

# CITY OF PRAIRIE VILLAGE

May 6, 2013

Council Committee Meeting 6:00 pm

City Council Meeting 7:30 pm



**COUNCIL COMMITTEE OF THE WHOLE  
Council Chambers  
May 06, 2013  
6:00 PM**

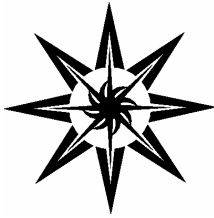
**AGENDA**

**DALE WARMAN, COUNCIL PRESIDENT**

**AGENDA ITEMS FOR DISCUSSION**

- COU2013-16 Consider Project DELN0001-83rd and Delmar Drainage Improvements  
Alternatives Review Study  
Keith Bredehoeft
- \*COU2013-17 Consider Approval of a Contract with Little Joe's Asphalt Inc. for the 2013  
Street Repair Program  
Keith Bredehoeft
- COU2013-12 Consider Significant Budget Items/Priorities  
Lisa Santa Maria & Dennis Enslinger

**\*Council Action Requested the same night**



## PUBLIC WORKS DEPARTMENT

Council Committee Meeting Date: May 6, 2013  
Council Meeting Date: May 20, 2013

### COU2013-14: CONSIDER PROJECT DELN0001- 83<sup>RD</sup> AND DELMAR DRAINAGE IMPROVEMENTS ALTERNATIVES REVIEW STUDY

#### RECOMMENDATION

Move to approve the design agreement with Larkin Lamp Ryneason & Associates for the alternatives review study of the 83<sup>rd</sup> Street and Delmar Drainage Project for \$41,278.80.

#### BACKGROUND

This drainage project has a long history and improvements were planned back in 2007 but due to the project costs for the City increasing more than a million dollars than original estimated the project was cancelled. The drainage problem is related to the drainage channel between Roe Avenue and Somerset Drive. There are two low water crossings at Delmar Lane and Fontana Street. Just east of Delmar the open channel drains into an underground box culvert. During significant rain falls the water back up at this culvert causes significant roadway flooding as well as flooding of residential properties around the channel at Delmar. In June of 2010 a storm caused flooding of a home in this area. This is the most significant drainage/flooding problem in Prairie Village and Public Works recommends moving forward with this project.

After this study is complete this fall we will request Council approval to submit to the County's SMAC program for funding in 2015. City portions of this project would be funded using dedicated drainage funds from the City's Stormwater Utility Fee.

A resident meeting was held in December of 2012 to get feedback from residents about the project and there was larger support for a project to be constructed.

Larkin Lamp Rynerason & Associates is the consultant which designed the original project and thus is the consultant for this project as well.

#### FUNDING SOURCE

Funds are available in the 2013 CIP under Project DELN0001 for this study.

#### RELATED TO VILLAGE VISION

TR3a. *Ensure that infrastructure improvements meet the needs of all transportation users.*

#### ATTACHMENTS

1. Design Agreement with Larkin Lamp Rynearson & Associates

**PREPARED BY**

Keith Bredehoeft, Project Manager

April 30, 2013

# AGREEMENT FOR PROFESSIONAL ENGINEER

For

DESIGN SERVICES

Of

PROJECT DELN0001: 83<sup>RD</sup> & DELMAR DRAINAGE IMPROVEMENTS  
ALTERNATIVES REVIEW STUDY

***THIS AGREEMENT***, made at the Prairie Village, Kansas, this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ by and between the City of Prairie Village, Kansas, a municipal corporation with offices at 7700 Mission Road, Prairie Village, Kansas, 66208, hereinafter called the “**City**”, and Lamp Rynearson & Associates, Inc., a corporation with offices at 9200 Ward Parkway, Suite 200, Ward Parkway, Kansas City, MO 64114, hereinafter called the “**Consultant**”.

***WITNESSED, THAT WHEREAS***, City has determined a need to retain a professional engineering firm to provide civil engineering services for Design Services of Project DELN0001: 83<sup>rd</sup> & Delmar Drainage Improvements Alternatives Review Study, hereinafter called the “**Project**”,

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

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

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

## 1 **CITY RESPONSIBILITIES**

- 1.1 The City has designated, Mr. Keith Bredehoeft, Project Manager, to act as the representative for the City with respect to the services to be performed or furnished by the Consultant under this Agreement. This person shall have the authority to transmit instructions, receive information, interpret and define the City policies with respect to the Consultant’s services for this Project.
- 1.2 The City shall make available to the Consultant all existing data and records relevant to the Project such as, maps, plans, correspondence files and other information possessed by the City that is relevant to the Project. Consultant shall not be responsible for verifying or ensuring the accuracy of any information or content supplied by City or any other Project participant unless specifically defined by the scope of work, nor ensuring that such information or content does not violate or infringe any law or other third party rights. However, Consultant shall promptly advise the City, in writing, of any inaccuracies in the information provided or any other violation or infringement of any law or third party rights that Consultant observes. City shall indemnify Consultant for any infringement claims resulting from Consultant’s use of such content, materials or documents.
- 1.3 The City shall review for approval all criteria, design elements and documents as to the City requirements for the Project, including objectives, constraints, performance requirements and budget limitations.
- 1.4 The City shall provide copies of all existing standard details and documentation for use by the Consultant for the project.

1.5 The City shall diligently review all submittals presented by the Consultant.

## **2 CONSULTANT RESPONSIBILITIES**

2.1 The Consultant shall either perform for or furnish to the City professional civil engineering services and related services in all phases of the Project to which this Agreement applies as hereinafter provided.

2.2 The Consultant shall serve as the prime professional Consultant for the City on this Project

2.3 The standard of care for all professional consulting services and related services either performed for or furnished by the Consultant under this Agreement will be the care and skill ordinarily used by members of the Consultant's profession, practicing under similar conditions at the same time and in the same locality.

2.4 Designate a person to act as the Consultant's representative with respect to the services to be performed or furnished by the Consultant under this Agreement. Such person shall have authority to transmit instructions, receive information, and make decisions with respect to the Consultant's services for the Project.

## **3 SCOPE OF CONSULTANT SERVICES**

Upon receipt of notice to proceed from the City, the Consultant shall provide all consulting services related to this project including, but not limited, to these phases and tasks. The scope is generally defined below and in more details in Exhibit A.

### **3.1 Alternatives Review Study**

3.1.1 Schedule and attend one startup meeting with the City to confirm project goals, schedule, budget and expectations. Project number, budget and project philosophy will be discussed.

3.1.2 Review available plans, previous studies, and pertinent information regarding the Project with City staff.

3.1.3 Make on site field investigations as required, to define and to verify Project construction needs, limits, alignment, underground utilities, nature and extent of proposed Project. Special attention will be given to facilities, and other items needed to define clearly the Project intent.

3.1.4 Prepare a schematic plan.

3.1.5 Prepare an estimate of probable cost detailing typical construction pay items, separate consulting costs, acquisition of land and easements. Add to the total of construction, consulting and other costs a contingency of 20 percent.

3.1.6 Attend monthly meetings with City to review and prioritize the preliminary findings.

3.1.7 Keep minutes of all meetings and disperse to all attendees within five work days.

3.1.8 Deliver map, list of project locations, probable cost, and description of construction contained within a feasibility report to the City.

### **3.2 Preliminary Engineering Study**

- 3.2.1 Schedule meeting with City to discuss findings of Alternatives Review Study and determine if a Preliminary Engineering Study should be submitted to Johnson County Stormwater Management Advisory Council (SMAC).
- 3.2.2 Prepare Preliminary Engineering Study for submittal to Johnson County Stormwater Management Advisory Council according to their requirements.
- 3.2.3 Schedule meeting to review PES with City prior to submittal to County.
- 3.2.4 Address any comments by the City prior to submittal to County.
- 3.2.5 Submit PES to County for approval.

**4 TIME SCHEDULE**

- 4.1 The Consultant's services and compensation under this Agreement have been agreed to in anticipation of orderly and continuous progress of the Project through completion of the Concept Phase.
- 4.2 If the City fails to give prompt written authorization to proceed with any phase of services after completion of the immediately preceding phase, the Consultant shall be entitled to equitable adjustment of rates and amounts of compensations to reflect reasonable costs incurred by the Consultant as a result of the delay or changes in the various elements that comprise such rates of compensation.
- 4.3 Neither City nor Consultant shall be considered in default of this Agreement for delays in performance caused by circumstances beyond the reasonable control of the nonperforming party. For purposes of this Agreement, such circumstances include, but are not limited to, abnormal weather conditions; floods; earthquakes; fire; epidemics; war, riots, and other civil disturbances; strikes, lockouts, work slowdowns, and other labor disturbances; sabotage; judicial restraint; and delay in or inability to procure permits, licenses, or authorizations from any local, state, or federal agency for any of the supplies, materials, accesses, or services required to be provided by either City or Consultant under this Agreement. Consultant shall be granted a reasonable extension of time for any delay in its performance caused by any such circumstances.
- 4.4 Should such circumstances occur, the consultant shall, within a reasonable time of being prevented from performing, give written notice to the City describing the circumstances preventing continued performance and the efforts being made to resume performance of this Agreement.
- 4.5 Recognizing that time is of the essence, the Consultant proposes to complete the scope of services as specified in the Scope of Services:
  - 4.5.1 Alternatives Review Study: Due by August 30, 2013
  - 4.5.2 Preliminary Engineering Study Due by November 1, 2013

**5 COMPENSATION**

- 5.1 The City agrees to pay the Consultant as maximum compensation as defined in Exhibit B for the scope of services the following fees:
  - 5.1.1 Alternatives Review Study -Total Maximum Fee: \$ 41,278.80

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

## 6 GENERAL PROVISIONS

- 6.1 **Opinion of Probable Cost and Schedule:** Since the Consultant has no control over the cost of labor, materials or equipment furnished by Contractors, or over competitive bidding or market conditions, the opinion of probable Project cost, construction cost or project schedules are based on the experience and best judgment of the Consultant, but the Consultant cannot and does not guarantee the costs or that actual schedules will not vary from the Consultant's projected schedules.
- 6.2 **Quantity Errors:** Negligent quantity miscalculations or omissions because of the Consultant's error shall be brought immediately to the City's attention. The Consultant shall not charge the City for the time and effort of checking and correcting the errors to the City's satisfaction.
- 6.3 **Reuse of Documents:** All documents including the plans and specifications provided or furnished by the Consultant pursuant to this Agreement are instruments of service in respect of the Project. The Consultant shall retain an ownership and property interest upon payment therefore whether or not the Project is completed. The City may make and retain copies for the use by the City and others; however, such documents are not intended or suitable for reuse by the City or others as an extension of the Project or on any other Project. Any such reuse without written approval or adaptation by the Consultant for the specific purpose intended will be at the City's sole risk and without liability to the Consultant. The City shall indemnify and hold harmless the Consultant from all claims, damages, losses and expenses including attorney's fees arising out of or resulting reuse of the documents. In a similar manner, the Consultant is prohibited from reuse or disclosing any information contained in any documents, plans or specifications relative to the Project without the expressed written permission of the City.
- 6.4 **Insurance:**
  - 6.4.1 The Consultant shall procure and maintain, at its expense, the following insurance coverage: (a) Workers' Compensation -- Statutory Limits, with Employer's Liability limits of \$100,000 each employee, \$500,000 policy limit; (b) Commercial General Liability for bodily injury and property damage liability claims with limits of not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate; (c) Commercial



Automobile Liability for bodily injury and property damage with limits of not less than \$1,000,000 each accident for all owned, non-owned and hired automobiles; (d) errors and omissions coverage of not less than \$1,000,000. Deductibles for any of the above coverage shall not exceed \$25,000 unless approved in writing by City. In addition, Consultant agrees to require all consultants and sub-consultants to obtain and provide insurance in identical type and amounts of coverage together and to require satisfaction of all other insurance requirements provided in this Agreement.

- 6.4.2 Consultant's insurance shall be from an insurance carrier with an A.M. Best rating of A-IX or better, shall be on the GL 1986 ISO Occurrence form or such other form as may be approved by City, and shall name, by endorsement to be attached to the certificate of insurance, City, and its divisions, departments, officials, officers and employees, and other parties as specified by City as additional insureds as their interest may appear, except that the additional insured requirement shall not apply to Errors and Omissions coverage. Such endorsement shall be ISO CG2010 11/85 or equivalent. "Claims Made" and "Modified Occurrence" forms are not acceptable, except for Errors and Omissions coverage. Each certificate of insurance shall state that such insurance will not be canceled or coverage reduced until after thirty (30) days' unqualified written notice of cancellation or reduction has been given to the City, except in the event of nonpayment of premium, in which case there shall be ten (10) days' unqualified written notice. Subrogation against City and City's Agent shall be waived. Consultant's insurance policies shall be endorsed to indicate that Consultant's insurance coverage is primary and any insurance maintained by City or City's Agent is non-contributing.
- 6.4.3 Before Consultant performs any portion of the Work, it shall provide City with certificates and endorsements evidencing the insurance required by this Article. Consultant agrees to maintain the insurance required by this Article of a minimum of three (3) years following completion of the Project and, during such entire three (3) year period, to continue to name City, City's agent, and other specified interests as additional insureds thereunder.
- 6.4.4 If due to the Consultant's negligent act, error or omission, any required item or component of the project is omitted from the Construction documents produced by the Consultant, the Consultant's liability shall be limited to the difference between the cost of adding the item at the time of discovery of the omission and the cost had the item or component been included in the construction documents. The Consultant will be responsible for any retrofit expense, waste, any intervening increase in the cost of the component, and a presumed premium of 10% of the cost of the component furnished through a change order from a contractor to the extent caused by the negligence or breach of contract of the Consultant or its subconsultants.
- 6.5 **Termination:** This Agreement may be terminated by either party upon seven days written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party; provided, however, the nonperforming party shall have 14 calendar days from the receipt of the termination notice to cure the failure in a manner acceptable to the other party. In any such case, the Consultant shall be paid the reasonable value of the services rendered up to the time of termination on the basis of the payment provisions of this Agreement. Copies of all completed or partially completed designs, plans and specifications prepared under this Agreement shall be delivered to the City when and if this Agreement is terminated, but it is mutually agreed by the parties that the City will use them solely in connection with this Project, except with the written consent of the Consultant (subject to the above provision regarding Reuse of Documents).

- 6.6 **Termination for Convenience.** The City, within its sole discretion, may elect to terminate the Agreement with the Consultant for convenience upon three (3) days written Notice to Consultant. In the event of such termination, Consultant 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. Consultant shall not be entitled to any anticipatory profits of other costs other than direct costs of demobilization
- 6.7 **Controlling Law:** This Agreement is to be governed by the laws of the State of Kansas.
- 6.8 **Indemnity:** To the fullest extent permitted by law, with respect to the performance of its obligations in this Agreement or implied by law, and whether performed by Consultant or any sub-consultants hired by Consultant, the Consultant agrees to indemnify City, and its agents, servants, and employees from and against any and all claims, damages, and losses arising out of personal injury, death, or property damage, caused by the negligent acts, errors, or omissions of the Consultant or its sub-consultants, to the extent and in proportion to the comparative degree of fault of the Consultant and its sub-consultants. Consultant shall also pay for City's reasonable attorneys' fees, expert fees, and costs incurred in the defense of such a claim to the extent and in proportion to the comparative degree of fault of the Consultant and its sub-consultants.
- 6.9 **Severability:** Any provision or part of the Agreement held to be void or unenforceable under any law or regulation shall be deemed stricken and all remaining provisions shall continue to be valid and binding upon the City and the Consultant, who agree that the Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision. The provisions of this Article shall not prevent this entire Agreement from being void should a provision which is of the essence of this Agreement be determined void.
- 6.10 **Notices:** Any notice required under this Agreement will be in writing, addressed to the appropriate party at the address which appears on the signature page to this Agreement (as modified in writing from item to time by such party) and given personally, by registered or certified mail, return receipt requested, by facsimile or by a nationally recognized overnight courier service. All notices shall be effective upon the date of receipt.
- 6.11 **Successors and Assigns:**
- 6.11.1 The City and the Consultant each is hereby bound and the partners, successors, executors, administrators, legal representatives and assigns of the City and the Consultant are hereby bound to the other party to this Agreement and to the partners, successors, executors, administrators, legal representatives and assigns of such other party in respect of all covenants and obligations of this Agreement.
- 6.11.2 Neither the City nor the Consultant may assign, sublet, or transfer any rights under the Agreement without the written consent of the other, which consent shall not be unreasonably withheld; provided, Consultant may assign its rights to payment without Owner's consent, and except to the extent that any assignment, subletting or transfer is mandated by law or the effect of this limitation may be restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Agreement.
- 6.11.3 Nothing in this Agreement shall be construed to create, impose or give rise to any duty owed by the Consultant to any Contractor, subcontractor, supplier, other person

or entity or to any surety for or employee of any of them, or give any rights or benefits under this Agreement to anyone other than the City and the Consultant.

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

**City:**

City of Prairie Village, Kansas

**By:** \_\_\_\_\_

Ronald L. Shaffer, Mayor

**Address for giving notices:**

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

Telephone: 913-385-4600

**ATTEST:**

\_\_\_\_\_  
Joyce Hagen Mundy, City Clerk

**Consultant:**

Lamp Rynearson & Associates, Inc.

**By** \_\_\_\_\_

Nancy Pridal, Vice President

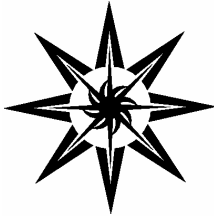
**Address for giving notices:**

Larkin Lamp Rynearson  
9200 Ward Parkway  
Kansas City, MO 64114

Telephone: 816-361-0440

**APPROVED AS TO FORM BY:**

\_\_\_\_\_  
Catherine Logan, City Attorney



## PUBLIC WORKS DEPARTMENT

Council Committee Meeting Date: May 6, 2013

Council Meeting Date: May 6, 2013

**\*COU2013-15: CONSIDER APPROVAL OF A CONTRACT WITH LITTLE JOE'S ASPHALT INC. FOR THE 2013 STREET REPAIR PROGRAM.**

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### RECOMMENDATION

Move to authorize the Mayor to sign the Construction Contract with Little Joe's Asphalt Inc. for Project P5001, 2013 Street Repair Program for \$173,000.00.

### BACKGROUND

On April 19, 2013, the City Clerk opened bids for Project P5001, 2013 Street Repair Program. Four bids were received:

Little Joe's Asphalt, Inc.	\$122,049.32
O'Donnell & Sons Const. Co.	\$124,787.50
O'Donnell Way Construction	\$129,953.50
McAnany Construction Inc.	\$152,500.00
Engineers Estimate	\$178,125.00

This program consists of asphalt street repairs at various locations throughout the City. The program allows us to address areas where settlement or deterioration has occurred, and make repairs to those areas.

There is \$173,000 budgeted for this project and the contract will be awarded for that amount. Locations of repairs will be adjusted (increased) to utilize the \$173,000 budget.

City staff has reviewed the bids for accuracy and found no errors.

### FUNDING SOURCE

Funding is available in the 2013 Capital Infrastructure Program Project P5001.

### ATTACHMENTS

1. Construction Agreement with Little Joe's Asphalt, Inc.

### PREPARED BY

Keith Bredehoeft, Project Manager

April 23, 2013

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**PROJECT P5001:**

**2013 STREET REPAIR PROGRAM**

**CONSTRUCTION AGREEMENT**

**BETWEEN**

**CITY OF PRAIRIE VILLAGE, KS**

**AND**

**LITTLE JOE'S ASPHALT, INC.**

**CONSTRUCTION AGREEMENT  
BETWEEN  
THE CITY OF PRAIRIE VILLAGE, KANSAS  
AND  
LITTLE JOE'S ASPHALT, INC.  
FOR  
PROJECT P5001 - 2013 STREET REPAIR PROGRAM**

**THIS AGREEMENT**, is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2013, by and between the City of Prairie Village, Kansas, hereinafter termed the "City", and Contractor hereinafter termed in this agreement, "Contractor", for the construction and completion of Project, designated, described and required by the Project Manual and Bid proposal, to wit:

**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 One Hundred Seventy Three and 00/100 Dollars (\$173,000.00) for all Work covered by and included in the Contract; payment thereof to be made in cash or its equivalent and in a manner provided in the Contract Documents.

**LIQUIDATED DAMAGES:** The contract 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 total completion date shall be set forth for both the Total Project Work and, when applicable, the Project Segments. Liquidated damages shall apply to the Total Completion Date for the Total Project Work (as may be extended under the Contract) and, when applicable, the Total Completion Date for each Project Segment (as may be extended under the Contract), in accordance with this Agreement and the Special Conditions. Liquidated Damages are described in greater detail below and the applicable rates for the subject Project are set forth in the **Special Conditions**, attached hereto and incorporated herein by this reference.

Within ten (10) calendar days after receipt of written notice to commence from the City, the Contractor shall commence the Work to be done under this Contract. The Contractor agrees to complete the Total Project Work and Project Segments hereunder within the contract time period set forth in the Contract, or as it may be extended under the terms of this Contract. At the time of execution of this Contract, the Contractor shall furnish the Engineer with a project schedule setting forth, in detail, the proposed sequence of activities and the dates on which such activities shall be completed. The schedule shall also set forth the dates on which the Project Segments (if applicable to the Contract) shall be totally complete.

Contractor agrees that time is of the essence and any term pertaining to Contractor timely performing so as to achieve Total Completion when required under the Contract 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 required date for Total Completion for the Total Project 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 Total Completion date. Such amount shall be deducted from any amounts due Contractor under this agreement.

The Contractor agrees that, in the event Project Segments are not Totally Complete, the City may also assess other liquidated damages for each calendar day beyond the date for Total Completion in an amount set forth in the Special Conditions. The Contractor agrees that such assessment is a reasonable estimate of the damages that may be sustained by the City in the event the project is delayed and that such amount is not a penalty.

Further, the Contractor agrees that, in the event Contractor does not carry out such work at such rates of progress as required by the Construction Schedule, 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.

## 1. DEFINITIONS:

### 1.1 Following words are given these definitions:

**BIDDER** shall mean any individual: partnership, corporation, association or other entity submitting a Bid for the work.

**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.

**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.

**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 mean the Construction Agreement, the accepted Bid Proposal, Contractor's Performance Bond, Contractor's Maintenance Bond, Statutory Bond, Project Manual and any other documents that have bearing the Work prescribed in the Project.

**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.

**ENGINEER** shall mean the individual, firm or entity designated in the Contract Documents, which has been employed or contracted by the City for the performance of engineering services in connection with the Work.

**FIELD ORDER** shall mean a written order issued by the Engineer 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.

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

**NOTICE OF AWARD** shall mean the written notice by the City to the apparent successful Bidder stating that upon compliance with the conditions precedent enumerated therein, within the time specified, the City will sign and deliver the Agreement.

**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 drawings which may have been prepared by or for the City 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.

**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.

**SUB-CONTRACTOR** 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 be defined as fulfilling 100 percent of the work required in this contract by the date specified herein.

**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.

**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.

- 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 City Engineer 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 City Engineer.
- 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:

- 2.1 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.
- 2.2 The Contract shall be construed in accordance with the laws of the state of Kansas.

## 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 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 Engineer 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 Engineer 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 Engineer 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 Pursuant to K.S.A. No. 16-133, if the Contractor to whom the Contract is awarded is not a resident firm of the State of Kansas, he shall execute and file "Certificate of Appointment of Process of Agent" with the Clerk of the District Court at the Johnson County Courthouse. These forms may be obtained at the Office of the Clerk of the District Court. After execution of the documents, they shall be filed with the Clerk of the District Court. A filing fee of Five Dollars (\$5.00) is required. These certificates are pursuant to the General Statutes of Kansas, and shall be filed prior to the formal execution of the Contract Documents. Failure to comply with

these requirements shall disqualify the Contractor for the awarding of this Contract.

