone		\$243.00	\$21,627.00
11	6930w IP Phone		\$312.00	\$3,432.00
2	6970 IP Conference Phone		\$474.00	\$948.00
2	PWR CRD C7 2.5A 125V-NA PLUG NON POLRIZD		\$8.40	\$16.80

System Warranty & On-Going Support

Qty	Description	Term	Unit Price	Ext. Price
3	SWA Adv 3y MiVBus Console		\$298.80	\$896.40
1	SWA Adv 3y MiVBus DLM		\$0.00	\$0.00
5	SWA Adv 3y MiVBus User		\$22.85	\$114.25
1	SWA Adv 3y MiCollab System		\$219.60	\$219.60
3	SWA Adv 3y MiCollab UM Mailbox		\$7.53	\$22.59
100	SWA Adv 3y UCC Std MiVB		\$45.20	\$4,520.00
2	SWA Adv 3y MiVBus on SMB Controller		\$261.60	\$523.20
102	Remote Care Standard User Support (5 Months Pre-Paid) - Prorated 2023 Year (8/1/2023 - 12/31/2023)		\$17.50	\$1,785.00
102	Remote Care Standard User Support (1 Year Pre-Paid) - Full 2024 Year (1/1/2024 - 12/31/2024)		\$42.00	\$4,284.00
102	Remote Care Standard User Support (1 Year Pre-Paid) - Full 2025 Year (1/1/2025 - 12/31/2025)		\$42.00	\$4,284.00
102	Remote Care Standard User Support (1 Year Pre-Paid) - Full 2026 Year (1/1/2026 - 12/31/2026)		\$42.00	\$4,284.00

Implementation

Qty	Description	Term	Unit Price	Ext. Price
30	Project Coordination & Training Labor (Onsite & Remote - Time & Materials)		\$149.00	\$4,470.00
90	Implementation Labor (Onsite & Remote - Time & Materials)		\$189.00	\$17,010.00
4	Implementation Labor - Overtime (Onsite & Remote - Time & Materials)		\$283.50	\$1,134.00

Allegiant Technology

Resilient Configuration in Allegiant Data Center

Qty	Description	Term	Unit Price	Ext. Price
10	Internet Access Bandwidth - Per Mbps	36 months	\$5.00	\$50.00 (Billed Monthly)
1	Public IPv4 Address	36 months	\$10.00	\$10.00 (Billed Monthly)
1	Rack Unit & Power 1-5 RU	36 months	\$70.00	\$70.00 (Billed Monthly)
1	Allegiant Hosted Data Center Firewall with Basic Security	36 months	\$99.99	\$99.99 (Billed Monthly)
8	Implementation Labor (Onsite & Remote - Time & Materials)		\$189.00	\$1,512.00

- Resilient Configuration in Allegiant Data Center Total is \$229.99 monthly and \$1,512.00 one-time.

Resilient Allegiant SIP Trunking

Qty	Description	Term	Unit Price	Ext. Price
150	US Domestic DID Telephone Number per Month	36 months	\$0.55	\$82.50 (Billed Monthly)
1	Base Domestic US Minutes of Usage - Inbound/Outbound - Tier 0 - (Per Min)	36 months	\$170.00	\$170.00 (Billed Monthly)

- Resilient Allegiant SIP Trunking Total is \$252.50 monthly.

Dedicated Fiber Internet Service

Qty	Description	Term	Unit Price	Ext. Price
500 Mbps AT&T Dedicated Fiber Internet for City Hall				
1	AT&T Managed Internet Service Port - 500 Mbps	36 months	\$760.00	\$760.00 (Billed Monthly)
1	AT&T Managed Internet Service Access	36 months	\$495.84	\$495.84 (Billed Monthly)
8	Implementation Labor (Onsite & Remote - Time & Materials)		\$189.00	\$1,512.00

- 500 Mbps AT&T Dedicated Fiber Internet for City Hall Total is \$1,255.84 monthly and \$1,512.00 one-time.

Allegiant Technology

One Time Charges Summary	
Subtotal:	\$81,230.79
Recurring Charges Summary	
Billed Monthly Total:	\$1,738.33

 **Acceptance**

By signing via signature below you acknowledge that you have authority to sign this document on behalf of your company and agree to the terms and conditions of the attached Quote and related documents including the Master Service Agreement and applicable product or service terms and conditions located at <https://allegiantnow.com/legal/>.

Customer Name: _____

Title: _____

Customer Signature: _____

Date: _____

Master Service Agreement

Allegiant ("Allegiant, we or us")	Customer ("Customer, you or your")
Name: Allegiant Networks LLC Street Address: 10983 Granada Lane, Suite 300 City: Overland Park State/Province: KS Zip Code: 66211 Country: USA	Name: City of Prairie Village, Kansas Street Address: 7700 Mission Road City: Prairie Village State/Province: Kansas Zip Code: 66208 Country: USA

Article I: Introduction & Definitions

- 1. Agreement.** This Master Service Agreement is entered into between you and Allegiant for the purpose of setting forth the terms and conditions for your purchase of Products and Services from us.
- 2. Definitions.** In this Agreement the following definitions shall have the following meanings, and all other capitalized terms have the meanings given to them elsewhere in this Agreement.
 - 2.1. "Allegiant, we, or us"** means Allegiant Networks, LLC. DBA Allegiant Technology.
 - 2.2. "Agreement"** means this Master Services Agreement together with any schedules or appendixes annexed hereto.
 - 2.3. "Colocation Services"** means Customers operation of or use of the Customer Colocation Hardware located at Allegiant's Data Center Site.
 - 2.4. "Colocation Space"** means the designated area in the Data Center Site where the Customer's Colocation Hardware is kept.
 - 2.5. "Commencement Date"** means the date on which the Products or Services are made operational for use by Customer or would have been made available for use but for Customer's delay or default.
 - 2.6. "Confidentiality"** means any information relating to the disclosing party ("Disclosing Party") that is of a confidential or proprietary nature used in or otherwise relating to the Disclosing Party's business, operations, customers or financial or other affairs, including the relations of a party with its customers, employees and service providers, and any such information of employees, customers, affiliates or representatives of a Disclosing Party, which is received by the receiving party ("Receiving Party"), whether communicated in written form, orally, visually, demonstratively, technically or by any other electronic form or other media, or committed to memory, and designated, marked, labeled or identified as confidential or proprietary, including any data or information described above which the Disclosing Party has obtained from a third party and which the Disclosing Party treats as proprietary or designates as Confidential Information, whether or not owned or developed by the Disclosing Party. Confidential Information also includes: the marketing of goods or services including, without limitation, existing and future customer names and lists and other details of existing and future customers; future products, business development or planning, commercial relationships and negotiations; information relating to the Products, and Allegiant's Intellectual Property Rights; information received from third parties that a party is obligated to treat as confidential (including any Third Party Provider Intellectual Property Rights); all information disclosed or made available by a Disclosing Party to the Receiving Party hereunder in connection with this Agreement or the performance of obligations hereunder, whether marked as confidential or proprietary or disclosed orally, after the Effective Date; any personal information; and this Agreement. Notwithstanding the foregoing, the terms "Confidential" and "Confidential Information" shall not include any information the disclosure of which is required, in the opinion of Customer, to be disclosed under applicable law, including but not limited to the Kansas open records act, as amended.
 - 2.7. "Customer, you, or your"** means the Customer as defined in this Agreement.
 - 2.8. "Customer Colocation Hardware"** means any physical hardware (excluding Software) that is owned by Customer and located at Allegiant's Data Center Site.
 - 2.9. "Customer Content"** means any and all software, materials and data owned or licensed by Customer, including text, information, data, images (still and moving), trade-marks, and logos, and any portion thereof and used by Customer in connection with the Products or Services hereto.
 - 2.10. "Customer Hardware"** means any physical hardware (excluding Software) that is owned by Customer.
 - 2.11. "Data Center Site"** means Allegiant's data center.
 - 2.12. "Fees"** means the Prices for the Products or Services and all other fees and charges referenced in this Agreement.
 - 2.13. "Hardware"** means any physical hardware (excluding Software).
 - 2.14. "Hardware Maintenance and Support Services"** means certain maintenance and support services provided by Allegiant for Customer Hardware as defined in this Agreement and on one or more Service or Purchase Orders.
 - 2.15. "Installation Fees"** means the set-up fees for installing the Service.
 - 2.16. "Installation Services"** means the installation of certain Services listed on a Service or Purchase Order.
 - 2.17. "Intellectual Property Rights"** means any and all proprietary rights provided under: patent law, copyright law, trade-mark law, design patent or industrial design law or any other statutory provision or common law principle applicable to this Agreement, including trade dress and trade secret law, which may provide a right in either ideas, formulae, algorithms, concepts, inventions, know-how or show-how generally, or the expression or use of such ideas, formulae, algorithms, concepts, inventions, know-how or show-how; and any and all applications, registrations, licenses, sub-licenses, franchises, agreements or any other evidence of a right in any of the foregoing.
 - 2.18. "Laws"** means all applicable statutes, laws, codes, ordinances, decrees, rules, regulations, by-laws, orders, decisions, rulings or awards, policies, permits, licenses, authorizations, directions, voluntary restraints, guidelines, or any provisions of the foregoing, including general principles of common and civil law and equity, binding on or affecting the party referred to in the context of which such word is used and "Law" means any one of the foregoing.
 - 2.19. "Payment Schedule"** means an agreement (including related attachments) or other document between Allegiant and Customer that is attached to or is later executed by the parties and references this Master Service Agreement. A Payment Schedule identifies the Purchase Order it applies to, and any special payment terms and conditions applicable for that Purchase Order.

