

The public may attend the meeting in person or view it online at <http://pvkansas.com/livestreaming>

**COUNCIL MEETING AGENDA
CITY OF PRAIRIE VILLAGE
Council Chambers
Monday, September 16, 2024
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

- Retirement recognition – Jennifer Wright
- Police Department awards
- Diaper Needs Awareness Week proclamation
- National Hispanic Heritage Month proclamation

VII. PUBLIC PARTICIPATION

Participants may speak for up to three minutes. To submit written comment to the Council regarding current agenda items, please email cityclerk@pvkansas.com prior to 3 p.m. on September 16. 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 3, 2024
2. Approval of revised city-state agreement with the Kansas Department of Transportation for Windsor Park trail project

IX. COMMITTEE REPORTS

X. MAYOR'S REPORT

XI. STAFF REPORTS

XII. OLD BUSINESS

XIII. NEW BUSINESS

COU2024-49 Consider traffic calming on 90th Street from Somerset Drive to Roe Avenue
Keith Bredehoeft

COU2024-50 Consider approval of JM Fahey contract for Mission Road, 63rd Street to 67th Street (MIRD0009)
Melissa Prenger

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

COU2024-51 Consider approval of amendments to the municipal property tax rebate program
Greg Shelton

Short-term rental transient guest tax discussion
Nickie Lee / Jason Hannaman

Discuss council president appointment process
Dave Robinson

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

Diaper Need Awareness Week – September 23 through September 29, 2024

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 23rd through September 29th, 2024, 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 Hispanic Heritage Month

Whereas, National Hispanic Heritage Month takes place September 15 through October 15 every year as a time to recognize and celebrate the many contributions, diverse cultures, and extensive histories of the Hispanic community; and

Whereas, during National Hispanic Heritage Month, we recognize that Hispanic heritage is American heritage; and

Whereas, observing National Hispanic Heritage Month allows our country to show its recognition and support for the work the Hispanic community is doing in helping this country grow; and

Whereas, National Hispanic Heritage Month is an important reminder of how much strength we draw as a nation from our immigrant roots and our values as a nation of immigrants; and

Whereas, we also recognize that America cannot succeed unless Hispanic families and communities succeed, sharing equally in the benefits of our recovery and our investments.

Now, therefore, I, Eric Mikkelson, Mayor of the City of Prairie Village, do hereby proclaim September 15 – October 15 as

National Hispanic Heritage Month

In the City of Prairie Village and urge all residents to respect and honor our diverse community and celebrate and build a culture of inclusiveness and acceptance.

Mayor Eric Mikkelson

Adam Geffert, City Clerk



**CITY COUNCIL
CITY OF PRAIRIE VILLAGE
SEPTEMBER 3, 2024**

The City Council of Prairie Village, Kansas, met in regular session on Tuesday, September 3, at 6:00 p.m. Mayor Mikkelson presided.

ROLL CALL

Roll was called by the City Clerk with the following councilmembers in attendance: Cole Robinson, Terry O'Toole, Inga Selders, Ron Nelson, Lori Sharp, Chi Nguyen, Dave Robinson, Greg Shelton, Nick Reddell, Ian Graves and Terrence Gallagher. Staff present: Byron Roberson, Chief of Police; Keith Bredehoeft, Director of Public Works; Melissa Prenger, Public Works; City Attorney Alex Aggen, Hunter Law Group; Nickie Lee, Deputy City Administrator; Meghan Boom, 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. The motion was seconded by Mr. Gallagher and passed 10-0 [Mr. Reddell had not yet arrived].

INTRODUCTION OF STUDENTS AND SCOUTS

There were no students or scouts present at the meeting.

PRESENTATIONS

Mayor Mikkelson read proclamations recognizing Constitution Week and National Co-Responder and Crisis Responder Week. Chief Roberson acknowledged co-responders Erin Barger and Amy Hennes, and co-responder team leader Jen Melby provided statistical information about their work.

PUBLIC PARTICIPATION

- Anna Gepson, 5313 W. 70th Street, and Marjorie Benson, no address given, expressed their opposition to short-term rentals in the City.
- Barbara Cantrell, 8236 Nall Avenue, shared frustration about signage in her yard being vandalized.



CONSENT AGENDA

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

1. Consider approval of regular City Council meeting minutes - August 19, 2024
2. Consider approval of expenditure ordinance #3041

Mr. Nelson made a motion to approve the consent agenda as presented. A roll call vote was taken with the following votes cast: “aye”: C. Robinson, O’Toole, Selders, Nelson, Sharp, Nguyen, D. Robinson, Shelton, Reddell, Graves, Gallagher. The motion passed 11-0.

COMMITTEE REPORTS

- Mr. Gallagher thanked pool staff for a successful season.
- Mr. Dave Robinson stated that the City’s annual JazzFest event would be held on September 7.
- Mr. Shelton noted that the Environmental Committee’s fall tree seminar would be held on September 25 at Meadowbrook Park.

MAYOR’S REPORT

- The Mayor noted that he had attended the following events since the August 19 Council meeting:
 - A meeting of metro-wide elected officials and staff to discuss preparations for the 2026 World Cup event in Kansas City, Mo.
- The Mayor shared the following upcoming events:
 - A Johnson County / Wyandotte County Mayors meeting on September 11
 - The annual Shawnee Mission East Lancer Day parade on September 13
 - An event recognizing the police department at Mission Hills City Hall on September 9
- The Mayor also noted that planning would soon be underway for the City’s 75th anniversary in 2026

STAFF REPORTS

- Ms. Prenger noted that the feasibility and condition assessment project for the church property located at 7820 Mission Road was underway.
- Ms. Buom provided a summary of the pool season, and recognized staff for their contributions.



- Chief Roberson shared details from the first-half crime report, and thanked Consolidated Fire District #2 for their efforts rescuing residents from a house fire the prior weekend.
- Mr. Jordan stated that Evergy would give a report at the October 7 Council meeting.

OLD BUSINESS

None.

NEW BUSINESS

COU2024-46

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

Consider Resolution 2024-04 approving a tax rate of mill levy rate in excess of the revenue neutral rate for the 2025 budget year

Mr. Hannaman said that Council had approved the preliminary budget at its June 17, 2024, meeting and approved the notice to exceed the revenue neutral rate on July 15, 2024. The proposed 2025 budget would maintain the same level of services as the 2024 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 2025 recommended budget was based on a total mill rate of 18.325, the same amount as 2024.

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 17.365 mills in 2025. 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 22, 2024.

Mayor Mikkelson opened the public hearing to receive comments regarding the City exceeding the revenue neutral rate at 6:55 p.m.

- Resident Kirk Carpenter asked how much property taxes would increase based on the proposed budget. Mayor Mikkelson stated that for a home at the City's median value of \$404,000, City taxes would increase \$3 per month, or \$36 per year.
- Resident Paul Gorelick shared his support for the proposed budget and the budget process.

With no one else present to speak, Mayor Mikkelson closed the public hearing at 6:59.



Mr. Nelson made a motion to approve Resolution 2024-04 approving a mill levy rate in excess of the revenue neutral rate for the 2025 budget year. The motion was seconded by Mr. Shelton.

Ms. Sharp asked how much the budget would need to be reduced to maintain the existing revenue neutral rate. Mr. Hannaman stated the amount would be \$610,000. Ms. Sharp said that she felt Council should find a way to reduce the budget by that amount.

Mr. Gallagher noted that he had attended all staff budget meetings earlier in the year, and that cuts were made in nearly every department to reduce the amount of increase.

Mr. Shelton asked what portion of the budget's growth was due to the increased pay scale for the police department. Mr. Hannaman said that it totaled approximately \$425,000 for 2025, roughly two-thirds of the total increase.

Mr. Reddell stated that he didn't believe the City should be contributing money to charitable causes, such as United Community Services.

Ms. Sharp asked how much money in the budget was being set aside for the proposed municipal complex project. Mr. Hannaman stated the total was \$1.15 million.

After further discussion, a roll call vote was taken with the following votes cast: "aye": C. Robinson, O'Toole, Selders, Nelson, Nguyen, D. Robinson, Shelton, Graves, Gallagher; "nay": Sharp, Reddell. The motion passed 9-2.

COU2024-47 Public hearing for the 2025 budget

Consider 2025 budget adoption

Mr. Hannaman stated that the "all in number" for general fund expenditures in the 2025 budget represented a 1.3% increase over 2024, totaling \$32,005,383. Proposed increases included 6.4% for personnel, 2.8% for contract services, 3.4% for commodities, and a 7.4% decrease for capital outlay. The majority of the increase to the personnel budget would be applied to the police department, whereas the merit pool for other City employees was set at 4%. Mr. Hannaman added that the mill levy would remain flat at 18.325, and the fund balance would be slightly over its 25% target, at 25.1%.

At 7:25 p.m., Mayor Mikkelson opened the public hearing to receive comments regarding the proposed 2025 budget.

With no one present to speak, Mayor Mikkelson closed the public hearing at 7:26.

Mr. Nelson made a motion to approve the 2025 budget as certified in the amount of \$49,118,422 with ad valorem tax in the amount of \$12,372,289. The motion was seconded



by Mr. Shelton. A roll call vote was taken with the following votes cast: “aye”: C. Robinson, O’Toole, Selders, Nelson, Nguyen, D. Robinson, Shelton, Graves, Gallagher; “nay”: Sharp, Reddell. The motion passed 9-2.

COU2024-48 Consider approval of Superior Bowen contract for the 2024 UBAS program (UBAS2024)

Ms. Prenger stated that ultra-thin bonded asphalt surface (UBAS) was a treatment used to help extend the life of a road by placing a thin overlay onto a prepared asphalt surface. The overlay was capable of dispersing water quickly off the surface, reducing roadway spray from vehicles and providing greater visibility in wet weather. She noted that the treatment would be used on arterial and collector streets in the City.

On August 14, 2024, two bids were opened for the 2023 UBAS program:

- McAnany Construction \$349,999.99
- Superior Bowen \$297,671.80
- Engineer’s estimate \$381,202.97

Ms. Prenger said that staff had reviewed the bids for accuracy and recommended awarding the project to Superior Bowen. She added that \$395,000 had been budgeted for the project and the contract would be awarded in that amount. The number of street locations would be increased to utilize the full funding.

Mr. Shelton made a motion to approve the contract with Superior Bowen in the amount of \$395,000.00. Mr. Nelson seconded the motion, which passed 11-0.

EXECUTIVE SESSION

At 7:34 p.m., Mr. Dave Robinson made the following motion:

“I move that the Governing Body recess into Executive Session for a period of 30 minutes for the purpose of discussing, with legal counsel representing the City, legal claims related to land use, storm drainage, and property damage pursuant to the exception for consultation with an attorney which would be deemed privileged in the attorney-client relationship pursuant to KSA 75-4319(b)(2). The Governing Body, the City Administrator, Deputy City Administrator, Public Works Director, outside legal counsel, and City Attorney will be present. The open meeting will resume at 8:10 p.m.”

The regular meeting reconvened at 8:10 p.m.

Mr. Reddell made a motion for the City Council to move to the Council Committee of the Whole portion of the meeting. The motion was seconded by Mr. Nelson and passed 11-0.



COUNCIL COMMITTEE OF THE WHOLE
Short-term rental ban discussion

Ms. Lee shared information about how a ban on short-term rentals (STRs) could be implemented. She noted that at its May 6, 2024, meeting, Council discussed potential options which ranged from adding new regulations and fees to a ban on rentals under 30 days, as the City of Leawood had enacted. Direction was given to staff to provide information about what a ban of rentals under 30 days would look like. She added that currently, STRs were required to obtain a rental license to operate in Prairie Village, utilizing the same process as long-term rental properties. Staff estimated that there were approximately 30 STRs in Prairie Village.

Mr. Aggen said that there were no statutory restrictions against a municipality enacting an STR ban. Although lawsuits had been filed in other jurisdictions against bans and stronger restrictions, courts had often sided with municipalities if a legitimate public purpose could be demonstrated. Code enforcement officers could provide notification that a property was out of compliance, and a violation would likely result in a mandatory court appearance with a fine to be assessed by the judge.

Mr. Aggen noted that if Council decided to move toward a complete ban, it would need to consider how to treat STRs that were already legally operating. One option would be that properties already licensed with the City as STRs could receive either the right to continue under the same ownership for the duration of their existing rental license or to have a distinct time period for enforcement to begin. He added that if the Council pursued an STR ban, it should do so with a start date in mind. Neighboring cities that had banned STRs, or had enacted more restrictions, recommended providing a public involvement process, education, and ramp-up time.

Mr. Gallagher asked how the City could determine which properties were being rented out on a short-term basis. Mr. Aggen stated that he had been in contact with both Airbnb and VRBO, and believed that information could be provided by the two companies.

Mr. Cole Robinson said he was interested in obtaining an estimate of the dollar amount that could be collected through the transient guest tax if it were collected from STRs. Mr. Graves agreed.

Ms. Selders and Ms. Sharp noted that one of the most consistent complaints they received from residents while campaigning was STRs, and favored a ban similar to Leawood's. Ms. Sharp added that she preferred giving existing STR owners a year or two to determine what to do with their properties before banning them immediately.

Mayor Mikkelson suggested sending a notice to property owners that operated STRs in the City to provide them the opportunity to share their perspective with the Council.



Mr. Gallagher asked if the transient guest tax could be collected on rental properties with a minimum of a 30 day stay. Mr. Hannaman said it could only be collected on properties with stays under 28 days.

After further discussion, Mr. Cole Robinson made a motion for staff to research potential transient guest tax revenues before proceeding with a potential ban. Mr. Graves seconded the motion, which passed 9-2, with Ms. Selders and Ms. Sharp in opposition.

Council work session topic review

- Discuss council president appointment process

Mr. Dave Robinson said that a survey sent to councilmembers regarding items discussed at its last work session showed that the highest priority topics were the council president appointment process, and construction costs associated with the proposed updates to the municipal complex. He noted that historically, the councilmember with the most seniority that had not yet served as council president would be appointed to the position each year. However, the policy was not followed in 2023, as a vote was taken to elect Mr. Dave Robinson as president instead.

Mr. Shelton stated that he didn't think the role of president should be held by a councilmember from the same ward as the last president.

Mr. O'Toole said that he preferred having a vote annually for the role.

Mayor Mikkelson stated that he liked the current policy because it removed divisiveness from the process of selecting a council president. He added that choosing a president through an election had merits, but expressed concern over how it might impact councilmember relations.

Ms. Selders, Ms. Sharp and Mr. Reddell felt that the date of the election should change, so that new councilmembers were more familiar with those already on the Council before an appointment or election. Mayor Mikkelson stated that doing so would complicate assigning councilmembers to committees.

Mr. Dave Robinson stated that if the council president were merely a "ceremonial" role, the previous selection process was adequate. However, if it was considered more of a leadership role, an election to choose the president was preferable.

Mr. Cole Robinson suggested a ranked choice secret ballot could be used. Mayor Mikkelson stated that he didn't feel anonymous voting was appropriate for determining the council president.



PRAIRIE VILLAGE
KANSAS

After further discussion, Mr. Dave Robinson suggested that councilmembers consider the options and discuss them further at an upcoming Council meeting.

- Discuss cost of a new city hall

Mr. Dave Robinson recommended postponing the discussion until the evaluation of the property at 7820 Mission Road had been completed.

Mr. Reddell moved that the City Council end the Council Committee of the Whole portion of the meeting. The motion was seconded by Mr. Shelton and passed 11-0.

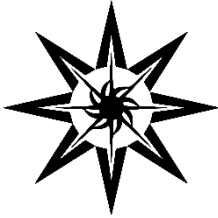
ANNOUNCEMENTS

Announcements were included in the Council meeting packet.

ADJOURNMENT

Mayor Mikkelson declared the meeting adjourned at 9:53 p.m.

Adam Geffert
City Clerk



PUBLIC WORKS DEPARTMENT

Consent Agenda: September 16, 2024

APPROVAL OF THE REVISED CITY-STATE AGREEMENT WITH THE KANSAS DEPARTMENT OF TRANSPORTATION FOR WINDSOR PARK TRAIL PROJECT (BG900005)

RECOMMENDATION

Authorize the Mayor to sign the revised City-State Agreement to secure funding for the Windsor Park Trail Project (BG900005).

BACKGROUND

The 5-year Park CIP includes a 2026 trail project in Windsor Park to improve the trail and create an accessible entry point into the park from the north.

This project was awarded \$200,000 in 2026 Kansas Transportation Alternatives Program (TAP) funds through MARC's Active Transportation Programming Committee in November 2022. Since that time, the 2025-26 TAP funding recommendations were approved by the MARC Board of Directors and have been incorporated into the 2022-2026 Transportation Improvement Program.

City Staff has been coordinating this project with the Kansas Department of Transportation. One of the first steps was formally request this programming with a Form 1302, the Project Programming Request, which was approved by the Governing Body and submitted to KDOT in December 2023.

The original agreement brought forth to the Governing Body on August 19, 2024, reflected the requirement for the State to let and administer the project.

However, City Staff are now certified under the State's program giving the City the ability to administer the project and the revised contract reflects this change.

FUNDING

Funding is shown in the CIP for the year 2026 for this project. Accepting this funding from the Active Transportation Programming Committee reduces the funding burden of the City.

ATTACHMENTS

1. City-State Agreement for KDOT No. 46 N-0792-01 / PV No. BG900005

PREPARED BY

Melissa Prenger, City Engineer

September 10, 2024

PROJECT NO. 46 N-0792-01
TA- N079(201)
TIP #: 351002

TRANSPORTATION ALTERNATIVES PROJECT
PRAIRIE VILLAGE: RECONSTRUCTION AND WIDENING OF WINDSOR PARK TRAIL
CITY OF PRAIRIE VILLAGE, KANSAS

A G R E E M E N T

This Agreement is between the **Secretary of Transportation**, Kansas Department of Transportation (KDOT) (the “Secretary”), and the **City of Prairie Village, Kansas** (“Project Sponsor”), **collectively**, the “Parties.”

RECITALS:

- A. The Secretary is authorized by the current Federal-Aid Transportation Act to set aside certain portion of Federal funding for Transportation Alternatives (TA) projects.
- B. The Secretary is empowered to pass through Surface Transportation Block Grant (STBG) funds for TA projects to eligible state agencies, local agencies, metropolitan planning organizations (MPO), and nonprofit entities.
- C. The Secretary and the Project Sponsor are empowered by the laws of Kansas to enter into agreements for Federal STBG funding under the Transportation Alternatives Provision of the current Federal-Aid Transportation Act.
- D. The Project Sponsor has requested and Secretary has authorized a TA project, as further described in this Agreement.
- E. Under the terms of the current Federal-Aid Transportation Act and the rules and regulations of the Federal Highway Administration (FHWA), states and state agencies, local agencies, MPO, and nonprofit entities may be entitled to receive assistance in the financing of TA projects, provided such work is done in accordance with applicable state and federal law.

NOW, THEREFORE, the Parties agree to the following terms and provisions.

ARTICLE I

DEFINITIONS: The following terms as used in this Agreement have the designated meanings:

1. **“Agreement”** means this written document, including all attachments and exhibits, evidencing the legally binding terms and conditions of the agreement between the Parties.

2. **“Construction”** means the work done on the Project after Letting, consisting of building, altering, repairing, improving or demolishing any structure, building or highway, any drainage, dredging, excavation, grading or similar work upon real property.
3. **“Construction Contingency Items”** mean unforeseeable elements of cost within the defined project scope identified after the Construction phase commences.
4. **“Construction Engineering” or “CE”** means inspection services, material testing, engineering consultation and other reengineering activities required during Construction of the Project.
5. **“Consultant”** means any engineering firm or other entity retained to perform services for the Project.
6. **“Contractor”** means the entity awarded the Construction contract for the Project and any subcontractors working for the Contractor with respect to the Project.
7. **“Design Plans”** means design plans, specifications, estimates, surveys, and any necessary studies or investigations, including, but not limited to, environmental, hydraulic, and geological investigations or studies necessary for the Project under this Agreement.
8. **“Effective Date”** means the date this Agreement is signed by the Secretary or the Secretary’s designee.
9. **“Encroachment”** means any building, structure, farming, vehicle parking, storage or other object or thing, including but not limited to, signs, posters, billboards, roadside stands, fences, or other private installations, not authorized to be located within the Right of Way which may or may not require removal during Construction pursuant to the Design Plans.
10. **“Federal Fiscal Year (FFY)”** means the fiscal year as determined by the FHWA which begins October 1 and ends on September 30 of the following calendar year.
11. **“FHWA”** means the Federal Highway Administration, a federal agency of the United States.
12. **“Fiscal Year (FY)”** means the state’s fiscal year which begins July 1 and ends on June 30 of the following calendar year.
13. **“Hazardous Waste”** means any waste or combination of wastes which, because of its quantity, concentration or physical, chemical, biological or infectious characteristics or as otherwise determined by the Kansas Department of Health and Environment: (A) Causes or significantly contributes to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or (B) poses a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported or disposed of or otherwise managed. Any hazardous waste as defined by state and federal laws and regulations and any amendments thereto, is incorporated by reference and includes but is not limited to: (1) 40 C.F.R. § 261, et seq., Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Toxicity Sponsor Characteristics Revisions; Final Rule; (2) 40 C.F.R. § 280, et seq.,

Underground Storage Tanks; Technical Requirements and State Program Approval; Final Rules; (3) 40 C.F.R. § 300, National Oil and Hazardous Substances Pollution Contingency Plan; Final Rule; and (4) K.S.A. § 65-3430, et seq., Hazardous Waste.