#### 4. WORK SUPERINTENDENT

- 4.1 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.
- 4.2 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.
- 4.3 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.
- 4.4 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.
- 4.5 The Contractor will be required to contact the Engineer daily to advise whether and/or where the Contractor and/or the Subcontractor's crews will be working that day, in order that the Engineer's representative is able to monitor properly the Work.

#### 5. ENGINEER

- 5.1 It is mutually agreed by and between the parties to this Contract Agreement that the Engineer shall act as the representative of the City and shall observe, as required, the work included herein.
- 5.2 In order to prevent delays and disputes and to discourage litigation, it is further agreed by and between the parties to this Contract that the Engineer 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 Engineer shall determine, where applicable, questions in relation to said Work and the construction thereof; that Engineer shall, where applicable decide questions which may arise relative to the execution of this Contract on the part of said Contractor; that the Engineer'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 Engineer 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 Engineer 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.
- 5.3 The Engineer, unless otherwise directed or agreed to by the City in writing, will perform those duties and discharge those responsibilities allocated to the Engineer as set forth in this Contract. The Engineer shall be the City's representative from the effective date of this Contract until final payment has been made. The Engineer shall be authorized to act on behalf of the City only to the extent provided in this Contract.
- 5.4 The City and the Contractor shall communicate with each other in the first instance through the Engineer.
- 5.5 The Engineer shall be the initial interpreter of the requirements of the Project Manual and the judge of the performance by the Contractor. The Engineer shall render written graphic interpretations necessary for the proper execution or progress of the Work with reasonable promptness on request of the Contractor.
- 5.6 The Engineer 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 Engineer's recommendation of any payment requested in an Application for Payment will constitute a representation by Engineer to City, based on Engineer's on-site observations of the Work in progress as an experienced and qualified design professional and on Engineer'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 Engineer'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 Engineer 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 Engineer 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.
- 5.7 The Engineer may refuse to recommend the whole or any part of any payment if, in Engineer's opinion, it would be incorrect to make such representations to City. Engineer 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 Engineer'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.
- 5.8 The City may refuse to make payment of the full amount recommended by the Engineer 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 Engineer) stating the reasons for such action.

- 5.9 The Engineer will have the authority to reject Work, which is defective or does not conform to the requirements of this Contract. If the Engineer deems it necessary or advisable, the Engineer shall have authority to require additional inspection or testing of the Work for compliance with Contract requirements.
- 5.10 The Engineer 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.
- 5.11 The Engineer 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.
- 5.12 The Engineer, upon written request from the Contractor shall conduct observations to determine the date of substantial completion and the date of final acceptance. The Engineer 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.
- 5.13 The Engineer's decisions in matters relating to aesthetic effect shall be final if consistent with the intent of this Contract.
- 5.14 The Engineer 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 Engineer 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.
- 5.15 Any plan or method of work suggested by the Engineer, 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 Engineer and the City will assume no responsibility therefore.
- 5.16 It is agreed by the Contractor that the City shall be and is hereby authorized to appoint or employ, either directly or through the Engineer, 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 Engineer, or by the resident representatives for proper observation and examination of the Work and all parts thereof.
- 5.17 The Contractor shall comply with any interpretation of the Project Manual by the Engineer, 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 engineer, resident representative or observer, the Contractor may appeal in writing to the City Director of Public Works for a decision.

- 5.18 Resident representatives, observers, and other properly authorized representatives of the City or Engineer 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.
- 5.19 Such observation shall not relieve the Contractor from any obligation to perform said work strictly in accordance with the Project Manual.

## 6. WORK SCHEDULE:

- 6.1 The Contractor, within ten (10) calendar days after being instructed to do so in a written notice from the City, shall commence work to be done under this Contract.
- 6.2 The rate of progress shall be such that the Work shall have been completed in accordance with the terms of the Contract Documents on or before the completion date for the construction period named in the contract agreement, subject to any extension or extensions of such time made as hereinafter provided.
- 6.3 The Contractor shall be required to furnish the Engineer with a 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 portions of the work will be started and completed.
- 6.4 If at any time, in the opinion of the Engineer or City, proper progress is not being maintained; such changes shall be made in the schedule and resubmitted for consideration.
- 6.5 If the Contractor has not completed Work segments and is within a non-performance penalty period, he/she shall not be allowed to undertake a new Work segment until the Work segment in dispute is completed, unless expressly permitted by the City.
- 6.6 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 Facie Violation of City Municipal Code 11-202.
- 6.7 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 Engineer. 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 Engineer.
- 6.8 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.

- 6.9 The Contractor shall provide 24 hours notice prior to commencing any work to the City Engineer. The Contractor shall communicate immediately any changes in the work schedule to the City Engineer.

## 7. DELAYS AND EXTENSIONS OF TIME

- 7.1 In executing the Contract, the Contractor expressly covenants and agrees that, in undertaking the completion of the work within the time herein fixed, he 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.
- 7.2 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 men 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 he shall in such cases be entitled to such extension of the time specified for the completion of the work as the City and the Engineer 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 Engineer in writing within one (1) week from the time when any such alleged cause for delay shall occur.

## 8. ADVERSE WEATHER:

- 8.1 Extensions of time for adverse weather shall be granted only under the conditions as hereinafter provided.
- 8.2 For conditions of weather or conditions at the site, so unusual as not to be reasonably anticipated, as determined by the Engineer, 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.
- 8.3 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.
- 8.4 Unusually Severe Weather is defined as weather, which is more severe than the adverse weather anticipated for the season, location, or activity involved.
- 8.5 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 both 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.

8.6 The following schedule of monthly-anticipated adverse weather delays will constitute the baseline for monthly weather time evaluations. The Contractor's Progress 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	MA R	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
10	8	7	6	7	7	5	5	5	4	5	9

- 8.7 Upon receipt of the Notice to Proceed, and continuing throughout the Contract, the Contractor shall record on their daily construction report, the occurrence of adverse weather and resultant impact to normally scheduled work.
- 8.8 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.
- 8.9 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.
- 8.10 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 Progress Schedule.
- 8.11 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.
- 8.12 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.
- 8.13 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.

- 8.14 The Contractor shall summarize and report all actual adverse weather delay days for each month to the Engineer by the tenth (10th) day of the following month. A narrative indicating the impact of adverse weather conditions on the scheduled critical activities shall be included.
- 8.15 Any claim for extension of time due to unusually severe weather shall be submitted to the Engineer 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 established by the Regulations of the Contract and Special Conditions and as described above.
- 8.16 The Contractor shall include and indicate the monthly-anticipated adverse weather days, listed above, in their Progress Schedule. (Reference Section 3.1.1 for Progress Schedule requirements)
- 8.17 The Contractor shall indicate the approved adverse weather days (whether less or more than the anticipated days) in their monthly Progress Schedule update.

## 9. PAYMENT PROCEDURE:

- 9.1 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.
- 9.2 Each application for payment must be submitted with Contractor's waiver for period of construction covered by application. Each progress 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.
- 9.3 The Contractor will submit waivers on forms, and executed in a manner, acceptable to City.
- 9.4 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.
- 9.5 The Engineer 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 Engineer 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.

- 9.6 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 amount. Percentage deductions will be computed at the stated percentage of the amount earned.
- 9.7 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.
- 9.8 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.
- 9.9 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.
- 9.10 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 Engineer, 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.

## 10. COMPLETION AND FINAL PAYMENT

- 10.1 Work completion shall be defined as all elements of the Work or work segment, being complete including all subsidiary items and "punch-list" items.
- 10.2 When all of the Work is finally complete and the Contractor is ready for a final inspection, it shall notify the City and the Engineer thereof in writing. Thereupon, the Engineer will make final inspection of the Work and, if the Work is complete in accordance with this Contract, the Engineer 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 Engineer 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.

- 10.3 The Contractor shall not be entitled to any payment unless and until it submits to the Engineer 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.
- 10.4 The City shall make final payment of all sums due the Contractor within thirty days of the later of the Engineer's execution of a final Certificate for Payment.
- 10.5 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.

## 11. CLAIMS BY THE CONTRACTOR

- 11.1 All Contractor claims shall be initiated by written notice and claim to the Engineer. 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.
- 11.2 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 Engineer and the Contractor.
- 11.3 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.
- 11.4 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.
- 11.5 The City reserves the right to increase or decrease quantities, and alter the details of construction including grade and alignment as the Engineer 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 amount based on the proposed quantity and the contract unit price).
- 11.6 When the alterations cause an increase or decrease in excess of the 25 percent indicated above, either the Contractor or the Engineer may request an adjustment of the unit price to be paid for the item or items.
- 11.7 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.
- 11.8 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.
- 11.9 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, 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.
- 11.10 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 Engineer 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.

- 11.11 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 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, except as provided herein.
- 11.12 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

## 12. CHANGES IN THE WORK

- 12.1 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.
- 12.2 The Engineer 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.
- 12.3 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.
- 12.4 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 Engineer 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 Engineer 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 Engineer's Certificate for Payment.

- 12.5 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.
- 12.6 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.

### 13. INSURANCE AND HOLD HARMLESS.

- 13.1 The Contractor shall assume full responsibility for the protection of all public and private property, structures, sewers, and utilities, both above and below the ground, along, beneath, above, across or near the site or sites of the work being performed under this Contract, 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 placed 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.
- 13.2 To the fullest extent permitted by law, the Contractor shall indemnify, defend, and hold harmless the City, the Engineer, and their agents and employees from and against all claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from the performance of the Work, provided that any such claim, damage, loss or expense (1) is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of property (other than the Work itself) including the loss of use resulting there-from, and (2) is caused in whole or in part by any intentional or negligent act or omission of the Contractor, any Subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity, which would otherwise exist.
- 13.3 All property damaged shall be repaired or replaced to a condition immediately prior to the time of damage, and to the satisfaction of the City.
- 13.4 All loss or damage arising out of the nature of the work to be done, or from the action of the elements, or from floods or overflows, or from ground water, or from unusual obstructions or

difficulties, or any other natural or existing circumstances either known or unforeseen, which may be encountered in the prosecution of the said work shall be sustained and borne by the Contractor at its own cost and expense.

- 13.5 The Contractor shall give reasonable notice to the City or owners of public or private property and utilities when such property is liable to injury or damage through the performance of the Work, and shall make all necessary arrangements with such City or owners relative to the removal and replacement or protection of such property or utilities.
- 13.6 The Contractor shall satisfactorily shore, support, and protect all structures and all pipes, sewers, drains, conduits, and other utility facilities, and shall be responsible for any damage resulting thereto. The Contractor shall not be entitled to any damages or extra compensation because of any postponement, interference, or delay caused by any such structures and facilities being on the line of the Work whether they are shown on the plans or not, specifically including, but not limited to, damages due to delay in utility relocation.
- 13.7 The Contractor shall secure and maintain, throughout the duration of this Contract, insurance from a company authorized to do business in the State of Kansas. Such insurance shall be of such types and in such amounts as may be necessary to protect himself and the interests of the City and agents of the City against all hazards or risks of loss as hereinafter specified including an endorsement covering explosion, collapse, blasting and damage to underground property if applicable as specified in these Contract Documents. The form and limits of such insurance, together with the underwriter thereof in each case, shall be approved by the City, but regardless of such approval, it shall be the responsibility of the Contractor to maintain adequate insurance coverage at all times. Failure of the Contractor to maintain adequate insurance coverage shall not relieve it of any contractual responsibility or obligation. The insurance shall be provided on an occurrence basis and, not claims made basis.
- 13.8 The City and the Engineer shall be a named insured on such policies. Satisfactory certificates of insurance shall be filed with the City prior to starting any construction work on this Contract. The certificates shall state that thirty (30) days written notice will be given to the City before any policy coverage thereby is changed or canceled.
- 13.9 The Contractor shall secure and maintain through the duration of this Contract insurance on an occurrence basis of such types and in such amounts as may be necessary to protect the Contractor and the City and agents of the City against all hazards or risks of loss as hereinafter specified. The form and limits of such insurance, together with the underwriter thereof in each case, shall be approved by the City, but regardless of such approval, it shall be the responsibility of the Contractor to maintain adequate insurance coverage at all times. Failure of the Contractor to maintain adequate coverage shall not relieve it of any contractual responsibility or obligation, including but not limited to, the indemnification obligation.
- 13.10 Satisfactory certificates of insurance shall be filled with the City prior to the Contractor starting any construction work on this Contract. The Certificates shall state that the thirty (30) days written notice will be given to the City before any policy covered thereby is changed or cancelled. Failure by the Contractor to furnish the required insurance within the time specified in the notice of award of the Contract by the City, at the City option, may be the basis for the City exercising its right to terminate the Contract.



### 13.11 The liability limits shall be as stated:

- Worker's Compensation and Employer's Liability: This insurance shall protect the Contractor against all claims under applicable state worker's 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 a worker's compensation law. This policy shall include an "all states" endorsement.
- Automobile Liability.: This insurance shall be written in comprehensive form and shall protect the Contractor against all claims for injuries to members of the public and damage to property of others arising from the use of motor vehicles, and shall cover operation on and off the site of all motor vehicles licensed for highway use, whether they are owned, non-owned, or hired. Unless otherwise specified, Contractor's insurance shall include the following:

\$300,000 single limit (on contracts less than \$100,000)  
\$1,000,000 single limit (on contracts \$100,000 and more)

- Commercial General Liability. This insurance shall be written in comprehensive form including Products, completed operations and Personal and Advertising injury and shall protect the Contractor against all claims arising from injuries to members of the public or damage to property of others arising out of any act or omission of the Contractor or its agents, employees, or subcontractors. In addition, this policy shall specifically insure the contractual liability assumed by the Contractor under this Contract entitled "Insurance and Hold Harmless." The property damage liability coverage shall contain no exclusion relative to blasting, explosion, collapse of building, or damage to underground property. Unless otherwise specified, Contractor's insurance shall include the following:

\$2,000,000 combined single limit (on contracts in excess of \$100,000)  
\$300,000 combined single limit (on contracts in excess of \$10,000 to \$100,000)  
\$100,000 combined single limit (on contracts of \$10,000 and less)

- 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 Instructions to Bidders or Special Conditions.

## 14. INDEMNITY

- 14.1 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.

- 14.2 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 and County 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.
- 14.3 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 and County or any third party and, further, notwithstanding any theory of law including, but not limited to, a characterization of the City's or County's or any third party's joint, concurring or contributory or comparative fault or negligence as either passive or active in nature.
- 14.4 Nothing in this section shall be deemed to impose liability on the Contractor to indemnify the City or County for Loss when the negligence or other actionable fault the City is the sole cause of Loss.
- 14.5 With respect to the City's or County'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.

## 15. SUCCESSORS AND ASSIGNS

- 15.1 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.
- 15.2 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.
- 15.3 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.
- 15.4 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.

- 15.5 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.
- 15.6 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.
- 15.7 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.
- 15.8 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.

## 16. NON-DISCRIMINATION LAWS

- 16.1 The Contractor further agrees that the Contractor 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. 1201 et seq.) as well as all other federal, state and local laws, ordinances and regulations applicable to this Work and furnish any certification required by any federal, state or local governmental agency in connection therewith.
- 16.2 In all solicitations or advertisements for employees, the Contractor shall include the phrase, "equal opportunity employer", or similar phrase to be approved by the Kansas Human Rights Commission (Commission);
- 16.3 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;

- 16.4 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
- 16.5 The Contractor shall include the provisions of this section in every subcontract or purchase order so that such provisions will be binding upon such Subcontractor or vendor.
- 16.6 The provisions of this section shall not apply to a contract entered into by a Contractor who employs fewer than four employees during the terms of such contract; or whose contracts with the City cumulatively total \$5,000 or less during the fiscal year of the City.

#### 17. RELATIONS WITH OTHER CONTRACTORS:

- 17.1 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.
- 17.2 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.
- 17.3 Other projects the Contractor may have to coordinate with may include, but are not limited to:
- Project # 191024 - 2010 Concrete Repair Program
  - Project # P5000 - 2010 Crack Seal/Slurry Seal Program
- 17.4 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.
- 17.5 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.

## 18. RIGHT OF CITY TO TERMINATE

- 18.1 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, engineering 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.
- 18.2 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 of other costs other than direct costs of demobilization.

## 19. MISCELLANEOUS:

- 19.1 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.
- 19.2 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.
- 19.3 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 Engineer 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.

- 19.4 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 amount 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.
- 19.5 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.
- 19.6 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.
- 19.7 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.
- 19.8 No waiver of any breach of this Contract shall be construed to be a waiver of any other subsequent breach.
- 19.9 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.
- 19.10 The Contractor shall keep fully informed of all existing and current regulations of the City, and County, State, and National 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.

- 19.11 Nothing contained in these Project Manual 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.
- 19.12 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.
- 19.13 No action or failure to act by the City, Engineer 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.
- 19.14 Contractor specifically acknowledges and confirms that: 1.) he/she has visited the site, made all inspections he deems appropriate and has read and fully understands the Contract Documents, including all obligations and responsibilities undertaken by he as specified herein and in other Contract Documents and knowingly accepts the same; 2.) he/she has furnished copies of all Contract Documents to his/her insurance carrier(s) and his/her surety(ies); and 3.) his/her 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.
- 19.15 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.
- 19.16 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.

**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; and*

*WHEREAS, the Contractor, in response to the advertisement, has submitted to the City in the manner and at the time specified, a sealed Bid in accordance with the terms of this Agreement; and*

*WHEREAS, the City, in the manner prescribed by law, has publicly opened, examined and canvassed the Bids submitted, and as a result of such canvass has determined and declared the Contractor to be the lowest and best responsible bidder for the construct 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 named in the Bid attached to, and made a part of this Agreement; and*

*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 Project Manual; 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; and WHEREAS, 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:*

*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

LITTLE JOE'S ASPHALT, INC.

By: \_\_\_\_\_  
(signed)

By \_\_\_\_\_  
(signed)

Ronald L. Shaffer \_\_\_\_\_

\_\_\_\_\_  
(typed name)

Mayor \_\_\_\_\_

\_\_\_\_\_  
(typed title)

City of Prairie Village \_\_\_\_\_

\_\_\_\_\_  
(typed company name)

7700 Mission Road \_\_\_\_\_

\_\_\_\_\_  
(typed address)

Prairie Village, Kansas, 66208 \_\_\_\_\_

\_\_\_\_\_  
(typed city, state, zip)

\_\_\_\_\_

\_\_\_\_\_  
(typed telephone number)

\_\_\_\_\_  
(date of execution)

\_\_\_\_\_  
(date of execution)

SEAL



ATTEST:

APPROVED BY:

\_\_\_\_\_  
City Clerk, Joyce Hagen-Mundy

\_\_\_\_\_  
City Attorney, Catherine Logan

(If the Contract is not executed by the President of the Corporation or general partner of the partnership, please provide documentation, which authorizes the signatory to bind the corporation or partnership. 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.)



## COUNCIL COMMITTEE OF WHOLE

Committee Meeting Date: May 6, 2013

### Presentation of Existing City Committee Structure

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#### **BACKGROUND**

During recent discussion in preparation for the 2014 budget process, Council requested a review of existing committees including structure, function, role, activity and funding.

#### **STANDING COMMITTEES**

##### **1) ADA Advisory Committee**

**Function:** The ADA Advisory Committee shall advise the City of issues related to the City's continued efforts to comply with Title II of the Americans with Disabilities Act in the City's sponsored services, programs or activities.

**Established:** 2007 by Council Policy #001; required by Title II of ADA

**Membership:** Committee members representing various sections of the community, including both persons with disabilities and professionals involved in providing services to persons with disabilities for three-year terms. The ADA Coordinator will be a member of the committee.

**Chair:** Council Member

**Meets:** As Needed

**Budgeted Funds:** \$0

**Staff Support:** 1

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##### **2) Animal Control Board**

**Function:** Duties as described in PVMC 2-126. The functions shall include but not be limited to matters of animal welfare and control and to consider and make decisions as to whether appeals under section 2-125 shall be granted or denied. (PVMC 2-126 & Council Policy 006)

**Established:** 1979 by Prairie Village Municipal Code 2-126

**Membership:** 6 members appointed by the Mayor; at least two members shall be residents of the city; consideration should be given to one member being a veterinarian. Two-year terms.

**Chair:** Citizen

**Meets:** As Needed

**Budgeted Funds:** \$0

**Staff Support:** 1

---

### 3) Board of Code Appeals

**Function:** The Board of Code Appeals shall hear and decide appeals of orders, decisions or determinations made by the Building Official relative to the application and interpretation of building codes.

**Established:** 1989 established in the adoption of the International Building Code

**Membership:** 6 members of qualified experience and training appointed by the Governing Body with the Building Official an ex-officio member with 5 year term.

**Chair:** Citizen

**Meets:** As Needed

**Budgeted Funds:** \$0

**Staff Support:** 1

---

### 4) Board of Zoning Appeals

**Function:** Duties as described in PVMC 19.54 covering the hearing of requests for variances to the zoning regulations and appeals of an interpretation of the zoning regulations.

**Established:** 1980 by Ord. 1409; PVMC 19.54 - Required by State Statutes

**Membership:** 7 members consisting of the entire membership of the Planning Commission appointed by the Mayor to three-year terms

**Chair:** Citizen

**Meets:** As Needed

**Budgeted Funds:** \$0

**Staff Support:** 4

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### 5) Civil Service Commission

**Function:** As established in PVMC 1-807 & 1- 808 including but not limited to: assist in determining qualifications and fitness of applicants for the position of commissioned police officer, for promotion of officers; and further shall serve as an appeals board for commissioned officers. (Ord. 241, 1468 & 1614) The Civil Service Commission also serves and the Community Advisory Board which advises and assists in policy development, education, community outreach and communications related to racial and other biased-based policing.

**Established:** 1957 by Ord. 231

**Membership:** Five members appointed by the Mayor to three-year terms. Need not be residents of the city, but residents will be given preferential consideration. Members shall not hold any other public office of the City.

**Chair:** Citizen

**Meets:** As Needed

**Budgeted Funds:** \$0

**Staff Support:** 1

---

#### **6) Communications Committee**

**Function:** Advise City staff regarding the content and form of media through which the City communicates with citizens and shall encourage the development of current and future communication methods in the best interests of the City.

**Established:** 1972, originally by ordinance later appealed; set by Council Policy 001 & 610

**Membership:** 8 members representing various areas of City serving three-year terms and two student representatives (one-year terms)

**Chair:** Council member

**Meets:** As Needed

**Budgeted Funds:** \$0

**Staff Support:** 3

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#### **7) Environment/Recycle Committee**

**Function:** Recommend to the Council policies, guidelines or programs including but not limited to maintaining and enhancing air quality, reducing waste disposal in landfills, increasing awareness of the need to conserve natural resources and generally educating the public on methods to protect the environment. Works with community gardens.

**Established:** 1975 as ad hoc committee; 1996 by Council Policy 001

**Membership:** Two Council members, other committee members appointed by Mayor for three-year terms and 2 youth representatives (one-year terms)

**Chair:** Citizen

**Meets:** Monthly

**Budgeted Funds:** \$8,000

**Staff Support:** 1

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#### **8) Finance Committee**

**Function:** Recommend to the Governing Body policies, guidelines or programs including but not limited to management of financial resources, financial/investment policies and provide direction and guidance to staff on financial issues.

**Established:** 1981 as an Ad Hoc Committee; 2007 by Council Policy 001

**Membership:** Ad Hoc Committee of the Council - 4 members (one-year terms)

**Chair:** Council member

**Meets:** As Needed (Generally 2 to 3 times per year)

**Budgeted Funds:** \$0

**Staff Support:** 3

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### 9) Homes Association Committee

**Function:** Recommend to the Governing Body policies and guidelines on matters pertaining to the Homes Associations in Prairie Village.