- 2.20. **“Products”** means any Hardware, Software or Equipment, as defined in this Agreement and on one or more Purchase Orders.
- 2.21. **“Purchase Order”** means the documents that make up the agreement between Allegiant and Customer for the purchase of Products listed on a Quote.
- 2.22. **“Recurring Service Fees”** means the monthly fees for the Services being provided as defined in this Agreement and on one or more Service or Purchase Orders.
- 2.23. **“Recurring Variable Service Fees”** means monthly fees associated with the increased usage of certain Services as defined in this Agreement and on one or more Service Orders.
- 2.24. **“Services”** means any and all Services provided by Allegiant as defined in this Agreement and on one or more Service Orders, and including, without limitation the provision of people, infrastructure resources, support and access to and the use of Allegiant’s licensed software (including, without limitation, the Software) the Hardware (including without limitation the MSP Hardware), data center resources and interconnection to other third party networks and any other services provided by Allegiant in connection with the Services.
- 2.25. **“Service Contract”** means an agreement between Allegiant and Customer (including related attachments) that describe the Services to be provided, the additional terms and conditions specific to that particular Service (including payment obligations) and the term for which such Services are to be provided by Allegiant for (“Service Contract Term”).
- 2.26. **“Service Order”** means the documents that make up the agreement between Customer and Allegiant for the purchase of Services listed on a Quote.
- 2.27. **“Software”** means any computer application or code in object (binary) form.
- 2.28. **“Statement of Work”** means an agreement between Allegiant and Customer, which defines project-specific activities, deliverables and their respective timelines.
- 2.29. **“Third Party End User License Agreement”** means an agreement between Customer and a Third Party Provider that Customer must agree to and sign in order to license and use the Software.
- 2.30. **“Third Party Products”** means any Hardware, Software, or Products or Services not provided by, manufactured or created by Allegiant.
- 2.31. **“Third Party Provider”** means any third party that is a manufacturer and/or owner of the Intellectual Property rights in the Hardware, Software or Products or Services.
- 2.32. **“Quote”** means an electronic or paper document which lists the estimated pricing and descriptions of the Products.

3. Addendums to this Agreement & Order of Precedence. Certain Products and Services may be provided to you in accordance with the terms of this Agreement (including any schedules or appendixes annexed hereto) and one or more Service Contracts, Service or Purchase Order, and/or Statements of Work. Each Service Contract, Purchase Order, or Statement of Work shall be incorporated hereto by referencing this Agreement and the applicable Service or Purchase Order it applies to and shall be interpreted separately from any other Service Contracts, Service or Purchase Orders, or Statements of Work. In the event of a conflict or ambiguity between this Agreement and any Service Contract, Purchase Order, or Statement of Work, the agreements shall be interpreted in the following order: (1) This Agreement, (2) The Service or Purchase Order, (3) The Statements of Work, and (4) Allegiant’s proposal to Customer.

4. Term. This Agreement shall become effective from your execution or acceptance of this Agreement (“Effective Date”) and will continue for 12 months or until the expiration of the Service Term listed in your Service Contract or Service Order (“Initial Term”). After the initial Term, this Agreement will auto-renew for twelve (12) month terms unless either Party provides 30 days’ advance written notice of termination for convenience, as long as any applicable Service Contract or Service Order or any other obligation of either party has expired or was terminated pursuant to the terms of this Agreement. If there is no term listed in your Service Order or Service contract, the Service Term for your Service Contract or Order will be 12 months from the date the Services are installed and billed by Allegiant (“Initial Service Term”). After the Initial Service Term, your Service Order or Contract will auto-renew for 12 months terms, unless either party provides 30 days advance written notice before the end of any such renewal term.

Article II: Terms of Sale

1. Prices; Quotes & Service or Purchase Orders.

- 1.1. **Prices and Quotes.** The prices (“Prices”) for the Products and Services shall be set forth in one or more Allegiant Quotes which shall be prepared for you upon request by us. Prices shall remain valid until the expiration date listed on the Quote (or if not listed, thirty (30) days from the Quote creation date listed in the top right corner of your Quote). Quoted Prices for Third Party Products are dependent upon availability at the time of sale..
- 1.2. **Service or Purchase Orders.** During the Term of this Agreement, you may enter into one or more Service or Purchase Orders with us for certain Products or Services we offer by: signing and submitting to Allegiant a valid Quote together with any Service Contracts and/or Statements of Work that correspond to the Products or Services listed on your Quote. Service or Purchase Orders you submit us are subject to our acceptance at our sole discretion, and upon our acceptance, shall create a legally binding contract between you and Allegiant. Each Service or Purchase Order we accept is non-cancellable by you except as otherwise provided in this Agreement and shall be interpreted as a single agreement, independent of all other Service or Purchase Orders.
- 1.3. **Changes to your Service or Purchase Order.** If you request a change to the Products or Services to be delivered or the scope of the Products or Services provided on your Service or Purchase Order, you shall submit details of the requested change to Allegiant in writing and upon Allegiant’s approval, Allegiant shall, within a reasonable time, provide a written estimate to you of: the likely time required to implement the change; any variations to Allegiant’s Prices arising from the change; the likely effect of the change; and any other impact of the change on the terms of your Service or Purchase Order. If you wish for Allegiant to proceed with the change, Allegiant has no obligation to do so unless and until the parties have agreed in writing on the necessary variations to Allegiant’s Prices, and any other relevant terms of your Service or Purchase Order to take account of due to the change.
- 1.4. **Additions to your Service or Purchase Order.** If Allegiant provides additions to the Products or Services you are currently receiving or any other Products or Services to you, such additions and other Products or Services will be agreed to in advance between Allegiant and you in writing as part of a separate Service or Purchase Order.

2. Billing & Payment.

- 2.1. **Invoices.** Allegiant may invoice parts of a Service or Purchase Order separately or together in one invoice. Except as otherwise defined in this Agreement and on your Service or Purchase Order, invoices are due and payable within 30 days from the date the invoice was issued.
- 2.2. **Installation Fees.** The installation Fees for the Products or Services shall be payable within 30 days of the date of the invoice unless specified otherwise in your Service or Purchase Order.
- 2.3. **Recurring Service Fees.** Your first month's Recurring Service Fees will be due upon the Commencement Date of your applicable Service or Purchase Order. Recurring Service Fees are billed monthly in advance and are due on the 1st of the Month.
- 2.4. **Variable Service Fees.** Allegiant will invoice you monthly in arrears for any Variable Service Fees that become payable as a result of the Services that we provide. Those Variable Service Fees will be calculated in accordance with the Prices set out in your Service or Purchase Order.
- 2.5. **Credit Card Authorization.** Upon your purchase of the Services, you may provide Allegiant with a valid credit card number from an issuer that is accepted by Allegiant. If provided, you authorize Allegiant to charge the credit card number provided by you for all Fees arising from your use of the Services. You agree to notify Allegiant of any change to the credit card information, including, but not limited to: changes in account number, expiration date or billing address. Allegiant shall not be responsible for any charges made by the credit card issuer to your credit card account for exceeding credit limit, insufficient funds or other reasons.
- 2.6. **Credit Terms.** All Products or Services provided to you and covered by this Agreement shall at all times be subject to credit approval or review by Allegiant. You will provide such credit information or assurance as is requested by Allegiant at any time.
- 2.7. **Late Payments.** Late payments shall accrue thirty (30) days after the invoice due date and will be subject to interest on the unpaid invoice amount(s) until and including the date payment is received, at the lower of either 1.5% per month or the maximum allowable rate of interest permitted by applicable Law.
- 2.8. **Taxes.** Prices set forth in a Quote are exclusive of taxes and you shall pay all taxes (excluding those on Allegiant's net income), surcharges, recovery fees, customs clearances, duties, levies, shipping charges and other similar charges (and any associated interest and penalties resulting from your failure to timely pay such taxes or similar charges) relating to the installation, license, use or provision of the Products or Services, except to the extent you provide us with a valid tax exemption certificate with your Service or Purchase Order.
- 2.9. **Billing Disputes.** You shall have the right to reasonably and in good faith dispute any invoice, or portion thereof provided that you: pay the undisputed portion within the invoice due date; provide Allegiant written notice of the dispute no later than ninety (90) days from the date of the invoice; and specify with reasonable detail, the amount disputed and the reason for the dispute. Following Allegiant's notice of the results of its investigation of such a claim, payment of all properly due charges and properly accrued late payment Fees must be made within ten (10) days, and Allegiant will reverse any amounts including late payment Fees that were invoiced in error.