14. **“KDOT”** means the Kansas Department of Transportation, an agency of the State of Kansas, with its principal place of business located at 700 SW Harrison Street, Topeka, KS 66603-3745.
15. **“Letting” or “Let”** means the process of receiving bids prior to any award of a Construction contract for any portion of the Project.
16. **“Non-Participating Costs”** means the costs of any items or services which the Secretary, acting on the Secretary’s own behalf and on behalf of the FHWA, reasonably determines are not Participating Costs.
17. **“Participating Costs”** means expenditures for items or services which are an integral part of highway, bridge, and road construction projects, as reasonably determined by the Secretary.
18. **“Parties”** means the Secretary of Transportation and KDOT, individually and collectively, and the Project Sponsor.
19. **“Preliminary Engineering” or “PE”** means pre-construction activities, including but not limited to, design work, generally performed by a consulting engineering firm that takes place before Letting.
20. **“Project”** means all phases and aspects of the Construction endeavor to be undertaken by the Project Sponsor, as and when authorized by the Secretary prior to Letting, being: **Project No. 46 N-0792-01; reconstruction and widening of existing trail loop at Windsor Park; in Prairie Village, Kansas**, and is the subject of this Agreement.
21. **“Project Limits”** means that area of Construction for the Project, including all areas between and within the Right of Way boundaries as shown on the Design Plans.
22. **“Project Sponsor”** means the City of Prairie Village, Kansas, with its place of business at 7700 Mission Road, Prairie Village, KS 66208.
23. **“Responsible Bidder”** means one who makes an offer to construct the Project in response to a request for bid with the technical capability, financial capacity, human resources, equipment, and performance record required to perform the contractual services.
24. **“Right of Way”** means the real property and interests therein necessary for Construction of the Project, including fee simple title, dedications, permanent and temporary easements, and access rights, as shown on the Design Plans.
25. **“Secretary”** means the Secretary of Transportation of the state of Kansas, and the Secretary’s successors and assigns.

26. **“Useful Life Period”** means a sufficient period of time, as specifically designated in this Agreement in Article V, paragraph 2, to secure the investment of federal funds in the Project based on the nature and magnitude of Project costs and generally accepted economic or useful life cycle norms for the type of Construction involved in the Project.
27. **“Utilities” or “Utility”** means all privately, publicly or cooperatively owned lines, facilities and systems for producing, transmitting or distributing communications, power, electricity, light, heat, gas, oil, crude products, water, steam, waste, and other similar commodities, including non-transportation fire and police communication systems which directly or indirectly serve the public.

ARTICLE II

FUNDING:

1. **Funding.** The table below reflects the funding commitments of each Party. The Total Actual Costs of Construction include all Construction Contingency Items. The Parties agree estimated costs and contributions are to be used for encumbrance purposes and may be subject to change.

Party	Responsibility
Secretary	80% of Total Actual Costs of Construction and Construction Engineering (CE), not to exceed \$200,000.00.
Project Sponsor	<p>20% of Total Actual Costs of Construction and CE until the Secretary’s funding limit is reached.</p> <p>100% of Total Actual Costs of Construction and CE after the Secretary’s funding limit is reached.</p> <p>100% Costs of Preliminary Engineering (PE), Right of Way, Utility Adjustments, and Non-Participating Costs.</p>

ARTICLE III

SECRETARY RESPONSIBILITIES:

1. **Technical Information on Right of Way Acquisition.** The Secretary will provide technical information upon request to help the Project Sponsor acquire Right of Way in accordance with applicable laws and with procedures established by KDOT’s Bureau of Right of Way and the Office of Chief Counsel and as required by FHWA directives such that the Project Sponsor may obtain participation of federal funds in the cost of the Project.
2. **Payment of Costs.** The Secretary agrees to reimburse the Project Sponsor for 80 percent (80%) of the total actual costs of Construction (which includes the costs of all Construction Contingency Items) and Construction Engineering, but not to exceed \$200,000.00 for the Project. The

Secretary shall not be responsible for the total actual costs of Construction (which includes the costs of all Construction Contingency Items) and Construction Engineering that exceed \$200,000.00 for the Project. The Secretary shall not be responsible for the costs of Preliminary Engineering, Right of Way, or Utility adjustments for the Project.

3. **Reimbursement Payments.** The Secretary agrees to make partial payments to the Project Sponsor for amounts not less than \$1,000.00 and no more frequently than monthly. Such payments will be made after receipt of proper billing and approval by a licensed professional engineer, a licensed professional architect, and/or licensed landscape architect, as applicable, employed by the Project Sponsor that the Project is being constructed within substantial compliance of the Design Plans.
4. **Indemnification by Contractors.** The Secretary will require the Contractor to indemnify, hold harmless, and save the Secretary and the Project Sponsor from personal injury and property damage claims arising out of the act or omission of the Contractor, the Contractor's agent, subcontractors, or suppliers. If the Secretary or the Project Sponsor defends a third party's claim, the Contractor shall indemnify the Secretary and the Project Sponsor for damages paid to the third party and all related expenses either the Secretary or the Project Sponsor or both incur in defending the claim.
5. **Final Billing.** After receipt of FHWA acknowledgement of final voucher claim, the Secretary's Chief of Fiscal Services will, in a timely manner, prepare a complete and final billing of all Project costs for which the Project Sponsor is responsible and shall then transmit the complete and final billing to the Project Sponsor.

ARTICLE IV

PROJECT SPONSOR RESPONSIBILITIES:

1. **Secretary Authorization.** The Project shall be undertaken on behalf of the Project Sponsor by the Secretary acting in all things as its agent, and the Project Sponsor hereby constitutes and appoints the Secretary as its agent. All things done by the Secretary in connection with the Project are authorized, adopted, ratified, and confirmed by the Project Sponsor to the same extent and with the same effect as though done directly by the Project Sponsor acting in its own individual capacity. The Secretary is authorized by the Project Sponsor to take such steps as are deemed by the Secretary to be necessary or advisable for the purpose of securing the benefits of the current Federal-Aid Transportation Act for this Project.
2. **Legal Authority.** By his or her signature on this Agreement, the signatory certifies that he or she has legal and actual authority as representative and agent for the Project Sponsor to enter into this Agreement on its behalf. The Project Sponsor agrees to take any administrative and/or legal steps as may be required to give full effect to the terms of this Agreement.
3. **Conformity with Federal, State, and Local Public (LPA) Requirements.** The Project Sponsor shall be responsible to design the Project or contract to have the Project designed in conformity with Federal, State, and LPA design criteria appropriate for the Project, including

but not limited to, federal, state, and local project authority rules, regulations, special provisions, policies, and guidelines.

4. **Conformity with Professional Standards and Guidelines.** The Project Sponsor shall be responsible to design the Project or contract to have the Project designed in applicable conformity with, including but not limited to, the current American Institute of Architects (AIA) standards, the Secretary of the Interior's Standards for the Treatment of Historic Properties, and the American Society of Landscape Architects guidelines.
5. **Design and Specifications.** The Project Sponsor shall be responsible to make or contract to have made Design Plans for the Project.
6. **Submission of Design Plans to Secretary.** Upon their completion, the Project Sponsor shall have the Design Plans submitted to the Secretary by a licensed professional engineer, a licensed professional architect, and/or licensed landscape architect, as applicable, attesting to the conformity of the Design Plans with the items in Article IV, paragraph 3 above. The Design Plans must be signed and sealed by the licensed professional engineer, licensed professional architect, and/or licensed landscape architect, as applicable, responsible for preparation of the Design Plans. In addition, geological investigations or studies must be signed and sealed by either a licensed geologist or licensed professional engineer, who is responsible for the preparation of the geological investigations or studies. All technical professionals involved in the Project are required to meet the applicable licensing and/or certification requirements as stated in K.S.A. § 74-7001, *et seq.*
7. **Consultant Contract Language.** The Project Sponsor shall include language requiring conformity with Article IV, paragraph 3 above, in all contracts between the Project Sponsor and any Consultant with whom the Project Sponsor has contracted to perform services for the Project. In addition, any contract between the Project Sponsor and any Consultant retained by them to perform any of the services described or referenced in this paragraph for the Project covered by this Agreement must contain language requiring conformity with Article IV, paragraph 3 above. In addition, any contract between the Project Sponsor and any Consultant with whom the Project Sponsor has contracted to prepare and certify Design Plans for the Project covered by this Agreement must also contain the following provisions:
 - (a) **Completion of Design.** Language requiring completion of all plan development stages no later than the current Project schedule's due dates as issued by KDOT, exclusive of delays beyond the Consultant's control.
 - (b) **Progress Reports.** Language requiring the Consultant to submit to the Project Sponsor (and to the Secretary upon request) progress reports at monthly or at mutually agreed intervals in conformity with the official Project schedule.
 - (c) **Third-Party Beneficiary.** Language making the Secretary a third-party beneficiary in the agreement between the Project Sponsor and the Consultant. Such language shall read:

“Because of the Secretary of Transportation of the State of Kansas’ (Secretary’s) obligation to administer state funds, federal funds, or both, the Secretary shall be a third-party beneficiary to this agreement between the Project Sponsor and the Consultant. This third-party beneficiary status is for the limited purpose of seeking payment or reimbursement for damages and costs the Secretary or the Project Sponsor or both incurred or will incur because the Consultant failed to comply with its contract obligations under this Agreement or because of the Consultant’s negligent acts, errors, or omissions. Nothing in this provision precludes the Project Sponsor from seeking recovery or settling any dispute with the Consultant as long as such settlement does not restrict the Secretary’s right to payment or reimbursement.”

8. **Responsibility for Adequacy of Design.** The Project Sponsor shall be responsible for and require any Consultant retained by it to be responsible for the adequacy and accuracy of the Design Plans for the Project. Any review of these items performed by the Secretary or the Secretary’s representatives is not intended to and shall not be construed to be an undertaking of the Project Sponsor’s and its Consultant’s duty to provide adequate and accurate Design Plans for the Project. Reviews by the Secretary are not done for the benefit of the Consultant, the construction Contractor, the Project Sponsor, any other political subdivision, or the traveling public. The Secretary makes no representation, express or implied warranty to any person or entity concerning the adequacy or accuracy of the Design Plans for the Project, or any other work performed by the Consultant or the Project Sponsor.
9. **Design Exception Indemnification.** Any design exception to the current version of the American Association of State Highway and Transportation Officials (AASHTO) Design Standards shall be in accordance with 23 C.F.R. § 625. For any design exception, the Project Sponsor agrees to the extent permitted by law and subject to the maximum liability provisions of the Kansas Tort Claims Act (K.S.A. § 75-6101, *et seq.*) to defend, indemnify, hold harmless, and save the Secretary and the Secretary’s authorized representatives from any and all costs, liabilities, expenses, suits, judgments, damages to persons or property or claims of any nature whatsoever arising out of or in connection with the design exceptions for this Agreement by the Project Sponsor, the Project Sponsor’s employees, or subcontractors.
10. **Authorization of Signatory.** The Project Sponsor shall authorize a duly appointed representative to sign for the Project Sponsor any or all routine reports as may be required or requested by the Secretary in the completion of the Project.
11. **Right of Way.** The Project Sponsor agrees to the following with regard to Right of Way:
 - (a) **Right of Way Acquisition.** The Project Sponsor will, in its own name, as provided by law, acquire by purchase, dedication or condemnation all the Right of Way shown on the final Design Plans in accordance with the schedule established by KDOT. The Project Sponsor agrees the necessary Right of Way shall be acquired in compliance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended by the Surface Transportation and Uniform Relocation Assistance Act of 1987, and administrative regulations contained in 49 C.F.R. Part 24, entitled Uniform Relocation Assistance and Real

Property Acquisition for Federal and Federally Assisted Programs. The Project Sponsor shall certify to the Secretary, on forms provided by the KDOT's Bureau of Local Projects, such Right of Way has been acquired. The Project Sponsor further agrees it will have recorded in the Office of the Register of Deeds all Right of Way, deeds, dedications, permanent easements, and temporary easements.

- (b) Right of Way Documentation. The Project Sponsor will provide all legal descriptions required for Right of Way acquisition work. Right of Way descriptions must be signed and sealed by a licensed land surveyor responsible for the preparation of the Right of Way descriptions. The Project Sponsor further agrees to acquire Right of Way in accordance with the laws and with procedures established by KDOT's Bureau of Right of Way and the Office of Chief Counsel and as required by FHWA directives for the participation of federal funds in the cost of the Project. The Project Sponsor agrees copies of all documents, including recommendations and coordination for appeals, bills, contracts, journal entries, case files, or documentation requested by the Office of Chief Counsel will be delivered within the time limits set by the Secretary.
- (c) Relocation Assistance. The Project Sponsor will contact the Secretary if there will be any displaced person on the Project prior to making the offer for the property. The Parties mutually agree the Project Sponsor will undertake the relocation for eligible persons as defined in the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended by the Surface Transportation and Uniform Relocation Assistance Act of 1987, and as provided in 49 C.F.R. Part 24, entitled Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs, and in general accordance with K.S.A. §§ 58-3501 to 58-3507, inclusive, and Kansas Administrative Regulations 36-16-1, *et seq.* The Secretary will provide information, guidance, and oversight to the Project Sponsor for any relocations required by the Project.
- (d) Non-Highway Use of Right of Way. Except as otherwise provided, all Right of Way provided for the Project shall be used solely for public street purposes. Any disposal of or change in the use of Right of Way or in access after Construction of the Project will require prior written approval by the Secretary.
- (e) Public Right-of-Way Accessibility Guidelines (PROWAG) and Americans with Disabilities Act Accessibility Guidelines (ADAAG). The Project Sponsor will be responsible for construction of any traffic signal and/or sidewalk improvements that are necessary to comply with applicable PROWAG and ADAAG, regardless of whether such improvements are deemed non-eligible/non-participating bid items by the Secretary for reimbursement purposes.
- (f) Use of Right of Way. The Secretary shall have the right to utilize any land owned or controlled by the Project Sponsor, lying inside or outside the limits of the Project Sponsor as shown on the final Design Plans, for the purpose of constructing the Project.
 - (i) Project Sponsor Responsible for Repairs and Providing Alternative Accessible Routes. In the event the Trail/Sidewalk is temporarily closed or removed for any reason and for

any length of time, the Project Sponsor will be wholly responsible for providing an alternative accessible path and for compliance with all laws and regulations relating to accessibility.

- (ii) **Maintenance.** When the Project is completed and final acceptance is issued, the Project Sponsor, at its own cost and expense, will maintain, including snow removal if required by law, the Trail/Sidewalk and make ample provision each year for such maintenance. If notified by the State Transportation Engineer of any unsatisfactory maintenance condition, the Project Sponsor will begin the necessary repairs within a reasonable period and will prosecute the work continuously until it is satisfactorily completed. Any notification by the State Transportation Engineer, however, is not intended to and shall not be construed to be an undertaking of the Project Sponsor's absolute duty and obligation to maintain the Trail/Sidewalk.

- 12. **Removal of Encroachments.** The Project Sponsor shall initiate and proceed with diligence to remove or require the removal of all Encroachments either on or above the limits of the Right of Way within its jurisdiction as shown on the final Design Plans for this Project. It is further agreed all such Encroachments will be removed before the Project is advertised for Letting; except the Secretary may permit the Project to be advertised for Letting before such Encroachment is fully removed if the Secretary determines the Project Sponsor and the owner of the Encroachment have fully provided for the physical removal of the Encroachment and such removal will be accomplished within a time sufficiently short to present no hindrance or delay to the Construction of the Project.
- 13. **Future Encroachments.** Except as provided by state and federal laws, the Project Sponsor agrees it will not in the future permit Encroachments upon the Right of Way of the Project, and specifically will require any gas and fuel dispensing pumps erected, moved, or installed along the Project be placed a distance from the Right of Way line no less than the distance permitted by the National Fire Code.
- 14. **Utilities.** The Project Sponsor agrees to the following with regard to Utilities:
 - (a) **Utility Relocation.** The Project Sponsor will move or adjust, or cause to be moved or adjusted, and will be responsible for such removal or adjustment of all existing Utilities necessary to construct the Project in accordance with the final Design Plans. New or existing Utilities to be installed, moved, or adjusted will be located or relocated in accordance with the current version of the KDOT Utility Accommodation Policy (UAP), as amended or supplemented.
 - (b) **Status of Utilities.** The Project Sponsor shall furnish the Secretary a list identifying existing and known Utilities affected, together with locations and proposed adjustments of the same and designate a representative to be responsible for coordinating the necessary removal or adjustment of Utilities.
 - (c) **Time of Relocation.** The Project Sponsor will expeditiously take such steps as are necessary to facilitate the early adjustment of any Utilities, initiate the removal or adjustment of the

Utilities, and proceed with reasonable diligence to prosecute this work to completion. The Project Sponsor shall certify to the Secretary on forms supplied by the Secretary that all Utilities required to be moved prior to Construction have either been moved or a date provided by the Project Sponsor as to when, prior to the scheduled Letting and Construction, Utilities will be moved. The Project Sponsor shall move or adjust or cause to be moved or adjusted all necessary Utilities within the time specified in the Project Sponsor's certified form except those necessary to be moved or adjusted during Construction and those which would disturb the existing street surface. The Project Sponsor will initiate and proceed to complete adjusting the remaining Utilities not required to be moved during Construction so as not to delay the Contractor in Construction of the Project.

- (d) Permitting of Private Utilities. The Project Sponsor shall certify to the Secretary all privately owned Utilities occupying public Right of Way required for the Construction of the Project are permitted at the location by franchise, ordinance, agreement or permit and the instrument shall include a statement as to which party will bear the cost of future adjustments or relocations required as a result of street or highway improvements.
- (e) Indemnification. To the extent permitted by law and the Kansas Tort Claims Act (K.S.A. § 75-6101, *et seq.*), the Project Sponsor will indemnify, hold harmless, and save the Secretary and the Contractor for damages incurred by the Secretary and Contractor because identified Utilities have not been moved or adjusted timely or accurately.
- (f) Cost of Relocation. Except as provided by state and federal laws, the expense of the removal or adjustment of the Utilities located on public Right of Way shall be borne by the owners. The expense of the removal or adjustment of privately owned Utilities located on private Right of Way or easements shall be borne by the Project Sponsor except as provided by state and federal laws.

15. **Hazardous Waste.** The Project Sponsor agrees to the following with regard to Hazardous Waste:

- (a) Removal of Hazardous Waste. The Project Sponsor shall locate and be responsible for remediation and cleanup of any Hazardous Waste discovered within the Project Limits. The Project Sponsor shall take appropriate action to cleanup and remediate any identified Hazardous Waste prior to Letting. The Project Sponsor will also investigate all Hazardous Waste discovered during Construction and shall take appropriate action to cleanup and remediate Hazardous Waste. The standards to establish cleanup and remediation of Hazardous Waste include, but are not limited to, federal programs administered by the Environmental Protection Agency, State of Kansas environmental laws and regulations, and City and County standards where the Hazardous Waste is located.
- (b) Responsibility for Hazardous Waste Remediation Costs. The Project Sponsor shall be responsible for all damages, fines or penalties, expenses, fees, claims, and costs incurred from remediation and cleanup of any Hazardous Waste within the Project Limits which is discovered prior to Letting or during Construction.

- (c) Hazardous Waste Indemnification. The Project Sponsor shall hold harmless, defend, and indemnify the Secretary, the Secretary's agents and employees from all claims, including contract claims and associated expenses, and from all fines, penalties, fees or costs imposed under state or federal laws arising out of or related to any act of omission by the Project Sponsor in undertaking cleanup or remediation for any Hazardous Waste.
- (d) No Waiver. By signing this Agreement the Project Sponsor has not repudiated, abandoned, surrendered, waived or forfeited its right to bring any action, seek indemnification or seek any other form of recovery or remedy against any third party responsible for any Hazardous Waste on any Right of Way within the Project Limits. The Project Sponsor reserves the right to bring any action against any third party for any Hazardous Waste on any Right of Way within the Project Limits.
16. Inspections. The Project Sponsor is responsible to provide Construction Engineering for the Project in accordance with the rules and guidelines developed for the current KDOT approved construction engineering program and in accordance with the current edition of the KDOT Standard Specifications for State Road and Bridge Construction with Special Provisions and any necessary Project Special Provisions. The detailed inspection is to be performed by the Project Sponsor or the Consultant. The Secretary does not undertake for the benefit of the Project Sponsor, the Contractor, the Consultant or any third party the duty to perform the day-to-day detailed inspection of the Project, or to catch the Contractor's errors, omissions, or deviations from the final Design Plans. The Project Sponsor will require at a minimum all personnel performing Construction Engineering to comply with the high visibility requirements of the MUTCD, Chapter 6E.02, High-Visibility Safety Apparel. The agreement for inspection services must contain this requirement as a minimum. The Project Sponsor may require additional clothing requirements for adequate visibility of personnel.
17. Traffic Control. The Project Sponsor agrees to the following with regard to traffic control for the Project:
- (a) Temporary Traffic Control. The Project Sponsor shall provide a temporary traffic control plan within the Design Plans, which includes the Project Sponsor plan for handling multi-modal traffic during Construction, including detour routes and road closings, if necessary, and installation of alternate or temporary pedestrian accessible paths to pedestrian facilities in the public Right of Way within the Project Limits. The Project Sponsor's temporary traffic control plan must be in conformity with the latest version of the Manual on Uniform Traffic Control Devices (MUTCD), as adopted by the Secretary, and be in compliance with the American Disabilities Act of 1990 (ADA) and its implementing regulations at 28 C.F.R. Part 35, and FHWA rules, regulations, and guidance pertaining to the same. The Secretary or the Secretary's authorized representative may act as the Project Sponsor's agent with full authority to determine the dates when any road closings will commence and terminate. The Secretary or the Secretary's authorized representative shall notify the Project Sponsor of the determinations made pursuant to this section.
- (b) Permanent Traffic Control. The location, form, and character of informational, regulatory, and warning signs, of traffic signals and of curb and pavement or other markings installed or

placed by any public authority, or other agency as authorized by K.S.A. § 8-2005, must conform to the latest version of the MUTCD as adopted by the Secretary.