**Established:** 2007 by Council Policy 001

**Membership:** Council member to serve as Chair for a one-year term. The committee will include members, who are preferably officers of active Prairie Village Homes Associations.

**Chair:** Council Member

**Meets:** As Needed

**Budgeted Funds:** \$0

**Staff Support:** 1

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### 10) Insurance Committee

**Function:** 1) To review the City's general liability, property casualty, medical, disability, life and other insurance policies for all departments; 2) To review the City's insurance needs and to discuss insurance issues relating to the City; 3) To examine the necessity or advisability of bidding insurance requirements on annual or other time frequency and recommend insurance bid award, when applicable.

**Established:** 1988 by Council Policy 001

**Membership:** Council members to serve as Chair & Vice-Chair; four appointed members who have an insurance background - No defined term

**Chair:** Council member

**Meets:** As Needed - Generally 2 to 3 times per year

**Budgeted Funds:** \$0

**Staff Support:** 2

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### 11) JazzFest Committee

**Function:** Responsible for the sponsoring and coordination of a community jazz festival, usually held in September.

**Established:** 2010 by Council Policy 001

**Membership:** A steering committee of interested citizens including representatives from the Council and the Municipal Arts Council with Chairpersons appointed by the Mayor to serve a one-year term.

**Chair:** Citizen

**Meets:** Monthly - January thru October

**Budgeted Funds:** \$0

**Staff Support:** 1

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## 12) Municipal Foundation

**Function:** Mayor, City Administrator, 5 members appointed by Mayor: Park & Recreation Committee member, Arts Council member, Council Representative, 2 Residents At-Large; 6 members appointed by President including President.

**Established:** 1989, Restated and Amended Articles of Incorporation, 2012.

**Membership:** Not fewer than 12 or more than 20 members. Includes Mayor, Park Committee Chair, Council member, Park Committee member, Municipal Arts Council member, Communications Committee member, City Administrator and eight residents selected by the Mayor to serve three-year terms.

**Chair:** Citizen

**Meets:** As Needed - Generally 2 times per year

**Budgeted Funds:** \$0

**Staff Support:** 2

---

## 13) Park & Recreation Committee

**Function:** Recommend policies and guidelines to the Governing Body on matters pertaining to: recreational activities in the parks, intergovernmental agreements pertaining to park and recreation facilities, use of park system facilities, development of park system facilities, short and long-range plans for city parks, operations and activities related to the park system. (Ord. 1541 & 1875)

**Established:** 1953 by Ordinance #54

**Membership:** 14 members; 1 each ward, 2 council, 2 at-large, 2 tennis/swimming, (3 year terms) & 2 youth (1-year term)

**Chair:** Council member

**Meets:** Monthly

**Budgeted Funds:** \$0

**Staff Support:** 2

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## 14) Planning Commission

**Function:** Duties as described in PVMC Chapter XVI covering such responsibilities as Comprehensive Plan; subdivision & zoning regulations, approval of plats.

**Established:** 1953 by Ordinance #61; PVMC 16, Article 1

**Membership:** 7 members; two of whom may reside outside but within three miles of the city limits; appointed by the Mayor to three-year terms

**Chair:** Citizen

**Meets:** Monthly

**Budgeted Funds:** \$0

**Staff Support:** 4

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**15) Police Pension Board**

**Function:** The Board of Trustees has the powers and duties as designated in the Prairie Village, Kansas Police Department Revised Retirement Plan effective 1/1/2006.

**Established:** 1975 by Plan Documents

**Membership:** Two members appointed by the Employer and one member designated by the employees - Term of service until the appointment of successor.

**Chair:** Citizen

**Meets:** As Needed - Generally Quarterly

**Budgeted Funds:** \$0

**Staff Support:** 3

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**16) Prairie Village Arts Council**

**Function:** Recommend to the Governing Body policies and guidelines on matters pertaining to: promotion and development of the arts in Prairie Village, acquisition of art for the City, landscaping of City facilities and development of cultural activities for the City.

**Established:** 1966 originally by ordinance later appealed; set by Council Policy 001

**Membership:** 12 members (1 Council member, 11 members appointed to three-year terms and 2 student representatives (one-year term). Appointed by the Mayor with members preferably representing each ward of the City.

**Chair:** Citizen

**Meets:** Monthly

**Budgeted Funds:** \$13,500 provides funding to JazzFest & Villagefest events (\$19,500 budgeted with \$6,000 in revenue for Art Gallery sales)

**Staff Support:** 2

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**17) Prairie Village Sister City Committee**

**Function:** Recommend to the Governing Body policies, guidelines or programs including, but not limited to: promotion of cultural ties between the City of Prairie Village and its sister cities; cultural learning opportunities for Prairie Village children and adults; economic and business development opportunities between Prairie Village businesses and its sister cities; and to promote exchanges of students and city leaders as appropriate to promote cultural, educational, economic and social ties whenever possible.

**Established:** Initially formed in 1978, Disband in 1992; Reestablished in 1998 by Council Policy 001

**Membership:** One Council member to serve as the reporting member for a one-year term; members appointed by the Mayor to serve three-year terms; 2 youth representatives to serve one-year terms.  
**Chair:** Citizen  
**Meets:** Monthly  
**Budgeted Funds:** \$4,000  
**Staff Support:** 1

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### **18) Tree Board**

**Function:** Recommend to the Governing Body a policy relating to trees, shrubs and other plantings upon city-owned property; to promote and preserve the beautification of the City; to provide the protection of the public health and safety; and to protect and encourage the preservation of trees, shrubs and plantings.  
**Established:** 1987 by Ord. 1911, 1927 & 2075  
**Membership:** Members of the Park & Recreation Committee and others as recommended by the Park & Recreation Committee and appointed by the Mayor to serve three-year terms and two youth representatives (one-year term)  
**Chair:** Citizen  
**Meets:** Monthly  
**Budgeted Funds:** \$0  
**Staff Support:** 2

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### **19) VillageFest Committee**

**Function:** Responsible for the sponsoring and coordination of a community event, usually held in conjunction with July 4<sup>th</sup>.  
**Established:** 1997 by Council Policy 001  
**Membership:** A steering committee of interested citizens including representatives from the Council, Park & Recreation Committee and the Municipal Arts Council with Chairperson appointed by the Mayor to serve until appointment of successor.  
**Chair:** Citizen  
**Meets:** Monthly - January thru August  
**Budgeted Funds:** \$16,000 (\$25,000 budgeted with \$9,000 in revenue)  
**Staff Support:** 5

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### **20) AD HOC COMMITTEES**

**Function:** Established by the Mayor to discuss a particular subject and make recommendations to the Mayor and Council. These committee shall continue as long as necessary, but are not considered permanent committees  
**Established:** Council Policy 001



**Membership:** Varies in size - the Mayor will appoint a chair and members to serve on the committee as needed. One member of Council will be appointed by the Mayor to serve as the reporting member of the committee. Committee make-up may be entirely Council members or citizens or a combination thereof.

**Meets:** As needed

**Includes** 75<sup>th</sup> Street Corridor Committee  
Community Center Committee  
Statuary/Island Committee  
Executive Search Committee - PW Director

## **ATTACHMENTS**

**Chart Analyzing Committee Activity**

**NE Johnson County Standing Committees**

## **PREPARED BY**

Joyce Hagen Mundy  
City Clerk

Date: April 22, 2013

**CITY OF PRAIRIE VILLAGE  
ANALYSIS OF COMMITTEE ACTIVITY**

#	Committee Name	Chairperson	# of Committee Members	# of staff members	# meetings 2012	# meetings 2011	Estimated Staff hours 2012	Established By
1	ADA Advisory Committee	Council	7	1	0	0	0	Council Policy
2	Animal Control Board	Citizen	5	1	1	0	2	PVMC 6.04.200
3	Board of Code Appeals	Citizen	6	2	0	0	0	Uniform Building Code
4	Board of Zoning Appeals	Citizen	7	5	4	2	35	PVMC 19.54 & Statutes
5	Civil Service Commission	Citizen	5	3	7	4	47	PVMC 2.44.040
6	Communications Committee	Council	10*	3	1	4	8	Council Policy
7	Environment/Recycle Committee	Citizen	15*	1	11	11	127	Council Policy
8	Finance Committee	Council	5	3	2	5	12	Ad Hoc Committee
9	Home Association Committee	Council		1	0	1	0.5	Council Policy
10	Insurance Committee	Council	5	2	1	2	4	Council Policy
11	JazzFest Committee	Citizen		1	9	11	504	Council Policy
Articles of Incorporation								
12	Municipal Foundation	Citizen	13	2	1	3	178.75	& Bylaws
13	Park & Recreation Committee	Council	14*	3	7	7	136	PVMC 2.40.040
14	Planning Commission	Citizen	7	6	12	12	762**	PVMC 2.32 & Statutes
15	Police Pension Board	Council	3	3	4	3	45.25**	Police Pension Plan
16	PV Arts Council	Citizen	14*	1	11	11	451.5	Council Policy
17	Sister City Committee	Citizen	12*	1	11	10	108.5	Council Policy
18	Tree Board	Citizen	11*	2	5	6	15	PVMC 2.40.070
19	VillageFest committee	Citizen		6	7	7	241	Council Policy
20	75th St Corridor Committee	N/A	4	3	1	1	10	Council Policy
20	Community Center Study Committee	Council	10	2	2	3	10	Council Policy
20	Statuary/Island Committee	Council		1	0	0	0	Council Policy

\* includes 2 student representatives

\*\* Hours spent on entire program not just the committee

Compiled by J. Koontz & J. Hagen Mundy  
Apr-13

CITY OF PRAIRIE VILLAGE  
COMMITTEE FUNDING SUMMARY

Committee	Year	Amount	Breakdown of 2013 Budget
Arts Council	2009	\$ 13,500.00	\$6,000 Art Sales (Revenue also budgeted)
	2010	\$ 13,500.00	\$250 Contingency
	2011	\$ 13,500.00	\$4,500 State of the Arts
	2012	\$ 13,500.00	\$500 Printing/Website
	2013	\$ 19,500.00	\$850 Donations \$1,500 Performances \$2,000 PV Art Fair \$3,300 Receptions \$100 Arts Sponsorships \$500 Art Purchases
Environmental	2009	\$ 8,000.00	\$500 Printing
	2010	\$ 8,000.00	\$4,000 Electronics Recycling
	2011	\$ 8,000.00	\$3,000 Committee
	2012	\$ 8,000.00	\$500 Earth Fair
	2013	\$ 8,000.00	
Sister City	2009	\$ 4,000.00	\$4,000 Dues, annual conference, exchange student reception
	2010	\$ 4,000.00	
	2011	\$ 4,000.00	
	2012	\$ 4,000.00	
	2013	\$ 4,000.00	
VillageFest	2009	\$21,000.00*	Operating costs for July 4th event, entertainment, stage, suplie, etc.
	2010	\$21,000.00*	
	2011	\$21,000.00*	\$9,000 in revenue expected to supplement City Funds
	2012	\$21,000.00*	
	2013	\$25,000.00*	

\*VillageFest Allocation is \$16,000. Sponsorships and revenue expected to make up the difference.

**NE Johnson County Committees  
(Information Obtained from City websites)**

City	Committee	Meets	Members	Term	Appointment of Committee	Role
Leawood	Arts	As needed	9	2-yr	Mayor	Advisory
	BZA	4th Wed	7	-	Mayor w/ Council	Hear/grant Appeals
	Planning	4th Tue	9	-	Mayor w/ Council	Advisory
	Alarms Appeal Committee	As needed	3	-	-	Hear/grant Appeals
	Amphitheater Sterring	-	10	-	-	Advisory
	Bicycle Friendly Committee	As needed	11	-	-	Advisory
	Budget and Finance Committee	-	12	-	-	Advisory
	Building and Fire Code Board of Appeals	As needed	5	-	-	Hear/grant Appeals
	Gezer Region Sister City Committee	-	10	-	-	Advisory
	Leawood Foundation	Bi-monthly	19	-	-	Foundation
	Historic Commission	-	11	-	Mayor	Advisory
	I-Lan Sister City Committee	-	7	-	-	Advisory
	IRONHORSE Advisory Committee	As needed	10	-	-	Advisory
	Park & Recreation Advisory Board	2nd Tues	9	-	-	Advisory
	Public Building Commission	-	7	-	-	Advisory
	Public Works Committee	2nd Wed As Needed	10	-	-	Advisory
	Stormwater Management Committee	Last Wed As Needed	9	-	-	Advisory
	Sustainability Advisory Board - Green Team	1st Thurs	10	2-yr	Council	Advisory
	Roeland Park	Arts	-	3	1 yr	Mayor w/ Council
BZA		As needed	5	3 yr	Mayor w/ Council	Hear/grant Appeals
Parks/Tree		1st Wed	9	1 yr	Mayor w/ Council	Advisory
Planning		3rd Tue	7	1 yr	Elected by members	Advisory
Youth Advisory		-	<18	1 yr	Mayor w/ Council	Advisory
Lenexa	Arts	3rd Tue	9	3 yr	Mayor w/ Council	Advisory
	BZA	As needed	7	-	Mayor w/ Council	Hear/grant Appeals
	Building and Fire Code Appeals	-	9	3 yr	Mayor w/ Council	Hear/grant Appeals
	Parks/Rec	2nd Wed	9	3 yr	Mayor w/ Council	Advisory
	Planning	As needed	7	-	Mayor w/ Council	Advisory

**NE Johnson County Committees  
(Information Obtained from City websites)**

City	Committee	Meets	Members	Term	Appointment of Committee	Role	
Fairway	BZA	Last Mon	7	2 yr	Mayor w/ Council	Hear/grant Appeals	
	Planning	Last Mon	7	2 yr	Mayor w/ Council	Advisory	
	Tree Board	As needed	8	-	Mayor w/ Council	Advisory	
	Public Works Committee	As needed	4	-	Mayor w/ Council	Advisory	
	Police Committee	As needed	5	-	Mayor w/ Council	Advisory	
	Parks & Recreation	As needed	10	-	Mayor w/ Council	Advisory	
	Finance	As needed	9	-	Mayor w/ Council	Advisory	
	Administration	As needed	5	-	Mayor w/ Council	Advisory	
	Animal Control	As needed	2	-	Mayor w/ Council	Advisory	
	Communications	As needed	4	-	Mayor w/ Council	Advisory	
	Flood Plain Committee	As needed	9	-	Mayor w/ Council	Advisory	
	Overland Park	Arts & Recreation Foundation of Overland Park	3rd Tues	9	1-3 yr	-	Advisory
		BZA	2nd Wed	7	-	Mayor w/Council	Hear/grant Appeals
		CDBG Citizens Advisory Committee	As needed	up to 25	1 yr	Mayor w/Council	Advisory
		Citizens Advisory Council on Parks & Recreation	Last Tues	10	2 yr	Mayor w/Council	Advisory
		Civil Service Commission	As Needed	7	3 yr	Mayor w/Council	Hear Appeals
Board of Code Appeals		Tues or Thurs	5	3 yr	Mayor w/Council	Hear/grant Appeals	
Convention & Visitors Bureau Committee		1st Thurs	25	2 yr	Mayor w/council	-	
Downtown Business Improvement District Advisory Board		As Needed	7	1-2 yr	Mayor w/Council	-	
Downtown Overland Park Partnership, Inc.		4th Thurs	24	3 yr	Mayor w/Council	-	
Environmental Advisory Council		1st Thurs	15	3 yr	Mayor w/Council	Advisory	
Fair Housing Committee		As Needed	6	2 yr	Mayor w/Council	Hear Complaints	
Friends of Overland Park Arts		2nd Wed	-	1 yr	-	Volunteer	
Friends of the Arboretum		2nd Mon	-	1 yr	-	Volunteer	
Friends of the Farmstead		1st Thurs	-	1 yr	-	Volunteer	
Independent Citizen Advisory Board		As Needed	7	4 yr	Mayor w/Council	Advisory	
Land Bank Board of Trustees		As Needed	14	-	-	-	
Landmarks Commission	4th Thurs	5	-	Mayor w/Council	Advisory		
Legacy of Greenery Committee (Tree Board)	1st Thurs	12	2 yr	Mayor w/Council	Advisory		
Neighborhood Conservation Program Executive Committee	1st Tues of odd months	32	-	-	Advisory		
Overland Park Development Corporation	1st Mon	5	-	Mayor w/Council	-		
Planning	2nd Mon	11	-	Mayor w/Council	Hear/grant Appeals		
Planning Commission Committees							
Comprehensive Plan Committee	As Needed	-	Annual	PC Chair	Advisory		
Executive Committee	As Needed	3	Annual	PC Chair	Advisory		
Ordinance Review Committee	As Needed	-	Annual	PC Chair	Advisory		
Site Plan Review Committee	As Needed	-	Annual	PC Chair	Advisory		
Sister City	As Needed	-	2- 3 years	Mayor w/Council	Advisory		

**NE Johnson County Committees  
(Information Obtained from City websites)**

<b>City</b>	<b>Committee</b>	<b>Meets</b>	<b>Members</b>	<b>Term</b>	<b>Appointment of Committee</b>	<b>Role</b>
	BZA	-	5	-	Mayor w/Council	Hear/grant appeals
Mission	Planning Commission	-	9	-	Mayor w/Council	Advisory
	Park and Recreation Commission	-	7	-	Mayor w/Council	Advisory
	Tree Board	-	6	-	Mayor w/Council	Advisory
	Sustainability Commission	-	8	-	Mayor w/Council	Advisory
	Mission Convention and Visitors Bureau	-	16	-	Mayor w/Council	Advisory

**Significant Budget Proposals  
Proposed 2014 Budget**

The Significant Budget Proposals list has been updated to reflect Council action (votes) taken at the March 18, 2013 Council Committee of the Whole meeting. The following Significant Budget Proposals have been identified for discussion during the 2014 Budget process by Council and staff.

Item	Description	Background / Description of Project	Estimated Budget Amount	Council Meeting Discussion
			2014	
A 2	Develop a plan for parks funding and more park/green space (Parks Master Plan)	Discussed by Finance, Council and Parks and Rec Committee. Sales tax initiative not pursued in 2012. Staff and Parks and Rec Committee are recommending adding projects. Staff anticipates parks funding to be between \$200,000 - \$300,000 annually in the CIP budget for several years. More information and a presentation will occur in May from the Parks and Rec Committee.	\$ (250,000)	20-May-13
A 3	Address Emerald Ash Borer infestation	Currently being researched. The Tree Board discussed this item in January and will provide a recommendation in the coming months.. There needs to be a decision to treat and / or remove street trees.  Contract to remove trees depends on the dbh (thickness) of the tree. Prices vary from \$140-\$1215. The average of the cost of arterial avenues and minor streets is \$575. For 737, trees that is \$423,775 total. This is also assuming our 2013 contract agreement rate.  The cost for a single treatment on average is \$87.02 (using city labor). Because the treatment works for two years the true annual cost is \$43.51 per tree or \$33,540.87 a year excluding admin and training costs.  The estimate represents spreading the cost over 5 years.	\$ (50,000)	1-Apr-13
A 4	Rental licensing program enhancement and home ownerships initiatives	Estimated cost includes a staff position for inspection and program administration. There is also a one-time cost for a vehicle and other equipment. Cost could be offset with a fee increase. There are currently 800 rental properties license.	\$ (65,000)	20-May-13
A 7	Comprehensive Compensation Study	Recommended if Council desires to review employee salary and benefits structure. Full study includes pay, insurance and retirement plans.	\$ (30,000)	15-Apr-13

**Significant Budget Proposals  
 Proposed 2014 Budget**

A 8	Pool closing on weekdays after start of school	<p>Closing the pool Mon-Thurs after the start of schools, would save wages of concession and life guards less lost revenue. Council Committee reviewed recently and did not pursue.</p> <table border="1" data-bbox="823 272 1621 690"> <thead> <tr> <th></th> <th>Members</th> <th>Drop-in</th> <th>Total Attendance</th> <th>Gate Revenue</th> </tr> </thead> <tbody> <tr> <td>Week 1 M-Th 2012</td> <td>295</td> <td>121</td> <td>416</td> <td>\$ 624.00</td> </tr> <tr> <td>Week 2 M-Th 2012</td> <td>428</td> <td>99</td> <td>527</td> <td>\$ 494.00</td> </tr> <tr> <td>Week 3 M-Th 2012</td> <td>534</td> <td>142</td> <td>676</td> <td>\$ 696.00</td> </tr> <tr> <td><b>Total 2012</b></td> <td><b>1257</b></td> <td><b>362</b></td> <td><b>1619</b></td> <td><b>\$ 1,814.00</b></td> </tr> <tr> <td>Week 1 M-Th 2011</td> <td>442</td> <td>119</td> <td>561</td> <td>\$ 610.00</td> </tr> <tr> <td>Week 2 M-Th 2011</td> <td>503</td> <td>138</td> <td>641</td> <td>\$ 658.00</td> </tr> <tr> <td>Week 3 M-Th 2011**</td> <td>0</td> <td>0</td> <td>0</td> <td>\$ -</td> </tr> <tr> <td><b>Total 2011</b></td> <td><b>945</b></td> <td><b>257</b></td> <td><b>1202</b></td> <td><b>\$ 1,268.00</b></td> </tr> <tr> <td>Week 1 M-Th 2010</td> <td>435</td> <td>169</td> <td>604</td> <td>\$ 880.00</td> </tr> <tr> <td>Week 2 M-Th 2010</td> <td>189</td> <td>111</td> <td>300</td> <td>\$ 552.00</td> </tr> <tr> <td>Week 3 M-Th 2010*</td> <td>204</td> <td>47</td> <td>251</td> <td>\$ 224.00</td> </tr> <tr> <td><b>Total 2010</b></td> <td><b>828</b></td> <td><b>327</b></td> <td><b>1155</b></td> <td><b>\$ 1,656.00</b></td> </tr> <tr> <td colspan="5">*Closed one day</td> </tr> <tr> <td colspan="5">** Pool Closed 8 days early at the advice of the Johnson County Health Department</td> </tr> </tbody> </table>		Members	Drop-in	Total Attendance	Gate Revenue	Week 1 M-Th 2012	295	121	416	\$ 624.00	Week 2 M-Th 2012	428	99	527	\$ 494.00	Week 3 M-Th 2012	534	142	676	\$ 696.00	<b>Total 2012</b>	<b>1257</b>	<b>362</b>	<b>1619</b>	<b>\$ 1,814.00</b>	Week 1 M-Th 2011	442	119	561	\$ 610.00	Week 2 M-Th 2011	503	138	641	\$ 658.00	Week 3 M-Th 2011**	0	0	0	\$ -	<b>Total 2011</b>	<b>945</b>	<b>257</b>	<b>1202</b>	<b>\$ 1,268.00</b>	Week 1 M-Th 2010	435	169	604	\$ 880.00	Week 2 M-Th 2010	189	111	300	\$ 552.00	Week 3 M-Th 2010*	204	47	251	\$ 224.00	<b>Total 2010</b>	<b>828</b>	<b>327</b>	<b>1155</b>	<b>\$ 1,656.00</b>	*Closed one day					** Pool Closed 8 days early at the advice of the Johnson County Health Department					\$ 8,000	
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A 10	Accelerate Street Maintenance	Accelerate street maintenance with a bond issue or a mill levy increase. With the current assessed valuation estimate for 2012, 1 mill would raise \$282,170.	\$ -	1-Apr-13																																																																											
A 11	Video System - Police Department	<p>Replacement units for in-car video/audio systems.</p> <p>13 units - \$78,000                      13 installations - \$5,200</p> <p>Total = \$83,200</p>	\$ (83,200)	17-Jun-13																																																																											
A 12	Mill levy increase	This is an option even though the preference is not to. With the current assessed valuation estimate for 2012, 1 mill would raise \$282,170.	\$ 282,170	3-Jun-13																																																																											
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**Significant Budget Proposals  
 Proposed 2014 Budget**