3. **Shipping and Delivery.** Delivery of Hardware and physical copies of Software shall be by F.O.B. destination. If Software is provided to you by electronic download, delivery shall be by F.O.B. origin. Shipping and delivery dates are provided as estimates only and Allegiant is not responsible for shipping delays unless expressly stated otherwise in writing in the documents that make up your Purchase Order.

4. **Title; Risk of Loss and Security Interest.** Title to and risk of loss for Hardware you purchase from Allegiant shall pass to you upon delivery. Title to the Software shall remain with the Third Party Providers of such Software. Allegiant reserves the right upon notice to you to take a present and continuing security interest in any applicable Products, together with any accessories, additions, substitutions and replacements (and any proceeds thereof if the Products are sold), regardless of whether the Products are attached to real property, until Allegiant has been paid in full for the Products pursuant to the terms hereof. You agree to execute any documents, which may be reasonably necessary or appropriate to perfect Allegiant's security interest in the Products. Upon payment as provided herein, Allegiant will undertake to execute any releases reasonably required by you.

5. **Sales & Returns.** All sales are final unless otherwise specified in writing in the documents that make up your Purchase Order. You must notify Allegiant in writing within thirty (30) days upon receiving the Products listed in your Purchase Order (in part or in whole) if there are any wrong, damaged, missing, or otherwise non-conforming Products. This does not eliminate any manufacturer warranties.

6. **Software.** Your use of Software is governed by the respective Third Party End User Licensing Agreements, applicable to such Software. Subject to your compliance with the terms and conditions contained in any Third Party End User License Agreements, Allegiant grants you a limited, revocable, non-transferable, non-exclusive right to use the Software for your own Internal use and for no other purpose.

7. Installation Services.

- 7.1. If Allegiant is providing you with Installation Services for Products listed in your Service or Purchase Order, Allegiant will install the Products and Services within the estimated date(s) set forth in your Service or Purchase Order, but Allegiant shall have no liability should there be any delay in installation of the Products or Services caused by you or any Third Party Providers contracted to install the Products or Services.
- 7.2. You will be responsible for securing at your own cost, any necessary rights of entry (both remote and physical), licenses, permits or other permission necessary for Allegiant to install the Products or Services on the pre-arranged installation date(s) and you will also be responsible for providing the adequate physical space, air conditioning, necessary power, electrical power outlets, network connections and environmental conditions to support the Products and Services including, pre-drilling holes and wire ways through concrete, plaster, metal floors, walls or ceilings when required. If Allegiant is required to have physical access to your sites to install the Products or Services, you will ensure that your sites are safe, secure, and in compliance with all applicable industry and OSHA standards.

Article III: Terms of Service

1. **Terms of Service.** The terms and conditions listed in this Article III, shall apply to all Services provided by Allegiant pursuant to this Agreement, additional terms and conditions specific to certain Services not described in this Article III, shall be set forth below in a separate Article.

2. Provision of the Services.

- 2.1. **Service Commencement Date.** Allegiant will commence the provision of the Services to you within the estimated date(s) set forth in your Service or Purchase Order, but Allegiant shall have no liability should there be any delay in the provision of the Services caused by you or any Third Party Providers contracted to provide such Services.
- 2.2. **Technical Support.** Allegiant will provide support for your enquiries relating to the Products or Services, retrieval of data or faults in the Products or Services in accordance with the support and escalation procedures defined in your Service or Purchase Order (if applicable).
- 2.3. **Rights Granted.** Subject to your compliance with the terms and conditions of this Agreement, Allegiant grants you a limited, revocable, non-transferable, non-exclusive right to access and use the Products or Services during the Service Contract Term defined in your Service or Purchase Order, solely for your business purposes. Except for the rights expressly granted to you under this Article III: Section 2.3, Allegiant and its Third Party Provider's shall retain all right, title, and interest in and to the Services, and other Intellectual Property Rights created, used, or provided by Allegiant to you pursuant to this Agreement, including all modifications or derivatives of, and improvements to, the Services, excluding any Customer Content. You further acknowledge Allegiant's and its Third Party Provider's claims that their respective Intellectual Property Rights include: data, modules, components, designs, utilities, objects, processes, program listings, tools, models, diagrams, analysis frameworks, leading practices, trade-marks, patents, industrial designs, know-how, show-how, software, and specifications owned or developed by Allegiant and/or its Third Party Providers.
- 2.4. **Customer Content.** In connection with Allegiant's performance of its obligations hereto, Allegiant may be required to host, store, manage, back-up and otherwise access the Customer Content for purposes of providing certain Services hereunder. You hereby grant Allegiant a non-exclusive, worldwide, royalty-free, perpetual, irrevocable license to use and access the Customer content as is reasonably necessary solely to provide the Services. The parties agree that at all times you shall retain ownership and legal title to the Customer Content. Allegiant will at all times maintain confidentiality of customer information.
- 2.5. **Hardware as a Service.** Allegiant may rent to you under the terms of a separate agreement, or otherwise provide to you for the Service Contract Term set forth in your Service or Purchase Order, certain devices, including, but not limited to servers, phones, routers, and switches, etc. ("MSP Hardware"), for use on your premises or at Allegiant's Data Center Site. Title to the MSP Hardware shall at all times remain with Allegiant or the Third Party Providers of the Services as the case may be. Allegiant may vary the technical specifications of the MSP Hardware, provided that at all times such changes do not materially impair or degrade the Service.
- 2.6. **Software as a Service.** If Software is being provided as part of the Services described in your Service or Purchase Order, your use of the Software is governed by the respective Third Party End User Licensing Agreements applicable to such Software. Subject to your compliance with the terms and conditions contained in any Third Party End User License Agreements, Allegiant grants you a limited, revocable, non-transferable, non-exclusive right to use the Software for your own internal use and for no other purpose. Title to the Software shall at all times remain with Allegiant or the Third Party Providers of the Services as the case may be.
- 2.7. **Maintenance Downtime.** Allegiant may suspend provision of the Services or any part thereof for the purpose of carrying out or implementing necessary repairs, maintenance or improvements provided that in the event of such suspension Allegiant will ensure that reasonable notice is given to you and minimum disruption to the Services is caused.

3. Customer Obligations.

- 3.1. **Access Rights.** You will be responsible for securing at your own cost, any necessary rights of entry (both remote and physical), licenses, permits or other permission necessary for Allegiant to install, maintain, repair, improve, upgrade, substitute or replace the Services (including any Software or Hardware) and you will also be responsible for providing adequate physical space, air conditioning, necessary power, electrical power outlets, network connections and environmental conditions necessary to support the Services including, pre-drilling holes and wire ways through concrete, plaster, metal floors, walls or ceilings when required. If Allegiant is required to have physical access to your sites to perform any obligations contained herein, you will ensure that your sites are safe, secure, and in compliance with all applicable industry and OSHA standards.
- 3.2. **Service Proprietary Rights.** Except as expressly permitted by Allegiant or to the extent expressly authorized by the Service, you will not (and will not expressly allow any third party acting on behalf of you to): translate, adapt, reverse engineer, decompile, disassemble, unlock or otherwise attempt to discover the source code, object code, or underlying structure, ideas, or algorithms of the Service; modify, translate, or create derivative works based on the Service; rent, lease, distribute, sublicense, resell, pledge, assign, or otherwise transfer or encumber rights to the Service; use the Service for timesharing or service bureau purposes or otherwise for the benefit of a third party; or remove or otherwise alter any proprietary notices or labels from the Service or any portion thereof.
- 3.3. **Compliance with Laws.** You shall not use the Services for any illegal or unlawful purpose in violation of any Laws or in a manner which constitutes a violation or infringement of the rights (including any Intellectual Property Rights) of any other party. You shall at all times maintain all registrations and comply with all applicable Laws as may be necessary for the use of the Services.
- 3.4. **Acceptable Use Policy.** You will not use the Services to store, reproduce, transmit, communicate or knowingly receive any material, including the Customer Content, which is offensive, abusive, indecent, defamatory, obscene, racist, homophobic, menacing, or in any manner other than in conformance with any acceptable usage policies that you have agreed to with Allegiant. YOU ARE SOLELY RESPONSIBLE FOR THE CONTENTS OF THE CUSTOMER CONTENT, AND IN NO CIRCUMSTANCES SHALL ALLEGiant BE HELD LIABLE FOR THE CONTENTS OF ANY CUSTOMER DATA USED WITH THE SERVICES.
- 3.5. **Use of MSP Hardware.** You will not acquire any rights of ownership in the MSP Hardware or the Software installed on the MSP Hardware by virtue of the Agreement and shall not have, by operation of law or otherwise, any lien or other similar right over or in relation to the MSP Hardware. In the event MSP is located on your premises, you shall: provide electric power for the MSP Hardware and keep the MSP Hardware physically secure and free from liens and encumbrances; take reasonable care of the MSP Hardware and not damage it, tamper with it, move or remove it or attempt to repair it; bear the risk of loss or damage to MSP Hardware (other than ordinary wear and tear) except to the extent caused by Allegiant or its agents; not remove any sign, label or other marking on the MSP Hardware identifying that Allegiant is the owner thereof; and on either the termination of this Agreement or an applicable Service or Purchase Order, allow Allegiant and its employees and agents reasonable access to your premises to remove the MSP Hardware.
- 3.6. **Payment of Fees.** You will pay the Installation Fees, Recurring Service Fees and all other Fees defined in this Agreement and on your Service or Purchase Order.