- (c) **Parking Control**. If applicable, the Project Sponsor will control parking of vehicles on the city streets throughout the length of the Project covered by this Agreement. On-street parking will be permitted until such time as parking interferes with the orderly flow of traffic along the street.
 - (d) **Traffic Movements**. The arterial characteristics inherent in the Project require uniformity in information and regulations to the end that traffic may be safely and expeditiously served. The Project Sponsor shall adopt and enforce rules and regulations governing traffic movements as may be deemed necessary or desirable by the Secretary and the FHWA.
18. **Access Control**. The Project Sponsor will maintain the control of access rights and prohibit the construction or use of any entrances or access points along the Project within the City other than those shown on the final Design Plans unless prior approval is obtained from the Secretary.
19. **Maintenance**. When the Project is completed and final acceptance is issued and until expiration of the Useful Life Period, the Project Sponsor will, at its own cost and expense, maintain the Project and will make ample provision each year for such maintenance. If notified by the State Transportation Engineer of any unsatisfactory maintenance condition, the Project Sponsor will begin the necessary repairs within thirty (30) days and will prosecute the work continuously until it is satisfactorily completed.
20. **Remittance of Estimated Share**. The Project Sponsor shall deposit with the Secretary its estimated share of the total Project expenses based upon estimated approved contract quantities. The Project Sponsor will remit its estimated share by the date indicated on the resolution form Authorization to Award Contract, Commitment of City/County Funds received by the Project Sponsor from the Secretary. The date indicated for the Project Sponsor to deposit its estimated share of the total Project expenses is fifty (50) days after the Letting date.
21. **Payment of Final Billing**. If any payment is due to the Secretary, such payment shall be made within thirty (30) days after receipt of a complete and final billing from the Secretary's Chief of Fiscal Services.
22. **Letting and Administration by Project Sponsor**. The Project Sponsor shall Let the contract for the Project and shall award the contract to the lowest Responsible Bidder upon concurrence in the award by the Secretary. The Project Sponsor further agrees to administer the construction of the Project in accordance with the Design Plans, in the manner required by the FHWA, in accordance with the LPA's current standards, rules, regulations, and guidelines, and administer the payments due the Contractor, including the portion of the cost borne by the Secretary.
23. **Prevailing Wages**. The Project Sponsor will require the Contractor to pay prevailing wages. The Project Sponsor will incorporate into the Construction contract the current general wage decision for the county in which the Project is being constructed. The Project Sponsor can obtain the current wage decision from KDOT's Bureau of Construction and Materials website.

24. **Required Construction Contract Provisions.** The Project Sponsor will obtain the mandatory Required Contract Provisions from KDOT's Bureau of Construction and Materials website and incorporate those provisions into the Construction contract.
25. **Performance Bond.** The Project Sponsor further agrees to require the Contractor to provide a performance bond in a sum not less than the amount of the contract as awarded.
26. **Plan Retention.** The Project Sponsor will maintain a complete set of final Design Plans reproducible, as-built prints, approved shop drawings, and structural materials certification for five (5) years after the Project's completion. The Project Sponsor further agrees to make such reproducible prints, drawings, and certifications available for inspection by the Secretary upon request. The Project Sponsor shall provide access to or copies of all the above-mentioned documents to the Secretary.
27. **General Indemnification.** To the extent permitted by law and subject to the provisions of the Kansas Tort Claims Act, including but not limited to, the exceptions and maximum liability provisions, the Project Sponsor will defend, indemnify, hold harmless, and save the Secretary and the Secretary's authorized representatives from any and all costs, liabilities, expenses, suits, judgments, damages to persons or property, or claims of any nature whatsoever arising out of or in connection with the provisions or the Project Sponsor's negligent acts or omissions or other actionable fault in the performance of this Agreement by the Project Sponsor, the Project Sponsor's employees, agents, subcontractors or its consultants. The Project Sponsor shall not be required to defend, indemnify, or hold the Secretary harmless for negligent acts or omissions of the Secretary or the Secretary's authorized representatives or employees.
28. **Indemnification by Contractors.** The Project Sponsor agrees to require the Contractor to indemnify, hold harmless, and save the Secretary and the Project Sponsor from personal injury and property damage claims arising out of the act or omission of the Contractor, the Contractor's agent, subcontractors (at any tier), or suppliers (at any tier). If the Secretary or the Project Sponsor defends a third party's claim, the Contractor shall indemnify the Secretary and the Project Sponsor for damages paid to the third party and all related expenses either the Secretary or the Project Sponsor or both incur in defending the claim.
29. **Corrective Work.** Representatives of the Secretary may make periodic inspection of the Project and the records of the Project Sponsor as may be deemed necessary or desirable. The Project Sponsor will direct or cause its contractor to accomplish any corrective action or work required by the Secretary's representative as needed for a determination of federal participation. The Secretary does not undertake (for the benefit of the Project Sponsor, the contractor, the consultant, or any third party) the duty to perform day-to-day detailed inspection of the Project or to catch the contractor's errors, omissions or deviations from the final Design Plans.
30. **Entrance Control.** The Project Sponsor will control the construction or use of any entrances along the Project within the Project Sponsor including those shown on the final Design Plans.

31. **Prior Costs Incurred.** The Project Sponsor shall be responsible for one hundred percent (100%) of any Project costs incurred by the Project Sponsor for the Project prior to the funding for the Project being authorized, obligated, and approved by the FHWA.
32. **Accounting.** Upon request by the Secretary and in order to enable the Secretary to report all costs of the Project to the legislature, the Project Sponsor shall provide the Secretary an accounting of all actual Non-Participating Costs which are paid directly by the Project Sponsor to any party outside of the Secretary and all costs incurred by the Project Sponsor not to be reimbursed by the Secretary for Preliminary Engineering, Right of Way, Utility adjustments, Construction, and Construction Engineering work phases, or any other major expense associated with the Project.
33. **Audit.** All local governmental units, state agencies or instrumentalities, non-profit Organizations, institutions of higher education and Indian Tribal governments shall comply with Federal-Aid Transportation Act and the requirements of 2 C.F.R. Part 200, “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards” (commonly known as the “Supercircular”). Further, the Project Sponsor agrees to the following provisions:
 - (a) **Audit.** It is the policy of the Secretary to make any final payments to the Project Sponsor for services related to the Project in a timely manner. The Audit Standards set forth in 2 C.F.R. Part 200, “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards,” and specifically the requirements in Subpart F, 2 C.F.R. §200.500 *et seq.* require either a single or program specific audit be performed by an independent certified public accountant in accordance with these standards. All information audited and audit standards and procedures shall comply with 2 C.F.R. §200.500 *et seq.*
 - (b) **Audit Report.** The Secretary may pay any final amount due for the authorized work performed based upon the Project Sponsor’s most recent Single or Program Specific Audit Report “(Audit Report)” available and a desk review of the claim by the Contract Audit Section of KDOT’s Bureau of Fiscal Services. The Project Sponsor, by executing this Agreement, acknowledges the final payment is subject to all single or program specific audits which cover the time period of the expenses being claimed for reimbursement. The Parties agree once the Audit Report becomes available for the reimbursement period (normally should occur within a period of 1-2 years), the Secretary will review the Audit Report for items which are declared as not eligible for reimbursement. The Project Sponsor agrees to refund payment made by the Secretary to the Project Sponsor for items subsequently found to be not eligible for reimbursement by audit.
 - (c) **Agency Audit.** If the Project Sponsor is not subject to the Audit Standards set forth in 2 C.F.R. Part 200, the Secretary and/or the FHWA may request, in their sole discretion, to conduct an audit of the Project. Upon the request of the Secretary and/or the FHWA for an audit, the Project Sponsor will participate and cooperate in the audit and shall make its records and books available to representatives of the requesting agency for a period of five (5) years after date of final payment under this Agreement. If the audit reveals payments have been made with federal funds by the Project Sponsor for items considered Non-

Participating Costs, the Project Sponsor shall promptly reimburse the Secretary for such items upon notification by the Secretary.

34. **System for Award Management.** The Project Sponsor agrees it shall maintain current registrations in the System for Award Management (<http://www.sam.gov>) at all times during which it has active federal awards.
35. **Cancellation by Project Sponsor.** If the Project Sponsor cancels the Project, it will reimburse the Secretary for any costs incurred by the Secretary prior to the cancellation of the Project. The Project Sponsor agrees to reimburse the Secretary within thirty (30) days after receipt by the Project Sponsor of the Secretary's statement of cost incurred by the Secretary prior to the cancellation of the Project.

ARTICLE V

SPECIAL TRANSPORTATION ALTERNATIVES REQUIREMENTS:

1. **No 4(f) Status.** It is the Parties' intention that neither this Agreement nor the Project create or expand the status of any land involved in this Project as a "significant publicly owned public park, recreation area, or wildlife and waterfowl refuge, or any significant historic site," for purposes of Subpart F, 2 C.F.R. §200.500 *et seq.* and 23 C.F.R. 771.135 ("4(f) status"), except as otherwise modified by this Agreement.
 - (a) **Transportation Alternatives.** Unless otherwise stated below in this section, the Parties agree the major purposes or functions of land involved in the Project are to preserve or enhance the scenic, historic, environmental or archeological aspects, or the usefulness for intermodal users (including bicyclists, pedestrians, and other non-motorized transportation users) of existing or new transportation facilities. It is further agreed any park, recreation or refuge purposes or functions are secondary or incidental for purposes of 49 U.S.C. § 303 and 23 C.F.R. 771.135. Exceptions: NONE.
 - (b) **4(f) Determinations.** The Parties agree for purposes of any future determinations of 4(f) status issues as required by 49 U.S.C. § 303 or applicable regulations the Secretary is hereby designated as the public official having jurisdiction of such determinations. However, it is not the intent of this section to affect the determination of whether a historic or archaeological site is on or eligible for inclusion on the National Register of Historic Places.
2. **Useful Life.**
 - (a) **Useful Life Period.** The Parties agree the Useful Life Period of the Project is twenty (20) years, commencing on the date the Secretary gives notice of final acceptance of the Project.
 - (b) **Insurance.** If the Project includes improvements to a building, the Project Sponsor will purchase and maintain insurance for property damage to the building continuously during

the Useful Life Period of the Project in an amount equal to or in excess of the federal funds expended on the Project.

(c) Change in Public Use. After the Project is completed and during the entire Useful Life Period, any change in the public use of the real property for the Project will require written approval from the Secretary with FHWA concurrence.

(d) Recapture of Federal Investment.

(i) During the first ten (10) years of the Useful Life Period, if the Project is not used for the purpose set forth in this Agreement or other use approved by the Secretary and the FHWA under subparagraph (c) above, then the Project Sponsor shall pay to the Secretary 100% of the federal funds invested in the Project.

(ii) Following the first ten (10) years of the Useful Life Period and until the Useful Life Period expires, if the Project is not used for the purpose set forth in this Agreement or other use approved by the Secretary and the FHWA under subparagraph (c) above, then the Project Sponsor shall pay to the Secretary as recapture of federal funds invested in the Project an amount, which will be determined according to the following formula:

$$\frac{\textit{Total Amount of Federal Funds Invested in the Project}}{\textit{Entire Useful Life Period for the Project}} \times \textit{Number of Full Years Remaining in the Useful Life Period at the time of unauthorized change in use} = \textit{Recapture Amount}$$

(iii) Any payments due to the Secretary pursuant to this subparagraph (d) shall be made within ninety (90) days after receipt of billing from the Secretary’s Chief of Fiscal Services.

ARTICLE VI

FEDERAL REQUIREMENTS:

1. **Anti-Lobbying**. If the total value of this agreement exceeds \$100,000.00, a **Certification for Federal Aid Contracts and Accompanying Disclosure of Lobbying Activities Attachment** will be attached and made a part of this Agreement. Such certification must state the recipient of the federal grant will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C.

§ 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. 2 C.F.R. § Pt. 200, App. II.

2. **Debarment & Suspension**. If the total value of this Agreement exceeds \$25,000.00, this Agreement is a covered transaction for purposes of 2 C.F.R. Parts 180 and 1200. Therefore, the LPA is required to verify that neither it nor its principals or agents is presently debarred, suspended, proposed for debarment, declared ineligible, disqualified, or voluntarily excluded from participation in this transaction by any federal department or agency. A **Certification as to Current History Regarding Debarment, Eligibility, Indictments, Convictions, or Civil Judgments Attachment** will be attached to and made a part of this Agreement. 2 C.F.R. § 200.213.
3. **System for Award Management**. The Project Sponsor has registered with the System for Award Management (<http://www.sam.gov>), which provides a Unique Entity Identifier (SAM). The Project Sponsor shall maintain such registration at all times during which it has active federal awards.
4. **Buy America Compliance**. The Parties agree to comply with the Buy America requirements of 23 CFR § 635.410, as applicable, when purchasing items using Federal funds under this Agreement. Buy America requires the Parties to purchase only steel and iron produced in the United States, unless a waiver has been granted by FHWA or the product is subject to a general waiver. Costs for applicable materials which are not certified either compliant or under waiver will not be reimbursed. Buy America requirements apply to all contractors/subcontractors and should be incorporated through appropriate contract provisions as needed.
5. **Prohibition on Certain Technologies**. All Parties agree that they will comply with 2 CFR § 200.216 and 2 CFR § 200.471 regulations. Such regulations provide that recipients and sub-recipients of federal funds are prohibited from obligating or expending loan or grant funds to 1) procure or obtain; 2) extend or renew a contract to procure or obtain, or; 3) or enter into a contract to procure or obtain telecommunication or video surveillance equipment, services, or systems produced by: Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities); and Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities). Any expenditures for such telecommunication or video surveillance equipment, services or systems are unallowable costs and will not be reimbursed.
6. **Audit**.
 - a) **Audit Requirements for Federal Awards**. All local governmental units, state agencies or instrumentalities, non-profit Organizations, institutions of higher education and Indian Tribal governments shall comply with Federal-Aid Transportation Act and the requirements of 2 C.F.R. Part 200, “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards” (commonly known as the “Supercircular”). The Audit Standards set forth in 2 C.F.R. Part 200, “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards,” and specifically the requirements in Subpart F, 2 C.F.R. § 200.500, *et seq.* require either a single or program specific audit be

performed by an independent certified public accountant in accordance with these standards. All information audited and audit standards and procedures shall comply with 2 C.F.R. § 200.500, *et seq.*

- b) **Agency Audit.** The Secretary and/or the FHWA may request, in their sole discretion, to conduct an audit of the Project. Upon the request of the Secretary and/or the FHWA for an audit, the City will participate and cooperate in the audit and shall make its records and books available to representatives of the requesting agency for a period of five (5) years after date of final payment under this Agreement. If the audit reveals payments have been made with federal funds by the City for items considered Non-Participating Costs, the City shall promptly reimburse the Secretary for such items upon notification by the Secretary.

ARTICLE VII

GENERAL PROVISIONS:

1. **Incorporation of Documents.** The final Design Plans, special provisions, Construction Contract Proposal (as available), the Project Procedures Manuals, the agreement estimate for Construction Engineering services (if applicable) and other attachments are all essential documents of this Agreement and are hereby incorporated by reference and made a part of this Agreement.
2. **FHWA Approval.** Decisions as to what Project costs are federal Participating Costs will be made in accordance with the requirements of the FHWA.
3. **Civil Rights Act.** The **Civil Rights Attachment** pertaining to the implementation of the Civil Rights Act of 1964, is attached and made a part of this Agreement.
4. **Contractual Provisions.** The provisions found in the current version of the **Contractual Provisions Attachment (Form DA-146a)**, which is attached, are hereby incorporated into and made a part of this Agreement.
5. **Headings.** All headings in this Agreement have been included for convenience of reference only and are not to be deemed to control or affect the meaning or construction or the provisions herein.
6. **Termination.** If, in the judgment of the Secretary, sufficient funds are not appropriated to continue the function performed in this Agreement and for the payment of the charges hereunder, the Secretary may terminate this Agreement at the end of its current fiscal year. The Secretary will participate in all costs approved by the Secretary incurred prior to the termination of the Agreement.
7. **Binding Agreement.** This Agreement and all contracts entered into under the provisions of this Agreement shall be binding upon the Secretary and the Project Sponsor and their successors in office.

8. **No Third-Party Beneficiaries.** No third-party beneficiaries are intended to be created by this Agreement and nothing in this Agreement authorizes third parties to maintain a suit for damages pursuant to the terms or provisions of this Agreement.
9. **Counterparts.** This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same agreement.
10. **Severability.** If any provision of this Agreement is held invalid, the invalidity does not affect other provisions which can be given effect without the invalid provision, and to this end the provisions of this Agreement are severable.

IN WITNESS WHEREOF the Parties have caused this Agreement to be signed by their duly authorized officers as of the Effective Date.

ATTEST:

THE CITY OF PRAIRIE VILLAGE, KANSAS

CITY CLERK (Date)

MAYOR (Date)

(SEAL)

Kansas Department of Transportation
Secretary of Transportation

By: _____
Greg M. Schieber, P.E. (Date)
Deputy Secretary and
State Transportation Engineer

Approved as to form:

INDEX OF ATTACHMENTS

- Certification for Federal Aid Contracts and Accompanying Disclosure of Lobbying Activities
- Certification as to Current History Regarding Debarment, Eligibility, Indictments, Convictions, or Civil Judgments Attachment
- Civil Rights Act
- Contractual Provisions Attachment (DA-146a)

*Note – If left unchecked, then inapplicable.

**Federal Funds Lobbying Certification Attachment
Required Contract Provision**

Definitions

1. **Designated Entity:** An officer or employee of any agency, a Member of Congress or any state legislature, an officer or employee of Congress or any state legislature, or an employee of a Member of Congress or any state legislature
2. **Federal Grant:** An award of financial assistance by the Federal government (Federal Aid Highway Program is considered a grant program)
3. **Influencing (or attempt):** Making, with the intent to influence, any communication to or appearance before any designated entity in connection with the making of any Federal grant
4. **Person:** An individual, corporation, company, association, authority, firm, partnership, society, state or local government
5. **Recipient:** All contractors, subcontractors or subgrantees, at any tier, of the recipient of fund received in connection with a Federal grant.

Explanation

As of December 23, 1989, Title 31 U.S.C. (new) Section 1352 limits the use of appropriated Federal funds to influence Federal contracting. Under this new section no appropriated funds may be used by the recipient of a Federal grant to pay any person to influence or attempt to influence a designated entity in connection with the naming of a Federal grant or the extension, renewal, amendment or modification of any grant. These restrictions apply to grants in excess of \$100,000.00. Submission of this Certification is required for participation in this Project by Federal Law. For each failure to file, a civil penalty of not less than \$10,000.00 and not more than \$100,000.00 may be imposed.

Note: If funds other than appropriated Federal funds have or will be paid to influence or attempt to influence a designated entity it must be reported. If required, the reporting shall be made on KDOT Form No. 401, "Disclosure of Lobbying Activities", in accordance with its instructions. KDOT Form No. 401 is available through the Bureau of Design.

THE ABOVE DEFINITIONS, EXPLANATION AND NOTE ARE ADOPTED AND INCORPORATED BY REFERENCE IN THIS CERTIFICATION FOR ALL PURPOSES THE SAME AS IF SET OUT IN FULL IN IT.

The maker of this Certification states that it has been signed on the maker's behalf or, if on behalf of some other person, that the maker is vested with legal right and authority to bind and obligate the other person in the making of this Certification submitted in regard to this Agreement.

The maker certifies that: No Federal appropriated funds have been paid or will be paid by or on behalf of the maker, to any person, for influencing or attempting to influence any designated person in connection with the awarding of any Federal grant or the extension, continuation, renewal, amendment or modification of any Federal grant.

In the event that the maker subcontracts work in this Agreement, the maker will provide to and require the signing of this Certification by the subcontractor, and shall keep and maintain the original signed form as part of the contract with the subcontractor.

The maker understands that this Certification is a material representation of fact upon which reliance was placed as part of this transaction.

(Date)

By: _____

CERTIFICATION BY PARTICIPANTS AS TO CURRENT HISTORY
REGARDING DEBARMENT, ELIGIBILITY, INDICTMENTS, CONVICTIONS, OR
CIVIL JUDGMENTS

By signing this certificate, the Participant certifies that neither it nor its principals (owner, partner, director, officer, principal investigator, project director, manager, auditor, or any other position involving the administration of federal funds) is:

- (1) not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency;
- (2) has not been suspended, debarred, voluntarily excluded or determined ineligible by any federal agency within the past three years;
- (3) does not have a proposed debarment pending;
- (4) and has not been indicted, convicted, or had a civil judgment rendered against (it) by a court of competent jurisdiction in any manner involving fraud or official misconduct within the past three years.

List any exceptions here: _____

Exceptions will not necessarily result in denial of award, but will be considered in determining bidder or respondent responsibility. For any exceptions noted, indicate below to whom it applies, initiating agency, and dates of action.

Providing false information may result in criminal prosecution or administrative sanctions.