B 2	Evaluate Community Program budgets	Village Fest - \$16k, Environmental Committee - \$8k, Arts Council - \$13.5k and Sister City - \$4k	\$ -	6-May-13
B 24	Employee Merit Pool for 2014	The 2014 Budget will include a merit increase for employees. A smaller or elimination of the increase results in lower increases in FICA, retirement, etc., \$80,000 per 1% of salary. Eliminating the employee merit pool will have negative impact on morale and recruitment.	\$ -	3-Jun-13
B 25	Employee Appreciation Events	<p>The City holds an Annual Employee Appreciation Event to recognize employees for their hard work and dedication. The following are invited: full-time employees, crossing guards, bailiff, mayor and council members. Each person is allowed to bring one guest. The cost also includes the purchase of gift certificates for police officers who are required to work the night of the event and cannot attend.</p> <p>Employee Appreciation Events                  2012 Sporting KC \$10,452, 146 attendance                  2011 Royals \$6,665, 108 attendance                  2010 New Theatre \$8,599, 109 attendance</p> <p>2013 budget = \$15,000                  2012 actual = \$15,399 – the expenditures include the appreciation event, holiday lunch and milestone anniversary recognition.</p> <p>Other options discussed previously: New Dinner Theatre, bowling, Worlds of Fun, Starlight Theater, Country Club Dinner</p>	\$ -	1-Apr-13
B 28	Discuss lump sum merit awards	<p>No "one-time" payment for employees at max of range for performance review.</p> <p>At the end of 2012, only one employee received a lump-sum payment for their employee performance evaluation. The payment was a result of their base salary + performance increase being higher than the top of the range. Budget impact in 2012 of \$140.00. There are five employees currently within 2% of their range maximum.</p>	\$ -	1-Apr-13
B 29	Health Insurance Premiums	Employees pay a greater portion of health insurance premiums	\$ -	15-Apr-13
B 50	Treasurer Position	The Treasurer position is a standing appointment and the Mayor desires to continue that appointment. This position provides additional review of City financial activity. This item has been removed from budget consideration.	\$ <del>5,040</del>	

Significant Budget Proposals  
 Proposed 2014 Budget

**Removed from A List - not a part of 2014 budget process**

A 1	Community Center Feasibility Study	Determine what additional action is needed. If Council wants to proceed, additional project funds will be needed in the CIP budget. At the 03/4/13 meeting, Council voted to not pursue further action at this time.	\$ -
A 5	Review necessity of pet licenses / enumeration	Explore revenue and cost of administering animal licensing program and enumeration. Also discuss the benefits and drawbacks of licensing pets. Savings would be nominal, but would enable staff to focus on other priorities. Will be explored in 2013, but will not affect 2014 budget preparation. This item has been added to the Council's priority initiative list.	\$ -
A 6	Explore the purchase of the city's street light and /or traffic signal system	Currently KCPL owns the street lights and signal systems. The city pays an annual tariff for the use. Several neighboring cities have found it cost effective (long term) to purchase these systems through the issue of bonds. This item will be explored in 2013, but will not affect the 2014 budget preparation. This item is already included on the Council's budget priority list.  <b>2013 Budget:</b> Street lights - \$690k Traffic signals - \$680k	\$ -
A 9	WC Insurance Coverage	Explore joining KERIT instead of traditional Worker's Compensation coverage. Kerit is first dollar coverage with no deductibles. Savings amount reflects transferring to KERIT and cancellation penalty. The Insurance Committee explored the possibility of joining the KERIT insurance pool for workers comp insurance on three occasions and has not recommended a change. This item has been added to the Council's priority initiative list.	\$ 30,000

**COUNCIL MEETING AGENDA  
CITY OF PRAIRIE VILLAGE  
Council Chambers  
May 06, 2013  
7:30 PM**

- I. **CALL TO ORDER**
- II. **ROLL CALL**
- III. **PLEDGE OF ALLEGIANCE**
- IV. **PUBLIC PARTICIPATION**
- V. **CONSENT AGENDA**

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

**By Staff**

- 1. Approve Regular Council Meeting Minutes - April 15, 2013
- 2. Approve Claims Ordinance 2905
- 3. Ratify the Mayor's appointment of Dianne Pallanich to the Parks & Recreation Committee with her term expiring in April 2015.
- 4. Approve the following contracts for VillageFest 2013: Chris Cakes for the pancake breakfast (\$3.25/plate), American Waste Systems for the stage (\$827.00) and A-Z Exotic Animal Entertainment for the petting zoo and pony rides (\$1,950.00).
- 5. Recommend the City Council authorize the Mayor to execute the following proclamations:
  - May 1, 2013 - Cold War Victory Day
  - May 5 - 11, 2013 - Municipal Clerk's Week
  - May 12 - 18, 2013 - National Police Week
- 6. Staff recommends the City Council approve the bid award to Edwards Chemical, Inc., for swimming pool chemicals.
- 7. Staff recommends the City Council to approve a request to have KCPL install a new street light at 8136 Ash Street

- VI. **MAYOR'S REPORT**
- VII. **COMMITTEE REPORTS**

**Council Committee of the Whole**

- COU2013-17 Consider Approval of a Contract with Little Joe's Asphalt Inc. for the 2013 Street Repair Program

**Planning Commission**

PC2013-111 Consider Final Plat for Prairie Village Shopping Center

**VIII. STAFF REPORTS**

Quarterly Financial Report - First Quarter Ending March 31, 2013

**IX. OLD BUSINESS**

**X. NEW BUSINESS**

Consideration of Request by PV Retail Partners, LLC to Enter into an Right-of-Way Maintenance Agreement to Comply with the Intent of the Prairie Village Community Improvement District Development Agreement

**XI. ANNOUNCEMENTS**

**XII. ADJOURNMENT**

**If any individual requires special accommodations - for example, qualified interpreter, large print, reader, hearing assistance - in order to attend the meeting, please notify the City Clerk at 385-4616, no later than 48 hours prior to the beginning of the meeting.**

**If you are unable to attend this meeting, comments may be received by e-mail at [cityclerk@pvkansas.com](mailto:cityclerk@pvkansas.com)**

**CONSENT AGENDA**

**CITY OF PRAIRIE VILLAGE, KS**

**May 6, 2013**

**CITY COUNCIL  
CITY OF PRAIRIE VILLAGE  
April 15, 2013**

The City Council of Prairie Village, Kansas, met in regular session on Monday, April 15, 2013, at 7:30 p.m. in the Council Chambers of the Municipal Building.

**ROLL CALL**

Mayor Ron Shaffer called the meeting to order and roll call was taken with the following Council members present: Ashley Weaver, Dale Warman, Ruth Hopkins, Steve Noll, Andrew Wang, Laura Wassmer, Brooke Morehead, Charles Clark, David Morrison, Ted Odell and David Belz.

Also present were: Wes Jordan, Chief of Police; Keith Bredehoeft, Interim Public Works Director; Katie Logan, City Attorney; Quinn Bennion, City Administrator; Dennis Enslinger, Assistant City Administrator; Lisa Santa Maria, Finance Director , Danielle Dulin, Assistant to the City Administrator and Joyce Hagen Mundy, City Clerk.

Mayor Shaffer led all those present in the Pledge of Allegiance. Mayor Shaffer asked for a moment of silence in response to the bombings earlier in the day at the Boston Marathon.

**PUBLIC PARTICIPATION**

Suzanne Allen, granddaughter of JC Nichols residing at 6511 Seneca, Mission Hills, addressed the City Council with her concerns and objections to the proposed redevelopment plan recently approved by the Planning Commission for the Prairie Village Shopping Center. She felt it was undemocratic to allow the Planning Commission, as an unelected body, appointed by the Mayor, to make any final decision on such a significant change. Her concerns with the plan include the significant enlargement of Hen House, changes to the truck

loading area, the narrowing of Mission Lane, unnecessary extension and addition of concrete islands, reduced and relocated parking. She noted the problems experienced with the recent revisions to the Corinth Square Shopping Center. The plan falls far short of the vision had by JC Nichols for this community. Ms. Allen asked that her comments be made part of the permanent record and can be found in the attached Exhibit A.

Chuck Dehner, 4201 West 68<sup>th</sup> Terrace, expressed his opposition both to the plans for the redevelopment of the Prairie Village Shopping Center, the process followed in its approval and the expenditure of CID funds for improvements to both centers. He reviewed the process followed in the approval of the site plan and conditional use permit for the improvements to the Prairie Village Shopping Center by the Planning Commission noting, what he felt were several practices of deception and the presentation of inaccurate information.

He, too, referenced problems with parking and traffic flow at the Corinth Shopping Center and predicted these problems will be even greater at the Prairie Village Shopping Center. He does not feel Lane4 has any idea what they are doing in the proposed changes to the shopping center.

Mr. Dehner also stated he had reviewed three submittals for the Corinth CID project and questioned the reimbursement of legal costs and application fees. He referenced the CID projects as "Shaffer's Shame" and called out those Council members voting in support of the project, commending those who voted in opposition to the CID.

Mr. Dehner asked the Council to not approve the new plat for the Prairie Village Shopping Center and to rescind the conditional use permit for a drive-thru approved by the Planning Commission. He asked the city to also investigate what he considers to be fraud. Craig Satterlee, 8300 Mission Road, asked the City Attorney about the \$45,000 reimbursement to Polsinelli as part of the CID reimbursement. Katie Logan stated she

did not have copies of the reimbursements referenced, but stated it is common for the CID or a TIF to pay for the legal expenses to set up the district.

With no one else to address the Council Public Participation was closed at 7:55 p.m.

## CONSENT AGENDA

Charles Clark moved the approval of the Consent Agenda for April 15, 2013:

1. Approve the Regular Council Meeting Minutes - April 1, 2013
2. Approve Claims Ordinance 2904
3. Adopt Ordinance 2273 approving the Prairie Village Art Fair as a special event and authorizing the sale, consumption and possession of alcoholic liquor and cereal malt beverages within the boundaries of barricaded public areas of the event
4. Approve the lease with Great America Leasing Corporation for the PostBase 45 w/auto feeder postage meter at a monthly cost of \$159 with funding from the City Clerk's Operating Budget

5. Ratify the reappointment of the following individuals:

ADA Advisory Committee	Gary Groening	April, 2016
ADA Advisory Committee	Michele Ohmes	April, 2016
ADA Advisory Committee	Jon & Kim Ratliff	April, 2016
ADA Advisory Committee	Alleen VanBebber	April, 2016
ADA Advisory Committee	Martha Wyrsh	April, 2016
BZA/Planning Commission	Randy Kronblad	April, 2016
BZA/Planning Commission	Dirk Schafer	April, 2016
BZA/Planning Commission	Gregory Wolf	April, 2016
Environment/Recycle	Deborah English	April, 2016
Environment/Recycle	Thomas O'Brien	April, 2016
Environment/Recycle	Polly Swafford	April, 2016
Park & Recreation	Dan Searles	April, 2016
Park & Recreation	Tim O'Toole	April, 2014
Park & Recreation	Maggie Swartz	April, 2014
PV Arts Council	Shelly Trewolla	April, 2016
PV Arts Council	Ian Arnold	April, 2016
PV Arts Council	Art Weeks	April, 2016
Sister City Committee	James Hohensee	April, 2016
Sister City Committee	Bob McGowan	April, 2016
Sister City Committee	Vera Glywa	April, 2016
Sister City Committee	Ivan Novikov	April, 2014
Tree Board	Luci Mitchell	April, 2016
Tree Board	Rich Howell	April, 2016
Tree Board	Elizabeth Cavanaugh	April, 2016



A roll call vote was taken with the following members voting "aye": Weaver, Warman, Hopkins, Noll, Wang, Wassmer, Morehead, Morrison, Clark, Odell and Belz.

## **MAYOR'S REPORT**

Mayor Shaffer reported he attended the following events in the past two week representing the City: Kansas City Chamber Lunch with Senator Moran; Johnson/Wyandotte County Mayors meeting with presentation from Time Warner, Goggle & AT&T; Local State Mayors' Conference; LKM Strategic Planning Session; Annual Dinner for the Johnson County Museum; Wii bowling tournament at Prairie Elementary School; Retirement for Gardner Public Works Director; Shooting Stars Award Program; Annual Meeting for Johnson County Head Start and United Community Services Board Meeting.

Mayor Shaffer presented each Council Member with their \$1 pay for the past year of service. Council President Charles Clark presented Mayor Shaffer with his check.

## **COMMITTEE REPORT**

### **Council Committee of the Whole**

#### **COU2013-13 Consider Agreement for Public Works Director Executive Search**

On behalf of the Council Committee of the Whole, Charles Clark moved the City Council approve an agreement with the Mercer Group, Inc. to conduct the executive search for the position of Public Works Director. The motion was seconded by Ted Odell and passed

#### **COU2013-14 Consider Revisions to City Council Policy CP061: "Purchasing"**

On behalf of the Council Committee of the Whole, Charles Clark moved the City Council approve revisions to City Council Policy CP061 entitled "Purchasing" changing the requirement for any singular item purchase from \$2,000 to \$2,500. The motion was seconded by Steve Noll and passed unanimously.

COU2013-15 Consider Revisions to City Council Policy CP056: "Financial Management Policies"

On behalf of the Council Committee of the Whole, Charles Clark moved the City Council approve revisions to City Council Policy CP056 entitled "Financial Management Policies" changing the capitalization threshold from \$1,000 to \$5,000. The motion was seconded by Brooke Morehead and passed unanimously.

**STAFF REPORTS**

**Administration**

- Quinn Bennion reviewed the tentative meeting schedule for Planning Commission review of the Mission Chateau application. The public hearing will be held on Tuesday, May 7<sup>th</sup>, the Commission will consider the application on June 4<sup>th</sup> with the application possibly coming before the City Council on July 1<sup>st</sup>. All meetings will be held at The Village Presbyterian Church.
- Daniell Dulin was introduced and welcomed as the new Assistant to the City Administrator.
- Mr. Bennion reported that he and Mayor Shaffer visited the Public Works employees on Friday morning to express appreciation for their extra effort during the winter snow events.
- Katie Logan provided an update on the Libertarian Party lawsuit regarding the open carry of weapons.

**Public Works**

- Keith Bredehoeft reported that spring street projects are underway, although somewhat delayed by the recent rain.
- PW staff is working on preparations for the opening of the pool. Sandblasting and painting of the diving well is underway.

**Public Safety**

- Chief Jordan introduced the directed patrol unit with the LPR (license plate recognition reader) purchased by drug forfeiture funds, which has been successful in its first few weeks out on the street.
- Chief will be speaking to the Leadership Northeast class this week and the CIRT team will be giving a demonstration to the class.

David Belz asked about the individuals were able to show proof of insurance via smart phones. Chief responded this was being considered by the legislature, but he was certain of its status. He stated he would check and respond to the Council.

**OLD BUSINESS**

There was no Old Business to come before the Governing Body.

**NEW BUSINESS**

**Election of Council President**

Charles Clark moved the City Council elect Dale Warman to serve as Council President for 2013 - 2014. The motion was seconded by Laura Wassmer and passed unanimously.

Mr. Warman accepted the nomination, but indicated that he would not be able to fill the position as well as Charles Clark has for the past year. Both Mr. Warman and Mr. Clark were recognized by the Council with applause.

**Storm Follow-up**

Ted Odell asked what was being done to follow-up on down limbs and branches. Mr. Bennion responded that the Code Enforcement is responding on a complaint basis on limbs and debris in resident's yards.

**Large Item Pickup**

Laura Wassmer asked how the Large Item Pickup went in those wards north of 75<sup>th</sup> Street. Council members indicated that several items were put out by residents, but acknowledged that much of what was placed at the curb was picked up prior to the actual collection by Deffenbaugh. It was suggested that Large Item Pick-up and fee be reconsidered at a later meeting.

**ANNOUNCEMENTS**

Prairie Village Arts Council	04/17/2013	7:00 p.m.
Environment/Recycle Committee	04/24/2013	7:00 p.m.
VillageFest Committee	04/25/2013	7:00 p.m.
Council Committee of the Whole	05/06/2013	6:00 p.m.
City Council	05/06/2013	7:30 p.m.



The Prairie Village Arts Council is pleased to announce a photography exhibit by Dale Cole and Rick Scaletty in the R. G. Endres Gallery for the month of April.

The annual large item pick-up has been scheduled. Homes on 75<sup>th</sup> Street and north of 75<sup>th</sup> Street will be collected on Saturday, April 13<sup>th</sup>. Homes south of 75<sup>th</sup> Street will be collected on Saturday, April 20<sup>th</sup>.

**ADJOURNMENT**

With no further business to come before the City Council, the meeting was adjourned at 8:22 p.m.

Joyce Hagen Mundy  
City Clerk

TESTIMONY BEFORE PV CITY COUNCIL    APRIL 15, 2013

I'M SUZANNE ALLEN, GRANDAUGHTER OF JC NICHOLS.  
I LIVE IN MISSION HILLS.

I RISE IN OBJECTION TO THE PLAN BEFORE YOU THAT  
SEVERELY ALTERS THE PV SHOPPING CENTER.

1) I BELIEVE IT IS UNDEMOCRATIC TO ALLOW THE PLANNING  
COMMISSION , AS AN UNELECTED BODY APPOINTED BY THE  
MAYOR, TO MAKE ANY FINAL DECISION ON SUCH A  
SIGNIFICANT CHANGE.

THIS TAKES AWAY THE PUBLIC'S ABILITY TO HOLD THEIR  
ELECTED REPRESENTATIVES ACCOUNTABLE FOR POOR  
DECISIONS OR BY THE SAME TOKEN, FOR GOOD ONES.

AS TO THE PLAN ITSELF:

2) IF THERE IS A RATIONAL BEHIND ENLARGING HEN HOUSE  
FROM 18,000 TO 32,000 SQ FT AT THE SAME TIME THAT  
NEAR-BY PARKING PLACES ARE SHARPLY REDUCED, IT TOTALLY  
ELUDES ME.

THE ENLARGED STORE WOULD WIPE OUT THE MAJORITY OF  
THE TRUCK LOADING AREA. HOW ARE ALL THE OTHER  
MERCHANTS TO RECEIVE THEIR GOODS?

HEN HOUSE MAY SCHEDULE THEIR DELIVERIES FOR LATE  
EVENING ARRIVAL BUT I DOUBT THEY CAN DO THAT FOR THE  
HARDWARE, LIQUOR, PAINT AND OTHER STORES. TRUCKERS

ALREADY ARGUE OVER ACCESS. IF MERCHANTS CANNOT RECEIVE THEIR GOODS IN A TIMELY MANNER, WHAT HAPPENS?

THE PLAN ALSO CALLS FOR NARROWING MISSION LANE, THUS FURTHER DECREASING TRAFFIC FLOW AND EASY ACCESS.

THIS CENTER WAS NOT DESIGNED TO ACCOMMODATE SUCH A LARGE GROCERY IN THAT LOCATION. EVERY ATTEMPT TO DO THAT WEAKENS THE ORIGINAL, SUCCESSFUL DESIGN.

3) THE UNNECESSARY EXTENSION AND ADDITION OF CONCRETE ISLANDS, AGAIN REDUCING AND COMPLICATING SHOPPER ACCESS , SIMPLY ADDS TO THE ORIGINAL LIST OF BAD IDEAS.

WE ALREADY HAVE A LIVING EXAMPLE OF THIS ISLAND PROBLEM AT CORINTH WHICH HAS PROVEN INEFFICIENT AND CONFUSING BY ALL REPORTS I HAVE HEARD.

AT THE ENTRANCE FROM MISSION RD, WHAT WAS ONCE EASY 2-DRIVE ACCESS HAS BEEN REDUCED TO ONE, CREATING ONGOING CONGESTION.

THE ENLARGED AND ADDITIONAL ISLANDS HAVE CAUSED DRIVER CONFUSION AND LOSS OF PARKING.

THE UNATTRACTIVE, POORLY PLACED PLANTER BEDS HAVE CAUSED MERCHANT COMPLAINT AND SEEM THOROUGHLY OVERDONE FOR THE CENTER.

MUST WE EXTEND THIS ISLAND OBSESSION TO PV WHEN WE ALREADY KNOW THE RESULTS?

4) WE KNOW THAT SHOPPERS WANT TO PARK AS CLOSE TO THEIR DESTINATION AS POSSIBLE. IN FACT, THIS WAS ONE OF JC NICHOLS GUIDING PRINCIPLES. THEY WANT TO PUT THEIR GOODS IN THEIR CAR AND MOVE ON, THUS TURNING THE SPACE OVER TO ANOTHER SHOPPER.

THIS PLAN PUSHES SHOPPERS FARTHER AND FARTHER AWAY.

THE STATEMENT THAT THERE ARE MORE SPACES IN OTHER AREAS CARRIES LITTLE WEIGHT WITH THE SHOP OR RESTAURANT CUSTOMER. IT'S A MATTER OF HOW FAR WILL THEY HAVE TO WALK OR PUSH THEIR GROCERY CART.

FOR NON-GROCERY MERCHANTS IT'S A MATTER OF HOW MANY OF THE SPACES WILL NO LONGER BE AVAILABLE TO THEIR CUSTOMERS, WHO MAY HAVE GIVEN UP AND GONE SOME WHERE ELSE.

FINALLY, THIS CENTER WAS BUILT FOLLOWING WWII. IT HAS BEEN A SUCCESSFUL, SMALL, FRIENDLY AND SERVICE-ORIENTED PLACE, MEETING THE NEEDS OF SURROUNDING RESIDENTS FOR GOODS AND ENTERTAINMENT FOR DECADES EVER SINCE.

ITS SAFETY, CONVENIENCE AND RANGE OF SHOPS ARE ITS MOST VALUED QUALITIES. TEEN WALKERS, MOMS WITH CHILDREN AND THE ELDERLY FEEL COMFORTABLE ON ITS STREETS.

IT IS A PRIME EXAMPLE OF JC NICHOLS PRINCIPLES, FOLLOWED BY HIM IN EVERY CENTER HE BUILT.

THIS PLAN VERES FAR FROM THAT EXAMPLE.

BEING A SUCCESSSSFUL DEVELOPER TAKES SPECIAL VISION. NOT MANY SEEM TO HAVE IT.

WE SHOULD REMEMBER THAT JC NICHOLS CONCEPTS HAVE BEEN COPIED AROUND THE COUNTRY. HE IS CONSIDERED A VISIONARY IN HIS FIELD.

THIS PLAN FALLS FAR SHORT OF VISION.



City Council 4/15/2013

My name is Chuck Dehner, 4201 W. 68<sup>th</sup> Terr.

I have been here before to talk with you about the Village shops. About the lack of citizen participation about the poor plan. About the failures of Lane4, the deception during the Planning Commission process.

I want to briefly go over what I found.

Lane 4 made a mockery of the concept of “citizen participation”. The public citizen meeting on the Village shops plan was held on August 23 and you know that Lane 4 and city staff posted the plans on the website for citizens to see on August 24. That is not citizen participation that is citizen abuse.

You also know about the misleading statements by Lane 4 and their attorneys about who was going to be the tenant on the drive through. From the beginning they said Starbucks. I came to you early on and related my conversation with a senior Starbucks real estate person, the response at that time from him was clear, “It’s not us, they have not even talked to us, they should not be using our name.”

Despite me bringing out the truth, Lane 4 and their attorney kept saying in Council and Planning Commission meetings that it was going to be Starbucks. Until at the very last Planning Commission meeting, Lane 4’s attorney comes out and finally tells the truth. “Oh by the way, it is not necessarily going to be Starbucks, we don’t really have a tenant.”

Can you believe it? Doesn’t the truth matter? Is no one responsible? They can apparently just make things up and you go along with it. Why is that not Fraud? They made a misstatement. I countered it with the

truth. They continued to make the misstatement and the citizens believed it was a “done deal” and gave up and now are damaged.