Article IV: Hosted Telephony Services

- 1. Hosted Telephony Services.** These additional terms and conditions listed in this Article IV, shall apply if Allegiant is providing you with hosted PBX, SIP trunking, voice channels, or any other hosted telephony Services ("Hosted Telephony Services").
- 2. Telephone Number.** Any telephone number provided by Allegiant ("Number") to you shall be leased and not sold. You are not to use the Number with any other device other than Hardware authorized by Allegiant, without the express written permission of Allegiant.. Ownership of telephone numbers that are currently owned by Customer and ported to Allegiant shall remain with Customer and can be used in any legal manner by Customer.
- 3. Local Number Portability (LNP) Port Out.** You may be able to take, or port, your current phone Number(s) to another service provider. If you request your new service provider to port a number from us, and Allegiant receives your request from that new service provider, Allegiant will treat it as notice from you to terminate the Hosted Telephony Services for that Number upon successful completion of porting. After the porting is completed, you will not be able to use the Hosted Telephony Services for that number. You will remain responsible for any early Termination Fees, and for all other Fees and charges through the end of the Service Contract Term specified in your Service or Purchase Order, just like any other termination.
- 4. Phone Numbers and Service Discontinuance.** Upon expiration, cancellation or termination of the Hosted Telephony Services, you shall relinquish and discontinue use of any Numbers and voice mail access Numbers leased and assigned to you by Allegiant or its Third Party Providers.
- 5. Electronic Recording.** You acknowledge and understand that there are federal and state statutes governing the electronic recording of telephone conversations and that Allegiant will not be liable for any illegal use of such Services. Because circumstances vary widely, you should carefully review your own circumstances when deciding whether to use any recording features with the Hosted Telephony Services and it is your responsibility to determine if the electronic recordings are legal under the federal and state statutes. ALLEGiant IS NOT RESPONSIBLE FOR ANY MISINTERPRETATION, LACK OF UNDERSTANDING OR LACK OF KNOWLEDGE REGARDING THE USE OF ELECTRONIC RECORDINGS BY YOU WHETHER LEGAL OR ILLEGAL.
- 6. Regulatory Recovery Fee & Toll Fees.**
 - 6.1. USF Fees.** Allegiant will cap any Cost Recovery or non-pass-through fees at 9%.
 - 6.2. Toll Fees.** Every call to or from Hardware using the Hosted Telephony Services that originates or terminates in the Public Switched Telephone Network ("PSTN"), including other VoIP networks, is subject to the then applicable toll charges that are associated with the Hosted Telephony Services ("Toll Fees"). Calls to a phone Number outside the United States and Canada to a non-Allegiant Number will be charged at the current rates applicable to such calls. The duration of each call is to be calculated in one minute increments and rounded up to the nearest one-minute increment for any fraction of minutes used. If the computed charge for a call includes a fraction of a cent, the fraction is rounded up to the nearest whole cent. If the computed charges for taxes and surcharges include a fraction of a cent, the fraction is rounded up to the nearest whole cent. When you dial an International PSTN phone Number, charges may apply regardless of whether the party on the other line answers the call. Calls made by you to an International mobile, rather than landline, or premium rate telephone Number, may result in higher toll charges.
- 7. 911/E911 Emergency Services & Limitations.** The following terms and conditions apply to your use of 911/E911 emergency services ("911/E911 Emergency Services") with Allegiant's Hosted Telephony Services.
 - 7.1. 911/E911 Emergency Services & Limitations Overview.** You acknowledge and understand that Hosted Voice 911/E911 Emergency Services do not support traditional 911 and access to emergency service providers. The 911/E911 Emergency Services differs from traditional emergency 911 services that you receive from the telephone company in several important ways described below. You and any of your end users should maintain an alternative means of calling emergency 911 services. YOU BEAR SOLE RESPONSIBILITY FOR PROVIDING ANY EMERGENCY SERVICES TO YOUR END USERS AND FOR ANY COSTS ASSOCIATED WITH PROVIDING THESE SERVICES AND PAYMENT OF ANY GOVERNMENTAL FEES OR ASSESSMENTS RELATED TO THE 911/E911 EMERGENCY SERVICE OR ALTERNATIVE 911 SERVICES. NEITHER ALLEGiant NOR ITS OFFICERS OR EMPLOYEES MAY BE HELD LIABLE FOR ANY CLAIM, DAMAGE, OR LOSS, AND, TO THE EXTENT PERMITTED BY LAW, YOU HEREBY SHALL INDEMNIFY ALLEGiant AND WAIVE ANY AND ALL SUCH CLAIMS OR CAUSES OF ACTION, ARISING FROM OR RELATING TO THE 911/E911 EMERGENCY SERVICE.
 - 7.2. Direct Dialing, Notification, and Location.** When properly installed, operated and managed, the 911/E911 Service enables you to directly dial 911 without having to first dial an extra digit, prefix, or code, such as "9." The 911/E911 Service also enables, when properly installed, managed, and operated, notification that a 911 call is being made. The notification will be sent simultaneously with the 911 call to a central location at the facility where the services are installed, or to another person or organization regardless of location. **It is your responsibility to identify the person or location to receive this notification, and to maintain that information's accuracy at all times, including during the initial set up as well as for any subsequent changes.** As of January 6, 2021, the 911/E911 Service will enable the automatic transmission with a 911 call of your street address or more specific location information such as a room or floor number if necessary for first responders to quickly locate the caller. Allegiant is and shall be responsible for ensuring that its services and products comply with "Kari's Law" and "RAY BAUM'S ACT", as amended.
 - 7.3. Number and Location.** Unlike traditional emergency 911 services, when you or your end users call 911 using the 911/E911 Emergency Service, the emergency personnel receiving the call may not be able to automatically identify the phone number or the physical address from which the call originates. You or your end users might need to tell the emergency personnel the nature of the emergency, give them the phone number, and describe the physical location. If the call is dropped for any reason, emergency personnel may not be able to call back or find the location. Therefore, you must register an accurate location when you initiate your service and every time you move the equipment associated with Hosted Telephony Services.
 - 7.4. Incorrect Service Address.** If you register for the 911/E911 Emergency Service using an incorrect physical address, emergency calls may be routed to the incorrect emergency service provider. The emergency personnel may not be able to respond to the emergency, transfer the call to the geographically appropriate emergency center or otherwise provide assistance.
 - 7.5. Geographic Location.** Emergency service personnel cannot accurately track the location through our system and it is therefore important that the location registration remains updated by you. For example, if you live and use the 911/E911 Emergency Service with a telephone in Virginia where the area code is 703, but your assigned telephone number has an area code of 212, an area code associated with New York City, when you dial 911, you may not be able to reach any emergency personnel. Even if you do reach emergency personnel, you may not be calling the emergency personnel near your actual location (the

Virginia caller may be calling emergency services located in New York) and the emergency personnel may not be able to transfer the call to respond to the emergency, or otherwise provide assistance.

- 7.6. **Change of Location.** It is important that the location of the 911/E911 Emergency Service is accurately registered every time the Hardware using the 911/E911 Emergency Service is moved. If the Hardware is moved to another location without reregistering, when a call is made to 911, the call may not reach any emergency personnel. Even if emergency personnel are reached, the call may not be completed to the emergency personnel near the actual location if the location has not been updated, and the emergency personnel may not be able to transfer the call, respond to the emergency, or otherwise provide assistance.
- 7.7. **Outages.** Outages in the electricity and problems with the connection, including network congestion, will disrupt the 911/E911 Emergency Service making emergency calling using the 911/E911 Emergency Service unavailable.
- 7.8. **Third-Party Software.** The 911/E911 Emergency Service is not supported for use in conjunction with any Third-Party Software unless Allegiant expressly states otherwise in writing.
- 7.9. **Mobile Devices.** Allegiant's Hosted Telephony Services are provided to mobile devices through the use of Third-Party Software that is installed on each mobile device registered for the Hosted Telephony Services. Allegiant is and shall be responsible for ensuring that its services and products comply with "Kari's Law" and "RAY BAUM'S ACT", as amended, so long as each mobile device has Allegiant's recommended configurations.
- 7.10. **Disconnection of the Service.** The 911/E911 Emergency Service will not work if the Hosted Telephony Services are disconnected. If a service outage occurs due to a suspension of the Hosted Telephony Services, whether due to billing issues or for any other reason, the 911/E911 Emergency Service will not be available for making any emergency calls.