Participant/Firm's Name: _____

Address: _____

City/State/Zip: _____

Authorized Company Official's Name and Title: _____
(Typed or Printed)

Signature of Authorized Representative: _____
(Date)

**KANSAS DEPARTMENT OF TRANSPORTATION
CIVIL RIGHTS ACT ATTACHMENT**

PREAMBLE

The Secretary of Transportation for the State of Kansas, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. § 2000d to 2000d-4) and other nondiscrimination requirements and the Regulations, hereby notifies all contracting parties that it will affirmatively ensure that this contract will be implemented without discrimination on the grounds of race, color, national origin, sex, age, disability, income-level or Limited English Proficiency (LEP).

CLARIFICATION

The term “Contractor” is understood to include the Contractor, the Contractor’s assignees and successors in interest, consultants, and all other parties to contracts or agreements with the Secretary of Transportation, Kansas Department of Transportation. This Attachment shall govern should this Attachment conflict with provisions of the Document to which it is attached.

ASSURANCE APPENDIX A

During the performance of this contract, the Contractor, for itself, its assignees and successors in interest, agrees as follows:

1. **Compliance with Regulations:** The Contractor will comply with the Acts and the Regulations relative to nondiscrimination in its Federally-assisted programs of the U.S. Department of Transportation, the Federal Highway Administration (FHWA), the Federal Transit Administration (FTA) or the Federal Aviation Administration (FAA) as they may be amended from time to time which are herein incorporated by reference and made a part of this contract.
2. **Nondiscrimination:** The Contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project or program set forth in Appendix B of 49 CFR Part 21.
3. **Solicitations for Subcontractors, Including Procurements of Material and Equipment:** In all solicitations, either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor will be notified by the Contractor of the Contractor’s obligations under this contract and the Acts and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.
4. **Information and Reports:** The Contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or the FHWA, FTA, or FAA to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a Contractor is in the exclusive possession of another who fails or refuses to furnish the information, the Contractor will so certify to the Recipient or, the FHWA, FTA, or FAA as appropriate, and shall set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of the Contractor’s noncompliance with the nondiscrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the FHWA, FTA, or FAA may determine to be appropriate, including, but not limited to:
 - a. withholding payments to the Contractor under the contract until the Contractor complies; and/or
 - b. cancelling, terminating or suspending a contract, in whole or in part.

6. **Incorporation of Provisions:** The Contractor will include the provisions of the paragraphs one (1) through six (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The Contractor will take action with respect to any subcontract or procurement as the Recipient or the FHWA, FTA, or FAA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

ASSURANCE APPENDIX E

During the performance of this contract, the Contractor, for itself, its assignees, and successors in interest agrees to comply with the following nondiscrimination statutes and authorities; including but not limited to:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21;
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- The Federal Aid Highway Act of 1973 (23 U.S.C. § 324 et. seq.), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794 et. seq.) as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et. seq.), prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 U.S.C. § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987 (PL No. 100-259), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and Contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, (prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities), (42 U.S.C. §§12131-12189as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38);
- The Federal Aviation Administration’s nondiscrimination statute (49 U.S.C. § 47123), (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, (ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations);
- Executive Order 13166, Improving Access to Services for Persons with LEP, and resulting agency guidance, national origin discrimination includes discrimination because of LEP. To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended (prohibits you from discriminating because of sex in education programs or activities), (20 U.S.C. § 1681).

CONTRACTUAL PROVISIONS ATTACHMENT

Important: This form contains mandatory contract provisions and must be attached to or incorporated in all copies of any contractual agreement. If it is attached to the vendor/contractor's standard contract form, then that form must be altered to contain the following provision:

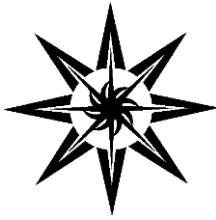
The Provisions found in Contractual Provisions Attachment (Form DA-146a, Rev. 07-19), which is attached hereto, are hereby incorporated in this contract and made a part thereof.

The parties agree that the following provisions are hereby incorporated into the contract to which it is attached and made a part thereof, said contract being the _____ day of _____, 20____.

1. **Terms Herein Controlling Provisions:** It is expressly agreed that the terms of each and every provision in this attachment shall prevail and control over the terms of any other conflicting provision in any other document relating to and a part of the contract in which this attachment is incorporated. Any terms that conflict or could be interpreted to conflict with this attachment are nullified.
2. **Kansas Law and Venue:** This contract shall be subject to, governed by, and construed according to the laws of the State of Kansas, and jurisdiction and venue of any suit in connection with this contract shall reside only in courts located in the State of Kansas.
3. **Termination Due To Lack Of Funding Appropriation:** If, in the judgment of the Director of Accounts and Reports, Department of Administration, sufficient funds are not appropriated to continue the function performed in this agreement and for the payment of the charges hereunder, State may terminate this agreement at the end of its current fiscal year. State agrees to give written notice of termination to contractor at least thirty (30) days prior to the end of its current fiscal year and shall give such notice for a greater period prior to the end of such fiscal year as may be provided in this contract, except that such notice shall not be required prior to ninety (90) days before the end of such fiscal year. Contractor shall have the right, at the end of such fiscal year, to take possession of any equipment provided State under the contract. State will pay to the contractor all regular contractual payments incurred through the end of such fiscal year, plus contractual charges incidental to the return of any such equipment. Upon termination of the agreement by State, title to any such equipment shall revert to contractor at the end of the State's current fiscal year. The termination of the contract pursuant to this paragraph shall not cause any penalty to be charged to the agency or the contractor.
4. **Disclaimer Of Liability:** No provision of this contract will be given effect that attempts to require the State of Kansas or its agencies to defend, hold harmless, or indemnify any contractor or third party for any acts or omissions. The liability of the State of Kansas is defined under the Kansas Tort Claims Act (K.S.A. 75-6101, *et seq.*).
5. **Anti-Discrimination Clause:** The contractor agrees: (a) to comply with the Kansas Act Against Discrimination (K.S.A. 44-1001, *et seq.*) and the Kansas Age Discrimination in Employment Act (K.S.A. 44-1111, *et seq.*) and the applicable provisions of the Americans With Disabilities Act (42 U.S.C. 12101, *et seq.*) (ADA), and Kansas Executive Order No. 19-02, and to not discriminate against any person because of race, color, gender, sexual orientation, gender identity or expression, religion, national origin, ancestry, age, military or veteran status, disability status, marital or family status, genetic information, or political affiliation that is unrelated to the person's ability to reasonably perform the duties of a particular job or position; (b) to include in all solicitations or advertisements for employees, the phrase "equal opportunity employer"; (c) to

comply with the reporting requirements set out at K.S.A. 44-1031 and K.S.A. 44-1116; (d) to include those provisions in every subcontract or purchase order so that they are binding upon such subcontractor or vendor; (e) that a failure to comply with the reporting requirements of (c) above or if the contractor is found guilty of any violation of such acts by the Kansas Human Rights Commission, such violation shall constitute a breach of contract and the contract may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration; (f) Contractor agrees to comply with all applicable state and federal anti-discrimination laws and regulations; (g) Contractor agrees all hiring must be on the basis of individual merit and qualifications, and discrimination or harassment of persons for the reasons stated above is prohibited; and (h) if it is determined that the contractor has violated the provisions of any portion of this paragraph, such violation shall constitute a breach of contract and the contract may be canceled, terminated, or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration.

6. **Acceptance of Contract:** This contract shall not be considered accepted, approved or otherwise effective until the statutorily required approvals and certifications have been given.
7. **Arbitration, Damages, Warranties:** Notwithstanding any language to the contrary, no interpretation of this contract shall find that the State or its agencies have agreed to binding arbitration, or the payment of damages or penalties. Further, the State of Kansas and its agencies do not agree to pay attorney fees, costs, or late payment charges beyond those available under the Kansas Prompt Payment Act (K.S.A. 75-6403), and no provision will be given effect that attempts to exclude, modify, disclaim or otherwise attempt to limit any damages available to the State of Kansas or its agencies at law, including but not limited to, the implied warranties of merchantability and fitness for a particular purpose.
8. **Representative's Authority to Contract:** By signing this contract, the representative of the contractor thereby represents that such person is duly authorized by the contractor to execute this contract on behalf of the contractor and that the contractor agrees to be bound by the provisions thereof.
9. **Responsibility for Taxes:** The State of Kansas and its agencies shall not be responsible for, nor indemnify a contractor for, any federal, state or local taxes which may be imposed or levied upon the subject matter of this contract.
10. **Insurance:** The State of Kansas and its agencies shall not be required to purchase any insurance against loss or damage to property or any other subject matter relating to this contract, nor shall this contract require them to establish a "self-insurance" fund to protect against any such loss or damage. Subject to the provisions of the Kansas Tort Claims Act (K.S.A. 75-6101, *et seq.*), the contractor shall bear the risk of any loss or damage to any property in which the contractor holds title.
11. **Information:** No provision of this contract shall be construed as limiting the Legislative Division of Post Audit from having access to information pursuant to K.S.A. 46-1101, *et seq.*
12. **The Eleventh Amendment:** "The Eleventh Amendment is an inherent and incumbent protection with the State of Kansas and need not be reserved, but prudence requires the State to reiterate that nothing related to this contract shall be deemed a waiver of the Eleventh Amendment."
13. **Campaign Contributions / Lobbying:** Funds provided through a grant award or contract shall not be given or received in exchange for the making of a campaign contribution. No part of the funds provided through this contract shall be used to influence or attempt to influence an officer or employee of any State of Kansas agency or a member of the Legislature regarding any pending legislation or the awarding, extension, continuation, renewal, amendment or modification of any government contract, grant, loan, or cooperative agreement.



PUBLIC WORKS DEPARTMENT

Council Meeting: September 16, 2024

COU2024-49

CONSIDER TRAFFIC CALMING ON 90th STREET FROM SOMERSET DRIVE TO ROE AVENUE

RECOMMENDATION

Staff recommends City Council approve the installation of traffic calming measures on 90th Street from Somerset Drive to Roe Avenue.

BACKGROUND

Residents along 90th Street desire traffic calming measures and have met the requirements of the traffic calming program. The final petition showed 75% of the residents supported installing measures, exceeded the 60% required. These measures will include two speed tables installed between Somerset Drive and Roe Avenue. Speed Tables have been successful in Prairie Village in the past and will help calm traffic on this section of 90th Street. It is anticipated that these improvements will be built in the Fall of 2024. The approximate cost of the two speed tables will be about \$20,000 with funds coming from the traffic calming CIP project.

Residents within the traffic calming project limits were notified that the project would be discussed at this council meeting.

FUNDING SOURCE

Funding is available under project TRAFRESV, Traffic Calming.

ATTACHMENTS

1. TranSystems Study

PREPARED BY

Keith Bredehoeft, Director of Public Works

September 11, 2024

MEMORANDUM

To: Keith Bredehoeft, PE
City of Prairie Village
3535 Somerset Drive
Prairie Village, KS 66208

From: Jeff Wilke, PE, PTOE
Kimley-Horn and Associates, Inc.

Date: February 27, 2024

Subject: 90th Street Traffic Eligibility Assessment
Prairie Village, Kansas

INTRODUCTION

Kimley-Horn has prepared the following memorandum to evaluate traffic calming eligibility for the segment of 90th Street between Somerset Drive and Roe Avenue in Prairie Village, Kansas. The assessment was prepared in accordance with the criteria listed in the Prairie Village Traffic Calming Program. The street was evaluated using average daily traffic volumes, the 85th percentile speed of vehicles, and the percentage of cut-through traffic. A local street segment must receive a minimum score of 40 points to be eligible for a Local Street Traffic Calming Project.

DATA COLLECTION

The following provides a summary of the characteristics of 90th Street within the study area:

- 90th Street is a two-lane roadway with curbs and gutters. The street is generally 27 feet wide, measured between the backs of curb. There is a sidewalk along the north side of the street from Somerset Drive to Roe Avenue. The sidewalk is located approximately 6 feet from the back of curb.
- The posted speed limit on 90th Street is 25 miles per hour (MPH).
- There are two horizontal curves in the eastern portion of 90th Street, between Linden Lane and Roe Avenue. The section of roadway between Cedar Drive and Linden Lane is generally straight.
- The vertical alignment of the roadway is fairly level.
- The study segment of 90th Street is located in a residential area. Single-family homes are set back approximately 40 feet from the street. All homes have at least one driveway onto 90th Street.
- There are several north/south local streets that extend north from 90th Street. At the west end of the segment, 90th Street is stop controlled at the intersection with Somerset Drive. The eastbound and westbound directions of 90th Street are stop-controlled at the intersection with Roe Avenue.

AVERAGE DAILY TRAFFIC VOLUMES

Traffic counts were collected at two locations along 90th Street from Tuesday, November 14, 2023, to Thursday, November 16, 2023. The count data is included in the Appendix of this study. The average daily traffic volume was based on the three weekdays included in the count period. The average daily traffic volume along 90th Street is within the “751-1000 vehicles per day” range, which corresponds to a score of 20 points according to the Traffic Calming Program criteria.

VEHICLE SPEEDS

Spot speed studies were conducted using the vehicle speed-measuring feature of the traffic counters. The results of the spot speed studies are shown below in **Table 1**. Relative frequency distributions for the data at both locations have also been prepared and are included in the Appendix of this study.

Table 1: Vehicle Speed Data

Location	85 th Percentile Speed (MPH)	Average Speed (MPH)	Number of Observations
90 th Street, west of Cedar Lane	30.8	25.9	2,147
90 th Street, west of Linden Drive	27.7	23.5	2,394

The results in Table 1 indicate the 85th percentile speed along 90th Street west of Cedar Lane is approximately 31 MPH. Near Linden Drive, the 85th percentile speed is lower. It is important to note that the speed data west of Linden Drive was collected near a curve, which likely influenced the 85th percentile speed. Therefore, the speed data collected at the location west of Cedar Lane is more indicative of conditions along the majority of 90th Street. For the purposes of this assessment, the speed data collected west of Linden Drive is not included in the evaluation. The 85th percentile speed of 31 MPH west of Cedar Lane is within the “6-10 MPH over the posted speed limit” range and results in a score of 15 points.

CUT-THROUGH TRAFFIC

Origin and destination surveys were conducted on Wednesday, November 15, 2023, between 4:30 PM and 5:30 PM to determine the percentage of cut-through traffic. License plates were recorded at the Somerset Drive and Roe Avenue intersections, and it was found that 60% of vehicles were cut-through. This percentage corresponds to a score of 15 points according to the Traffic Calming Program.

SUMMARY

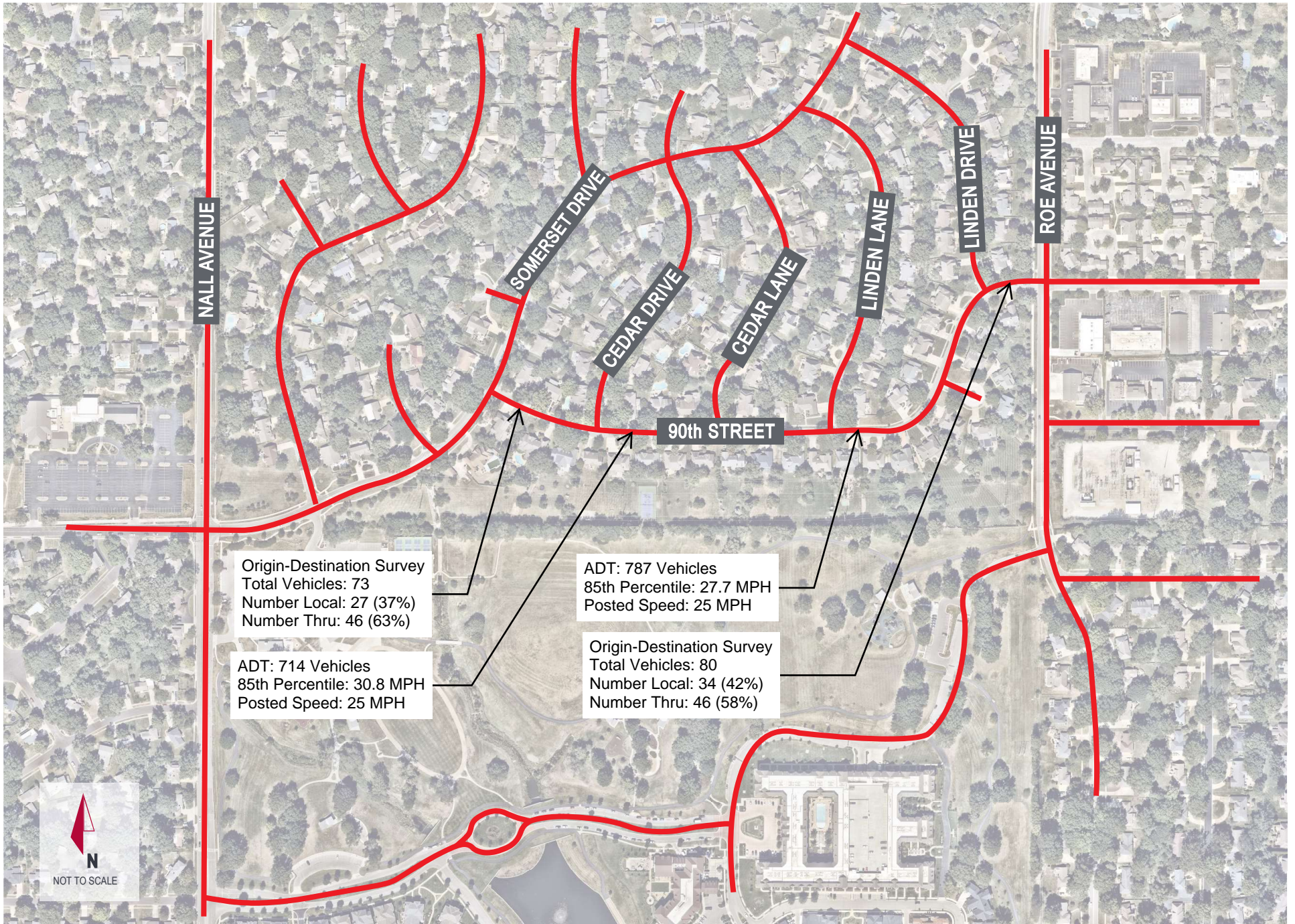
According to the criteria outlined in the Traffic Calming Program, a street must receive a minimum score of 40 points in order to be eligible for traffic calming measures. **Table 2** summarizes the points assessed for each of the criteria.

Table 2: Total Eligibility

Eligibility Criteria	Measurement	Point Assessment
Average Daily Traffic Volumes	751	20
Average 85 th Percentile Speeds	0-5 MPH above limit	15
Cut-through Traffic	60%	15
Total		50

The study segment of 90th Street is assessed 50 points, indicating that the study segment is eligible for traffic calming measures.