By now you know that when I came to you about three months ago and talked about the deceptions of Lane 4 and told you that most of you I was sure believed that the deal with the bank and gas station on deeding the property related to Mission Lane was a sealed issue.

Why wouldn't you, to quote Lane4 from Planning Commission minutes: “We have approval of the bank and gas station.” Now you know that was a lie. Why isn't that fraud.

So now the Planning Commission and you are going to have to figure out a way to isolate John Roney. Figure out a way to make Lane4 get through it. Figure out a way to get around their lie.

Well you know what, they clearly signed an agreement – the CID for the Village shops – that they did not have the authority to complete. That is a violation of the CID agreement.

How about that Planning Commission Conditional Use process. The Planning Commission and you failed to insist Lane4 comply with the requirements to file a Conditional Use permit. At the time of the application, the requirements on the Planning Commision website were, and I quote “Applicants are required to send return receipt certified letter to property owners within 200 feet of the subject property, adjacent homes associations and hold a neighborhood meeting. “

Nothing was ever sent to the Homes Association, no one denies that. The requirement was not met. I asked Quinn Binnion to let me talk with the city attorney to understand why that is legal. He refused that

request. He said he had talked with city legal staff and they said it was legal. Well that is a bit startling to me.

You know what, now the Planning Commission website says “Applicants are required to send return receipt certified letters to property owners within 200 feet of the subject property.”

So I spoke with a Real Estate and Zoning legal specialist. Is this legal? The relevant facts, he pointed out, are the Zoning Code which says that Planning Commission requirements are an additional part of the zoning requirements.

That attorney further said, the simple fact that they changed it is an admission that the requirement was not met.

So yes, the Planning Commission can do whatever they want. They can change things sure, but that doesn't work to retroactively make wrong right, or maybe it does in their distorted world. Lane 4 did not meet that requirement. No doubt about it. Whether the requirement was the intention or not is not relevant. It was a written requirement at the time of the application. I just don't understand the city attorney's position.

Corinth is really screwed up and Lane 4 and the village owners plan for the Village shops is worse.

A drive through of some unnamed tenant dumping into a central walking corridor? Come on you are not that naive. You have to bend over backwards to accommodate this.

A drive through around a patio where toddlers will be in strollers, come on you know better than that.

Over the last month I have been interviewing people about their thoughts on the changes to the Corinth shops. I would ask “What do you think of the new arrangement, of the new façade, the new parking.

To my surprise, I have not found a single person to say that it is an improvement.

Uniformly, it’s the “parking is horrible, It’s just a disaster” Response.

So I asked a little more systematically. I interviewed some people who work at the shops, you would think since they are there almost every day they should have a good perspective. “It is a disaster. It is unsafe,” are the responses I got. To the point of them being angry about it. “Trucks can’t maneuver, it’s unsafe to walk through the parking lot” is what I heard.

So I sought out people who lived nearby, who used to walk to Corinth with their children. “It is not safe anymore. The ramp off Mission is a speedway. It’s unsafe to walk with children.” Is what I heard.

A few more people and I heard, “I don’t go to Corinth anymore, the parking is just a zoo.”

So that is what Lane 4 created and the Planning Commission and you accommodated. Truth be told Lane 4 has no idea what they are doing. They are spending tax money like it is monopoly money and they are just screwing up our community. They have no idea of what it takes to build a community and you are just standing by and letting them do it.

The plans for the village, you can see the new curbs. I guarantee it will no longer be safe for a child, or a parent pulling a child in a bicycle tag along to go through the village shop area.

I said Lane4 and the Village and Corinth owners are spending tax money like monopoly money. I have seen the first three submittals for reimbursement of expenses under the Corinth CID, it's just the tip of the iceberg. It includes \$44,900 in payment to the Posinelli Law firm, a lot of it at \$400 per hour. It would appear that all the shopping center owner's and Lane4's legal fees relating to the work before the CID was approved, we tax payers paid.

The reimbursement also includes a check to Lane 4, I say that again, the tax payers wrote a check to Lane 4, for what "a fee" in the amount of \$35,000.

What about the CID application fees the city charges? You would think these are in place to reimburse the city for their staff time and costs related to the application for a CID, \$12,600 and a \$9,900 escrow fee. Well you know what, the taxpayers paid those, the signers of the CID, the owners and Lane 4, did not pay them, we paid ourselves, what is that, about \$22,000 in City fees. You have go to be kidding.

Tax payers are paying for most everything and the profits and real estate are going into the hands of wealthy real estate owners. What I have seen is just the tip of the iceberg coming our way. This is outrageous.

You know by training and profession I am an economist. In my work I have been hired to analyze a number of TIFF and STAR bond related projects. In general in those there is a requirement that an economic analysis be done showing that there is a return on the tax money. This deal could not stand that kind of analysis and it never did.

In my career I have also done a lot of work on what economists call economic growth models. We build statistical models that relate

economic growth to factors that encourage or inhibit it. Education spending, legal structure, the quality of government, all have effects.

Where capitalism fails is when risk and reward, or we capitalists call it profit, become divorced. Capitalism runs on the incentives of profit. It is what drives the entry and exit of firms.

But in the system you have set up, the risk takers no longer are taking risks, their business plans don't have to succeed, heck you are guaranteeing their money.

Well this is the kind of stuff you have participated in. This kind of government action is undermining free market capitalism and the offenders go on laughing at us all the way to the bank.

In Prairie Village, Lane 4 is taking a set of shops that used to promote community and community feelings and undermining that spirit.

Lane 4, with your approval, is undermining the values of our community. Instead of promoting based on the unique nature of the community, they are developing in opposition to that nature, and we are paying for it, and they are laughing all the way to the bank.

So I also have submittals 4,5,and 6 for the Corinth shops. So we are paying a general contractor to do the work, then we are paying a construction management company a fee for project management.

Well you know what, we are also paying Lane4 a fee 4.5% of all spent.

So we city taxpayers are paying a general contractor, a construction management firm, and Lane4 4.5% on top of that. Who ever heard of managing a construction project like that? Only if you are spending monopoly money.

Thinks of the incentives you have created. Let your center run down as much as possible. Don't spend any money till it looks like the Landing shops. Then get the city to pay for what should be a normal course of improvements.

How about this incentive. Spend as much as possible, if you are Lane4, because you get a percentage fee based on how much is spent. Were any bids taken on this project? Lane4 will make hundreds of thousands of dollars on this deal.

You know, I have heard from some of you that this is a \$22,000,000 deal with Lane4 and the Village owners, that is the max they can spend of taxpayers money. Just 22 million dollars. Well I don't understand, where did you hear that? It is not in the CID agreement. The two CID agreements commit the city to reimburse up to 80 million dollars in spending on the village and Corinth shops. Maybe I am missing some document.

So this whole mess of shenanigans may properly be called Shafer's shame. But you know what, I read the minutes of the meeting where the council approved this give away.

Ruth Hopkins you signed on to the biggest give away of Prairie Village tax money in our history.

Laura Wassmer, you wanted a "Wow" factor so you signed on, well all I can say is Wow.

Steve Noll, you signed on. You said Lane 4 was looking out for the best interest of the merchants. Well you know what, Lane 4 was not looking out for the merchants but more looking out for Lane4. You have forgotten who really makes this city, who pays the revenue, it is the citizens.

Charles Clark you too signed on to Shafer's shame.

Dale Warman, you said that the stakeholders are the merchants and they have strongly expressed their support. Well you know what Mr. Warman, you should get another job - the real stakeholders are the citizens, the clients are the citizens.

Andrew Wang on the other hand, knew better. He said It is not what is best for the applicant and merchants, but what is best for our residents. I applaud you Mr. Wang, you refused to sign on to this massive tax give away.

Mike Kelly, you refused to go along as well, you said some economic analysis was needed to show why this was an effective use of tax payers money. Bravo for you.

David Beltz, you said that you believed Lane4 was acting in good faith and there will never be a perfect agreement. I wonder if you still think that, but you clearly had your doubts, you refused to agree.

David Morrison, you also refused to agree, thank you.

So I am asking three things of you.

- 1) Resend the conditional use permit on grounds that Lane4 failed to comply with the requirements.
- 2) Do not approve the plat for the Village shops. It will be a disaster. It loses 82 parking places within 200 feet of the grocery store. What in the world makes you think that will work? Lane 4 has shown that they cannot make a good plan. Corinth is the proof. Lane4 had two years plus and they failed to get construction going.



3) Investigate this agreement. I think there are material breeches by Lane 4 and possible fraud that may constitute reasons for terminating the agreement.

Thank you.

I would request that my comments be put verbatim into the minutes.

## CITY TREASURER'S WARRANT REGISTER

DATE WARRANTS ISSUED:

Warrant Register Page No. 1

May 6, 2013

Copy of Ordinance  
2905

Ordinance Page No. \_\_\_\_\_

An Ordinance Making Appropriate for the Payment of Certain Claims.

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

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

NAME	WARRANT NUMBER	AMOUNT	TOTAL
<b><u>EXPENDITURES:</u></b>			
Accounts Payable			
4635	4/4/2013	2,000.00	
4636-4648	4/9/2013	13.00	
4649-4733	4/12/2013	100,533.03	
4734	4/16/2013	1,076.61	
4735-4736	4/19/2013	565.30	
4737-4808	4/26/2013	311,164.80	
4809	4/29/2013	1,200.00	
4810	4/30/2013	4,000.00	
Payroll Expenditures			
4/5/2013		243,705.77	
4/19/2013		238,450.72	
Electronic Payments			
Electronic Pmnts		4/1/2013	11,033.43
Electronic Pmnts		4/4/2013	40.47
Electronic Pmnts		4/8/2013	4,779.60
Electronic Pmnts		4/9/2013	208.50
Electronic Pmnts		4/10/2013	1,383.58
Electronic Pmnts		4/11/2013	8,228.36
		4/18/2013	543.45
		4/19/2013	217.92
		4/22/2013	5,487.76
<b>TOTAL EXPENDITURES:</b>			1,275,087.23
Voided Checks			
Council Checks	# 4636-	# 4648	(13.00)
<b>TOTAL VOIDED CHECKS:</b>			-
<b>GRAND TOTAL CLAIMS ORDINANCE</b>			<b>1,306,997.30</b>

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

Passed this 6th day of May 2013.

Signed or Approved this 6th day of May 2013.

(SEAL)

ATTEST: \_\_\_\_\_  
City Treasurer
Mayor



**MAYOR**

**Council Meeting Date: April 23, 2013**

**CONSENT AGENDA:        CONSIDER APPOINTMENT TO THE PARKS &  
   RECREATION COMMITTEE**

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**RECOMMENDATION**

Ratify the Mayor's appointment of Dianne Pallanich to the Parks & Recreation Committee with her term expiring in April 2015.

**BACKGROUND**

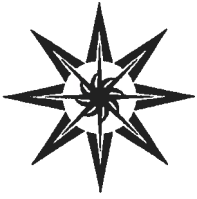
Mayor Shaffer is pleased to place before you the appointment of Dianne Pallanich to the Parks & Recreation Committee. She will be replacing Max Rieper as the Ward II representative. Her volunteer application is attached.

**ATTACHMENTS**

1. Volunteer Application

**PREPARED BY**

Jeanne Koontz, Deputy City Clerk  
April 23, 2013



### City of Prairie Village

### APPLICATION TO VOLUNTEER

Please complete this form and return it to the City Clerk's Office, 7700 Mission Road, Prairie Village, Kansas 66208. If you have any questions, please contact the City Clerk's Office at 913-381-6464 or send an e-mail to [cityclerk@pvkansas.com](mailto:cityclerk@pvkansas.com).

Name DIANNE PALLANICH Spouse's Name \_\_\_\_\_

Address 7608 JUNIPER DR. PV KS Zip 66208 Ward 2

Telephone: Home [REDACTED] Work \_\_\_\_\_ Fax \_\_\_\_\_

E-mail [REDACTED] Other Number(s) [REDACTED]

Business Affiliation NATIONAL ACCOUNTS MANAGER / C.H. GUENTHER

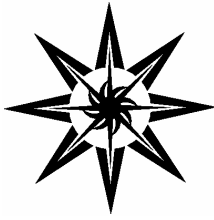
Business Address Home OFFICE

What Committee(s) interests you? PARKS & RECREATION

Please tell us about yourself, listing any special skills or experiences you have which would qualify you for a volunteer with the City of Prairie Village.

*PRAIRIE VILLAGE RESIDENT 40+ YEARS. PRAIRIE RIDGE Homes Assoc. BOARD = 21 yrs +  
I have a very keen interest in our parks and PV overall. I am a lap swimmer and enjoy the general fitness opportunities our parks offer.  
We have made significant improvements to the parks in recent years and I see opportunity for continued growth. I understand budgeting, allocation of funds and working as a team to accomplish goals.  
I feel I can contribute to the committee's challenges to keep our parks the best they can be and continually seek opportunities for enhancements.  
Dianne Pallanich*

Thank you for your interest in serving our community.



## VILLAGEFEST COMMITTEE

Council Meeting Date: May 6, 2013

**CONSENT AGENDA: Consider Approval of VillageFest Contracts**

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### RECOMMENDATION

Staff recommends the City Council approve the following contracts for VillageFest 2013.

Chris Cakes	Pancake Breakfast	\$3.25/plate
American Waste Systems	Stage	\$827.00
A-Z Exotic Animal Entertainment	Petting Zoo	\$1,950.00
	Pony Rides	

### FUNDING SOURCE

01-06-41-6014-005 - VillageFest

### ATTACHMENTS

1. Contracts

### PREPARED BY

Jeanne Koontz, Deputy City Clerk  
April 24, 2013

**FOOD SERVICE AGREEMENT**  
**VillageFest 2013**

**THIS FOOD SERVICE AGREEMENT** is made and entered into by and between the City of Prairie Village, Kansas, a municipal corporation, hereinafter referred to as ("City") and Chris Cakes, hereinafter referred to as ("Vendor").

**WHEREAS**, City is sponsoring a 4th of July celebration within the City limits of Prairie Village, Kansas, for enjoyment of the general public, which event is entitled to "VillageFest 2013" (hereinafter "VillageFest") and

**WHEREAS**, the festivities of VillageFest shall include the sale to the general public of food items; and

**WHEREAS**, City is desirous of providing booth space to Vendor during VillageFest and further desires to ensure that services provided to the general public during VillageFest are of the appropriate quality.

**NOW THEREFORE**, in consideration of the mutual benefits to the parties, it is hereby agreed as follows:

**ARTICLE 1**

**Scope, Duties and Hours of Operation**

1.1 Vendor shall have the right to sell food items as supplied by Vendor from a food booth ("Vendor's Booth") located on the site of the VillageFest 2013, the location of which shall be determined by City.

1.2 The dates and hours of operation that Vendor may operate are as follows:  
Date: July 4, 2013. Hours: Set up between 6:30 and 8:30 a.m.; Hours of Operation from 9:00 am until 1:00 pm; Breakdown after 1:00 p.m.

**ARTICLE 2**

**Financial Risk**

2.1 Vendor acknowledges and agrees that City's prime objective in entering into this Agreement is to ensure the availability of quality food items at a reasonable cost to VillageFest patrons. City has made no representation or warranty to Vendor to the effect that Vendor's participation in the VillageFest will be profitable for Vendor. Vendor acknowledges and agrees that its participation in VillageFest is a demanding business opportunity that involves risk and requires considerable manpower and organizational leadership and further acknowledges that there is the potential for substantial loss. Vendor further acknowledges and agrees to accept sole responsibility for protecting itself against any and all forms or types of loss.

**ARTICLE 3**  
**Rental Fee**

3.1 Vendor shall pay to City on or before June 21, 2013, a non-refundable rental fee of \$175.00. Included with submission of the rental fee shall be an executed Food Service Agreement and a Proposal Sheet that shall set forth the food items and cost of said food items that Vendor desires to sell to the general public during VillageFest.

**ARTICLE 4**  
**Signage**

4.1 Vendor shall provide signage for Vendor's Booth that shall legibly state organization or restaurant name, menu and prices. Signage is to be of professional quality and shall be subject to City's approval.

**ARTICLE 5**  
**Equipment Provided by Vendor**

5.1 Vendor shall be responsible for providing all tables, chairs and equipment utilized by Vendor to serve food items to the general public. **Vendor shall also be responsible for providing its own power source, i.e. a power generator.**

**ARTICLE 6**  
**Sanitary Condition of Vendor's Booth**

6.1 Vendor shall maintain Vendor's Booth and all surrounding operating area in a neat, clean and sanitary condition and in good order and repair, free and clear of all litter, debris and rubbish at all times. Vendor shall be responsible for the cleanup of Vendor's Booth on an ongoing basis during the VillageFest, at the conclusion of business and at the conclusion of VillageFest. Vendor's cleanliness responsibilities shall also include, but not be limited to, bagging and depositing Vendor's trash in designated containers. City reserves the right to terminate all of Vendor's rights under this Agreement, including the right to operate Vendor's Booth if Vendor fails to maintain clean and sanitary conditions in and around Vendor's Booth during the term of this Agreement.

**ARTICLE 7**  
**Security and Risk of Loss**

7.1 Vendor is responsible for all items of personal property and/or inventory owned and/or utilized by Vendor throughout the term of this Agreement, including, but not limited to, those items left in and around Vendor's Booth during and after the hours of operation and at the conclusion of the VillageFest. Vendor shall be solely responsible for its own security at all times. Risk of loss of food items, equipment, cash and other items belonging to or in the possession of Vendor is Vendor's. City shall not be responsible for loss of or damage to Vendor's property or inventory whether attributable to theft, vandalism, spoilage, weather or any other cause.

7.2 Vendor is responsible for and agrees to reimburse City for any damage caused by Vendor to City's property or to property being used by the City during VillageFest.

## **ARTICLE 8 Access to Facilities**

8.1 Vendor shall have access to Vendor's Booth on July 4, 2013 for set-up from 7:00 a.m. to 9:00 a.m. and for breakdown after 1:00 p.m. Vendor's vehicle(s) must be removed from the VillageFest grounds within one hour after the end of this time period or the vehicle(s) will be subject to tow. City shall not be responsible in the event of the towing of Vendor's vehicle(s).

## **ARTICLE 9 Items Sold and Prices**

9.1 The items sold by Vendor and the prices charged for these items shall be consistent with the family-oriented spirit of the VillageFest. Vendors must prepare a Proposal Sheet which sets forth all items Vendor desires to sell to the general public during VillageFest and the cost of said items prior to execution of this Agreement. Such proposal sheet shall be attached to this Agreement as Exhibit A. Exhibit A is hereby incorporated into this Agreement. Any amendments to Exhibit A must be approved by City in writing.

9.2 Vendor shall not serve free food to anyone at any time other than to volunteers, representatives, staff and employees of vendor.

9.3 All federal, state, and local laws governing retail sales tax must be followed. Vendor understands the rules and regulation of the event and will comply. Vendor realizes that failure to comply may result in expulsion from the event.



**ARTICLE 10**  
**Business Information**

10.1 Notifications and any other notices under this Agreement shall be made as follows:

If to City:

City Clerk  
7700 Mission Road  
Prairie Village KS 66208  
(913) 381-6464  
(913) 381-7755

If to Vendor:

10.2 Vendor's Tax Identification Number is: 20-3893066

**ARTICLE 11**  
**Compliance With Laws**

11.1 Vendor, all of Vendor's volunteers, representatives, staff and employees shall at all times during VillageFest comply with the laws of the State of Kansas and with City's ordinances, rules, regulations, and guidelines and shall at all times comply with all requests of the City or the City's representatives.

11.2 Vendor shall obtain all necessary permits and licenses in order to operate a Vendor Booth at VillageFest and shall provide copies of such permits and licenses to the City prior to June 21, 2013.

**ARTICLE 12**  
**Insurance and Hold Harmless**

12.1 Vendor shall furnish to City a valid certificate of broad form general liability insurance, completed operations and products insurance coverage for personal injuries and property damage with combined single limits of coverage of not less than \$1,000,000.00 with the City named as an additional insured on such policies. Copies of said certificate shall be provided to City on or before June 21, 2013.

12.2 Vendor agrees to assume all liability and responsibility for damages in any form or for costs associated with its activities. Specifically, Vendor agrees to indemnify and hold the City harmless from and against any claims for damages (including attorney's fees necessitated in defending such claims resulting from Vendor's actions, conduct or inaction, whether said claim is premised upon negligence or upon intentional misconduct. Vendor specifically agrees to indemnify and hold the City harmless from and against claims resulting from persons who suffer any sort of injury from the food ingested by such person and/or by virtue of the conditions of the premises located at Vendor's Booth.

### **ARTICLE 13**

#### **Staff**

13.1 Vendor shall provide managers and sufficient staff to keep Vendor's Booth operational during the hours of operation of the VillageFest.

13.2 Vendor's volunteers, employees, representatives and staff shall be prohibited by Vendor from consuming alcoholic beverages when on duty at, in or near Vendor's Booth.

13.3 Vendor and its employees are independent contractors and are not employees, servants or agents of VillageFest or of the City. Vendor has the sole responsibility of providing workers' compensation coverage for its employees and City shall not be responsible for injuries or bodily damage done to Vendor, Vendor's volunteers, employees, representatives and/or staff.

### **ARTICLE 14**

#### **Cancellation**

14.1 City shall retain the right to cancel this Agreement at any time and for any reason without penalty. In the event this Agreement is canceled, Vendor shall not be entitled to a refund of Vendor's Rental Fee as set forth in this Agreement.

### **ARTICLE 15**

#### **Entire Agreement**

15.1 This Agreement evidences the entire agreement between the parties hereto and supersedes any and all prior agreements and understandings between the parties pertaining to VillageFest.

**ARTICLE 16**  
**Effective Date**

16.1 This Agreement is effective upon City's acceptance as evidenced by execution of this Agreement by a City authorized representative in the space provided below.

CITY OF PRAIRIE VILLAGE:

VENDOR:

By: \_\_\_\_\_

By: SHam

Printed Name: \_\_\_\_\_

Printed Name: Steve Ham: How

Title: \_\_\_\_\_

Title: owner, Chris Cakes Inc

Date: \_\_\_\_\_

Date: 3-12-13

## EXHIBIT A

### PROPOSED FOOD ITEMS

<u>FOOD</u>	<u>PRICE</u>
pancakes	3.25
SAUSAGE	
SHRIMP	
burrito	
Tang	

As a Vendor you are responsible for proper signage. This needs to be visible and also include prices. We will provide advertising, a map of the grounds, & signs throughout the grounds for direction.

**There is also NO ALCOHOL to be sold at the event!!!!**

**ENTERTAINMENT/ VENDOR AGREEMENT  
2013**

**THIS ENTERTAINMENT/VENDOR AGREEMENT**, (hereinafter “Agreement”) is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2013, by and between the City of Prairie Village, Kansas (hereinafter “the City”) and American Waste Systems, Inc, (hereinafter “Vendor”).

WHEREAS, the City is sponsoring an event, entitled VillageFest, for the general public which is to be held on July 4, 2013; and

In consideration of the mutual promises and covenants contained herein, Vendor and City agree as follows:

1. Type of Space Provided: the Vendor shall specify the square footage required including facility foot print and clearance space outside the facility foot print:
  
2. Type of Service Provided: the Vendor agrees to provide the following services:  
  
24x16 stage
  
3. Hours of Operation: The Vendor shall provide services to the general public from 8:00 a.m. to 12:00 a.m. on July 4, 2013.
  
4. Access to Facilities:
  - a. Vendor shall have access to Vendor’s location for set-up on July 4, 2013 from 6:30 a.m. to 8:30 a.m. and for breakdown after 1:00 pm. Vendor’s vehicle(s) must be removed from the VillageFest grounds within one hour after the end of this time period or the vehicle(s) will be subject to tow.
  