Article V: Colocation Services

1. **Colocation Services.** These additional terms and conditions listed in this Article V, shall apply if Allegiant is providing you with Colocation Services at Allegiant's Data Center Site.
2. **Limitation of Rights.** Allegiant grants a non-exclusive, revocable right to you to operate the Customer Colocation Hardware in the Colocation Space under the terms set forth herein. This right is subject and subordinate to Allegiant's lease of the Data Center Site containing the Colocation Space ("Data Center Lease"). Allegiant has no obligation to provide you with additional space or power other than as described in your Service or Purchase Order. You further acknowledge that you have not been granted any real property interests.
3. **Insurance.** You must provide Allegiant with an applicable insurance policy covering the Customer Colocation Hardware in the amount of \$5,000.00. You may satisfy the insurance requirements herein through qualified plans of self-insurance, providing Allegiant with reasonable evidence of such prior to using the Colocation Services and upon request thereafter. The minimum limits of required insurance in no way limits or diminishes your liability, and may be subject to increase if necessary for adequate protection. Within thirty (30) days of demand for such increased coverage, you must provide Allegiant with a Certificate of Insurance reflecting the increased coverage and other required insurance provisions. IN NO EVENT SHALL ALLEGiant BE HELD LIABLE FOR ANY DAMAGE TO, OR LOSS OF, THE CUSTOMER COLOCATION HARDWARE OR RESULTING BUSINESS INTERRUPTION, INCLUDING HARDWARE AND BUSINESS INTERRUPTION OF YOUR END USERS.
4. **Installation and Relocation of Customer Colocation Hardware.**
 - 4.1. **Installation of the Customer Colocation Hardware.** Allegiant will prepare and install the Customer Colocation Hardware according to the specifications detailed in your Service or Purchase Order.
 - 4.2. **Customer Provided UPS.** You are not permitted to provide your own uninterruptable power supply ("UPS") for the Customer Colocation Hardware without Allegiant's prior written consent, which may be withheld at Allegiant's sole discretion. If Allegiant provides its consent, including without limitation approval of the Colocation Hardware, design and manner of installation. Allegiant shall have no responsibility for the operation or performance of the UPS Hardware. You shall be responsible, to the extent permitted by law, for any and all liabilities, claims, demands, costs, damages, fines, penalties or expenses arising from the operation, maintenance, or repair of your UPS or inverter hardware, including without limitation damage to the Colocation Space or the Data Center Site arising from such operation, maintenance or repair.
 - 4.3. **Relocation of Customer Colocation Hardware.** Allegiant will not arbitrarily or capriciously relocate the Customer Colocation Hardware; however, upon thirty (30) days' prior written notice (or, in the event of an emergency, such notice as may be reasonable under the circumstances), Allegiant may be required to relocate the Customer Colocation Hardware. The relocation site must provide comparable environmental conditions and accessibility. The reasonable costs of relocating the Customer Colocation Hardware and of improving the relocation site will be at Allegiant's expense.
5. **Power Consumption and Fees.**
 - 5.1. **Power Rate Fees.** Power is charged on a breakered amp basis which includes the applicable power utility rate and associated support costs ("Power Rate Fees"). If the utility provider increases the costs for power to Allegiant's Data Center site, Allegiant may increase your Fees for the power, but only in an amount necessary to cover Allegiant's additional costs associated with providing the power to the Customer Colocation Hardware.
 - 5.2. **Fee Suspension due to Damage to the Data Center Site.** If the Data Center Site or Colocation Space is damaged by fire or other casualty and is rendered unusable for the Customer Colocation Hardware, and neither the applicable landlord nor Allegiant terminate the underlying Data Center Lease, and Allegiant elects or is required to restore the Data Center Site to substantially the same condition it was in prior to the damage, the Fees for the Customer Colocation Hardware will proportionately abate, for the period from the occurrence of the damage to the date it is repaired.
6. **Use of the Customer Colocation Hardware.** You may only use the Colocation Space for operating and maintaining the Customer Colocation Hardware in the Co-Location Space. You may not use the Colocation Space for any other purpose including any unlawful purposes. You may not use the Customer Colocation Hardware in the Colocation Space to connect with other telecommunications providers without the prior written consent of Allegiant, which consent may be withheld in Allegiant's sole discretion. If Allegiant provides its consent, you must utilize Allegiant as the underlying transport service provider from the Colocation Space to the other telecommunication provider's service location. You are not permitted to sublicense the Colocation Space or to resell or share power. You are required to establish, adhere to, and maintain full compliance with all EPA, OSHA, state, local and jurisdictional safety laws, requirements, regulations, codes, and

ordinances. You are also required to comply with all policies and procedures applicable to Allegiant's Data Center Site. You may not ship the Customer Colocation Hardware directly to the Data Center Site without Allegiant's prior written consent. Allegiant is not responsible, and you expressly waive any and all claims, for any harm, damage or theft of the Customer Colocation Hardware that is shipped to the Data Center Site without Allegiant's express written consent.

- 7. Removal of Customer Colocation Hardware upon Termination.** Within fifteen (15) days following the end of the Service Contract Term specified in your Service or Purchase Order, you must make arrangements with Allegiant to remove the Customer Colocation Hardware. You will reimburse Allegiant for the reasonable cost of performing this Service, including any shipping costs. If you do not make arrangements with Allegiant within fifteen (15) days following the end of a Service Contract Term, then you shall be deemed to have abandoned the Customer Colocation Hardware and its title shall pass to Allegiant under this Agreement as by a bill of sale, without any further notice to you. To the extent permitted by applicable law, you shall be responsible for the cost of removal, storage and disposal of such abandoned Customer Colocation Hardware as well as any damages caused by such removal. Allegiant shall not be liable to you for disposing of the abandoned Customer Colocation Hardware (including without limitation destruction) or for any proceeds resulting from any sale of the abandoned Customer Colocation Hardware. Notwithstanding any other provision contained in this Agreement, Allegiant reserves the right and without any liability to you, to shut off the Customer Colocation Hardware and prevent your access or removal of the Customer Colocation Hardware in the event any past due amounts are owed to Allegiant for the Colocation Services.

Article VI: Maintenance & Support Services

- 1. Maintenance & Support Services.** These additional terms and conditions listed in this Article VI, shall apply if Allegiant is providing Maintenance and Support Services for the Customer Hardware independently or in conjunction with certain Services provided under this Agreement that are operating on the Customer Hardware.
- 2. Service Authorization.** Some warranties or service contracts for Third-Party Products may become void if Allegiant provides Maintenance and Support Services for Customer Hardware covered by such warranties and service contracts. ALLEGiant SHALL NOT BE RESPONSIBLE FOR ANY EFFECT THAT THE MAINTENANCE AND SUPPORT SERVICES MAY HAVE ON THOSE WARRANTIES OR SERVICE CONTRACTS FOR CUSTOMER HARDWARE YOU AUTHORIZE ALLEGiant TO WORK ON.
- 3. Maintenance & Support Exclusions.** Repairs made necessary to Customer Hardware due to the scenarios listed below, expressly fall outside the scope of this Agreement and shall be subject to additional charges at Allegiant's current standard rates for time and materials: Installation Services; Maintenance and Support Services for Customer Hardware not defined/outside the scope of your Service or Purchase Order; Force Majeure events; the replacement cost of Customer Hardware; neglect, theft, misuse, loss or negligent damage of the Customer Hardware by you or your agents; any repair made necessary where Allegiant either orally or in writing indicated system failure was likely and imminent, and you made the determination not to act; use of the Customer Hardware in a manner that is inconsistent with the manufacturer intended purpose or is incompatible with their intended design; repairs made necessary by the unauthorized: tampering, maintenance, modification, or interference of the Customer Hardware by your agents, employees, or any third party contracted by you without the prior authorized written consent of Allegiant; and the failure of you to provide and maintain a suitable environment for the Customer Hardware with all facilities prescribed by the manufacturer including, but not limited to proper electrical power, ventilation, air conditioning, and humidity control.