Appendix



90th Street Traffic Calming Study Prairie Village, Kansas

Location: 90th Street, West of Cedar Lane
Date: Tuesday, November 14, 2023

Time	EB	WB	Total
12:00 AM	0	0	0
12:15 AM	0	0	0
12:30 AM	0	0	0
12:45 AM	0	0	0
1:00 AM	0	0	0
1:15 AM	0	0	0
1:30 AM	0	0	0
1:45 AM	0	0	0
2:00 AM	0	0	0
2:15 AM	0	0	0
2:30 AM	0	0	0
2:45 AM	0	0	0
3:00 AM	0	0	0
3:15 AM	0	0	0
3:30 AM	0	0	0
3:45 AM	0	0	0
4:00 AM	0	0	0
4:15 AM	0	0	0
4:30 AM	0	0	0
4:45 AM	1	0	1

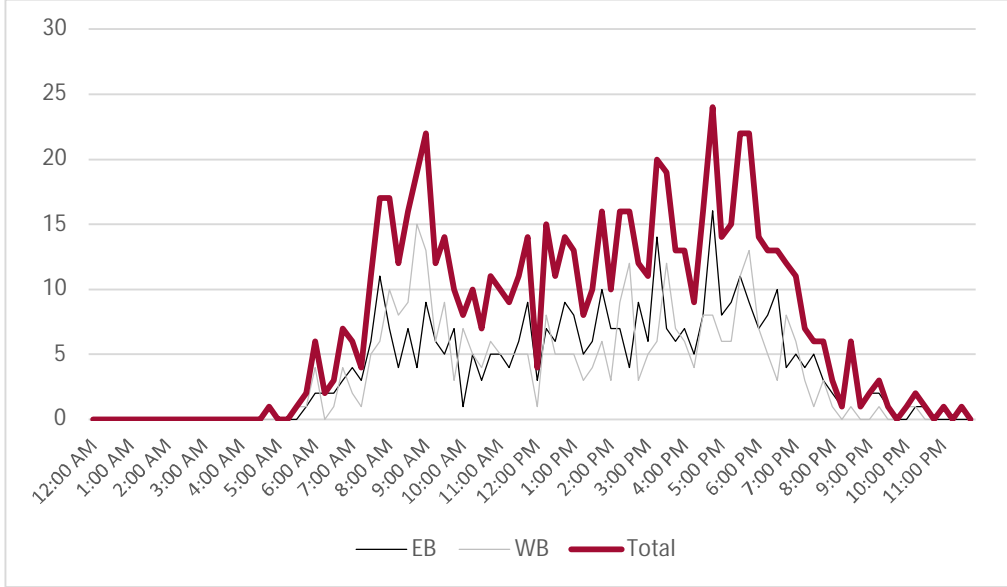
Time	EB	WB	Total
5:00 AM	0	0	0
5:15 AM	0	0	0
5:30 AM	0	1	1
5:45 AM	1	1	2
6:00 AM	2	4	6
6:15 AM	2	0	2
6:30 AM	2	1	3
6:45 AM	3	4	7
7:00 AM	4	2	6
7:15 AM	3	1	4
7:30 AM	6	5	11
7:45 AM	11	6	17
8:00 AM	7	10	17
8:15 AM	4	8	12
8:30 AM	7	9	16
8:45 AM	4	15	19
9:00 AM	9	13	22
9:15 AM	6	6	12
9:30 AM	5	9	14
9:45 AM	7	3	10

Time	EB	WB	Total
10:00 AM	1	7	8
10:15 AM	5	5	10
10:30 AM	3	4	7
10:45 AM	5	6	11
11:00 AM	5	5	10
11:15 AM	4	5	9
11:30 AM	6	5	11
11:45 AM	9	5	14
12:00 PM	3	1	4
12:15 PM	7	8	15
12:30 PM	6	5	11
12:45 PM	9	5	14
1:00 PM	8	5	13
1:15 PM	5	3	8
1:30 PM	6	4	10
1:45 PM	10	6	16
2:00 PM	7	3	10
2:15 PM	7	9	16
2:30 PM	4	12	16
2:45 PM	9	3	12

Time	EB	WB	Total
3:00 PM	6	5	11
3:15 PM	14	6	20
3:30 PM	7	12	19
3:45 PM	6	7	13
4:00 PM	7	6	13
4:15 PM	5	4	9
4:30 PM	8	8	16
4:45 PM	16	8	24
5:00 PM	8	6	14
5:15 PM	9	6	15
5:30 PM	11	11	22
5:45 PM	9	13	22
6:00 PM	7	7	14
6:15 PM	8	5	13
6:30 PM	10	3	13
6:45 PM	4	8	12
7:00 PM	5	6	11
7:15 PM	4	3	7
7:30 PM	5	1	6
7:45 PM	3	3	6

Time	EB	WB	Total
8:00 PM	2	1	3
8:15 PM	1	0	1
8:30 PM	5	1	6
8:45 PM	1	0	1
9:00 PM	2	0	2
9:15 PM	2	1	3
9:30 PM	1	0	1
9:45 PM	0	0	0
10:00 PM	0	1	1
10:15 PM	1	1	2
10:30 PM	1	0	1
10:45 PM	0	0	0
11:00 PM	0	1	1
11:15 PM	0	0	0
11:30 PM	0	1	1
11:45 PM	0	0	0

Hourly	EB	WB	Total
12:00 AM	0	0	0
1:00 AM	0	0	0
2:00 AM	0	0	0
3:00 AM	0	0	0
4:00 AM	1	0	1
5:00 AM	1	2	3
6:00 AM	9	9	18
7:00 AM	24	14	38
8:00 AM	22	42	64
9:00 AM	27	31	58
10:00 AM	14	22	36
11:00 AM	24	20	44
12:00 PM	25	19	44
1:00 PM	29	18	47
2:00 PM	27	27	54
3:00 PM	33	30	63
4:00 PM	36	26	62
5:00 PM	37	36	73
6:00 PM	29	23	52
7:00 PM	17	13	30
8:00 PM	9	2	11
9:00 PM	5	1	6
10:00 PM	2	2	4
11:00 PM	0	2	2



AM Peak 69
8:15 AM

Mid-day Peak 58
1:45 PM

PM Peak 75
4:45 PM

371 Eastbound
339 Westbound
710 Total of Both Directions

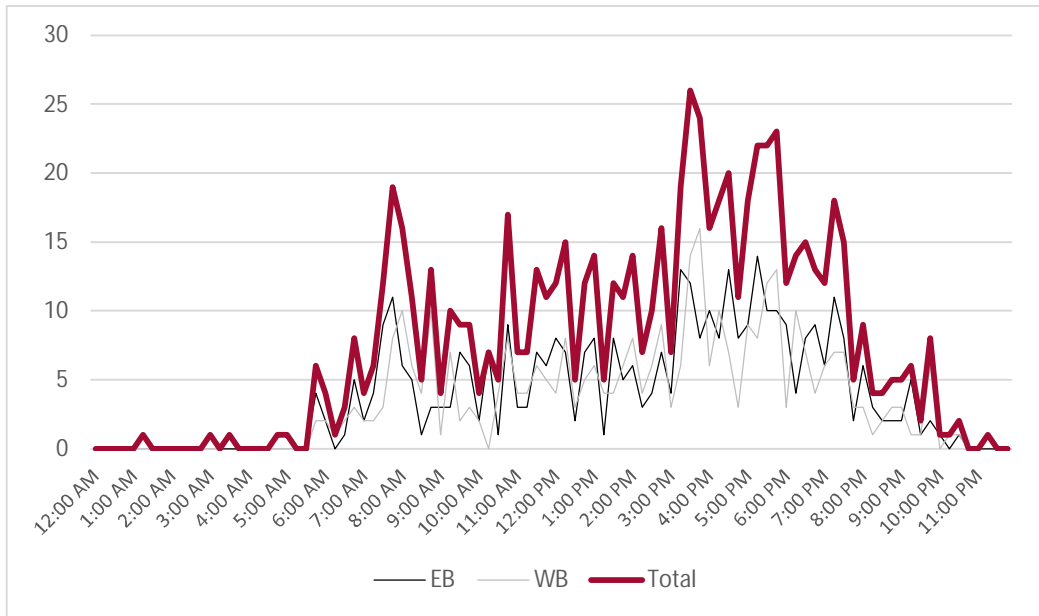


90th Street Traffic Calming Study Prairie Village, Kansas

Location: 90th Street, West of Cedar Lane
Date: Wednesday, November 15, 2023

Time	EB	WB	Total	Time	EB	WB	Total	Time	EB	WB	Total	Time	EB	WB	Total	Time	EB	WB	Total
12:00 AM	0	0	0	5:00 AM	1	0	1	10:00 AM	2	2	4	3:00 PM	4	3	7	8:00 PM	6	3	9
12:15 AM	0	0	0	5:15 AM	0	0	0	10:15 AM	7	0	7	3:15 PM	13	6	19	8:15 PM	3	1	4
12:30 AM	0	0	0	5:30 AM	0	0	0	10:30 AM	1	4	5	3:30 PM	12	14	26	8:30 PM	2	2	4
12:45 AM	0	0	0	5:45 AM	4	2	6	10:45 AM	9	8	17	3:45 PM	8	16	24	8:45 PM	2	3	5
1:00 AM	0	0	0	6:00 AM	2	2	4	11:00 AM	3	4	7	4:00 PM	10	6	16	9:00 PM	2	3	5
1:15 AM	1	0	1	6:15 AM	0	1	1	11:15 AM	3	4	7	4:15 PM	8	10	18	9:15 PM	5	1	6
1:30 AM	0	0	0	6:30 AM	1	2	3	11:30 AM	7	6	13	4:30 PM	13	7	20	9:30 PM	1	1	2
1:45 AM	0	0	0	6:45 AM	5	3	8	11:45 AM	6	5	11	4:45 PM	8	3	11	9:45 PM	2	6	8
2:00 AM	0	0	0	7:00 AM	2	2	4	12:00 PM	8	4	12	5:00 PM	9	9	18	10:00 PM	1	0	1
2:15 AM	0	0	0	7:15 AM	4	2	6	12:15 PM	7	8	15	5:15 PM	14	8	22	10:15 PM	0	1	1
2:30 AM	0	0	0	7:30 AM	9	3	12	12:30 PM	2	3	5	5:30 PM	10	12	22	10:30 PM	1	1	2
2:45 AM	0	0	0	7:45 AM	11	8	19	12:45 PM	7	5	12	5:45 PM	10	13	23	10:45 PM	0	0	0
3:00 AM	1	0	1	8:00 AM	6	10	16	1:00 PM	8	6	14	6:00 PM	9	3	12	11:00 PM	0	0	0
3:15 AM	0	0	0	8:15 AM	5	6	11	1:15 PM	1	4	5	6:15 PM	4	10	14	11:15 PM	0	1	1
3:30 AM	0	1	1	8:30 AM	1	4	5	1:30 PM	8	4	12	6:30 PM	8	7	15	11:30 PM	0	0	0
3:45 AM	0	0	0	8:45 AM	3	10	13	1:45 PM	5	6	11	6:45 PM	9	4	13	11:45 PM	0	0	0
4:00 AM	0	0	0	9:00 AM	3	1	4	2:00 PM	6	8	14	7:00 PM	6	6	12				
4:15 AM	0	0	0	9:15 AM	3	7	10	2:15 PM	3	4	7	7:15 PM	11	7	18				
4:30 AM	0	0	0	9:30 AM	7	2	9	2:30 PM	4	6	10	7:30 PM	8	7	15				
4:45 AM	1	0	1	9:45 AM	6	3	9	2:45 PM	7	9	16	7:45 PM	2	3	5				

Hourly	EB	WB	Total
12:00 AM	0	0	0
1:00 AM	1	0	1
2:00 AM	0	0	0
3:00 AM	1	1	2
4:00 AM	1	0	1
5:00 AM	5	2	7
6:00 AM	8	8	16
7:00 AM	26	15	41
8:00 AM	15	30	45
9:00 AM	19	13	32
10:00 AM	19	14	33
11:00 AM	19	19	38
12:00 PM	24	20	44
1:00 PM	22	20	42
2:00 PM	20	27	47
3:00 PM	37	39	76
4:00 PM	39	26	65
5:00 PM	43	42	85
6:00 PM	30	24	54
7:00 PM	27	23	50
8:00 PM	13	9	22
9:00 PM	10	11	21
10:00 PM	2	2	4
11:00 PM	0	1	1



AM Peak 58 **Mid-day Peak** 51 **PM Peak** 85
7:30 AM 11:30 AM 5:00 PM

381 Eastbound
346 Westbound

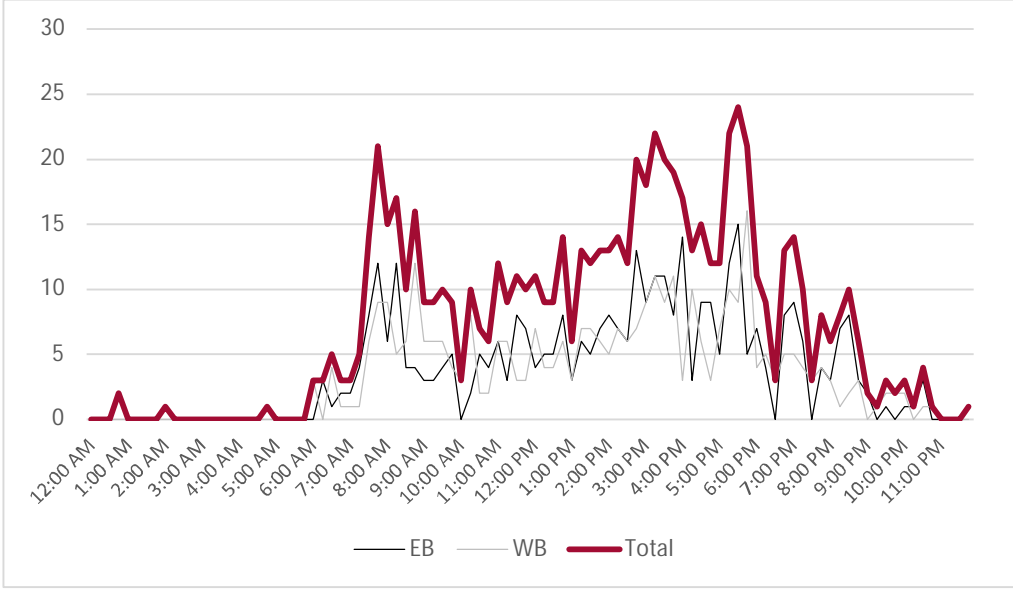
727 Total of Both Directions

90th Street Traffic Calming Study Prairie Village, Kansas

Location: 90th Street, West of Cedar Lane
Date: Thursday, November 16, 2023

Time	EB	WB	Total	Time	EB	WB	Total	Time	EB	WB	Total	Time	EB	WB	Total	Time	EB	WB	Total
12:00 AM	0	0	0	5:00 AM	0	0	0	10:00 AM	0	3	3	3:00 PM	9	9	18	8:00 PM	3	3	6
12:15 AM	0	0	0	5:15 AM	0	0	0	10:15 AM	2	8	10	3:15 PM	11	11	22	8:15 PM	7	1	8
12:30 AM	0	0	0	5:30 AM	0	0	0	10:30 AM	5	2	7	3:30 PM	11	9	20	8:30 PM	8	2	10
12:45 AM	2	0	2	5:45 AM	0	0	0	10:45 AM	4	2	6	3:45 PM	8	11	19	8:45 PM	3	3	6
1:00 AM	0	0	0	6:00 AM	0	3	3	11:00 AM	6	6	12	4:00 PM	14	3	17	9:00 PM	2	0	2
1:15 AM	0	0	0	6:15 AM	3	0	3	11:15 AM	3	6	9	4:15 PM	3	10	13	9:15 PM	0	1	1
1:30 AM	0	0	0	6:30 AM	1	4	5	11:30 AM	8	3	11	4:30 PM	9	6	15	9:30 PM	1	2	3
1:45 AM	0	0	0	6:45 AM	2	1	3	11:45 AM	7	3	10	4:45 PM	9	3	12	9:45 PM	0	2	2
2:00 AM	1	0	1	7:00 AM	2	1	3	12:00 PM	4	7	11	5:00 PM	5	7	12	10:00 PM	1	2	3
2:15 AM	0	0	0	7:15 AM	4	1	5	12:15 PM	5	4	9	5:15 PM	12	10	22	10:15 PM	1	0	1
2:30 AM	0	0	0	7:30 AM	8	6	14	12:30 PM	5	4	9	5:30 PM	15	9	24	10:30 PM	3	1	4
2:45 AM	0	0	0	7:45 AM	12	9	21	12:45 PM	8	6	14	5:45 PM	5	16	21	10:45 PM	0	1	1
3:00 AM	0	0	0	8:00 AM	6	9	15	1:00 PM	3	3	6	6:00 PM	7	4	11	11:00 PM	0	0	0
3:15 AM	0	0	0	8:15 AM	12	5	17	1:15 PM	6	7	13	6:15 PM	4	5	9	11:15 PM	0	0	0
3:30 AM	0	0	0	8:30 AM	4	6	10	1:30 PM	5	7	12	6:30 PM	0	3	3	11:30 PM	0	0	0
3:45 AM	0	0	0	8:45 AM	4	12	16	1:45 PM	7	6	13	6:45 PM	8	5	13	11:45 PM	1	0	1
4:00 AM	0	0	0	9:00 AM	3	6	9	2:00 PM	8	5	13	7:00 PM	9	5	14				
4:15 AM	0	0	0	9:15 AM	3	6	9	2:15 PM	7	7	14	7:15 PM	6	4	10				
4:30 AM	0	0	0	9:30 AM	4	6	10	2:30 PM	6	6	12	7:30 PM	0	3	3				
4:45 AM	1	0	1	9:45 AM	5	4	9	2:45 PM	13	7	20	7:45 PM	4	4	8				

Hourly	EB	WB	Total
12:00 AM	2	0	2
1:00 AM	0	0	0
2:00 AM	1	0	1
3:00 AM	0	0	0
4:00 AM	1	0	1
5:00 AM	0	0	0
6:00 AM	6	8	14
7:00 AM	26	17	43
8:00 AM	26	32	58
9:00 AM	15	22	37
10:00 AM	11	15	26
11:00 AM	24	18	42
12:00 PM	22	21	43
1:00 PM	21	23	44
2:00 PM	34	25	59
3:00 PM	39	40	79
4:00 PM	35	22	57
5:00 PM	37	42	79
6:00 PM	19	17	36
7:00 PM	19	16	35
8:00 PM	21	9	30
9:00 PM	3	5	8
10:00 PM	5	4	9
11:00 PM	1	0	1



AM Peak 67
7:30 AM

Mid-day Peak 52
1:30 PM

PM Peak 79
5:00 PM

368 Eastbound
336 Westbound

704 Total of Both Directions



90th Street Traffic Calming Study Prairie Village, Kansas

Location: 90th Street, West of Linden Drive
Date: Tuesday, November 14, 2023

Time	EB	WB	Total
12:00 AM	0	0	0
12:15 AM	0	0	0
12:30 AM	0	0	0
12:45 AM	0	0	0
1:00 AM	0	0	0
1:15 AM	0	0	0
1:30 AM	0	0	0
1:45 AM	0	0	0
2:00 AM	0	0	0
2:15 AM	0	0	0
2:30 AM	0	0	0
2:45 AM	0	0	0
3:00 AM	0	0	0
3:15 AM	0	0	0
3:30 AM	0	0	0
3:45 AM	0	0	0
4:00 AM	0	0	0
4:15 AM	0	0	0
4:30 AM	0	0	0
4:45 AM	1	0	1

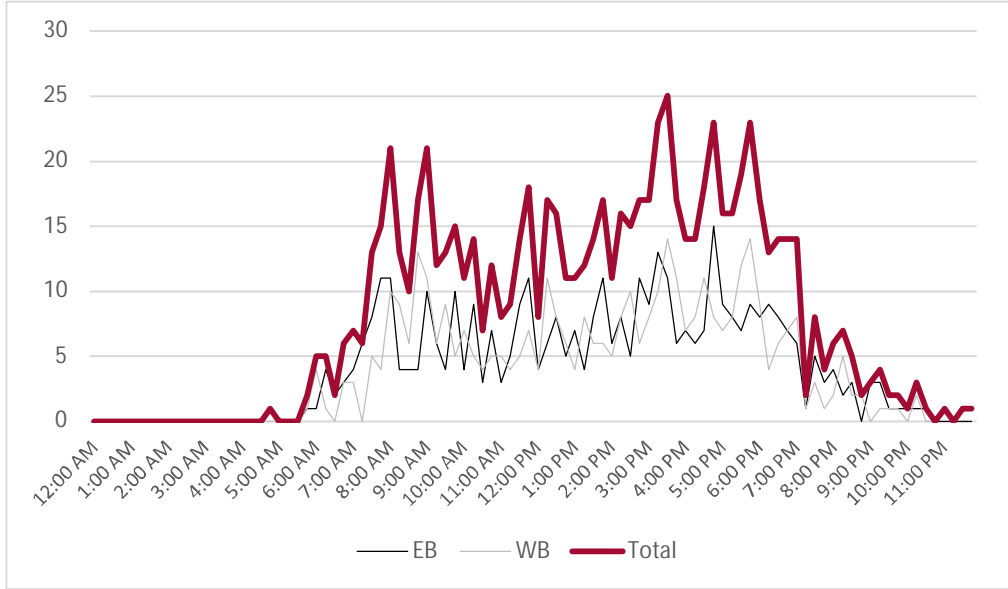
Time	EB	WB	Total
5:00 AM	0	0	0
5:15 AM	0	0	0
5:30 AM	0	0	0
5:45 AM	1	1	2
6:00 AM	1	4	5
6:15 AM	4	1	5
6:30 AM	2	0	2
6:45 AM	3	3	6
7:00 AM	4	3	7
7:15 AM	6	0	6
7:30 AM	8	5	13
7:45 AM	11	4	15
8:00 AM	11	10	21
8:15 AM	4	9	13
8:30 AM	4	6	10
8:45 AM	4	13	17
9:00 AM	10	11	21
9:15 AM	6	6	12
9:30 AM	4	9	13
9:45 AM	10	5	15

Time	EB	WB	Total
10:00 AM	4	7	11
10:15 AM	9	5	14
10:30 AM	3	4	7
10:45 AM	7	5	12
11:00 AM	3	5	8
11:15 AM	5	4	9
11:30 AM	9	5	14
11:45 AM	11	7	18
12:00 PM	4	4	8
12:15 PM	6	11	17
12:30 PM	8	8	16
12:45 PM	5	6	11
1:00 PM	7	4	11
1:15 PM	4	8	12
1:30 PM	8	6	14
1:45 PM	11	6	17
2:00 PM	6	5	11
2:15 PM	8	8	16
2:30 PM	5	10	15
2:45 PM	11	6	17

Time	EB	WB	Total
3:00 PM	9	8	17
3:15 PM	13	10	23
3:30 PM	11	14	25
3:45 PM	6	11	17
4:00 PM	7	7	14
4:15 PM	6	8	14
4:30 PM	7	11	18
4:45 PM	15	8	23
5:00 PM	9	7	16
5:15 PM	8	8	16
5:30 PM	7	12	19
5:45 PM	9	14	23
6:00 PM	8	9	17
6:15 PM	9	4	13
6:30 PM	8	6	14
6:45 PM	7	7	14
7:00 PM	6	8	14
7:15 PM	1	1	2
7:30 PM	5	3	8
7:45 PM	3	1	4

Time	EB	WB	Total
8:00 PM	4	2	6
8:15 PM	2	5	7
8:30 PM	3	2	5
8:45 PM	0	2	2
9:00 PM	3	0	3
9:15 PM	3	1	4
9:30 PM	1	1	2
9:45 PM	1	1	2
10:00 PM	1	0	1
10:15 PM	1	2	3
10:30 PM	1	0	1
10:45 PM	0	0	0
11:00 PM	0	1	1
11:15 PM	0	0	0
11:30 PM	0	1	1
11:45 PM	0	1	1

Hourly	EB	WB	Total
12:00 AM	0	0	0
1:00 AM	0	0	0
2:00 AM	0	0	0
3:00 AM	0	0	0
4:00 AM	1	0	1
5:00 AM	1	1	2
6:00 AM	10	8	18
7:00 AM	29	12	41
8:00 AM	23	38	61
9:00 AM	30	31	61
10:00 AM	23	21	44
11:00 AM	28	21	49
12:00 PM	23	29	52
1:00 PM	30	24	54
2:00 PM	30	29	59
3:00 PM	39	43	82
4:00 PM	35	34	69
5:00 PM	33	41	74
6:00 PM	32	26	58
7:00 PM	15	13	28
8:00 PM	9	11	20
9:00 PM	8	3	11
10:00 PM	3	2	5
11:00 PM	0	3	3