  - b. Vendor shall furnish City a list of each equipment/facility showing the required electrical power in AC volts and AC amp, required water from a garden hose, required fencing, and required set V up/breakdown assistance specifying skills required, and any other special requirements as part of this Agreement. Any amendments to Exhibit A must be approved by the City in writing.
  
5. Compensation: In consideration for the entertainment provided, the City shall pay to the Vendor the amount of \$827.00 to be paid on or before July 4, 2013 unless the event is canceled as provided in Section 6 of this agreement.

6. Cancellation of the Event: The City has full authority to cancel the event for any reason. In the event that the City cancels VillageFest, the City shall notify Vendor of the cancellation in a timely manner, and this Agreement shall be terminated.
7. Clean-Up: Vendor shall maintain its Vendor's Booth and/or operating areas in a neat, clean, sanitary condition and in good order and repair, free and clean of all litter, debris and rubbish at all times. Vendor shall be responsible for the clean up of its areas on an ongoing basis during the VillageFest and at the conclusion of business and conclusion of the VillageFest. Vendor's clean up responsibilities shall also include, but not be limited to, bagging and depositing Vendor's trash in the designated containers. City reserves the right to terminate all of Vendor's rights under this Agreement, including the right to operate if Vendor has failed to maintain clean and sanitary conditions in and around Vendor's location.
8. Indemnity:
  - a. Vendor shall indemnify and hold harmless the City and its agents and employees from and against all claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from the performance of the Work, provided that any such claim, damage, loss or expense (i) is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself) including the loss of use resulting there from and (ii) is caused in whole or in part by any negligent act or omission of the Vendor, or any sub-contractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in this Paragraph.
  - b. The Vendor is responsible for all items left on the VillageFest premises, including, but not limited to, those items left in and around Vendor's location before, during and after the hours of operation of the VillageFest. Vendor shall be solely responsible for its own security at all times. Risk of loss of equipment, cash and other items belonging to or in the possession of Vendor is on Vendor. City shall not be responsible for loss of or damage to Vendor's property or inventory whether attributable to theft, vandalism spoilage, weather or any other cause.
  - c. Vendor is responsible for and agrees to reimburse City for any damage caused by Vendor to City's property or to property being used by the City.
  - d. Vendor shall furnish City with a valid certificate of broad form general liability insurance, completed operations and products insurance coverage for

personal injuries and property damage with combines single limits of coverage of not less than \$1,000,000.00 per occurrence, with the City named as additional insured on such policies. **Copies of said certificate shall be provided to City on or before June 21, 2013.**

9. **Notification:** Notification and any other notices under this Agreement shall be made as follows:

City Clerk  
7700 Mission Road  
Prairie Village, KS 66208  
(913) 381-6464

10. **Staff:**

- a. Vendor shall provide managers and sufficient staff to keep Vendor's Booth operational during the hours of operation of the VillageFest.
- b. Vendor's volunteers, employees, representatives and staff shall be prohibited by Vendor from consuming alcoholic beverages, be in possession of controlled substances, acting in a manner prohibited by state law or city ordinance, or conducting themselves in a manner detrimental to the event and the public attending when on duty at or in Vendor Booth.
- c. Vendor and its employees are independent contractors and are not employees, servants or agents of VillageFest or of the City. Vendor has the sole responsibility of providing workers' compensation coverage for its employees.

11. **Cancellation:** The City shall retain the right to cancel this Agreement at any time without penalty.

12. **Entire Agreement:** This Agreement evidences the entire agreement between the parties hereto and supersedes all prior agreements and understandings pertaining to VillageFest.

13. **Effective Date:** This Agreement is effective upon City's acceptance as evidence by the execution of this Agreement by City's authorized representatives in the space provided below.

**CITY OF PRAIRIE VILLAGE**

By: \_\_\_\_\_  
(signed)

Ronald L. Shaffer \_\_\_\_\_

Mayor \_\_\_\_\_

City of Prairie Village \_\_\_\_\_

7700 Mission Road \_\_\_\_\_

Prairie Village, Kansas, 66208 \_\_\_\_\_

913-381-6464 \_\_\_\_\_

\_\_\_\_\_  
(date of execution)

ATTEST:

\_\_\_\_\_  
City Clerk, Joyce Hagen-Mundy

**VENDOR**

By: \_\_\_\_\_  
(signed)

Carl Holtsman \_\_\_\_\_  
(typed name)

Pres. \_\_\_\_\_  
(typed title)

Total Venue \_\_\_\_\_  
(typed company name)

11610 Grandview Pl. \_\_\_\_\_  
(typed address)

KC MO 64137 \_\_\_\_\_  
(typed city, state, zip)

816-966-1161 \_\_\_\_\_  
(typed telephone number)

3/12/13 \_\_\_\_\_  
(date of execution)

APPROVED BY:

\_\_\_\_\_  
City Attorney, Catherine P. Logan

Please write check to:  
American Waste System Inc.



**ENTERTAINMENT/ VENDOR AGREEMENT  
2013**

**THIS ENTERTAINMENT/VENDOR AGREEMENT**, (hereinafter "Agreement") is made and entered into this 20 day of March, 2013, by and between the City of Prairie Village, Kansas (hereinafter "the City") and A-Z Exotic Animal Entertainment, (hereinafter "Vendor").

WHEREAS, the City is sponsoring an event, entitled VillageFest, for the general public which is to be held on July 4, 2013; and

In consideration of the mutual promises and covenants contained herein, Vendor and City agree as follows:

1. Type of Space Provided: the Vendor shall specify the square footage required including facility foot print and clearance space outside the facility foot print:  
40x40 Petting Zoo  
30x30 Pony Rides
2. Type of Service Provided: the Vendor agrees to provide the following services:  
Petting Zoo & Pony Rides
3. Hours of Operation: The Vendor shall provide services to the general public from 9:00 a.m. to 1:00 p.m. on July 4, 2013.
4. Access to Facilities:
  - a. Vendor shall have access to Vendor's location for set-up on July 3, 2013 and July 4, 2013 from 6:30 a.m. to 8:30 a.m. and for breakdown after 1:00 pm. Vendor's vehicle(s) must be removed from the VillageFest grounds within one hour after the end of this time period or the vehicle(s) will be subject to tow.
  - b. Vendor shall furnish City a list of each equipment/facility showing the required electrical power in AC volts and AC amp, required water from a garden hose, required fencing, and required set V up/breakdown assistance specifying skills required, and any other special requirements as part of this Agreement. Any amendments to Exhibit A must be approved by the City in writing.
5. Compensation: In consideration for the entertainment provided, the City shall pay to the Vendor the amount of \$1,950.00, to be paid on or before July 4, 2013 unless the event is canceled as provided in Section 6 of this agreement.

6. Cancellation of the Event: The City has full authority to cancel the event for any reason. In the event that the City cancels VillageFest, the City shall notify Vendor of the cancellation in a timely manner, and this Agreement shall be terminated.
7. Clean-Up: Vendor shall maintain its Vendor's Booth and/or operating areas in a neat, clean, sanitary condition and in good order and repair, free and clean of all litter, debris and rubbish at all times. Vendor shall be responsible for the clean up of its areas on an ongoing basis during the VillageFest and at the conclusion of business and conclusion of the VillageFest. Vendor's clean up responsibilities shall also include, but not be limited to, bagging and depositing Vendor's trash in the designated containers. City reserves the right to terminate all of Vendor's rights under this Agreement, including the right to operate if Vendor has failed to maintain clean and sanitary conditions in and around Vendor's location.
8. Indemnity:
  - a. Vendor shall indemnify and hold harmless the City and its agents and employees from and against all claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from the performance of the Work, provided that any such claim, damage, loss or expense (i) is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself) including the loss of use resulting there from and (ii) is caused in whole or in part by any negligent act or omission of the Vendor, or any sub-contractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in this Paragraph.
  - b. The Vendor is responsible for all items left on the VillageFest premises, including, but not limited to, those items left in and around Vendor's location before, during and after the hours of operation of the VillageFest. Vendor shall be solely responsible for its own security at all times. Risk of loss of equipment, cash and other items belonging to or in the possession of Vendor is on Vendor. City shall not be responsible for loss of or damage to Vendor's property or inventory whether attributable to theft, vandalism spoilage, weather or any other cause.
  - c. Vendor is responsible for and agrees to reimburse City for any damage caused by Vendor to City's property or to property being used by the City.
  - d. Vendor shall furnish City with a valid certificate of broad form general liability insurance, completed operations and products insurance coverage for

personal injuries and property damage with combines single limits of coverage of not less than \$1,000,000.00 per occurrence, with the City named as additional insured on such policies. **Copies of said certificate shall be provided to City on or before June 21, 2013.**

9. **Notification:** Notification and any other notices under this Agreement shall be made as follows:

City Clerk  
7700 Mission Road  
Prairie Village, KS 66208  
(913) 381-6464

10. **Staff:**

- a. Vendor shall provide managers and sufficient staff to keep Vendor's Booth operational during the hours of operation of the VillageFest.
- b. Vendor's volunteers, employees, representatives and staff shall be prohibited by Vendor from consuming alcoholic beverages, be in possession of controlled substances, acting in a manner prohibited by state law or city ordinance, or conducting themselves in a manner detrimental to the event and the public attending when on duty at or in Vendor Booth.
- c. Vendor and its employees are independent contractors and are not employees, servants or agents of VillageFest or of the City. Vendor has the sole responsibility of providing workers' compensation coverage for its employees.

11. **Cancellation:** The City shall retain the right to cancel this Agreement at any time without penalty.

12. **Entire Agreement:** This Agreement evidences the entire agreement between the parties hereto and supersedes all prior agreements and understandings pertaining to VillageFest.

13. **Effective Date:** This Agreement is effective upon City's acceptance as evidence by the execution of this Agreement by City's authorized representatives in the space provided below.

**CITY OF PRAIRIE VILLAGE**

By: \_\_\_\_\_  
(signed)

Ronald L. Shaffer

Mayor

City of Prairie Village

7700 Mission Road

Prairie Village, Kansas, 66208

913-381-6464

\_\_\_\_\_  
(date of execution)

ATTEST:

\_\_\_\_\_  
City Clerk, Joyce Hagen-Mundy

**VENDOR**

By Janet E. KirkLam  
(signed)

Janet E KirkLam

(typed name)

Owner

(typed title)

AZ Exotic's Mobile Petting Zoo & Pony Rides  
(typed company name)

7907 E 233rd

(typed address)

Peculiar MO 64078

(typed city, state, zip)

816-517-2254

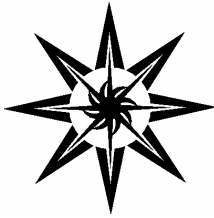
(typed telephone number)

March 20, 2013

(date of execution)

APPROVED BY:

\_\_\_\_\_  
City Attorney, Catherine P. Logan



**MAYOR**

**Council Meeting Date: May 6, 2013**

**Consent Agenda: Consider City Proclamations**

---

**RECOMMENDATION**

Recommend the City Council authorize the Mayor to execute the following proclamations:

- May 1, 2013 - Cold War Victory Day
- May 5 - 11, 2013 - Municipal Clerk's Week
- May 12 - 18, 2013 - National Police Week

**BACKGROUND**

Mayor Shaffer has received requests for the above referenced proclamations. The Cold War Veterans Association has established May 1<sup>st</sup> to commemorate our victory in the Cold War and those who served in the armed forces during this long conflict. The City recognizes the service of its Municipal Clerk Staff and the vital services they perform and their dedication to the community. The City also recognizes National Police Week to publicly salute the service of law enforcement officers in our community and in communities across the nation.

**ATTACHMENTS**

- Cold War Victory Day - May 1, 2013
- Municipal Clerk's Week - May 5-11, 2013
- National Police Week Proclamation - May 12-18, 2013

**PREPARED BY**

Joyce Hagen Mundy, City Clerk  
May 1, 2013



# CITY OF PRAIRIE VILLAGE PROCLAMATION

WHEREAS, the Cold War (September 2, 1945 to December 26, 1991) was a long and costly struggle for freedom between the forces of democratic nations, led by the United States, against the tyranny and brutality of the Union of Soviet Socialist Republics; and

WHEREAS, the Cold War began after World War II with the threat of world domination in Europe and Asia by the Communist ideology and military action, and this unique war was marked by periodic confrontations between the West and East including international crises such as the Berlin Airlift in 1948, the Korean War, 1950-1953, the Cuban Missile Crisis of 1962, and the Vietnam war, 1960-1975; and

WHEREAS, the end of the longest undeclared war in United States history began with the fall of the Berlin Wall in November 1989, and culminated with the collapse of the Soviet Union's Communist government in 1991; and

WHEREAS, thousands of Prairie Village citizens valiantly served in our nation's armed forces during this long conflict, with many sacrificing their lives; and

WHEREAS, the Cold War Veterans Association (CWVA), a Kansas-based, federally recognized Veterans' Service Organization, has identified May 1 as the day to commemorate our victory in the Cold War.

NOW, THEREFORE, I Ronald L. Shaffer, Mayor of City of Prairie Village, Kansas, do hereby proclaim May 1, 2013 as

## COLD WAR VICTORY DAY

In Prairie Village, and urge all citizens to recognize and participate in its observance.

---

**Mayor Ronald L. Shaffer**

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**City Clerk**

---

**Date**

C

# CITY OF PRAIRIE VILLAGE

## PROCLAMATION

**Municipal Clerks Week  
May 5 through May 11, 2013**

Whereas, The Office of the Municipal Clerk, a time honored and vital part of local government exists throughout the world, and

Whereas, The Office of the Municipal Clerk is the oldest among public servants, and

Whereas, The Office of the Municipal Clerk provides the professional link between the citizens, the local governing bodies and agencies of government at other levels, and

Whereas, Municipal Clerks have pledged to be ever mindful of their neutrality and impartiality, rendering equal service to all.

Whereas, The Municipal Clerk serves as the information center on functions of local government and community.

Whereas, Municipal Clerks continually strive to improve the administration of the affairs of the Office of the Municipal Clerk through participation in education programs, seminars, workshops and the annual meetings of their state, province, county and international professional organizations.

Whereas, It is most appropriate that we recognize the accomplishments of the Office of the Municipal Clerk.

**Now, Therefore, I**, Ronald L. Shaffer, Mayor of the City of Prairie Village, do recognize the week of

**May 5 through May 11, 2013, as Municipal Clerks Week,**

and further extend appreciation to our Municipal Clerk staff: Joyce Hagen Mundy, Jeanne Koontz, Barbara Fisher, Christine Tame & Donna Blake and to all Municipal Clerks for the vital services they perform and their exemplary dedication to the communities they represent.

---

**Mayor Ronald L. Shaffer**

---

**City Clerk**

---

**Date**

# CITY OF PRAIRIE VILLAGE

## Proclamation

**Police Week  
May 12 through May 18, 2013**

WHEREAS, there are approximately 900,000 law enforcement officers serving in communities across the United States, including the dedicated members of the Prairie Village Police Department; and

WHEREAS, nearly 60,000 assaults against law enforcement officers are reported each year, resulting in approximately 16,000 injuries; and

WHEREAS, since the first recorded death in 1791, almost 20,000 law enforcement officers in the United States have made the ultimate sacrifice and been killed in the line of duty; and

WHEREAS, the names of these dedicated public servants are engraved on the walls of the National Law Enforcement Officers Memorial in Washington, D.C.; and

WHEREAS, new names of fallen heroes are being added to the National Law Enforcement Officers Memorial this spring, including 119 officers killed in 2012 and 201 officers killed in previous years; and

WHEREAS, the service and sacrifice of all officers killed in the line of duty will be honored during the National Law Enforcement Officers Memorial Fund's 25<sup>th</sup> Annual Candlelight Vigil, on the evening of May 13, 2013; and

WHEREAS, the Candlelight Vigil is part of National Police Week, which will take place this year on May 12-18; and

WHEREAS, May 15 is designated as Peace Officers Memorial Day, in honor of all fallen officers and their families and U.S. flags should be flown at half staff;

Now, therefore, I, Ronald L. Shaffer, Mayor of the City of Prairie Village, do hereby proclaim the week of

**May 12 through 18, 2013 as "Police Week"**

and publicly salute the service of law enforcement officers in our community and in communities across the nation.

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**Mayor Ronald L. Shaffer**

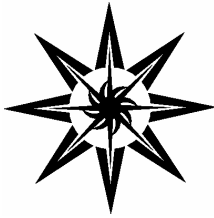
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**City Clerk**

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**Date**





## PUBLIC WORKS DEPARTMENT

Council Meeting Date: May 6, 2013

### CONSENT AGENDA: CONSIDER BID AWARD TO PURCHASE SWIMMING POOL CHEMICALS

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#### RECOMMENDATION

Staff recommends the City Council approve the bid award to Edwards Chemical, Inc., for swimming pool chemicals.

#### BACKGROUND

On April 19, 2013 the City Clerk opened bids for swimming pool chemicals. Two bids were received, Edwards Chemicals and Leslie's Poolmart. Edwards Chemicals, Inc., is the apparent low bidder and has been the supplier of these chemicals to the City for over eighteen years. Following is the Bid unit pricing:

Description	Units	Edwards Chem	Leslie's Poolmart
Calcium Chloride (50 pound bags)	Pounds	\$ 0.2708	\$ 0.4190
Chlorine	Gallons	\$ 1.3600	No Bid
Soda Ash (50 pound bags)	Pounds	\$ 0.2636	\$ 0.3999
Sodium Bicarbonate (50 lb. bags)	Pounds	\$ 0.2520	\$ 0.3590
Sulfuric Acid (55 gallon drums)	Gallons	\$ 2.7891	No Bid
Sodium Thiosulfate (50 lb. bags)	Pounds	\$ 0.6100	\$ 0.8590
Delivery Charge	Each	\$ 33.7500	\$ 0
Fuel Charge	Each	\$ 6.0000	\$ 0

#### FUNDING SOURCE

Funds are available in the Public Works Swimming Pool Operating Budget.

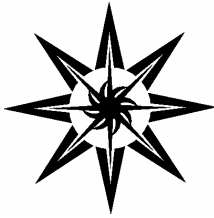
#### RELATION TO VILLAGE VISION

None

#### PREPARED BY

Keith Bredehoeft, Interim Director of Public Works

Date April 30, 2013



## PUBLIC WORKS DEPARTMENT

Council Meeting Date: May 6, 2013

### CONSIDER APPROVAL OF REQUEST TO HAVE KCP&L INSTALL A NEW STREET LIGHT AT 8136 ASH STREET

#### RECOMMENDATION

Staff recommends the City Council to approve a request to have KCPL install a new street light at 8136 Ash Street

#### BACKGROUND

Residents on Ash Street south of 81<sup>st</sup> Street have requested a street light be added at 8136 Ash Street. Council Policy CP250 allows residents to request street lights. The policy requires 50 percent of the abutting properties within 500 feet of the proposed street light to be in favor of adding the street light. Public Works does find the location of the new street light to be acceptable and warranted.

On Ash Street 100 percent of the nine residents within 500 feet of the proposed street light voted in favor of the street light.

KCP&L will install the street light within two month after the request is made to them. The current cost to the city of adding this street light is approximately \$300 per year and would be paid with our lease payments for streetlights.

CP250 states that the Council Committee of the Whole will hold a public information meeting related to the addition of a new street light. Given that the street light has 100% support the public information meeting is not necessary.

#### FUNDING SOURCE

Funds are available in the 2013 Operating Budget.

#### RELATED TO VILLAGE VISION

*CC1a Make streetscape improvements to enhance pedestrian safety and attractiveness of the public realm.*

#### ATTACHMENTS

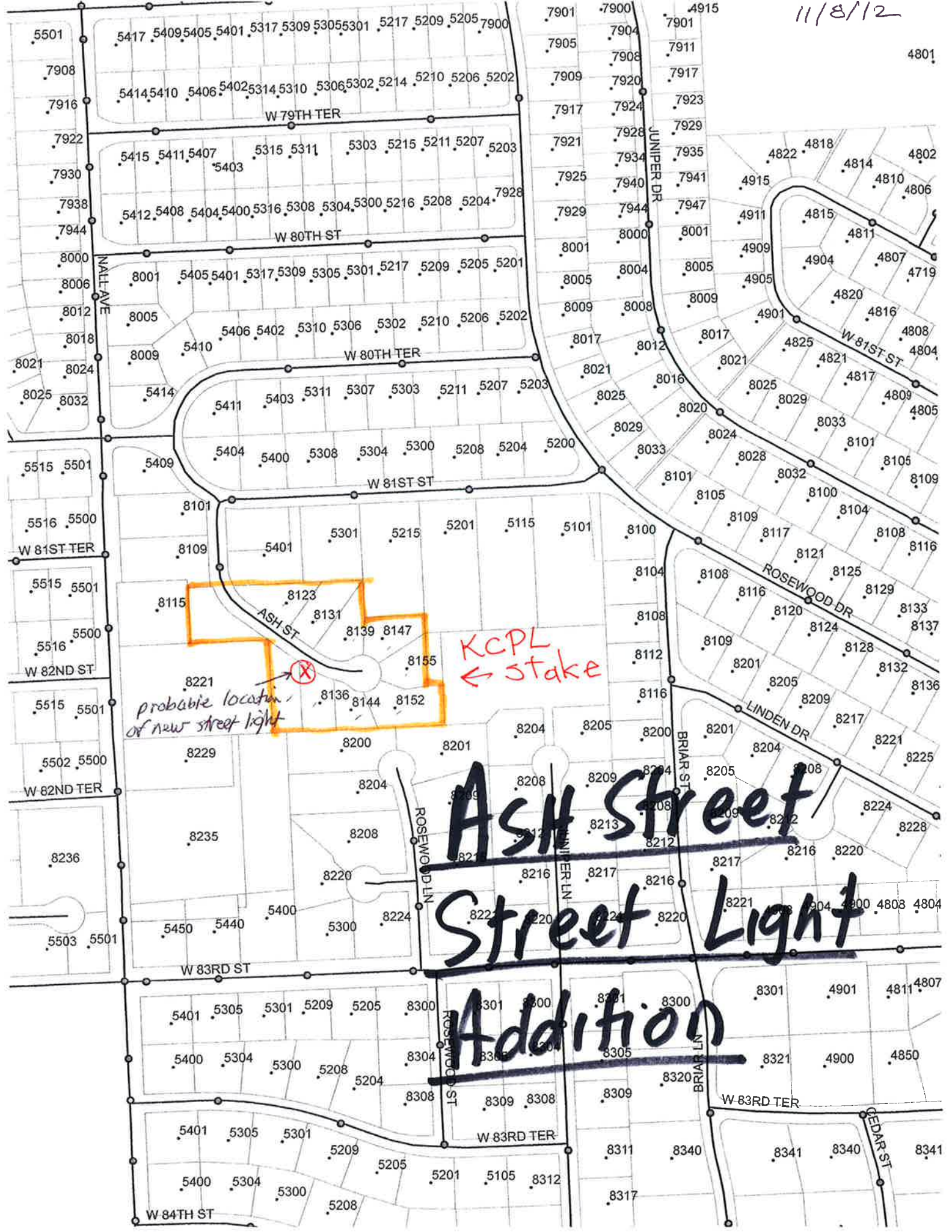
1. Location Map showing proposed street light

#### PREPARED BY

Keith Bredehoeft, Project Manager

May 2, 2013

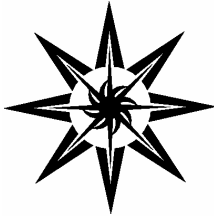
11/8/12



probable location of new street light

KCPL ← stake

Ash Street  
Street Light  
Addition



## PUBLIC WORKS DEPARTMENT

Council Committee Meeting Date: May 6, 2013

Council Meeting Date: May 6, 2013

**\*COU2013-15: CONSIDER APPROVAL OF A CONTRACT WITH LITTLE JOE'S ASPHALT INC. FOR THE 2013 STREET REPAIR PROGRAM.**

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### RECOMMENDATION

Move to authorize the Mayor to sign the Construction Contract with Little Joe's Asphalt Inc. for Project P5001, 2013 Street Repair Program for \$173,000.00.