Article VII: General Terms and Conditions

- 1. Termination and Breaches of this Agreement.**
- 1.1. Material Breach.** If either party fails to perform or observe any material warranty, representation, term or condition of this Agreement, including non-payment of Fees, and such failure continues un-remedied for thirty (30) days after receipt of notice, the aggrieved party may terminate the affected Service or Purchase Order(s); and, if the breach materially and adversely affects the entire Agreement, terminate the entire Agreement.
- 1.2. Bankruptcy.** Either party can promptly terminate this Agreement if the other party is: declared or becomes insolvent or bankrupt; if a petition is filed in any court to declare the other party bankrupt or for a reorganization under bankruptcy law or any similar statute and such petition is not dismissed in ninety (90) days; or if a trustee in bankruptcy or a receiver or similar entity is appointed for the other party.
- 1.3. Termination or Suspension for Non-Payment.** Allegiant, without waiving any other rights or remedies and without liability to you, may suspend or terminate any or all Service or Purchase Orders and refuse additional Service or Purchase Orders until all overdue amounts are paid in full, provided that Allegiant has supplied you prior notice and thirty (30) days' opportunity to cure such deficiency.
- 1.4. Fraud or Abuse.** Allegiant may suspend, terminate, withdraw or discontinue all or a part of an Service or Purchase Order immediately and without liability on its part by providing you with such advance notice as is reasonably practicable under the circumstances, when Allegiant reasonably believes: any part of the Service or Purchase Order is prohibited by Law; you are involved in fraudulent or illegal activity; you are in violation of the terms of this Agreement and such violation may: expose Allegiant to sanctions, liability, prosecution or other adverse consequences under applicable Law if Allegiant were to allow the violation to continue; harm or interfere with the integrity, normal operations or security of Allegiant's network or networks with which Allegiant is interconnected; or otherwise presents an imminent risk of harm to Allegiant, Allegiant's customers or its respective employees.
- 1.5. Termination by Customer.** With the exception of a Carrier contract where Allegiant is subject to a termination fee, you may terminate this Agreement and any Service or Purchase Order(s) at your convenience with thirty (30) days' notice of termination. In the event a Carrier contract has a termination fee those charges will be passed through to you upon termination. You shall be responsible for the full amount of the Fees for the month during which the notice of termination of Service is provided to Allegiant. In accordance with Article VII: Section 1.6 below, termination Fees may apply. A termination for cause as provided in Section 1.1 of this Article VII shall not be deemed a termination for convenience.
- 1.6. Termination Fees.** If Allegiant terminates a Service Order for cause in accordance with this Agreement following a breach by you of this Agreement, or you fail to give sufficient notice of termination for convenience in accordance with the terms of this Agreement and/or your Service Order, you shall be liable and will pay any termination or cancellation fees set out in your Service Order, or in the absence of such specified charges, the early termination liability is 100% of the Fees due for remaining Service Contract Term of your Service Order, excluding fees for support services to be provided in the future. You shall also be responsible for reimbursing Allegiant for any Installation Fees for prior work Allegiant has performed and any third party charges resulting from the termination. If Allegiant terminates a Purchase Order for cause in accordance with this Agreement following a breach by you of this Agreement, You shall be

liable and will reimburse Allegiant for the cost of the Products Allegiant is unable to cancel with the Third Party Providers of such Products, any Installation Fees for prior work Allegiant has performed, and any third party charges resulting from the termination. Any such fees will be defined as “Termination Fees” for purposes of this Agreement. No Termination Fees shall be payable in the event you terminate this Agreement or any Service or Purchase Order(s) for cause.

1.7. **Recurring Services Termination Fees.** You will be liable and will pay any termination or cancellation fees set out in your Service Contract or Service Order, or in the absence of such specified charges, the early termination liability for Recurring Services Fees is 50% of the Monthly Recurring Charges (including any taxes or regulatory charges) due for the remaining Term set forth in your service order or the Term set forth in Article I Section 4. You shall also be responsible for reimbursing us for any installation fees or amortized labor charges for prior work we have performed and any third-party charges resulting from the termination, if any (“Termination Fees”). If you receive a promotion for manufacturer phones that require a corresponding term commitment for hosted telephony services, the promotional commitment term will govern.

1.8. **Survival.** The provisions of Article VII: Section 1, Article VII: Section 4, Article VII: Section 5 (including all Articles and Sections referenced therein), Article VII: Section 9, Article VII: Section 6, Article VII: Section 19, and any provisions related to the payment obligations of the parties, will survive the termination of this Agreement and shall continue in full force and effect. Termination or suspension of a Service or Purchase Order by either party does not waive any other rights or remedies a party may have under this Agreement and will not affect the rights and obligations of the parties regarding any other Service or Purchase Order.

2. **Representations and Warranties of the Parties.** Each party hereby represents, warrants and covenants: that It is duly organized, validly existing and in good standing; It has the requisite power and authority, to execute and perform its obligations under this Agreement; It exists under the laws of its own jurisdiction and is not under any contractual obligation that would preclude it from entering into this Agreement; it shall at all times maintain all registrations and comply with all applicable Laws as may be necessary to perform its obligations under this Agreement; It will adhere to the terms and conditions of this Agreement.

3. **Third-Party Products.** All Third Party Products are sold by Allegiant “as is.” Allegiant makes no independent representations, warranties or covenants with respect to the Third Party Products supplied under this Agreement. You chose any/all Third Party Providers based on your judgment. You may contact us or the Third Party Provider for a statement of the warranties, if any, that the Third Party Provider is providing. We assign to you any warranties given to us. Any Third Party Provider warranties are the exclusive remedies of you with respect to such Third Party Products. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN, ALLEGiant HAS NO DEFENSE, SETTLEMENT, INDEMNIFICATION OR OTHER OBLIGATION OR LIABILITY ARISING FROM THE ACTUAL OR ALLEGED INFRINGEMENT OR MISAPPROPRIATION OF INTELLECTUAL PROPERTY BASED ON HARDWARE, SOFTWARE AND SERVICES NOT MANUFACTURED OR CREATED BY ALLEGiant.

4. **Disclaimer of Warranties & Limitations of Liability.** In addition to the disclaimer of warranties and limitations provided elsewhere in this Agreement, the following terms and conditions shall apply.

4.1. **Disclaimer of Warranties.** EXCEPT AS EXPRESSLY STATED IN THIS AGREEMENT, ALLEGiant SPECIFICALLY DISCLAIMS ANY WARRANTY ARISING BY USAGE OF TRADE OR BY COURSE OF DEALING AND MAKES NO EXPRESS OR IMPLIED WARRANTY WITH RESPECT TO ANY OF THE SERVICES, INCLUDING BUT NOT LIMITED TO: ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, PERFORMANCE, SUITABILITY, OR NON-INFRINGEMENT; FOR THE PERFORMANCE OF OR RESULTS TO BE OBTAINED FROM YOUR USE OF THE SERVICES; THAT THE SERVICES WILL OPERATE OR BE PROVIDED WITHOUT INTERRUPTION OR ERROR; FURTHER, ALLEGiant MAKES NO REPRESENTATION OR WARRANTY THAT TELEPHONE CALLS OR OTHER TRANSMISSIONS WILL BE ROUTED OR COMPLETED WITHOUT ERROR OR INTERRUPTION (INCLUDING CALLS TO 911 OR ANY SIMILAR EMERGENCY RESPONSE NUMBER) AND MAKES NO GUARANTEE REGARDING NETWORK SECURITY, THE ENCRYPTION EMPLOYED BY ANY SERVICE, THE INTEGRITY OF ANY DATA THAT IS SENT, BACKED UP, STORED OR SUBJECT TO LOAD BALANCING OR THAT ALLEGiant’S SECURITY PROCEDURES WILL PREVENT THE LOSS OR ALTERATION OF OR IMPROPER ACCESS TO CUSTOMER’S OR ITS END USER’S DATA AND INFORMATION.

4.2. **Disclaimer of Liability.** IN NO CIRCUMSTANCES SHALL ALLEGiant BE LIABLE FOR: INDIRECT, SPECIAL, CONSEQUENTIAL OR INCIDENTAL DAMAGES, INCLUDING, WITHOUT LIMITATION, LOSS OF PROFITS OR REVENUE, LOSS OF GOODWILL, BUSINESS INTERRUPTION, LOSS OF ANTICIPATED SAVINGS, LOSS OR CORRUPTED DATA, COST OF CAPITAL,. NOR SHALL ALLEGiant BE LIABLE FOR ANY DAMAGES ARISING OUT OF OR RELATING TO: INTEROPERABILITY, ACCESS OR INTERCONNECTION OF THE SERVICES WITH APPLICATIONS, DATA, HARDWARE, SERVICES, CONTENT OR NETWORKS PROVIDED BY CUSTOMER OR THIRD PARTIES; SERVICE DEFECTS, DELAYS OR ANY SERVICE ERROR OR INTERRUPTION, INCLUDING INTERRUPTIONS OR ERRORS IN ROUTING OR COMPLETING ANY 911 OR OTHER EMERGENCY RESPONSE CALLS OR ANY OTHER CALLS OR TRANSMISSIONS; UNAUTHORIZED ACCESS TO OR THEFT, ALTERATION, LOSS OR DESTRUCTION OF CUSTOMER’S OR ITS END USER’S (OR THEIR AFFILIATES’, USERS’ OR THIRD PARTIES’) APPLICATIONS, CONTENT, DATA, PROGRAMS, INFORMATION, NETWORKS OR SYSTEMS; THE OCCURRENCE OF TOLL FRAUD; OR THE UNAUTHORIZED USE OF VOICE PROCESSORS AND VOICE MAIL SYSTEMS. AS THE INSTALLER OF THE SYSTEM, ALLEGiant IS RESPONSIBLE FOR PROPER CONFIGURATION AND SECURITY OF THE SYSTEM INITIALLY.