AM Peak 63 **Mid-day Peak** 59 **PM Peak** 75
 8:45 AM 11:45 AM 5:15 PM

402 Eastbound
 390 Westbound

 792 Total of Both Directions

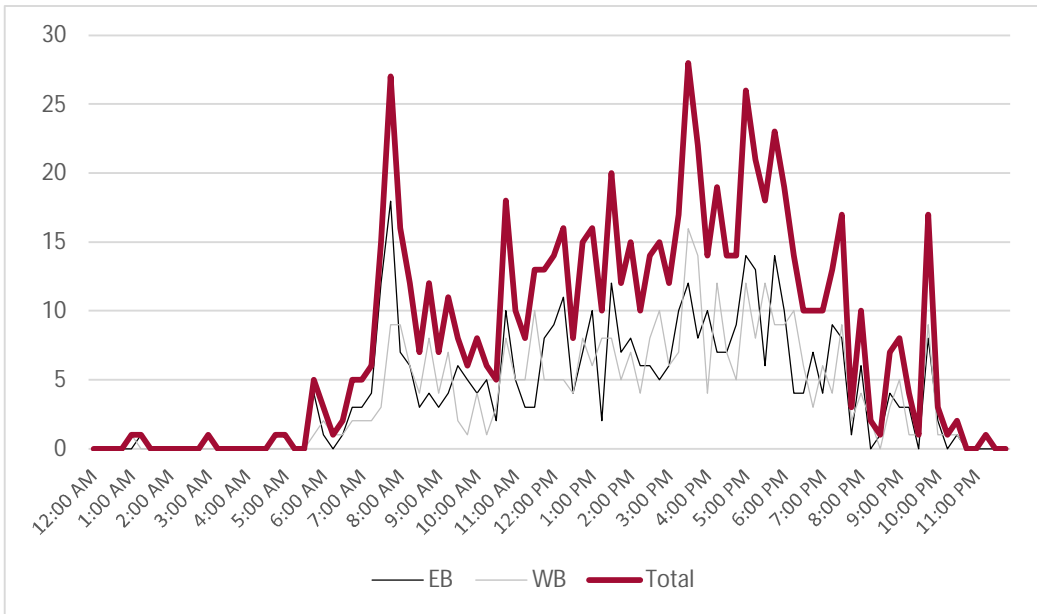


90th Street Traffic Calming Study Prairie Village, Kansas

Location: 90th Street, West of Linden Drive
Date: Wednesday, November 15, 2023

Time	EB	WB	Total	Time	EB	WB	Total	Time	EB	WB	Total	Time	EB	WB	Total	Time	EB	WB	Total
12:00 AM	0	0	0	5:00 AM	1	0	1	10:00 AM	4	4	8	3:00 PM	6	6	12	8:00 PM	6	4	10
12:15 AM	0	0	0	5:15 AM	0	0	0	10:15 AM	5	1	6	3:15 PM	10	7	17	8:15 PM	0	2	2
12:30 AM	0	0	0	5:30 AM	0	0	0	10:30 AM	2	3	5	3:30 PM	12	16	28	8:30 PM	1	0	1
12:45 AM	0	0	0	5:45 AM	4	1	5	10:45 AM	10	8	18	3:45 PM	8	14	22	8:45 PM	4	3	7
1:00 AM	0	1	1	6:00 AM	1	2	3	11:00 AM	5	5	10	4:00 PM	10	4	14	9:00 PM	3	5	8
1:15 AM	1	0	1	6:15 AM	0	1	1	11:15 AM	3	5	8	4:15 PM	7	12	19	9:15 PM	3	1	4
1:30 AM	0	0	0	6:30 AM	1	1	2	11:30 AM	3	10	13	4:30 PM	7	7	14	9:30 PM	0	1	1
1:45 AM	0	0	0	6:45 AM	3	2	5	11:45 AM	8	5	13	4:45 PM	9	5	14	9:45 PM	8	9	17
2:00 AM	0	0	0	7:00 AM	3	2	5	12:00 PM	9	5	14	5:00 PM	14	12	26	10:00 PM	2	1	3
2:15 AM	0	0	0	7:15 AM	4	2	6	12:15 PM	11	5	16	5:15 PM	13	8	21	10:15 PM	0	1	1
2:30 AM	0	0	0	7:30 AM	12	3	15	12:30 PM	4	4	8	5:30 PM	6	12	18	10:30 PM	1	1	2
2:45 AM	0	0	0	7:45 AM	18	9	27	12:45 PM	7	8	15	5:45 PM	14	9	23	10:45 PM	0	0	0
3:00 AM	1	0	1	8:00 AM	7	9	16	1:00 PM	10	6	16	6:00 PM	10	9	19	11:00 PM	0	0	0
3:15 AM	0	0	0	8:15 AM	6	6	12	1:15 PM	2	8	10	6:15 PM	4	10	14	11:15 PM	0	1	1
3:30 AM	0	0	0	8:30 AM	3	4	7	1:30 PM	12	8	20	6:30 PM	4	6	10	11:30 PM	0	0	0
3:45 AM	0	0	0	8:45 AM	4	8	12	1:45 PM	7	5	12	6:45 PM	7	3	10	11:45 PM	0	0	0
4:00 AM	0	0	0	9:00 AM	3	4	7	2:00 PM	8	7	15	7:00 PM	4	6	10				
4:15 AM	0	0	0	9:15 AM	4	7	11	2:15 PM	6	4	10	7:15 PM	9	4	13				
4:30 AM	0	0	0	9:30 AM	6	2	8	2:30 PM	6	8	14	7:30 PM	8	9	17				
4:45 AM	1	0	1	9:45 AM	5	1	6	2:45 PM	5	10	15	7:45 PM	1	2	3				

Hourly	EB	WB	Total
12:00 AM	0	0	0
1:00 AM	1	1	2
2:00 AM	0	0	0
3:00 AM	1	0	1
4:00 AM	1	0	1
5:00 AM	5	1	6
6:00 AM	5	6	11
7:00 AM	37	16	53
8:00 AM	20	27	47
9:00 AM	18	14	32
10:00 AM	21	16	37
11:00 AM	19	25	44
12:00 PM	31	22	53
1:00 PM	31	27	58
2:00 PM	25	29	54
3:00 PM	36	43	79
4:00 PM	33	28	61
5:00 PM	47	41	88
6:00 PM	25	28	53
7:00 PM	22	21	43
8:00 PM	11	9	20
9:00 PM	14	16	30
10:00 PM	3	3	6
11:00 PM	0	1	1



AM Peak 70 **Mid-day Peak** 61 **PM Peak** 88
7:30 AM 12:45 PM 5:00 PM

406 Eastbound
374 Westbound

780 Total of Both Directions

90th Street Traffic Calming Study

Prairie Village, Kansas

Location: 90th Street, West of Linden Drive
 Date: Thursday, November 16, 2023

Time	EB	WB	Total
12:00 AM	0	0	0
12:15 AM	0	0	0
12:30 AM	0	0	0
12:45 AM	0	0	0
1:00 AM	0	0	0
1:15 AM	0	0	0
1:30 AM	0	0	0
1:45 AM	0	0	0
2:00 AM	0	0	0
2:15 AM	0	0	0
2:30 AM	0	0	0
2:45 AM	0	0	0
3:00 AM	0	0	0
3:15 AM	0	0	0
3:30 AM	0	0	0
3:45 AM	0	0	0
4:00 AM	0	0	0
4:15 AM	0	0	0
4:30 AM	0	0	0
4:45 AM	2	0	2

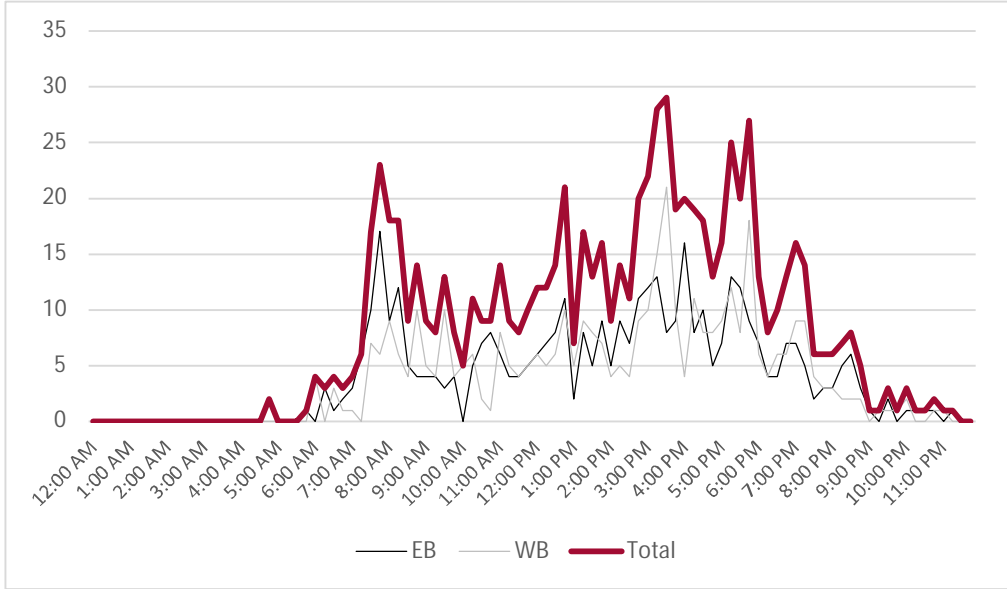
Time	EB	WB	Total
5:00 AM	0	0	0
5:15 AM	0	0	0
5:30 AM	0	0	0
5:45 AM	1	0	1
6:00 AM	0	4	4
6:15 AM	3	0	3
6:30 AM	1	3	4
6:45 AM	2	1	3
7:00 AM	3	1	4
7:15 AM	6	0	6
7:30 AM	10	7	17
7:45 AM	17	6	23
8:00 AM	9	9	18
8:15 AM	12	6	18
8:30 AM	5	4	9
8:45 AM	4	10	14
9:00 AM	4	5	9
9:15 AM	4	4	8
9:30 AM	3	10	13
9:45 AM	4	4	8

Time	EB	WB	Total
10:00 AM	0	5	5
10:15 AM	5	6	11
10:30 AM	7	2	9
10:45 AM	8	1	9
11:00 AM	6	8	14
11:15 AM	4	5	9
11:30 AM	4	4	8
11:45 AM	5	5	10
12:00 PM	6	6	12
12:15 PM	7	5	12
12:30 PM	8	6	14
12:45 PM	11	10	21
1:00 PM	2	5	7
1:15 PM	8	9	17
1:30 PM	5	8	13
1:45 PM	9	7	16
2:00 PM	5	4	9
2:15 PM	9	5	14
2:30 PM	7	4	11
2:45 PM	11	9	20

Time	EB	WB	Total
3:00 PM	12	10	22
3:15 PM	13	15	28
3:30 PM	8	21	29
3:45 PM	9	10	19
4:00 PM	16	4	20
4:15 PM	8	11	19
4:30 PM	10	8	18
4:45 PM	5	8	13
5:00 PM	7	9	16
5:15 PM	13	12	25
5:30 PM	12	8	20
5:45 PM	9	18	27
6:00 PM	7	6	13
6:15 PM	4	4	8
6:30 PM	4	6	10
6:45 PM	7	6	13
7:00 PM	7	9	16
7:15 PM	5	9	14
7:30 PM	2	4	6
7:45 PM	3	3	6

Time	EB	WB	Total
8:00 PM	3	3	6
8:15 PM	5	2	7
8:30 PM	6	2	8
8:45 PM	3	2	5
9:00 PM	1	0	1
9:15 PM	0	1	1
9:30 PM	2	1	3
9:45 PM	0	1	1
10:00 PM	1	2	3
10:15 PM	1	0	1
10:30 PM	1	0	1
10:45 PM	1	1	2
11:00 PM	0	1	1
11:15 PM	1	0	1
11:30 PM	0	0	0
11:45 PM	0	0	0

Hourly	EB	WB	Total
12:00 AM	0	0	0
1:00 AM	0	0	0
2:00 AM	0	0	0
3:00 AM	0	0	0
4:00 AM	2	0	2
5:00 AM	1	0	1
6:00 AM	6	8	14
7:00 AM	36	14	50
8:00 AM	30	29	59
9:00 AM	15	23	38
10:00 AM	20	14	34
11:00 AM	19	22	41
12:00 PM	32	27	59
1:00 PM	24	29	53
2:00 PM	32	22	54
3:00 PM	42	56	98
4:00 PM	39	31	70
5:00 PM	41	47	88
6:00 PM	22	22	44
7:00 PM	17	25	42
8:00 PM	17	9	26
9:00 PM	3	3	6
10:00 PM	4	3	7
11:00 PM	1	1	2



AM Peak 76	Mid-day Peak 59	PM Peak 88
7:30 AM	12:00 PM	5:00 PM
403 Eastbound 385 Westbound <hr style="width: 50%; margin: 0 auto;"/> 788 Total of Both Directions		



90th Street Traffic Calming Prairie Village, Kansas

Location: 90th Street, west of Cedar Lane

Start Time: 12:00 AM

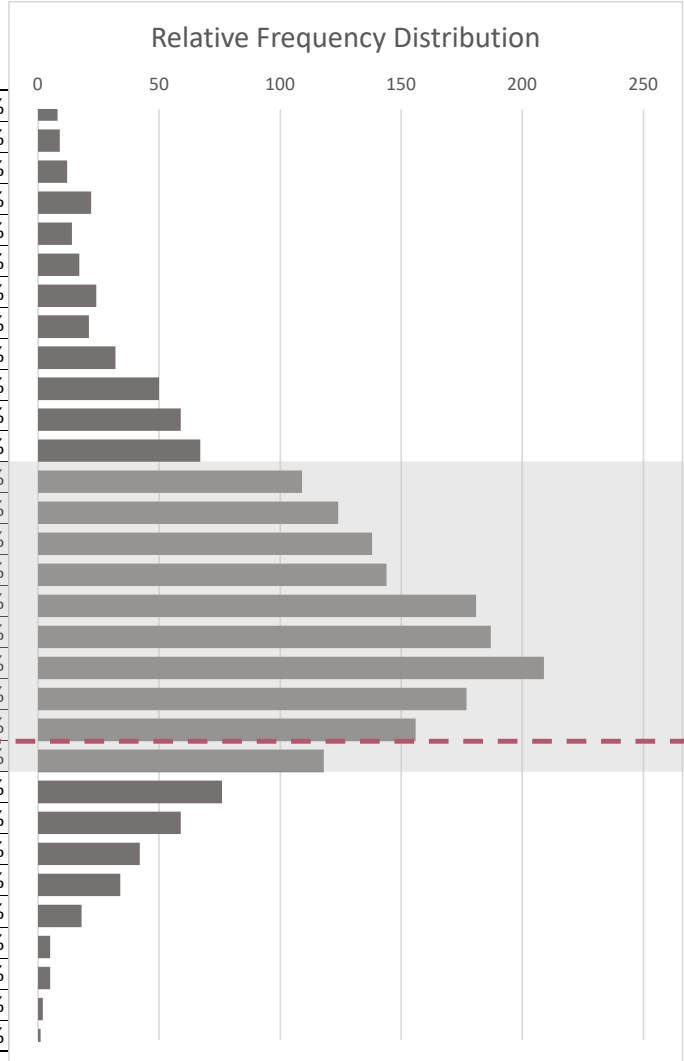
Start Date: 11/14/2023

End Time: 11:59 PM

End Date: 11/16/2023

Speed Limit: 25 mph

Speed	Frequency	Percentage	Cumulative Frequency	Cumulative Percentage
10	8	0.4%	8	0.4%
11	9	0.4%	17	0.8%
12	12	0.6%	29	1.4%
13	22	1.0%	51	2.4%
14	14	0.7%	65	3.1%
15	17	0.8%	82	3.9%
16	24	1.1%	106	5.0%
17	21	1.0%	127	6.0%
18	32	1.5%	159	7.5%
19	50	2.4%	209	9.9%
20	59	2.8%	268	12.6%
21	67	3.2%	335	15.8%
22	109	5.1%	444	20.9%
23	124	5.8%	568	26.8%
24	138	6.5%	706	33.3%
25	144	6.8%	850	40.1%
26	181	8.5%	1031	48.6%
27	187	8.8%	1218	57.5%
28	209	9.9%	1427	67.3%
29	177	8.3%	1604	75.7%
30	156	7.4%	1760	83.0%
31	118	5.6%	1878	88.6%
32	76	3.6%	1954	92.2%
33	59	2.8%	2013	95.0%
34	42	2.0%	2055	96.9%
35	34	1.6%	2089	98.5%
36	18	0.8%	2107	99.4%
37	5	0.2%	2112	99.6%
38	5	0.2%	2117	99.9%
39	2	0.1%	2119	100.0%
40	1	0.0%	2120	100.0%
	2120	100.0%		



85th %: 30.8 mph
 AVG: 25.9 mph
 MEDIAN: 26.6 mph

MODE: 26.2 mph
 PACE: 22-31 mph
 STD DEV: 5.3

90th Street Traffic Calming Prairie Village, Kansas

Location: 90th Street, west of Linden Drive

Start Time: 12:00 AM

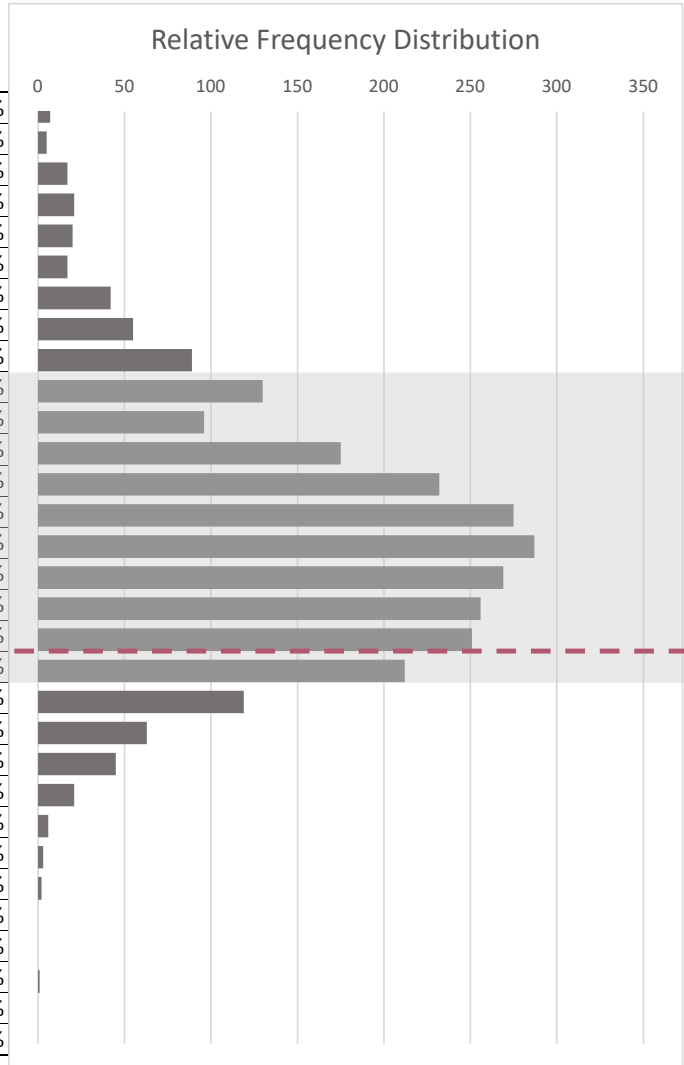
End Time: 11:59 PM

Speed Limit: 25 mph

Start Date: 11/14/2023

End Date: 11/16/2023

Speed	Frequency	Percentage	Cumulative Frequency	Cumulative Percentage
10	7	0.3%	7	0.3%
11	5	0.2%	12	0.4%
12	17	0.6%	29	1.1%
13	21	0.8%	50	1.8%
14	20	0.7%	70	2.6%
15	17	0.6%	87	3.2%
16	42	1.5%	129	4.7%
17	55	2.0%	184	6.8%
18	89	3.3%	273	10.1%
19	130	4.8%	403	14.8%
20	96	3.5%	499	18.4%
21	175	6.4%	674	24.8%
22	232	8.5%	906	33.4%
23	275	10.1%	1181	43.5%
24	287	10.6%	1468	54.1%
25	269	9.9%	1737	64.0%
26	256	9.4%	1993	73.4%
27	251	9.2%	2244	82.6%
28	212	7.8%	2456	90.4%
29	119	4.4%	2575	94.8%
30	63	2.3%	2638	97.1%
31	45	1.7%	2683	98.8%
32	21	0.8%	2704	99.6%
33	6	0.2%	2710	99.8%
34	3	0.1%	2713	99.9%
35	2	0.1%	2715	100.0%
36	0	0.0%	2715	100.0%
37	0	0.0%	2715	100.0%
38	1	0.0%	2716	100.0%
39	0	0.0%	2716	100.0%
40	0	0.0%	2716	100.0%
2716		100.0%		



85th %: 27.7 mph
 AVG: 23.5 mph
 MEDIAN: 24 mph

MODE: 23.9 mph
 PACE: 19-28 mph
 STD DEV: 4.4



PUBLIC WORKS DEPARTMENT

Council Meeting: September 16, 2024

**COU2024-50 CONSIDER APPROVAL OF THE JM FAHEY CONTRACT FOR
MISSION ROAD, 63RD STREET TO 67TH STREET (MIRD0009)**

RECOMMENDATION

Move to authorize the Mayor to sign the Construction Contract with JM Fahey Construction Company for improvements to Mission Road, 63rd Street to 67th Street (MIRD0009).