### BACKGROUND

On April 19, 2013, the City Clerk opened bids for Project P5001, 2013 Street Repair Program. Four bids were received:

Little Joe's Asphalt, Inc.	\$122,049.32
O'Donnell & Sons Const. Co.	\$124,787.50
O'Donnell Way Construction	\$129,953.50
McAnany Construction Inc.	\$152,500.00
Engineers Estimate	\$178,125.00

This program consists of asphalt street repairs at various locations throughout the City. The program allows us to address areas where settlement or deterioration has occurred, and make repairs to those areas.

There is \$173,000 budgeted for this project and the contract will be awarded for that amount. Locations of repairs will be adjusted (increased) to utilize the \$173,000 budget.

City staff has reviewed the bids for accuracy and found no errors.

### FUNDING SOURCE

Funding is available in the 2013 Capital Infrastructure Program Project P5001.

### ATTACHMENTS

1. Construction Agreement with Little Joe's Asphalt, Inc.

### PREPARED BY

Keith Bredehoeft, Project Manager

April 23, 2013

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**PROJECT P5001:**

**2013 STREET REPAIR PROGRAM**

**CONSTRUCTION AGREEMENT**

**BETWEEN**

**CITY OF PRAIRIE VILLAGE, KS**

**AND**

**LITTLE JOE'S ASPHALT, INC.**

**CONSTRUCTION AGREEMENT  
BETWEEN  
THE CITY OF PRAIRIE VILLAGE, KANSAS  
AND  
LITTLE JOE'S ASPHALT, INC.  
FOR  
PROJECT P5001 - 2013 STREET REPAIR PROGRAM**

**THIS AGREEMENT**, is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2013, by and between the City of Prairie Village, Kansas, hereinafter termed the "City", and Contractor hereinafter termed in this agreement, "Contractor", for the construction and completion of Project, designated, described and required by the Project Manual and Bid proposal, to wit:

**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 One Hundred Seventy Three and 00/100 Dollars (\$173,000.00) for all Work covered by and included in the Contract; payment thereof to be made in cash or its equivalent and in a manner provided in the Contract Documents.

**LIQUIDATED DAMAGES:** The contract 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 total completion date shall be set forth for both the Total Project Work and, when applicable, the Project Segments. Liquidated damages shall apply to the Total Completion Date for the Total Project Work (as may be extended under the Contract) and, when applicable, the Total Completion Date for each Project Segment (as may be extended under the Contract), in accordance with this Agreement and the Special Conditions. Liquidated Damages are described in greater detail below and the applicable rates for the subject Project are set forth in the **Special Conditions**, attached hereto and incorporated herein by this reference.

Within ten (10) calendar days after receipt of written notice to commence from the City, the Contractor shall commence the Work to be done under this Contract. The Contractor agrees to complete the Total Project Work and Project Segments hereunder within the contract time period set forth in the Contract, or as it may be extended under the terms of this Contract. At the time of execution of this Contract, the Contractor shall furnish the Engineer with a project schedule setting forth, in detail, the proposed sequence of activities and the dates on which such activities shall be completed. The schedule shall also set forth the dates on which the Project Segments (if applicable to the Contract) shall be totally complete.

Contractor agrees that time is of the essence and any term pertaining to Contractor timely performing so as to achieve Total Completion when required under the Contract 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 required date for Total Completion for the Total Project 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 Total Completion date. Such amount shall be deducted from any amounts due Contractor under this agreement.

The Contractor agrees that, in the event Project Segments are not Totally Complete, the City may also assess other liquidated damages for each calendar day beyond the date for Total Completion in an amount set forth in the Special Conditions. The Contractor agrees that such assessment is a reasonable estimate of the damages that may be sustained by the City in the event the project is delayed and that such amount is not a penalty.

Further, the Contractor agrees that, in the event Contractor does not carry out such work at such rates of progress as required by the Construction Schedule, 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.

## 1. DEFINITIONS:

### 1.1 Following words are given these definitions:

**BIDDER** shall mean any individual: partnership, corporation, association or other entity submitting a Bid for the work.

**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.

**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.

**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 mean the Construction Agreement, the accepted Bid Proposal, Contractor's Performance Bond, Contractor's Maintenance Bond, Statutory Bond, Project Manual and any other documents that have bearing the Work prescribed in the Project.

**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.

**ENGINEER** shall mean the individual, firm or entity designated in the Contract Documents, which has been employed or contracted by the City for the performance of engineering services in connection with the Work.

**FIELD ORDER** shall mean a written order issued by the Engineer 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.

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

**NOTICE OF AWARD** shall mean the written notice by the City to the apparent successful Bidder stating that upon compliance with the conditions precedent enumerated therein, within the time specified, the City will sign and deliver the Agreement.

**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 drawings which may have been prepared by or for the City 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.

**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.

**SUB-CONTRACTOR** 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 be defined as fulfilling 100 percent of the work required in this contract by the date specified herein.

**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.

**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.

- 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 City Engineer 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 City Engineer.
- 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:

- 2.1 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.
- 2.2 The Contract shall be construed in accordance with the laws of the state of Kansas.

## 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 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 Engineer 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 Engineer 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 Engineer 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 Pursuant to K.S.A. No. 16-133, if the Contractor to whom the Contract is awarded is not a resident firm of the State of Kansas, he shall execute and file "Certificate of Appointment of Process of Agent" with the Clerk of the District Court at the Johnson County Courthouse. These forms may be obtained at the Office of the Clerk of the District Court. After execution of the documents, they shall be filed with the Clerk of the District Court. A filing fee of Five Dollars (\$5.00) is required. These certificates are pursuant to the General Statutes of Kansas, and shall be filed prior to the formal execution of the Contract Documents. Failure to comply with

these requirements shall disqualify the Contractor for the awarding of this Contract.

#### 4. WORK SUPERINTENDENT

- 4.1 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.
- 4.2 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.
- 4.3 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.
- 4.4 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.
- 4.5 The Contractor will be required to contact the Engineer daily to advise whether and/or where the Contractor and/or the Subcontractor's crews will be working that day, in order that the Engineer's representative is able to monitor properly the Work.

#### 5. ENGINEER

- 5.1 It is mutually agreed by and between the parties to this Contract Agreement that the Engineer shall act as the representative of the City and shall observe, as required, the work included herein.
- 5.2 In order to prevent delays and disputes and to discourage litigation, it is further agreed by and between the parties to this Contract that the Engineer 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 Engineer shall determine, where applicable, questions in relation to said Work and the construction thereof; that Engineer shall, where applicable decide questions which may arise relative to the execution of this Contract on the part of said Contractor; that the Engineer'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 Engineer 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 Engineer 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.
- 5.3 The Engineer, unless otherwise directed or agreed to by the City in writing, will perform those duties and discharge those responsibilities allocated to the Engineer as set forth in this Contract. The Engineer shall be the City's representative from the effective date of this Contract until final payment has been made. The Engineer shall be authorized to act on behalf of the City only to the extent provided in this Contract.
- 5.4 The City and the Contractor shall communicate with each other in the first instance through the Engineer.
- 5.5 The Engineer shall be the initial interpreter of the requirements of the Project Manual and the judge of the performance by the Contractor. The Engineer shall render written graphic interpretations necessary for the proper execution or progress of the Work with reasonable promptness on request of the Contractor.
- 5.6 The Engineer 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 Engineer's recommendation of any payment requested in an Application for Payment will constitute a representation by Engineer to City, based on Engineer's on-site observations of the Work in progress as an experienced and qualified design professional and on Engineer'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 Engineer'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 Engineer 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 Engineer 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.
- 5.7 The Engineer may refuse to recommend the whole or any part of any payment if, in Engineer's opinion, it would be incorrect to make such representations to City. Engineer 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 Engineer'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.
- 5.8 The City may refuse to make payment of the full amount recommended by the Engineer 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 Engineer) stating the reasons for such action.

- 5.9 The Engineer will have the authority to reject Work, which is defective or does not conform to the requirements of this Contract. If the Engineer deems it necessary or advisable, the Engineer shall have authority to require additional inspection or testing of the Work for compliance with Contract requirements.
- 5.10 The Engineer 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.
- 5.11 The Engineer 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.
- 5.12 The Engineer, upon written request from the Contractor shall conduct observations to determine the date of substantial completion and the date of final acceptance. The Engineer 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.
- 5.13 The Engineer's decisions in matters relating to aesthetic effect shall be final if consistent with the intent of this Contract.
- 5.14 The Engineer 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 Engineer 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.
- 5.15 Any plan or method of work suggested by the Engineer, 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 Engineer and the City will assume no responsibility therefore.
- 5.16 It is agreed by the Contractor that the City shall be and is hereby authorized to appoint or employ, either directly or through the Engineer, 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 Engineer, or by the resident representatives for proper observation and examination of the Work and all parts thereof.
- 5.17 The Contractor shall comply with any interpretation of the Project Manual by the Engineer, 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 engineer, resident representative or observer, the Contractor may appeal in writing to the City Director of Public Works for a decision.

- 5.18 Resident representatives, observers, and other properly authorized representatives of the City or Engineer 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.
- 5.19 Such observation shall not relieve the Contractor from any obligation to perform said work strictly in accordance with the Project Manual.

## 6. WORK SCHEDULE:

- 6.1 The Contractor, within ten (10) calendar days after being instructed to do so in a written notice from the City, shall commence work to be done under this Contract.
- 6.2 The rate of progress shall be such that the Work shall have been completed in accordance with the terms of the Contract Documents on or before the completion date for the construction period named in the contract agreement, subject to any extension or extensions of such time made as hereinafter provided.
- 6.3 The Contractor shall be required to furnish the Engineer with a 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 portions of the work will be started and completed.
- 6.4 If at any time, in the opinion of the Engineer or City, proper progress is not being maintained; such changes shall be made in the schedule and resubmitted for consideration.
- 6.5 If the Contractor has not completed Work segments and is within a non-performance penalty period, he/she shall not be allowed to undertake a new Work segment until the Work segment in dispute is completed, unless expressly permitted by the City.
- 6.6 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.
- 6.7 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 Engineer. 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 Engineer.
- 6.8 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.

- 6.9 The Contractor shall provide 24 hours notice prior to commencing any work to the City Engineer. The Contractor shall communicate immediately any changes in the work schedule to the City Engineer.

## 7. DELAYS AND EXTENSIONS OF TIME

- 7.1 In executing the Contract, the Contractor expressly covenants and agrees that, in undertaking the completion of the work within the time herein fixed, he 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.
- 7.2 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 men 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 he shall in such cases be entitled to such extension of the time specified for the completion of the work as the City and the Engineer 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 Engineer in writing within one (1) week from the time when any such alleged cause for delay shall occur.

## 8. ADVERSE WEATHER:

- 8.1 Extensions of time for adverse weather shall be granted only under the conditions as hereinafter provided.
- 8.2 For conditions of weather or conditions at the site, so unusual as not to be reasonably anticipated, as determined by the Engineer, 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.
- 8.3 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.
- 8.4 Unusually Severe Weather is defined as weather, which is more severe than the adverse weather anticipated for the season, location, or activity involved.
- 8.5 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 both 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.

8.6 The following schedule of monthly-anticipated adverse weather delays will constitute the baseline for monthly weather time evaluations. The Contractor's Progress 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	MA R	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
10	8	7	6	7	7	5	5	5	4	5	9

- 8.7 Upon receipt of the Notice to Proceed, and continuing throughout the Contract, the Contractor shall record on their daily construction report, the occurrence of adverse weather and resultant impact to normally scheduled work.
- 8.8 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.
- 8.9 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.
- 8.10 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 Progress Schedule.
- 8.11 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.
- 8.12 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.
- 8.13 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.

- 8.14 The Contractor shall summarize and report all actual adverse weather delay days for each month to the Engineer by the tenth (10th) day of the following month. A narrative indicating the impact of adverse weather conditions on the scheduled critical activities shall be included.
- 8.15 Any claim for extension of time due to unusually severe weather shall be submitted to the Engineer 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 established by the Regulations of the Contract and Special Conditions and as described above.
- 8.16 The Contractor shall include and indicate the monthly-anticipated adverse weather days, listed above, in their Progress Schedule. (Reference Section 3.1.1 for Progress Schedule requirements)
- 8.17 The Contractor shall indicate the approved adverse weather days (whether less or more than the anticipated days) in their monthly Progress Schedule update.

## 9. PAYMENT PROCEDURE:

- 9.1 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.
- 9.2 Each application for payment must be submitted with Contractor's waiver for period of construction covered by application. Each progress 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.
- 9.3 The Contractor will submit waivers on forms, and executed in a manner, acceptable to City.
- 9.4 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.
- 9.5 The Engineer 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 Engineer 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.

- 9.6 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 amount. Percentage deductions will be computed at the stated percentage of the amount earned.
- 9.7 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.
- 9.8 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.
- 9.9 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.
- 9.10 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 Engineer, 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.

## 10. COMPLETION AND FINAL PAYMENT

- 10.1 Work completion shall be defined as all elements of the Work or work segment, being complete including all subsidiary items and "punch-list" items.
- 10.2 When all of the Work is finally complete and the Contractor is ready for a final inspection, it shall notify the City and the Engineer thereof in writing. Thereupon, the Engineer will make final inspection of the Work and, if the Work is complete in accordance with this Contract, the Engineer 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 Engineer 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.

- 10.3 The Contractor shall not be entitled to any payment unless and until it submits to the Engineer 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.
- 10.4 The City shall make final payment of all sums due the Contractor within thirty days of the later of the Engineer's execution of a final Certificate for Payment.
- 10.5 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.

## 11. CLAIMS BY THE CONTRACTOR

- 11.1 All Contractor claims shall be initiated by written notice and claim to the Engineer. 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.
- 11.2 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 Engineer and the Contractor.
- 11.3 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.
- 11.4 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.
- 11.5 The City reserves the right to increase or decrease quantities, and alter the details of construction including grade and alignment as the Engineer 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 amount based on the proposed quantity and the contract unit price).
- 11.6 When the alterations cause an increase or decrease in excess of the 25 percent indicated above, either the Contractor or the Engineer may request an adjustment of the unit price to be paid for the item or items.
- 11.7 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.
- 11.8 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.
- 11.9 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, 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.
- 11.10 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 Engineer 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.

- 11.11 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 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, except as provided herein.
- 11.12 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

## 12. CHANGES IN THE WORK

- 12.1 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.
- 12.2 The Engineer 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.
- 12.3 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.
- 12.4 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 Engineer 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 Engineer 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 Engineer's Certificate for Payment.

- 12.5 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.
- 12.6 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.

### 13. INSURANCE AND HOLD HARMLESS.

- 13.1 The Contractor shall assume full responsibility for the protection of all public and private property, structures, sewers, and utilities, both above and below the ground, along, beneath, above, across or near the site or sites of the work being performed under this Contract, 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 placed 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.
- 13.2 To the fullest extent permitted by law, the Contractor shall indemnify, defend, and hold harmless the City, the Engineer, and their agents and employees from and against all claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from the performance of the Work, provided that any such claim, damage, loss or expense (1) is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of property (other than the Work itself) including the loss of use resulting there-from, and (2) is caused in whole or in part by any intentional or negligent act or omission of the Contractor, any Subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity, which would otherwise exist.
- 13.3 All property damaged shall be repaired or replaced to a condition immediately prior to the time of damage, and to the satisfaction of the City.
- 13.4 All loss or damage arising out of the nature of the work to be done, or from the action of the elements, or from floods or overflows, or from ground water, or from unusual obstructions or

difficulties, or any other natural or existing circumstances either known or unforeseen, which may be encountered in the prosecution of the said work shall be sustained and borne by the Contractor at its own cost and expense.

- 13.5 The Contractor shall give reasonable notice to the City or owners of public or private property and utilities when such property is liable to injury or damage through the performance of the Work, and shall make all necessary arrangements with such City or owners relative to the removal and replacement or protection of such property or utilities.
- 13.6 The Contractor shall satisfactorily shore, support, and protect all structures and all pipes, sewers, drains, conduits, and other utility facilities, and shall be responsible for any damage resulting thereto. The Contractor shall not be entitled to any damages or extra compensation because of any postponement, interference, or delay caused by any such structures and facilities being on the line of the Work whether they are shown on the plans or not, specifically including, but not limited to, damages due to delay in utility relocation.
- 13.7 The Contractor shall secure and maintain, throughout the duration of this Contract, insurance from a company authorized to do business in the State of Kansas. Such insurance shall be of such types and in such amounts as may be necessary to protect himself and the interests of the City and agents of the City against all hazards or risks of loss as hereinafter specified including an endorsement covering explosion, collapse, blasting and damage to underground property if applicable as specified in these Contract Documents. The form and limits of such insurance, together with the underwriter thereof in each case, shall be approved by the City, but regardless of such approval, it shall be the responsibility of the Contractor to maintain adequate insurance coverage at all times. Failure of the Contractor to maintain adequate insurance coverage shall not relieve it of any contractual responsibility or obligation. The insurance shall be provided on an occurrence basis and, not claims made basis.
- 13.8 The City and the Engineer shall be a named insured on such policies. Satisfactory certificates of insurance shall be filed with the City prior to starting any construction work on this Contract. The certificates shall state that thirty (30) days written notice will be given to the City before any policy coverage thereby is changed or canceled.
- 13.9 The Contractor shall secure and maintain through the duration of this Contract insurance on an occurrence basis of such types and in such amounts as may be necessary to protect the Contractor and the City and agents of the City against all hazards or risks of loss as hereinafter specified. The form and limits of such insurance, together with the underwriter thereof in each case, shall be approved by the City, but regardless of such approval, it shall be the responsibility of the Contractor to maintain adequate insurance coverage at all times. Failure of the Contractor to maintain adequate coverage shall not relieve it of any contractual responsibility or obligation, including but not limited to, the indemnification obligation.
- 13.10 Satisfactory certificates of insurance shall be filled with the City prior to the Contractor starting any construction work on this Contract. The Certificates shall state that the thirty (30) days written notice will be given to the City before any policy covered thereby is changed or cancelled. Failure by the Contractor to furnish the required insurance within the time specified in the notice of award of the Contract by the City, at the City option, may be the basis for the City exercising its right to terminate the Contract.



### 13.11 The liability limits shall be as stated:

- Worker's Compensation and Employer's Liability: This insurance shall protect the Contractor against all claims under applicable state worker's 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 a worker's compensation law. This policy shall include an "all states" endorsement.
- Automobile Liability.: This insurance shall be written in comprehensive form and shall protect the Contractor against all claims for injuries to members of the public and damage to property of others arising from the use of motor vehicles, and shall cover operation on and off the site of all motor vehicles licensed for highway use, whether they are owned, non-owned, or hired. Unless otherwise specified, Contractor's insurance shall include the following:

\$300,000 single limit (on contracts less than \$100,000)  
\$1,000,000 single limit (on contracts \$100,000 and more)

- Commercial General Liability. This insurance shall be written in comprehensive form including Products, completed operations and Personal and Advertising injury and shall protect the Contractor against all claims arising from injuries to members of the public or damage to property of others arising out of any act or omission of the Contractor or its agents, employees, or subcontractors. In addition, this policy shall specifically insure the contractual liability assumed by the Contractor under this Contract entitled "Insurance and Hold Harmless." The property damage liability coverage shall contain no exclusion relative to blasting, explosion, collapse of building, or damage to underground property. Unless otherwise specified, Contractor's insurance shall include the following:

\$2,000,000 combined single limit (on contracts in excess of \$100,000)  
\$300,000 combined single limit (on contracts in excess of \$10,000 to \$100,000)  
\$100,000 combined single limit (on contracts of \$10,000 and less)

- 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 Instructions to Bidders or Special Conditions.

## 14. INDEMNITY

- 14.1 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.

- 14.2 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 and County 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.
- 14.3 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 and County or any third party and, further, notwithstanding any theory of law including, but not limited to, a characterization of the City's or County's or any third party's joint, concurring or contributory or comparative fault or negligence as either passive or active in nature.
- 14.4 Nothing in this section shall be deemed to impose liability on the Contractor to indemnify the City or County for Loss when the negligence or other actionable fault the City is the sole cause of Loss.
- 14.5 With respect to the City's or County'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.

## 15. SUCCESSORS AND ASSIGNS

- 15.1 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.
- 15.2 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.
- 15.3 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.
- 15.4 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.

- 15.5 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.
- 15.6 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.
- 15.7 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.
- 15.8 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.

## 16. NON-DISCRIMINATION LAWS

- 16.1 The Contractor further agrees that the Contractor 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. 1201 et seq.) as well as all other federal, state and local laws, ordinances and regulations applicable to this Work and furnish any certification required by any federal, state or local governmental agency in connection therewith.
- 16.2 In all solicitations or advertisements for employees, the Contractor shall include the phrase, "equal opportunity employer", or similar phrase to be approved by the Kansas Human Rights Commission (Commission);
- 16.3 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;

- 16.4 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
- 16.5 The Contractor shall include the provisions of this section in every subcontract or purchase order so that such provisions will be binding upon such Subcontractor or vendor.
- 16.6 The provisions of this section shall not apply to a contract entered into by a Contractor who employs fewer than four employees during the terms of such contract; or whose contracts with the City cumulatively total \$5,000 or less during the fiscal year of the City.

#### 17. RELATIONS WITH OTHER CONTRACTORS:

- 17.1 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.
- 17.2 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.
- 17.3 Other projects the Contractor may have to coordinate with may include, but are not limited to:
- Project # 191024 - 2010 Concrete Repair Program  
Project # P5000 - 2010 Crack Seal/Slurry Seal Program
- 17.4 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.
- 17.5 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.

## 18. RIGHT OF CITY TO TERMINATE

- 18.1 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, engineering 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.
- 18.2 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 of other costs other than direct costs of demobilization.

## 19. MISCELLANEOUS:

- 19.1 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.
- 19.2 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.
- 19.3 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 Engineer 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.

- 19.4 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 amount 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.
- 19.5 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.
- 19.6 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.
- 19.7 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.
- 19.8 No waiver of any breach of this Contract shall be construed to be a waiver of any other subsequent breach.
- 19.9 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.
- 19.10 The Contractor shall keep fully informed of all existing and current regulations of the City, and County, State, and National 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.

- 19.11 Nothing contained in these Project Manual 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.
- 19.12 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.
- 19.13 No action or failure to act by the City, Engineer 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.
- 19.14 Contractor specifically acknowledges and confirms that: 1.) he/she has visited the site, made all inspections he deems appropriate and has read and fully understands the Contract Documents, including all obligations and responsibilities undertaken by he as specified herein and in other Contract Documents and knowingly accepts the same; 2.) he/she has furnished copies of all Contract Documents to his/her insurance carrier(s) and his/her surety(ies); and 3.) his/her 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.
- 19.15 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.
- 19.16 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.

**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; and*

*WHEREAS, the Contractor, in response to the advertisement, has submitted to the City in the manner and at the time specified, a sealed Bid in accordance with the terms of this Agreement; and*

*WHEREAS, the City, in the manner prescribed by law, has publicly opened, examined and canvassed the Bids submitted, and as a result of such canvass has determined and declared the Contractor to be the lowest and best responsible bidder for the construct 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 named in the Bid attached to, and made a part of this Agreement; and*

*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 Project Manual; 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; and WHEREAS, 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:*

*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**

**LITTLE JOE'S ASPHALT, INC.**

By: \_\_\_\_\_  
(signed)

By \_\_\_\_\_  
(signed)

Ronald L. Shaffer \_\_\_\_\_

\_\_\_\_\_  
(typed name)

Mayor \_\_\_\_\_

\_\_\_\_\_  
(typed title)

City of Prairie Village \_\_\_\_\_

\_\_\_\_\_  
(typed company name)

7700 Mission Road \_\_\_\_\_

\_\_\_\_\_  
(typed address)

Prairie Village, Kansas, 66208 \_\_\_\_\_

\_\_\_\_\_  
(typed city, state, zip)

\_\_\_\_\_

\_\_\_\_\_  
(typed telephone number)

\_\_\_\_\_  
(date of execution)

\_\_\_\_\_  
(date of execution)

**SEAL**



ATTEST:

APPROVED BY:

\_\_\_\_\_  
City Clerk, Joyce Hagen-Mundy

\_\_\_\_\_  
City Attorney, Catherine Logan

(If the Contract is not executed by the President of the Corporation or general partner of the partnership, please provide documentation, which authorizes the signatory to bind the corporation or partnership. 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.)