4.3. **Limitation of Liability.** NOTWITHSTANDING ANY OTHER PROVISION IN THIS AGREEMENT, IN THE EVENT ALLEGiant IS FOUND LIABLE FOR ANY BREACH UNDER THIS AGREEMENT, ALLEGiant’S TOTAL LIABILITY ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT SHALL NOT EXCEED: THE PURCHASE COST OF THE SYSTEM, INSTALLATION AND PROFESSIONAL SERVICES CHARGES, AND TOTAL FEES ACTUALLY PAID BY CUSTOMER TO ALLEGiant FOR SUPPORT SERVICES.

4.4. **Application.** THE LIMITATIONS SET FORTH IN THIS ARTICLE VII: SECTION 4 AND THE LIMITATIONS SET ELSEWHERE IN THIS AGREEMENT, APPLY TO ANY CLAIMS AND CAUSES OF ACTION WHATSOEVER, REGARDLESS OF THE FORMS OF THE ACTIONS, AND WHETHER IN CONTRACT, TORT, STRICT LIABILITY OR OTHER THEORY.

5. **Indemnification.**

- 5.1. **Customer Indemnification Obligations.** To the extent permitted under applicable law, you will indemnify defend and hold harmless Allegiant and its affiliates, owners, officers, directors, employees, from any and all third party actions (including claims by your end users or their affiliates), liability, damages, costs and expenses: due to a breach by you of Article III: Section 3, Article VII: Section 2, Article VII: Section 6, Article VII: Section 7, Article VII: Section 8, Article VII, Section 9; arising from, relating to, or is covered by: Article IV: Section 5, Article IV: Section 7, Article V: Section 2, Article V: Section 3, Article V: Section 7, Article VI: Section 2, Article VII: Section 3; or otherwise arising from or relating to: any failure, breakdown, interruption or deterioration of the Services; the contents of the Customer Content; modifications to the Services by you, your end users, or a third party without Allegiant's express written consent; your violation of any Third Party End User License Agreements governing Software furnished in connection with the Services; or otherwise resulting from your use of the Services in violation of this Agreement.
- 5.2. **Allegiant Indemnification Obligations.** Allegiant will indemnify defend and hold harmless you and your affiliates, owners, officers, directors, employees, from any and all third party actions, liability, damages, costs and expenses: Article VII: Section 2, Article VII: Section 6, Article VII: Section 7, Article VII: Section 8, Article VII, Section 9; for a claim alleging that a Service provided to you under this Agreement infringes any patent, trademark, copyright or trade secret, but not where the claimed infringement arises out of or results from the exemptions listed above in Article VII: Section 5.1. or from the combination of the Products or Services with any non-Allegiant Services, and in such circumstances, Allegiant shall either procure the right for you to continue using the infringing Service(s), or replace or modify the Products or Services so that they are non-infringing.
- 5.3. Each party's indemnity obligations under this Article VII: Section 5, are contingent on the other party promptly notifying the other party (the "Indemnitor") in writing of any claim or threat thereof, promptly tendering to the Indemnitor sole control of the defense and any settlement of such claim, and providing to Indemnitor (at Indemnitor's cost) reasonable assistance necessary to such defense or settlement. The Indemnitor will not be responsible for any settlement it does not approve in writing.
- 5.4. This Article VII: Section 5, sets forth both party's entire liability in regards to the indemnity obligations contained herein.

6. Confidentiality.

- 6.1. Each party agrees: to keep confidential all the other party's Confidential Information (whether written or oral) which it has obtained or received as a result of the discussions leading up to or the entering into, or obtains or receives in performance or during the term of this Agreement; not to disclose the other party's Confidential Information in whole or in part to any third party without the disclosing party's written consent, save to those of its employees, agents and contractors involved in the implementation of this Agreement and who have a need to know the same and are bound to keep if confidential; to use the other party's Confidential Information solely in connection with the performance of the Agreement and not otherwise or for the benefit of any other third party. Such obligations will apply during the term of this Agreement and for a period of 2 years after termination of this Agreement.
- 6.2. The provisions of this Article VII: Section 6, shall not apply to the whole or any part of Confidential Information which is: lawfully obtained free of any duty of confidentiality otherwise than directly or indirectly from the disclosing party; already in a party's possession other than as a result of a breach of this Article VII: Section 6; in the public domain (other than as a result of a breach of this Article VII: Section 6); or necessarily disclosed pursuant to a statutory obligation.
- 6.3. Each party, upon the request of the other, shall: return all of the other party's Confidential Information and copies in its possession to the other party, or destroy such Confidential Information and copies as directed by the other party and provide to such party a certificate of an officer of the party certifying such destruction.
- 6.4. Each party further acknowledges and agrees that: the restrictions set forth in this Article VII: Section 6, are reasonable in the circumstances; a violation of any of the provisions of this Article VII: Section 6 shall result in immediate and irreparable harm and damage to the Disclosing Party; and In the event of any violation of any provision of this Article VII: Section 6, the Disclosing Party shall, in addition to any other right to relief, shall be entitled to equitable relief by way of temporary or permanent injunction and to such other relief as any court of competent jurisdiction may deem just and proper.

7. **Proprietary Rights.** Nothing in this Agreement shall be construed to give any ownership interest in or constitute an assignment or transfer of any such intellectual Property of the other party.

8. **Real Property.** This Agreement is not intended to and does not grant a lease or license over any real or personal property of Allegiant or its Third Party Providers. In particular, you acknowledge and agree that you have not been granted any real property interest in the MSP Hardware, Allegiant's Data Center Site or Allegiant's other premises, and you have no rights as a tenant or otherwise under any real property or landlord/tenant/tenant laws, or regulations.

9. **Mutual Non-Solicitation.** [Intentionally deleted.]

10. **Privacy Laws.** Each party is responsible for complying with the privacy laws applicable to its business.

11. **Import/Export Control.** Neither party will use, distribute, transfer or transmit any Hardware, Software, Products or Services or technical information provided under this Agreement (even if incorporated into other products) except in compliance with all applicable import and export laws, conventions and regulations.

12. **Trademarks.** Each party agrees not to display or use, in advertising or otherwise, any of the other party's trade names, logos, trademarks, service marks or other indicia of origin without the other party's prior written consent, which consent may be revoked at any time by notice.

13. **Independent Contractor.** The parties are independent contractors. Neither party will have any rights, power or authority to act or create an obligation on behalf of the other party except as specified in this Agreement. Neither party's employees, agents, nor consultants shall be considered under any circumstances to be employees of the other party.

14. **Force Majeure.** Except for payment of amounts due, neither party will be liable for any delay, failure in performance, loss or damage due to fire, explosion, cable cuts, power blackout, earthquake, flood, strike, embargo, labor disputes, acts of civil or military authority, war, terrorism, acts of God, acts of a public enemy, acts or omissions of carriers or suppliers, acts of regulatory or governmental agencies or other causes beyond such party's reasonable control.

- 15. Amendments and Waivers.** Any supplement to or modification of any provision of this Agreement must be in writing and signed by authorized representatives of both parties. The failure by either party to exercise or enforce any right conferred by the Agreement shall not be deemed to be a waiver of any such right nor operate so as to bar the exercise or enforcement of any such right on any later occasion.
- 16. Assignment and Subcontracting.** Allegiant has the right to assign, subcontract, or delegate in whole or in part this Agreement, or any of its rights, duties, obligations or liabilities provided that if it subcontracts its duties, Allegiant shall remain responsible for the performance of such obligations under this Agreement. You may not assign this Agreement without Allegiant’s permission.
- 17. Severability.** If any portion of this Agreement is found to be invalid or unenforceable or if applicable Law mandates a different interpretation or result, the remaining provisions will remain in effect and the parties will negotiate in good faith to substitute for such invalid, illegal or unenforceable provision a mutually acceptable provision consistent with the original intention of the parties.
- 18. Injunctive Relief.** Nothing in this Agreement is intended to or should be construed to prohibit a party from seeking preliminary or permanent injunctive relief in appropriate circumstances from a court of competent jurisdiction.
- 19. Legal Action.** Any legal action arising in connection with this Agreement must be filed within two (2) years after the cause of action accrues, or it will be deemed time-barred.
- 20. Counterparts/Facsimile.** This Agreement may be executed by the parties in one or more counterparts, each of which will be considered one and the same agreement, and will become effective when one or more counterparts have been signed by each party and delivered to the other party. This Agreement may be delivered by facsimile, email or other functionally equivalent electronic means of transmission agreed upon in writing by the parties.
- 21. Notices.** Any required notices under this Agreement shall be in writing and shall be deemed validly delivered if made by hand (in which case delivery will be deemed to have been effected immediately), or by overnight mail (in which case delivery will be deemed to have been effected one (1) business day after the date of mailing), or by first class pre-paid post (in which case delivery will be deemed to have been effected five (5) days after the date of posting), or by facsimile or electronic transmission (in which case delivery will be deemed to have been effected on the day the transmission was sent). Any such notice shall be sent to the office of the recipient set forth on the cover page of this Agreement or to such other office or recipient as designated in writing from time to time.
- 22. Governing Law/Jurisdiction/Arbitration.** This Agreement is in all respects governed by and construed in accordance with the internal laws of the State of Kansas, United States of America, without regard to its conflicts of law principles. Any disputes that may arise under this Agreement must be resolved exclusively in accordance with such laws of the State of Kansas. Each party shall be entitled to seek and obtain injunctive or other equitable relief or remedies in any court of competent jurisdiction to enforce the provisions of this Agreement concerning or relating to confidentiality and/or intellectual property rights or to enforce the foregoing arbitration provision. Each Party hereby irrevocably submits to the jurisdiction and venue agreed in this Section 22.
- 23. Modifications.** Any modifications to this Agreement must be made in writing and signed by authorized representatives of both parties to this Agreement hereto.
- 24. No Third-Party Beneficiaries.** This Agreement is for the benefit of Allegiant and Customer and does not provide any third party (including users) the right to enforce it or to bring an action for any remedy, claim, liability, reimbursement or cause of action or any other right or privilege.
- 25. Headings.** The headings in this Agreement are for convenience only and shall not in any way affect the interpretation or enforceability of this Agreement.
- 26. Entire Agreement.** This Agreement constitutes the entire agreement between the parties with respect to its subject matter and all oral or written agreements relating to the same subject matter and existing prior to the date of the Agreement are expressly cancelled. Except as otherwise stated in this Agreement, this Agreement supersedes all other agreements, proposals, representations, statements and understandings, whether written or oral, concerning the Products or Services or the rights and obligations relating to the Products or Services, and the parties disclaim any reliance thereon.
- 27. Non-Discrimination.** The Parties agree that each 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 Customer determines that the Allegiant 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 Customer may cancel, terminate, or suspend this agreement in whole or in part.