BACKGROUND

The Governing Body approved the City of Prairie Village annual County Assistance Road System (CARS) Program submittal at the May 1, 2023, City Council meeting which included the joint Mission Road, 63rd Street to 67th Street Improvement Project. This project is co-funded by the City of Mission Hills. The Johnson County Board of Commissioners has approved our submittal for funding.

On August 7, 2024, the office of the City Clerk opened bids for the Mission Road, 63rd Street to 67th Street project. Three bids were received:

JM Fahey	\$307,769.65
McAnany Construction	\$355,600.00
Superior Bowen	\$420,322.75
Engineer's Estimate	\$402,353.00

The engineer has evaluated the bids for accuracy and recommends awarding the project to JM Fahey Construction Company in the amount of \$307,769.65.

FUNDING SOURCE

Funding is available in the CIP project MIRD0009.

ATTACHMENTS

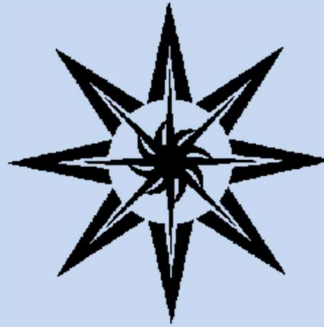
1. Construction Agreement with JM Fahey

PREPARED BY

Melissa Prenger, City Engineer

September 10, 2024

CONSTRUCTION AGREEMENT



**MIRD0009
MISSION ROAD
63RD STREET TO 67TH STREET**

**CARS PROJECT
320001401**

**BETWEEN
CITY OF PRAIRIE VILLAGE, KS
AND
JM FAHEY CONSTRUCTION COMPANY**

CONSTRUCTION CONTRACT
FOR
MIRD0009 | MISSION ROAD, 63RD STREET TO 67TH STREET

BETWEEN
THE CITY OF PRAIRIE VILLAGE, KANSAS
AND
JM FAHEY CONSTRUCTION COMPANY

THIS AGREEMENT, is made and entered into this ____ day of _____, 2024, by and between the City of Prairie Village, Kansas, hereinafter termed the “**City**”, and JM Fahey Construction Company, hereinafter termed in this agreement, “**Contractor**”, for the construction and completion of Project MISSION ROAD, 63RD STREET TO 67TH STREET, (the “**Project**”) designated, described and required by the Project Manual and Bid Proposal, to wit:

WITNESSETH:

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

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

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

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

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

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

1. **DEFINITIONS:** Capitalized terms not defined herein shall have the meanings set forth in the General Conditions.

1.1 Following words are given these definitions:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2. ENTIRE AGREEMENT:

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

3. INTENT AND INTERPRETATION

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

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

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

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

4. CONTRACT COST

The City shall pay the Contractor for the performance of the Work embraced in this Contract, and the Contractor will accept in full compensation therefore the sum (subject to adjustment as provided by the Contract) of **Three hundred and seven thousand, seven hundred sixty - nine and 65/100 DOLLARS (\$307,769.65)** covered by and included in the Contract; payment thereof to be made in cash or its equivalent and in a manner provided in the Contract Documents.

5. WORK SUPERINTENDENT

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

6. PROJECT MANAGER

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

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

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

7. **WORK SCHEDULE:**

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

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

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

8. DELAYS AND EXTENSIONS OF TIME

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

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

9. ADVERSE WEATHER:

- 9.1 Extensions of time for Adverse Weather shall be granted only under the conditions as hereinafter provided.
- 9.2 For conditions of weather or conditions at the site, so unusual as not to be reasonably anticipated, as determined by the Project Manager, an average or usual number of inclement days when work cannot proceed are to be anticipated during the construction period and are not to be considered as warranting extension of time.
- 9.3 “**Adverse Weather**” is defined as atmospheric conditions or the impact thereof at a definite time and place, which are unfavorable to construction activities such that they prevent work on critical activities for 50 percent or more of the Contractor’s scheduled workday.
- 9.4 “**Unusually Severe Weather**” is defined as weather, which is more severe than the adverse weather anticipated for the season, location, or activity involved.
- 9.5 Time Extensions for Unusually Severe Weather: In order for any request for time extension due to Unusually Severe Weather to be valid, the Contractor must document all of the following conditions:
- The weather experienced at the Work site during the Contract period is more severe than the Adverse Weather anticipated for the Work location during any given month.
 - The Unusually Severe Weather actually caused a delay to the completion of the Work.
 - The delay must be beyond the control and without fault or negligence by the Contractor.
- 9.6 The following schedule of monthly-anticipated Adverse Weather delays will constitute the baseline for monthly weather time evaluations. The Contractor’s Work Schedule must reflect these anticipated adverse weather delays in all weather affected activities:

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

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

- 9.7 Upon receipt of the Notice to Proceed, and continuing throughout the Contract, the Contractor shall record on its daily construction report, the occurrence of Adverse Weather and resultant impact to the Work Schedule.
- 9.8 The number of actual Adverse Weather delay days shall include days affected by actual Adverse Weather (even if Adverse Weather occurred in the previous month), and shall be

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

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

10. LIQUIDATED DAMAGES

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

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

11. PAYMENT PROCEDURE

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

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

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

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

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

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

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

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

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

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

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

13. CLAIMS BY THE CONTRACTOR

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

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

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

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

14. CHANGES IN THE WORK

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

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

- 14.5 If unit prices are provided in the Contract, and if the quantities contemplated are so changed in a proposed Change Order that the application of such unit prices to the quantities of Work proposed would cause substantial inequity to the City or to the Contractor, the applicable unit prices shall be equitably adjusted.
- 14.6 The execution of a Change Order by the Contractor shall constitute conclusive evidence of the Contractor's agreement to the ordered changes in the Work, this Contract as thus amended, the Contract Price and the Contract Time. The Contractor, by executing the Change Order, waives and forever releases any claim including impact against the City for additional time or compensation for matters relating to or arising out of or resulting from the Work included within or affected by the executed Change Order.

15. INSURANCE AND BONDS.

- 15.1 The Contractor shall secure and maintain, throughout the duration of the agreement, insurance (on an occurrence basis unless otherwise agreed to) of such types and in at least such amounts as required herein. Contractor shall provide certificates of insurance and renewals thereof on forms acceptable to the City. The City shall be notified by receipt of written notice from the insurer or the Contractor at least thirty (30) days prior to material modification or cancellation of any policy listed on the Certificate.
- 15.2 The Contractor, upon receipt of notice of any claim in connection with this Agreement, shall promptly notify the City, providing full details thereof, including an estimate of the amount of loss or liability. The Contractor shall monitor and promptly notify the City of any reduction in limits of protection afforded under any policy listed in the Certificate (or otherwise required by the Contract Documents) if the Contractor's limits of protection shall have been impaired or reduced to such extent that the limits fall below the minimum amounts required herein. The Contractor shall promptly reinstate the original limits of liability required hereunder and shall furnish evidence thereof to the City.
- 15.3 Minimum Requirements Commercial General Liability Policy Limits -

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

Policy MUST include the following conditions:

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

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

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

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

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

Limits -

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

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

Workers' Compensation:	Statutory
Employer's Liability:	
Bodily Injury by Accident	\$1,000,000 each accident
Bodily Injury by Disease	\$1,000,000 policy limit
Bodily Injury by Disease	\$1,000,000 each employee

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

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

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

16. INDEMNITY

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

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

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

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

18. NON-DISCRIMINATION LAWS

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

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

- E. If the Contractor is found guilty of a violation of the Kansas Act Against Discrimination under a decision or order of the Commission which has become final, the Contractor shall be deemed to have breached the present contract and it may be cancelled, terminated or suspended, in whole or in part, by the contracting agency; and
- F. The Contractor shall include the provisions of Subsections A through D in every subcontract or purchase order so that such provisions will be binding upon such Subcontractor or vendor.
- G. The provisions of this Section shall not apply to a contract entered into by a Contractor: (1) Who employs fewer than four employees during the term of such contract; or (2) Whose contracts with the City cumulatively total \$5,000 or less during the fiscal year of the City.

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

19. FEDERAL LOBBYING ACTIVITIES

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

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

20. RELATIONS WITH OTHER CONTRACTORS:

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

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

21. RIGHT OF CITY TO TERMINATE

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

22. MISCELLANEOUS:

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

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

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

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

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

CITY OF PRAIRIE VILLAGE

JM FAHEY CONSTRUCTION COMPANY

(typed company name)

By: _____
(signed)

By: _____
(signed)

Eric Mikkelson

(typed name)

Mayor

(typed title)

City of Prairie Village

JM FAHEY CONSTRUCTION COMPANY

(typed company name)

7700 Mission Road

408 HIGH GROVE ROAD

(typed address)

Prairie Village, Kansas 66208

GRANDVIEW, MO 64030

(typed city, state, zip)

816-763-3010

(typed telephone number)

(date of execution)

(date of execution)

SEAL

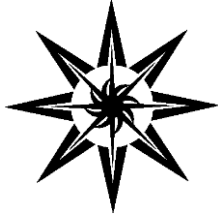
ATTEST:

APPROVED BY:

City Clerk, Adam Geffert

City Attorney, Alex Aggen

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



COU2024-51: Consider Approval of Amendments to the Municipal Property Tax Rebate Program

This agenda item was presented as a 2025 Decision Package to amend and increase funding for the Property Tax Rebate Program to allow for more families to qualify and be prioritized in the order of funding. The proposed increase in funding from \$25,000 to \$50,000 was passed by the Council; however, the amendment policy was to be decided at a later date. Mr. Shelton has prepared the following agenda cover in consideration of proposed changes to the Property Tax Rebate Program.

BACKGROUND

Families are facing unprecedented cost challenges related to housing, child care, health care, elder care, and establishing a base of savings for a secure financial future. Recent reports have shown child care alone is accounting for as much as 40% of household expenses. The annual Care.com report on the cost of child care forecasts continued cost increases that will cut into household expenses and even savings as families grapple with this necessary and scarce service, <https://www.care.com/c/how-much-does-child-care-cost/#key-findings>

In light of this condition and understanding it is impacting families throughout our community, this proposal is meant to offer meaningful and sustainable tax relief to the families who are the foundation of Prairie Village’s past, present and future.

Amendments to Program Administration:

1. Family is defined as households with at least one dependent age 18 or under.
2. These applicants would be in the first tranche of applications considered for the tax rebate. If there are funds remaining after these households have been served, then households of 2 or fewer would be served in a second tranche.
 - a. The staggered award model would follow the same construct as the Sustainability and Exterior Grant programs.
3. The program will refund up to 100% of a family’s municipal tax bill and payouts will be made on a “least to most” basis to ensure the funds are able to support as many families as possible in our community.
 - a. If the balance of funds for the final qualifying applicant does not cover 100% of that resident’s tax bill, then staff shall only disperse the funds if the rebate is equal to or greater than 50% of the resident's tax bill.
 - b. If the balance of funds is insufficient to cover 50% or more of the final qualifying applicant’s tax bill then those funds shall be retained and rolled over to the next fiscal year’s fund for the property tax rebate program.

4. Update home valuation limit to be the prior year's average home value in Prairie Village, Kansas plus 25% to ensure more families throughout the community can benefit from this targeted tax relief.
5. Update income requirements to ensure families with one or two incomes are able to participate. Given the aforementioned financial strain families are facing we should not discount the MFI for households with dependents age 18 and under.
 - a. The area median income (AMI) for our area is the benchmark for all households, and by discounting it we disproportionately exclude families that have a higher incomes and a higher financial burden by supporting dependents in their household.
 - b. Also, by resetting the scale at \$104,400 (current AMI for our area) we need to establish a new increment for each additional household member.
 - c. The simple math is to divide the \$104,400 by 3, then add that amount (\$34,800) for each additional household member. This, or something like this, is more in line with the real, incremental impact of raising a family in today's market for household goods and services.

Below is a revised table of household incomes, based on the existing table, that incorporates this new methodology. Note there is an additional category for a household of 2 with dependents to account for single parent/guardian households:

Household Size	Maximum Total Household Income (NOT Adjusted Gross Income)
1	\$39,450
2	\$45,050
2 (with dependent age 18 or younger)	\$69,308
3	\$104,400
4	\$138,800
5	\$173,600
6	\$208,400
7	\$243,200
8+	\$278,000

Observations:

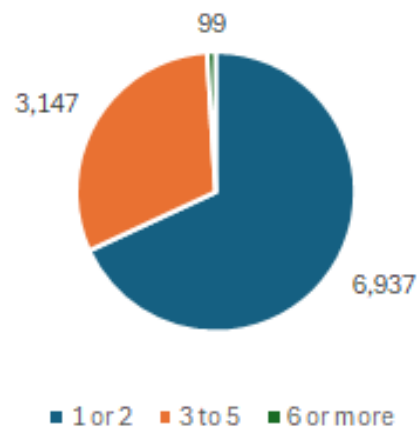
1. In this program, a two income household earning salaries of \$80,000 and \$58,000, with two kids would qualify. I think this represents a sweet spot for a workforce housing profile, and would deliver a few hundred dollars back to the household which is more meaningful than a \$70/year savings from a mill levy reduction (for example).
2. Current HHI composition of Prairie Village per MARC's Housing Data Hub:

Percent of Households by Income
for Selected Geography



3. Current composition of household size in Prairie Village per MARC's Housing Data Hub:

Prairie Village Households by Size



References:

Tax Rebate Program Performance in 2023

1. A total of 53 households received rebates. Of those 53, only two households had more than two people in the household (one had 3, another had 5).
 - a. The majority were single-person households owned by seniors. And there are already tax relief programs available to these residents at the Federal, State, and County level. So our program is overlapping and shifting more tax burden on to young families who are the backbone of our community.
2. 6 applicants were denied due to income levels exceeding the maximum allowed.
3. Staff discussed using the median home value in 2024 rather than the average, but doing so would actually reduce the number of households that qualify. The 2023 average home value (which is what we intend to use for the 2024 program) is \$496,424, whereas the median is only \$387,050. For this year's program, we used the 2022 average home value, which was \$426,865. So, using the median for 2024 would reduce eligibility, and likely eliminate some residents that previously qualified.

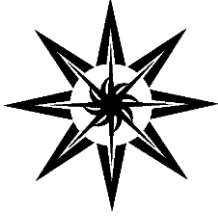
Current Table of Household Size/Income Requirements at 65% MFI

Household Size	65% of MFI	Non-Discounted MFI
1	\$46,670	\$71,800
2	\$53,300	\$82,000
3	\$59,995	\$92,300
4	\$67,990	\$104,600
5	\$71,955	\$110,700
6	\$77,285	\$118,900
7	\$82,615	\$127,100
8	\$87,945	\$135,300

Attachments - Current Tax Rebate Program

PREPARED BY

On behalf of Councilman Shelton
Wes Jordan
City Administrator
Date: September 9, 2024



ADMINISTRATION

Council Committee of the Whole Meeting Date: December 4, 2023

Council Meeting Date: December 18, 2023

COU2023-74

Consider 2024 property tax rebate program recommendations

RECOMMENDED MOTION

Make a motion to accept staff's recommendations for the 2024 property tax rebate program, allocating \$25,000 to the program from the Economic Development Fund, increasing the maximum property value to \$496,424, and maintaining income limits of 65% of the U.S. Department of Housing and Urban Development's (HUD) regional median family income for a household of four people.

BACKGROUND

In November 2021, the City Council voted to allocate \$20,000 from the City's 2022 general fund to a property tax rebate program designed to alleviate some of the burden of home ownership due to rising property values. Only property owners that are Prairie Village residents living in owner-occupied homes, are current on payment of their property taxes and special assessments and meet the income guidelines are eligible for the program. Applicants must also live in a home that is appraised by the county at or below the previous year's average property value in the City (in 2023, this amount is \$496,424).

Initially, income limits were based on data provided by the U.S. Department of Housing and Urban Development's (HUD) "very low income" guidelines, which represent 50% of the regional median family income for a household of four people. For 2023, income guidelines were increased to 65% of the median family income in an effort to assist a larger number of residents.

In 2022, rebates were issued to 28 households totaling \$14,015.94. In 2023, the response from residents was significantly larger, and staff asked for an additional \$5,000 in funding to accommodate as many applicants as possible. In total, rebates were issued to 53 households, totaling \$29,201.53 (note that along with the \$25,000 allocated by Council, an additional \$6,000 in unused funds was rolled over from 2022).

For 2024, staff is recommending \$25,000 be allocated to the program again, and that income limits remain at 65% of the Kansas City metro area median family income, as shown below. \$1,798.47 currently remains available in the 2023 budget allocation, bringing the total available funding for 2024 to \$26,798.47.

HUD Income Limits - FY 2023

Kansas City Metro Area Median Family Income: \$104,600

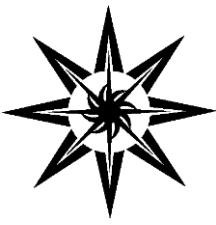
Household Size	65% MFI
1	\$46,670
2	\$53,300
3	\$59,995
4	\$67,990
5	\$71,955
6	\$77,285
7	\$82,615
8+	\$87,945

PREPARED BY

Adam Geffert

City Clerk

Date: November 29, 2023



Short Term Rental Transient Guest Tax Discussion

BACKGROUND

At the September 3, 2024 [Council meeting](#), the Council discussed a potential ban for Short Term Rentals (STR). Before deciding about a ban, Council requested more information on potential Transient Guest Tax collections if we applied the transient guest tax to STRs.

As a reminder, currently STRs (including Airbnb, VRBO, etc.) are required to obtain a rental license to operate in Prairie Village. The rental license process is the same for both long-term and short-term rentals. The license must be renewed annually for \$77 and requires an annual exterior inspection to ensure compliance with the Property Maintenance Code. Any property owned by someone outside of Johnson County, Kansas must identify a local resident agent/manager. Currently there are 833 active or pending rental licenses in Prairie Village, which is a combination of long- and short-term rentals. While we don't track it specifically, we believe the vast majority of these rentals are long term rentals. We estimate there are 30 STRs in Prairie Village.

The City Council passed Charter Ordinance 27 in November 2015, creating a 9% Transient Guest Tax in anticipation of The Inn at Meadowbrook hotel. Charter Ordinance 29 later replaced Charter Ordinance 27 to clarify that collections would be done by the City instead of the State. A transient guest tax is "a levy upon the gross receipts derived from or paid directly or through an accommodations broker by transient guests for sleeping accommodations."

Per the Charter Ordinance, "Revenues received by the City from the transient guest tax shall be expended for all, or any portion of, community, economic development and cultural activities which encourage or which are deemed to result in increased economic development, visitors and tourism for the City, and to the payments of principal and interest on bonds issued by the City, including bonds issued pursuant to K.S.A. 12-1774."

Charter Ordinance 29 included language about a minimum number of rooms to qualify for Transient Guest Tax which at the time seems to have been to preclude TGT collections on STRs. This would have to be adjusted if Council pursued this option.

DISCUSSION

Staff estimates the City could receive up to \$130,000 annually based on most recent sales tax collections. Estimates for prior years were closer to \$60,000 so there's a great deal of fluctuation and uncertainty in estimations. This would be in addition to the funds already received in the Transient Guest Tax fund. In 2023 the City collected \$360,387 in transient guest taxes from the hotel and used it on a variety of qualifying expenses summarized on the attached budget document.

If TGT fees are to be collected on STRs, the Charter Ordinance may need to be amended to allow for collection through the State, if desired.

The 2025 budget did not anticipate the additional TGT revenue, so if this were added, the 2025 budget could either be adjusted or the collections could be allocated as part of the 2026 budget process.

Staff is seeking direction before doing further research and bringing back a formal recommendation to Council.

ATTACHMENTS

Charter Ordinance No. 29
2025 Transient Guest Tax Budget Summary

PREPARED BY

Nickie Lee, Deputy City Administrator
Jason Hannaman, Finance Director
Date: September 10, 2024

CHARTER ORDINANCE NO. 29

A CHARTER ORDINANCE OF THE CITY OF PRAIRIE VILLAGE, KANSAS, KANSAS, RELATING TO TRANSIENT GUEST TAX LEVY, EXEMPTING THE CITY FROM THE PROVISIONS OF K.S.A. 12-1696 THROUGH 12-1698a, INCLUSIVE, PROVIDING FOR ADDITIONAL AND SUBSTITUTE PROVISIONS ON THE SAME SUBJECT, AND REPEALING CHARTER ORDINANCE NO. 27.

WHEREAS, the City of Prairie Village, Kansas has heretofore adopted Charter Ordinance No. 27 pursuant to the provisions of Section 5(c) of Article 12 of the Constitution of the State of Kansas exempting itself and making inapplicable to it provisions of subparagraphs (b) and (f) of K.S.A. 12-1696, subparagraph (a) of K.S.A. 12-1697, and subparagraph (e) of K.S.A. 12-1698, all related to transient guest taxes, and providing substitute provisions on the same subject; and

WHEREAS, Section 5(c)(4) of Article 12 of the Constitution of the State of Kansas provides that a Charter Ordinance may be repealed or amended by charter ordinance.