IN WITNESS WHEREOF the parties have caused this Agreement to be signed and delivered by their respective authorized signatures as of the Effective Date.

Allegiant Authorized Representative	Customer Authorized Representative
Signature:	Signature:
Name:	Name:
Title:	Title:
Date:	Date:

MAYOR'S ANNOUNCEMENTS
Monday, September 18, 2023

Go Green – Community environmental fair	09/23/2023	9:00 a.m.
Environmental Committee	09/27/2023	5:30 p.m.
Community shredding and recycling event	09/30/2023	9:00 a.m.
City Council	10/02/2023	6:00 p.m.
Planning Commission	10/03/2023	7:00 p.m.

INFORMATIONAL ITEMS
September 18, 2023

1. Parks and Recreation Committee meeting minutes – May 10, 2023
2. Diversity Committee meeting minutes – August 8, 2023

PARKS AND RECREATION COMMITTEE

5:30 p.m., May 10, 2023

Porter Park

MINUTES

Attendance—Councilmember Terrence Gallagher, Councilmember Lauren Wolf, Carey Bickford, Randy Knight, Diane Mares, Caety Meyer, Jay Moorman, Kevin Murphy, Lauren Ozburn, Staff: Meghan Buum, James Carney, Melissa Prenger

Public Participation – None

Reports

1. Chairperson's Report – Councilmember Terrence Gallagher shared that the Prairie Elementary School Green Team was honored on Arbor Day with the planting of a new tree at Porter Park.

Councilmember Gallagher reminded the committee that the City Council was deep into the budget process, with the 2024 Capital Improvement Program funded as outlined by the committee the previous year.

Housing remains a large topic of conversation at the City Council level.

2. Recreation Report – Meghan Buum reported that pool pass sales to date were ahead of 2022's numbers at the same point in time. Staff has received very few complaints regarding the price increase. The pool is fully staffed and training is complete.

With the addition of pickleball courts at Windsor Park, Ms. Buum asked for feedback on the rental policy for those courts. Staff and the committee agreed to make them available on a first come, first served basis for the time being, and evaluate to see how that works before determining a policy and fee structure.

Ms. Buum reported that the City is undergoing a sustainability management assessment, and committee members were invited to attend a public meeting on May 16 at City Hall.

Ms. Buum reported that the Brookside Soccer Club has rescinded their request for the multiday pavilion rental, so that item will be removed from the agenda.

3. Public Works Report – James Carney reported that mowing operations are in full swing, and reminded the committee that “while others are mowing, parks are growing” and operations can be impacted by weather. Annuals are being planted throughout the city. Pool prep is underway. Fields are being dragged weekly to maintain their good condition. Seasonal water fountains and features are being de-winterized.

Melissa Prenger provided a parks construction update. The Windsor Park tennis reconstruction needed to be altered from one tennis court and four pickleball courts, to six total pickleball courts based on feedback from the contractor. Jay Moorman suggested some signage, equipment, paddle racks, and rules best practices that he has seen in other cities. Ms. Prenger stated that since Windsor will be exclusively pickleball, Taliaferro will remain exclusively tennis and will not be marked for pickleball lines.

Ms. Prenger shared that the Windsor restroom is currently out for bid. The Harmon Park inclusive play area was bid, and as typical for the last year, came in significantly higher than budgeted. This project was originally budgeted for in 2018, with funds added in both 2019 and 2020. This project will now be combined with the shelter and restroom reconstruction budgeted for 2024. Construction should begin this fall.

Councilmember Gallagher and Lauren Ozburn suggested the addition of panels/communication boards at the parks and pool.

Ms. Prenger reported that the shelter and restroom at Taliaferro are complete. New blue benches to correspond to the picnic tables will be placed this summer. She shared plans for the “Little Village” that is budgeted to be installed this year to include new swings, bouncies, small houses, an accessible play surface, and spinner.

Consent Agenda

1. Minutes from March 8, 2023 – Moved to approved by Kevin Murphy, seconded by Jay Moorman, and passed unanimously.

Old Business—None

New Business

1. Diversity Committee historical marker discussion – Councilmember Cole Robinson and David Magariel attended the meeting on behalf of the diversity committee. They shared information with the Parks and Recreation Committee related to the history of Prairie Village related to racially restrictive covenants. The Diversity Committee would like to recognize that history with an interpretive panel to be placed in Harmon Park, due to the history of restrictions on the property. The goal of the panel is to honestly retell the past of this particular part of Prairie Village history. Consideration was given to something that might be mobile and move throughout the parks system to reach a broader audience. The committee expressed a desire to see this panel in a contemplative, well designed space with thought given to a “forward thinking” component, that recognizes that this behavior is no longer accepted in our community.
2. Park Pavilion Multi-Day Rental Consideration – REMOVED FROM AGENDA

3. Signage Update – Ms. Prenger shared several map renderings, with one artist remaining to submit a design. The committee agreed that they preferred a less busy map that also included more people.

Park Tours

1. Porter Park (historical marker location)
2. Taliaferro Park (new restroom and shelter)

Information Items

Meeting Schedule

- September 13, 2023
- October 11, 2023
- November 8, 2023

Adjournment

Prairie Village Diversity Committee Agenda

August 8, 2023
4:00 p.m.

Prairie Village City Hall – Multi-Purpose Room

- **Call to Order** – Cole Robinson
- **Attendance** – Chi, Cole, Hazel, Karen, Rachael, Tim, Etienne, Captain Washington
- **Approval of Agenda**
 - Hazel and Chi with motion, all approved
- **Land Acknowledgment**
 - Chi provided presentation of acknowledgement/statement
- **Opening Remarks/Welcome** - Cole
- **Approval of Meeting Minutes (4/11/23)**
 - Rachael and Hazel with motion, all approved
- **Presentations** – None
- **Public Participation** – None
- **Committee Discussion**
 - Johnson County Pride Board event is – Oct 8th in the morning
 - UCS Racial Equity Roundtable – Sep 13th
- **Liaison Updates**
 - **Citizen Advisory Board** – None
 - **Civil Service Board** – Capt. Washington
 - Dispatcher position open
 - Officers, down 3-4 currently but pipeline is positive
 - De-escalation training through virtual reality
 - ACTION: Potential for committee to go through training?
- **Project/Event Updates**
 - **Village Voice/Social Media discussion** – Chi
 - Sent most current submission to Tim
 - Next interviewee is confirmed
 - **Interpretive Panel** – from David, via Cole
 - No draft to see yet, but it is in progress now
- **Old Business**
 - **Discuss Antisemitism event / announce date & time** – David
 - JCRB – Cole reached out, working on scheduling a meeting
 - **Discuss indigenous people’s event** – Chi
 - Planned for October 8, 2023 (2:00pm)
 - Sub-committee meeting 8/8
- **New Business**
 - Potential PV Seen future playdates, thinking about spring and fall moving forward
 - Follow up from retreat/planning session
 - Plan to dig into longer-term goals – in/by 9/7? TBD if we have a consultant/outside guidance
 - Timing: Before EOY, last week of Nov/first 2 weeks of Dec on a weeknight

- ACTION: Poll to be sent out with date options
 - For next round of goal setting: focus on the business of the committee, charter – year in review and recommendations for next year
 - Recruiting/Committee visibility – One-sheet with basics to have on hand for events
 - ACTION: Rachael to draft something
- **Looking Ahead 2023**
 - September: Committee Meeting – September 12, 2023 at 4:00 pm
- **Information Items or Announcements** – None
- **Adjournment**
 - Hazel and Karen with motion, all approved