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

SECTION 1. That pursuant to the provisions of Section 5(c) of Article Twelve (12) of the Constitution of the State of Kansas, the City of Prairie Village, Kansas, hereby exempts itself from the provisions of K.S.A. 12-1696 through 12-1698a, inclusive, and adopts the following additional and substitute provisions:

- a. As used in this Charter Ordinance, the following words and phrases shall have the meanings respectively ascribed to them herein:
 - i. "Person" means an individual, firm, partnership, corporation, joint venture or other association of persons;
 - ii. "Hotel, motel or tourist court" means any structure or building which contains rooms furnished for the purposes of providing lodging, which may or may not also provide meals, entertainment or various other personal services to transient guests, and which is kept, used, maintained, advertised or held out to the public as a place where sleeping accommodations are sought for pay or compensation by transient or permanent guests and having six or more bedrooms furnished for the accommodation of such guests. The terms shall not include group homes (as defined by K.S.A. 12-736, as amended).
 - iii. "Transient guest" means a person who occupies a room in a hotel, motel or tourist court for not more than 28 consecutive days;
 - iv. "Business" means any person engaged in the business of renting, leasing or letting living quarters, sleeping accommodations, rooms or a part thereof in connection with any motel, hotel or tourist court;
 - v. "Accommodations broker" means any business which maintains an inventory of six or more rooms in one or more locations which are offered for pay to a person

or persons for not more than 28 consecutive days.

- b. In order to provide revenues to promote tourism and conventions, the governing body of the City of Prairie Village, Kansas (City) is hereby authorized to levy, and the City hereby does levy, a transient guest tax at not to exceed the rate of nine percent (9%) upon the gross receipts derived from or paid directly or through an accommodations broker by transient guests for sleeping accommodations, exclusive of charges for incidental services or facilities, in any hotel, motel or tourist court located within the City of Prairie Village. The percentage of such transient guest tax may hereafter be determined by the Governing body by ordinary ordinance.
- c. Any transient guest tax levied pursuant to this section shall be based on the gross rental receipts collected by any business or accommodations broker.
- d. The transient guest taxes levied pursuant to this section shall be paid by the consumer or user to the business and it shall be the duty of each and every business to collect from the consumer or user the full amount of any such tax, or an amount equal as nearly as possible or practicable to the average equivalent thereto. Each business collecting any of the taxes levied hereunder shall be responsible for paying over the same to the City, and the City shall administer and enforce the collection of such taxes. To the extent the City timely and actually receives transient guest taxes from a third-party provider or platform (whether pursuant to a voluntary collection agreement or otherwise), then a business shall not be responsible for payment of transient guest taxes; provided, that to the extent transient guest taxes are not so timely or actually received, the business will remain responsible for payment of transient guest taxes.
- e. The collection of any City transient guest tax authorized to be levied pursuant to this section has previously commenced under previous Charter Ordinance No. 27, and shall continue as of the effective date of this Charter Ordinance.
- f. Any tax levied and collected shall become due and payable by the business monthly, on or before the 25th day of the month immediately succeeding the month in which it is collected, with the first payment due and payable on or before the 25th day of the month specified in the resolution of the governing body which levies the tax. Each business shall make a true report to the City, on a form prescribed by the City Clerk, providing such information as may be necessary to determine the amounts to which any such tax shall apply for all gross rental receipts for the applicable month or months, which report shall be accompanied by the tax disclosed thereby. Records of gross rental receipts shall be kept separate and apart from the records of other retail sales made by a business in order to facilitate the examination of books and records as provided herein.
- g. The City Clerk or the City's authorized representative shall have the right at all reasonable times during business hours to make such examination and inspection of the books and records of a business as may be necessary to determine the accuracy of such reports.
- h. The City Clerk is hereby authorized to administer and collect any transient guest tax levied pursuant to this Charter Ordinance and to adopt such procedures as may be necessary for the efficient and effective administration and enforcement of the collection thereof. Whenever any business liable to pay any transient guest tax refuses or neglects to pay the same, the amount, including any penalty, shall be collected in the manner prescribed for the collection of the transient guest tax by the Code of Ordinances and amendments thereto. All of the taxes collected under the provisions of this Charter Ordinance shall be remitted

by the City to the City Clerk in accordance with the provisions of the Code of Ordinances, and amendments thereto. Upon receipt of each such remittance, the City Clerk shall deposit the entire amount in the City treasury, and the city treasurer shall credit 2% of all taxes so collected to the City general fund to defray the expenses of the department in administration and enforcement of the collection thereof. The remainder of such taxes shall be credited to the City transient guest tax fund, which fund is hereby established.

- i. Revenues received by the City from the transient guest tax shall be expended for all, or any portion of, community, economic development and cultural activities which encourage or which are deemed to result in increased economic development, visitors and tourism for the City, and to the payments of principal and interest on bonds issued by the City, including bonds issued pursuant to K.S.A. 12-1774.
- j. Interest and penalties for failure to pay or untimely payment of transient guest tax shall be as follows:
 - i. If any taxpayer shall fail to pay the tax levied pursuant to this Charter Ordinance, and amendments thereto, there shall be added to the unpaid balance of the tax, interest at the rate per month prescribed by the Code of Ordinances, and amendments thereto, from the date the tax was due until paid.
 - ii. If any taxpayer due to negligence or intentional disregard fails to pay the tax due at the time required by or under the provisions of this Charter Ordinance, and amendments thereto, there shall be added to the tax a penalty in an amount equal to 10% of the unpaid balance of tax due.
 - iii. If any person fails to pay any tax, within sixty (60) days from the date the return or tax was due, except in the case of an extension of time granted by the city manager, there shall be added to the tax due a penalty equal to 25% of the amount of such tax.
 - iv. If any taxpayer, with fraudulent intent, fails to pay any tax or make, render or sign any return, or to supply any information, within the time required by or under the provisions of this Charter Ordinance, and amendments thereto, there shall be added to the tax a penalty in an amount equal to 50% of the unpaid balance of tax due.
 - v. Penalty or interest applied under the provisions of subsections j.i and j.iv shall be in addition to the penalty added under any other provisions of this section, but the provisions of subsections j.ii and j.iii shall be mutually exclusive of each other.
 - vi. The failure of the taxpayer to comply with the provisions of subsections j.ii and j.iii was due to reasonable causes and not willful neglect; the city administrator may waive or reduce any of the penalties upon making a record of the reasons therefor.
 - vii. For serious or repeated and/or continuous violations of any of the requirements of this Charter Ordinance, or for interference with the City staff performance of duties, any license to operate or conduct business as a hotel, motel, or tourist court may be suspended and/or permanently revoked after an opportunity for a hearing before the City Council has been provided. Prior to such action, the City Clerk shall notify the license holder in writing, stating the reasons for which the license is subject to suspension and advising that the license shall be temporarily

suspended at the end of thirty (30) days following service of such a notice, unless a request for a hearing is filed with the City Clerk, by the license holder, within ten (10) days.

viii. Hearings provided for in this Charter Ordinance shall be conducted by the City Council at a time and place designated by the City Council. Based upon the record of such hearing, the City Council shall make a finding and shall sustain, modify, or rescind any official notice or order considered in the hearing. A written report of the hearing decision shall be furnished to the license holder by the City Clerk.

ix. In addition to all other penalties provided by this section, any person who willfully fails to pay any tax imposed under this Charter Ordinance, and amendments thereto, or who makes a false or fraudulent return, or fails to keep any books or records necessary to determine the accuracy of the person's reports, or who willfully violates any regulations of the City, for the enforcement and administration of the provisions of this Charter Ordinance, inclusive, and amendments thereto, or who aids and abets another in attempting to evade the payment of any tax imposed or who violates any other provision of this Charter Ordinance, inclusive, and amendments thereto, shall, upon conviction thereof, be fined not less than \$100.00 nor more than \$1,000.00, or be imprisoned in the city / county jail not less than one (1) month nor more than six (6) months, or be both so fined and imprisoned, in the discretion of the court.

SECTION 2. Charter Ordinance No. 27 is hereby deleted and repealed in its entirety.

SECTION 3. This Charter Ordinance shall be published once a week for two (2) consecutive weeks in the official city newspaper.


SECTION 4. This Charter Ordinance shall take effect sixty-one (61) days after its final publication, unless a sufficient petition for a referendum is filed and a referendum held on this Charter Ordinance as provided in Article 12, Section 5, Subsection (c)(3) of the Constitution of the State of Kansas, in which case this Charter Ordinance shall become effective if approved by a majority of the electors voting thereon.

PASSED AND APPROVED by the Governing Body, not less than two-thirds (2/3) of the members elect voting in favor thereof, this 20th day of JULY, 2020.



Eric Mikkelson, Mayor

ATTEST:



Adam Geffert, City Clerk

DATES OF PUBLICATION:

JULY 21, 2020.
JULY 28, 2020.

Transient Guest Tax

	2022 Actual	2023 Actual	2024 Budget	2024 Estimate	2025 Budget
Fund Balance 1/1	\$ 112,831	\$ 372,438	\$ 136,126	\$ 233,368	\$ 239,268
Revenues:					
Transient Guest Tax	288,557	336,999	280,000	350,000	350,000
Interest on Investments	7,931	23,388	268	10,000	10,541
Total Revenue	296,488	360,387	280,268	360,000	360,541
Total Sources	296,488	360,387	280,268	360,000	360,541
Expenditures:					
Contract Services	36,881	134,457	163,100	164,100	171,500
Capital Outlay (Parks)	-	365,000	190,000	190,000	300,000
Reserves	-	-	63,294	-	128,309
Total Expenditures	36,881	499,457	416,394	354,100	599,809
Total Uses	36,881	499,457	416,394	354,100	599,809
Sources Over(Under) Uses	259,607	(139,070)	(136,126)	5,900	(239,268)
Fund Balance @ 12/31	\$ 372,438	\$ 233,368	\$ -	\$ 239,268	\$ -

Funding Sources: Monies received from transient guest tax (TGT) levied upon gross rental receipts paid by guests for lodging in the city.

Expenditures: To be used on expenses in compliance with State Statute.

Details	2022	2023	2024	2024	2025
Arts Council Annual Allocation	\$ -	\$ 10,000	\$ 10,000	\$ 10,000	\$ 10,000
VillageFest	598	35,000	37,000	37,000	39,000
JazzFest	25,000	35,000	35,000	35,000	35,000
Diversity Committee	-	16,500	12,500	12,500	12,500
Juneteenth Festival	-	15,000	15,000	15,000	15,000
Holiday	1,283	2,957	3,000	3,000	3,000
Meadowbrook JCPRD Festival	10,000	10,000	10,000	10,000	15,000
Meadowbrook/VT Partnership	-	-	25,000	25,000	25,000
Public Art Fund	-	10,000	10,000	10,000	10,000
Capital Outlay (Harmon Park)	-	365,000	-	-	-
Capital Outlay (Other Parks)	-	-	190,000	190,000	300,000
Contractual Payment to Trustee	-	-	-	-	-
City Admin Fee (2%)	-	-	5,600	7,000	7,000
Reserves (10% plus misc.)	-	-	63,294	-	128,309
	\$ 36,881	\$ 499,457	\$ 416,394	\$ 354,500	\$ 599,809



City Council Policy: CP029 - President of the Council

Effective Date: June 5, 2017

Amends: April 7, 2014

Approved By: Governing Body

I. SCOPE

II. PURPOSE

- A.** To establish a procedure for selecting the President of the Council

III. RESPONSIBILITY

- A.** The City Council elects one of its own body as President of the Council to preside over meetings of the City Council in the absence of the Mayor. The elected Councilmember will serve as President for a term of one year, starting at the first meeting in February.

IV. DEFINITIONS

- A. City Council:** City Council means 12 elected Councilmembers or those persons appointed to fill vacancies on the council.

V. POLICY

- A.** The Councilmember that has the longest consecutive tenure and has not yet been President of the Council will be nominated as the President of the Council and confirmed by a simple majority vote.
- B.** If there are multiple Councilmembers that have the same tenure, the nominee for President of the Council will be chosen by ward in numerical order.
- C.** If a Councilmember chooses not to be nominated for President of the Council, the Councilmember with the second longest consecutive tenure and has not yet been President of the Council will be nominated.
- D.** If all Councilmembers have served as President of the Council, the Councilmember with the longest consecutive tenure will be nominated as President of the Council.

MAYOR'S ANNOUNCEMENTS
Monday, September 16, 2024

Hispanic Heritage Month Celebration	09/21/2024	5 – 8 p.m.
Finance Committee	09/23/2024	4:00 p.m.
Municipal Foundation	09/24/2024	5:00 p.m.
Environmental Committee	09/25/2024	5:30 p.m.
Fall Tree Seminar	09/25/2025	7:00 p.m.
Board of Zoning Appeals	10/01/2024	6:30 p.m.
City Council	10/07/2024	6:00 p.m.

INFORMATIONAL ITEMS
September 16, 2024

1. Environmental Committee meeting minutes – June 26, 2024
2. Planning Commission meeting minutes – August 6, 2024
3. Diversity Committee meeting minutes – August 13, 2024

The Prairie Village Environmental Committee met Wednesday, June 26, 2024, 5:30 p.m. in the Prairie Village City Hall Multipurpose Room. The meeting was called to order at 5:30 pm.

Members in attendance

Greg Shelton (Chair), Chi Nguyen (Co-chair), Rick Wohlfarth, Johanna Comes, Dave Huyett, Nathan Kovac, Travis Carson, Magda Born, Melinda Lewis, Penny Mahon, Travis Wymore, Piper Reimer.

Approval of the agenda

Piper moved to approve the agenda. Magda seconded the motion. All in favor.

Approval of May 2024 meeting minutes

Rick moved to approve the minutes. Penny seconded the motion. All in favor.

Presentation

Tree Board Chair Lindsay Voitik presented on the purpose and priorities for the Prairie Village Tree Board.

Old Business

The committee reviewed the Village Fest plan and volunteer schedule.

The committee discussed the Go Green event. Members were asked to send suggestions for event agenda to Chi.

New Business

The committee discussed options for display at Jazz Fest table.

The committee discussed cross-promotion of Prairie Village Tree Board's Fall Tree seminar planned for Sept. 25 at Meadowbrook Clubhouse.

Announcements

The next meeting will be at 5:30 p.m. August 26

Committee members were encouraged to submit guest speaker suggestions to Greg for the September, October and December meetings.

Adjourn

Melinda made a motion to adjourn the meeting. Johanna seconded the motion. All in favor.

Meeting adjourned at 7:00 p.m.

**PLANNING COMMISSION MINUTES
AUGUST 6, 2024**

ROLL CALL

The Planning Commission of the City of Prairie Village met in regular session on Tuesday, August 6 at 7:00 p.m. in the Council Chambers at 7700 Mission Road. Vice-Chair James Breneman called the meeting to order at 7:00 p.m. with the following members present: Jonathan Birkel, James Kersten, Melissa Brown, Melissa Temple, and Jeffrey Valentino.

The following individuals were present in their advisory capacity to the Planning Commission: Chris Brewster, Multistudio; Nickie Lee, Deputy City Administrator; Terry O'Toole, Council Liaison; Adam Geffert, City Clerk/Planning Commission Secretary.

APPROVAL OF MINUTES

Mr. Birkel noted that Mr. Brewster's name was misspelled on page two of the minutes. He then moved to approve the minutes of the July 2, 2024, regular Planning Commission meeting with the correction. Mr. Kersten seconded the motion, which passed 5-0, with Ms. Brown in abstention.

OLD BUSINESS

None.

PUBLIC HEARINGS

None.

NON-PUBLIC HEARINGS

PC2024-113	Site plan for monument sign 8101 Mission Road Zoning: C-2 Applicant: Claridge Court, Robert Salierno
------------	---

Mr. Brewster stated that the applicant wished to replace a monument sign on a 4.78 acre site located is the northeast corner of Mission Road and Somerset Drive, used for senior living. The existing monument sign orients to the corner in a large landscape frontage. The plan proposes replacing the sign with an ornamental fountain on the corner and two monument signs further from the corner: one oriented to Mission Road and one oriented

to Somerset Drive. The plan also includes a landscape plan for a large portion of the corner and each street frontage.

Mr. Brewster noted that all new monument signs require approval by the Planning Commission, and had the following specific standards in nonresidential districts:

- One sign per street frontage
- 20 square feet maximum, 5' high maximum (allowance for support structures to exceed)
- 3' setback from all property lines or 12' from street, whichever is greater, with associated landscape plan to integrate sign into site and soften appearance of structure elements
- Base under at least 75% of sign structure, and materials that complement the building or other site elements

The applicant proposes two monument signs to replace the current sign oriented towards the corner. The sign height is 5' with 5.5' high ornamental pillars, which meets the standards. The signs sizes are 20.28 square feet and are held by 2.66' x 2.66' capped stone pillars on each side. As a result, the signs are slightly over the permitted size and include a different base structure than anticipated by the standards, requiring an exception for each.

Mr. Brewster stated that the signs are proposed to be set within a large landscape frontage and meet all setback requirements. The landscape plan includes an ornamental fountain oriented to the corner. This type of ornamental structure is permitted and does not require site plan review, but is integrated into the landscape plan for the monument signs. He noted that Public Works had reviewed the plan for all sight distance requirements and found them to be acceptable. The landscape plan does propose removing four existing frontage trees; however, these will be replaced by a combination of eight shade trees and five ornamental trees, which meets the mitigation requirements of the tree protection ordinance for removal of frontage trees.

Mr. Brewster said that staff recommended that the Planning Commission approve the monument sign and landscape subject to the following conditions:

1. The Planning Commission approves an exception to the size requirement for the signs proposed due to the minimal nature of the size exception, the integration of the signs into a large landscape area, and their placement along large frontages
2. The Planning Commission approves an exception to the base requirement of 75% due to the alternative design proposal, and the integration of capped stone pillars into the landscape plan and site
3. The applicant confirms the sign panel materials and colors prior to approval by the Planning Commission

Robert Salierno, Executive Director of Claridge Court was present to discuss the application.

Mr. Birkel asked if the proposed fountain would run year-round or be turned off during winter months. Mr. Salierno said that other fountains in the facility's courtyard were turned off and covered during the winter, and he assumed this fountain would be as well, though it was still under review. Mr. Birkel also asked how water would be routed to the fountain. Mr. Salierno stated that the fountain would be tied in to the existing sprinkler system for its water source.

Mr. Kersten asked whether the sign dimensions could be slightly reduced to meet the permitted size. Mr. Salierno said that could be done.

Mr. Breneman asked if the sign materials and colors had been provided. Mr. Brewster said they had not, and that they would need to be confirmed. Mr. Salierno said the columns on either side of the sign would be made of brick with stone caps, but that he was unsure of the sign material itself.

Ms. Brown asked what material would be used for the fountain. Mr. Salierno said that the exterior of the fountain would be composed of brick similar in color to the existing brick on the building.

Mr. Brewster said that the sign regulations required that sign materials, particularly the frames, casings and base should be chosen to complement the architecture of the building. Additionally, signs themselves should generally be made of natural materials, such as wood, metal, ceramic or stone. Synthetic materials should only be used if they look similar to natural materials.

Mr. Valentino made a motion to approve the application with the conditions listed, adding that staff should verify the materials being used and bring the application back to the Planning Commission if staff felt the material and color specifications did not meet the sign standards. The motion was seconded by Ms. Brown and passed 6-0.

OTHER BUSINESS

None.

ADJOURNMENT

With no further business to come before the Commission, Mr. Breneman adjourned the meeting at 7:30 p.m.

Adam Geffert
City Clerk/Planning Commission Secretary

Prairie Village Diversity Committee Agenda

August 13, 2024 - 4:00 p.m.

Prairie Village City Hall – Multi-Purpose Room

- **Call to Order** – Chi
- **Attendance** – David, Hazel, Karen, Rachael, Tim
- **Approval of Agenda** – Hazel motion, David second all approved
- **Land Acknowledgment** – Hazel provided presentation of acknowledgement/statement
- **Opening Remarks/Welcome** – Chi
- **Approval of Meeting Minutes (7/16/24)** – Hazel motion, David second all approved
- **Presentations** – None
- **Public Participation** – Alex from Mission, came to observe
- **Committee Discussion Topics(s)**
 - (Hazel) Oct 12 – JoCo Pride in the Park 10:00-1:00
- **Project/Event Updates**
 - **Hispanic Heritage Celebration** – Lilian
 - Sep 21 / Harmon Park 3:00-8:00 (actual event times closer to 4:30-7:30, TBD)
 - Planning on track, run of show drafted; volunteers probably just from committee, tbd
- **Old Business**
 - Reschedule of July Town Hall event (anti-racism)
 - Based on time remaining available for this, may just hold until 2025
 - Proclamation discussion – Hazel / Chi
 - Discussed including proclamation for upcoming: Hispanic Heritage / Indigenous People’s Day, *and* call to action/connection to how to engage (concept of proclamation + action)
 - Voting Town Hall – David
 - Oct 10, evening
 - David/Hazel/Rachael
 - Panelist: Attorney from local ACLU, working on others
 - Next Village Voice draft is happening right now
 - Charter discussion
 - Sierra created draft; Chi reaching out to get the doc
- **New Business**
 - Recap / Planning Meeting for late Nov, likely a longer meeting 2-3 hours
 - Pre-work/outline of events from 2024 to support efficient review
 - Template/outline for 2025 planning discussion
 - Rachael to draft and share in August
- **Looking Ahead 2024**
 - September
 - Committee Meeting – September 10, 2024
 - National Hispanic Heritage Month (9/15-10/15)
 - Hispanic Heritage Event – September 21,2024 / Harmon Park
 - JazzFest – September 7, 2024
 - October
 - Committee Meeting – October 8, 2024
 - Town Hall – October 10, 2024 / Meadowbrook
 - November
 - Committee Meeting – November 12, 2024
 - National Native American Heritage Month
 - December
 - Committee Meeting – December 10, 2024
- **Adjournment** – Hazel and Karen with motion, all approved