## PLANNING COMMISSION

Council Meeting Date: May 6, 2013  
Committee Reports

### Consider Final Plat for Prairie Village Shopping Center (PC-2013-111)

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#### RECOMMENDATION

Authorize the Mayor to execute the Final Plat for Prairie Village Shopping Center at 71<sup>st</sup> Street and Mission Road accepting easements and rights-of-way subject to the following conditions:

1. That the trail easement for Tomahawk Road be noted as Section 7.04 of the CID Agreement be shown on the plat as it was on the previous Final Plat.
2. That an eight foot Trail Easement be shown on the east side of Mission Lane.
3. That the KCP&L line running across Lot 2 be installed underground.
4. That Tract A be dedicated as a utility and cross access easement in the text of the plat.
5. That the text on the UMB lot be removed.
6. That the applicant submit the Final Plat to the Johnson County surveyor for a review.
7. That the Final Plat as approved be revised and three copies submitted to the City for their records.

#### BACKGROUND

One April 2, the Planning Commission reviewed and approved the preliminary and final plats subject to the following conditions:

1. That the trail easement for Tomahawk Road be noted as Section 7.04 of the CID Agreement be shown on the plat as it was on the previous Final Plat.
2. That an eight foot Trail Easement be shown on the east side of Mission Lane.
3. That the KCP&L line running across Lot 2 be installed underground.
4. That Tract A be dedicated as a utility and cross access easement in the text of the plat.
5. That the text on the UMB lot be removed.
6. That the applicant submit the Final Plat to the Johnson County surveyor for a review.
7. That the Final Plat as approved be revised and three copies submitted to the City for their records.

The applicant has indicated they plan to request the City Council reconsider Condition #2: That an eight foot Trail Easement be shown on the east side of Mission Lane.

For a discussion of the trail issues see agenda item: Consideration of Request by PV Retail Partners, LLC to enter into an Right-of-Way Maintenance Agreement to comply with the Intent of the Prairie Village Community Improvement District Development Agreement.

**RELATED TO VILLAGE VISION**

*LR3 Enhance key corridors by encouraging more diverse, pedestrian friendly development along commercial corridors*

**ATTACHMENTS**

Planning Commission Minutes of April 2, 2013  
Proposed Final Plat

**PREPARED BY**

Dennis J. Enslinger  
Assistant City Administrator

Date: May 3, 2013

Excerpts from the April 2, 2013 Planning Commission

**PC2013-111 Preliminary & Final Plat Approval  
Prairie Village Shopping Center**

Curtis Petersen, with Polsinelli Shughart, 6201 College Blvd., stated they are presenting a new plat for the Prairie Village Shopping Center. The initial plat approved by the Planning Commission in October, 2012, included the UMB Bank and the Service Station. The new plat does not include these properties. With the withdrawal of the two property owners, the vacation will only be for Mission Lane between Prairie Lane and Mission Road. Prairie Lane and a portion of Mission Lane will remain public streets. The owner of Prairie Village Center, through a separate agreement with the City, will maintain the public right-of-way for Prairie Lane and the small portion of Mission Lane.

Mr. Petersen reviewed the actions taken by the Planning Commission regarding the Prairie Village Shopping Center including previous approval of a conditional use permit, site plan approval and the approval of the initial plat submitted. He noted the only difference between the original plat approved and the one before the Commission now is the deletion of Lots 3 and 4.

Mr. Petersen stated the applicant has received the staff report and accepts the recommendation and conditions of approval for the preliminary plat and the recommendation and conditions of approval of the final plat except for condition #2. He reminded the Commission of their earlier approval of a varied width design for the trail from six feet to eight feet in width. They propose that condition #2 be reworded as follows: "that the applicant provides a minimum six foot sidewalk on the east side of Mission Lane making the walkway wider as possible."

Bob Lindeblad stated an eight foot trail easement does not mean an eight foot paved trail.

Ron Williamson stated the Preliminary Plat has been revised to include the information requested on the previous application. The only unresolved issue at this time are the trail easements.

Staff recommends approval of the Preliminary Plat subject to the applicant adding the trail easements along the east side of Mission Lane and on Tomahawk Road and resubmitting three copies of the revised document.

Mr. Williamson stated the Final Plat essentially has all the information on it that is required. The trail easements still need to be resolved.

The trail easements need to be shown on the plat for both Tomahawk Road and Mission Lane and in the dedication text.

As depicted in the master trail plan and as required in the CID agreement, the applicant has indicated they would prefer only language referencing to the possible dedication of the trails along Tomahawk and dedicate the easement on Mission Lane by separate instrument. The proposed trail would vary in width from six feet to eight feet.

The Tomahawk Trail is a City Project funded by the CID and the CID agreement contains clear language regarding the general location and design of the proposed trail. Therefore Staff is comfortable referencing the CID agreement on the face of the plat related to the Tomahawk Trail. This was included on the previous Final Plat, but left off of this submission.

Based on the proposed site plan, the applicant has not adequately addressed how the City would construct a trail on the east side of Mission Lane. Originally, the CID called for buildings to front along Mission Lane to accommodate a trail on Mission Road (i.e. the US Bank building would be replaced). With the proposed site plan, the overall concept of buildings fronting along Mission Lane has been revised to accommodate the Hen House expansion. Based on the site plan, it would be impossible for a trail to be constructed along Mission Road. Staff has proposed an alternative, that an eight foot wide trail be constructed along the east side of Mission Lane at the time it is redeveloped. With the redevelopment of the UMB Bank site, a 10 foot section of sidewalk was constructed along Mission Lane and Mission Road to accommodate a trail as per the Master Parks Trail Plan. There has been considerable discussion about the trail easement on the east side of Mission Lane. Staff has reviewed the Site Plan in the field and an eight foot wide trail could easily be accomplished. Therefore, an eight foot wide trail easement on the east side of Mission Lane needs to be shown on the Plat and in the dedication text. There is no need for a separate instrument.

The City Council has indicated they believe an 8' wide trail is appropriate and should be provided.

The existing KCP&L line crossing Lot 2 needs to be installed underground. Tract A needs to be dedicated as a utility and access easement in the text.

The text on Lot 1 UMB needs to be removed because it is not a part of this Plat.

Nancy Vennard thought the creation of an 8 foot trail would result in the loss of parking spaces. Mr. Williamson responded it would not result in the loss of any parking space but will result in the loss of some green space.

Curtis Petersen responded there were three areas of conflict for the construction of an eight foot trail throughout and reviewed the earlier proposed trail with varied lengths. The first conflict was the location of a gas meter and an elevation change by the existing Starbucks. The second was along the frontage to Hen House requiring the movement of a retaining wall and the reduction of parking

spaces from the 9' width proposed. The final area is by the new retail building causing a reduction in the patio area for Starbucks, which will be one of the tenants in the new building. They believe the proposed varied widths are the best option for the center.

Nancy Vennard asked if the Council has directed the trail to be eight feet if the Commission can change it. Ken Vaughn responded the Commission can give its recommendation to the Council, but it will make the ultimate decision.

Randy Kronblad noted on the preliminary plat the trail easement is shown as ten feet. Mr. Petersen stated that was a typographical error that would be corrected.

Nancy Wallerstein asked if the City Council wants an eight foot trail why the Commission was discussing easements. Mr. Lindeblad responded that easements are all that can be done on the plat and that the actual trail is addressed in the final plan approval.

Dennis Enslinger confirmed that the Commission has approved the final plan in concept. The agreement with the Council calls for an eight foot trail. The Council accepts the easements and rights-of-way on the plat and if it is not shown, it is a violation of the CID Agreement.

Curtis Petersen stated the applicant is requesting that the easement be consistent with what was approved in the site plan.

Bob Lindeblad stated he does not have a problem requiring an eight foot trail easement as it would accommodate the construction of either an eight foot trail throughout or a varied width trail.

Dirk Schafer asked if the width of the trail would be resolved by the City Council and if that is the case he feels the plat should be approved by the Commission as recommended by staff with the inclusion of an eight foot trail easement.

Owen Buckley, with Lane4 spoke on behalf of the property owners, noted that one of the challenges of the project was to balance the needs and desires of all with the creation of the best possible shopping experience. He stated they can construct an eight foot trail, but doing so would result in smaller parking spaces and less green space and landscaping. They believe a six foot width allowing for two feet of landscaping is the best option for all.

Dennis Enslinger stated the staff recommendation is that an eight foot trail can and should be constructed. The conflict between the CID and the Planning Commission approval will need to be resolved by the Governing Body.

Dirk Schafer moved the Planning Commission approve the Preliminary Plat of Prairie Village Shopping Center subject to the applicant adding the trail easements along the east side of Mission Lane and on Tomahawk Road,

correcting the noted typographical error and submittal of three copies of the revised document and approve the Final Plat of Prairie Village Shopping Center and forward it to the Governing Body subject to the following conditions:

1. That the trail easement for Tomahawk Road be noted as Section 7.04 of the CID Agreement be shown on the plat as it was on the previous Final Plat.
2. That an eight foot Trail Easement be shown on the east side of Mission Lane.
3. That the KCP&L line running across Lot 2 be installed underground.
4. That Tract A be dedicated as a utility and cross access easement in the text of the plat.
5. That the text on the UMB lot be removed.
6. That the applicant submit the Final Plat to the Johnson County surveyor for a review.
7. That the Final Plat as approved be revised and three copies submitted to the City for their records.

The motion was seconded by Gregory Wolf and passed unanimously.

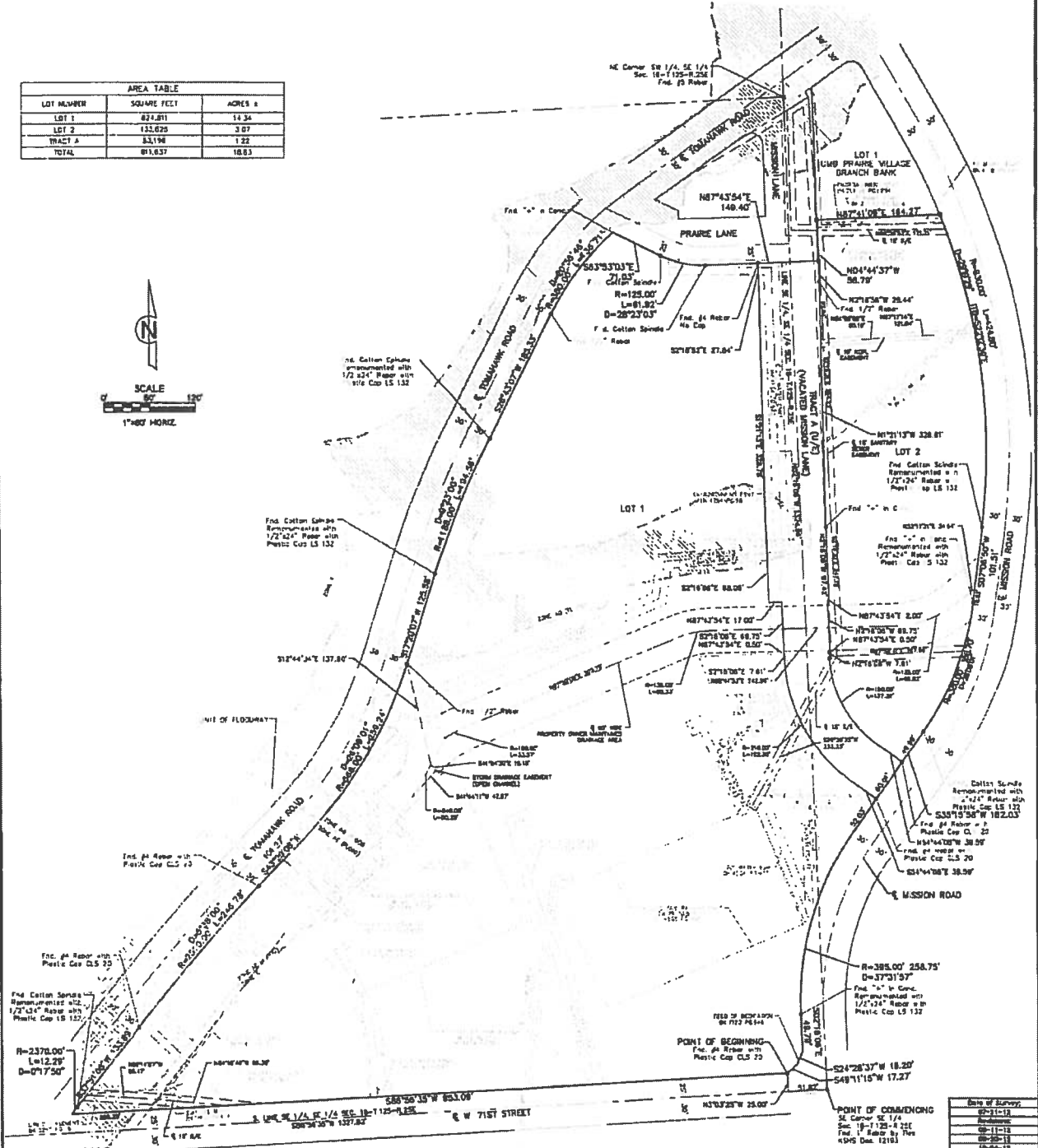
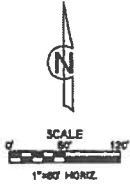
DRAFT





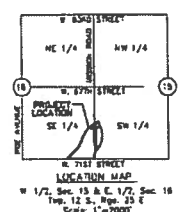
**FINAL PLAT OF  
PRAIRIE VILLAGE SHOPPING CENTER**  
SW 1/4, SEC. 16 & SE 1/4, SEC. 18 - Twp. 12 S. - Rge. 25 E.  
PRAIRIE VILLAGE, JOHNSON COUNTY, KANSAS

AREA TABLE		
LOT NUMBER	SQUARE FEET	ACRES ±
LOT 1	827,871	19.34
LOT 2	121,629	2.87
TRACT A	83,194	1.92
TOTAL	1,032,694	24.13



**PLAT LEGEND**

CASING/NOTES		SURVEY MARKERS	
US Utility Easement	□ Found Section Corner (Determination as noted)	○ Found Property Corner (Determination as noted)	○ Set of Rebar with plate
SE Sanitary Sewer Easement	□ Found Property Corner (Determination as noted)	○ Set of Rebar with plate	○ Cast in Concrete
SD Building Easement	○ Found Property Corner (Determination as noted)		
S.E. Easement Easement			



**SURVEYOR'S NOTES:**

1. Title and Easement Information Provided by Title Insurance Company, Lottswater Number 20121053, with an effective date of July 8, 2017 at 8:00 a.m.
2. All easements referenced in the above referenced title commitment that affect the Subject Property have been shown and noted herein.
3. Bearings used herein are based on the Kansas State Plane Coordinate System, North Zone (NAD 83 Datum).
4. The Subject Property lies entirely within 1/4th AD (Four sections of 1 to 3 feet average width) determined. For areas of unusual topography, sections also determined. Zone 12 (Base local meridians determined), and Zone 12 (Area determined to be outside of the 0.25 degree average thickness), as determined by Federal Insurance Rate Map number 200910074C with an effective date of August 1, 2002.
5. Area of Subject Property = 811,837 sq. feet or 18.63 acres, more or less.

**CERTIFICATION:**  
This plat and survey of "PRAIRIE VILLAGE SHOPPING CENTER" was executed by Lutjen, Inc. 1301 Burlington, #100, North Kansas City, Missouri 64116

**1 HEREBY CERTIFY:** That the Plat of "PRAIRIE VILLAGE SHOPPING CENTER" subdivision is based on an actual survey made by me or under my direct supervision on July 31, 2012.

Date of Survey
07-31-12
08-01-12
08-02-12
08-03-12
08-04-12
08-05-12
08-06-12
08-07-12
08-08-12
08-09-12
08-10-12
08-11-12
08-12-12

Surveyed By: **AS**  
 Drawn/Checked By: **JML**  
 Drafted By: **JML**  
 LUTJEN Project #10112017

**LUTJEN**

LUTJEN, INC.  
1301 BURLINGTON, #100  
NORTH KANSAS CITY, MISSOURI 64116  
PH: 816.451.1000  
WWW.LUTJEN.COM

LUTJEN PROJECT #10112017

**Sheet No.:**  
**2 of 2**

JASON S. ROBINSON, KS PLS 1413  
 Date: March 4, 2013  
 jrobinson@lutjen.com

# **City of Prairie Village**

## **First Quarter**

Financial Report for the first quarter

Ended March 31, 2013

Relating to Fiscal Year 2013

Unaudited



**GENERAL FUND**

**General Fund Balance.** The chart, below, shows with 25 percent of the year complete revenues are at 24.4 percent of projections while expenditures are at 18.6 percent of appropriations. The chart also reports the budgeted fund balance at the start of 2013, which is \$5,647,459 and the preliminary actual fund balance, which is \$7,217,004. The 2013 target ending fund balance is 25 percent of budgeted revenues (excluding transfers) which is \$3,942,229. As shown below, the beginning 2013 fund balance is \$1,569,545 higher than what was budgeted.

General Fund	Budget	YTD	Percent
Fund Balance 1/1	\$ 5,647,459	\$ 7,217,004	
Revenues	16,192,382	3,954,987	24.4%
Expenditures	17,863,131	3,327,487	18.6%
Balance	3,976,710	7,844,504	

The national economy grew at 2.5% in the first quarter, which is much slower than expected. The main reason for the slower than expected growth was an 11.5 percent annualized drop-off in military spending. The growth we did have was driven by stronger consumer spending, which increased at a 3.2% annual rate in the first quarter. The first quarter was also helped by the recovering housing market, increased economic activity and job growth early in the period.

Growth in the coming months, though, is expected to slow down as the impact of federal budget cuts ripple through the economy.

The focus of this report is on 2013 revenues and expenditures. The city’s goal is to achieve a “positive outlook” in all key financial areas.

Discussed below are differences between individual revenues and expenses between 2013 and 2012.

### Rating Scale for Key Variances:

- Positive Outlook
- Reason for Concern or Comment
- Negative Outlook

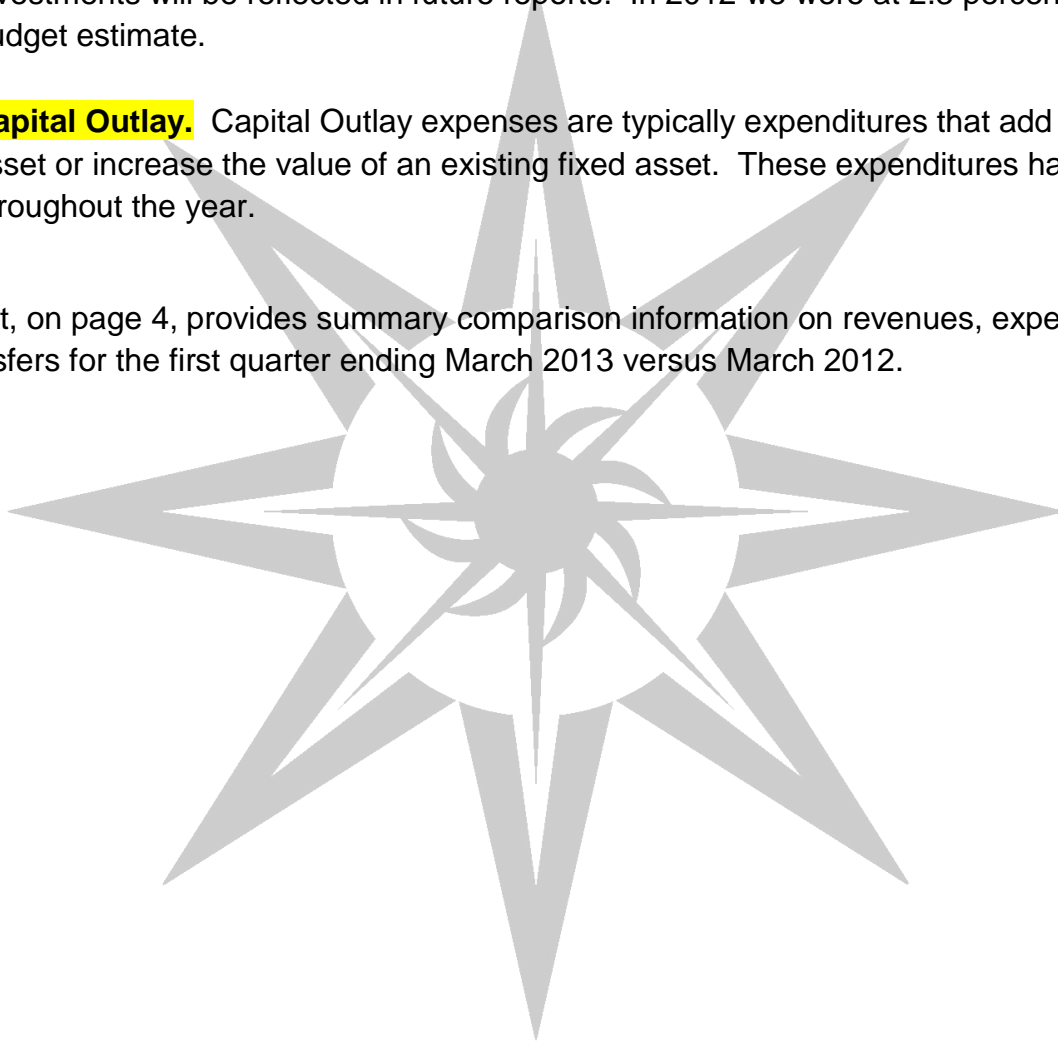


### Key variances include:

- **Sales Tax.** Sales tax revenues have declined \$4,444 compared to the last fiscal year, and are 8.1 percent of the budget estimate. This figure does not include the additional 1% sales tax that is applied to purchases made at Corinth and PV Shops due to the Community Improvement Districts (CIDs). The first quarter is traditionally the slowest for sales tax revenue. In 2012 we were at 9 percent of the budget estimate.
- **Use Tax.** Use tax revenues are \$580.00 greater compared to the last fiscal year, and are at 8.8 percent of the budget estimate. Use tax is a tax on goods purchased outside our taxing jurisdiction but would have been taxable had they taken place within it. The first quarter is traditionally the slowest for use tax revenue also. In 2012 we were at 10.5 percent of the budget estimate.
- **Motor Vehicle Tax.** Motor Vehicle tax revenues have declined \$25,373 compared to 2012, but are at 25 percent of the budget estimate. The basis of this tax is the valuation of registered motor vehicles within the City. The Treasury and Financial Management Department at Johnson County provide the estimates that are used during the budget process. In 2012 we were at 39.6 percent of the budget estimate.
- **Liquor Tax.** Liquor tax revenues have decreased \$1,521 compared to the last fiscal year, and are at 29.1 percent of the budget estimate. Liquor tax is allocated 1/3 General Fund, 1/3 Parks & Recreation and 1/3 Special Alcohol. In 2012 we were at 35.3 percent of the budget estimate.
- **Franchise Fees.** Franchise fee revenues have declined \$285,897 compared to the last fiscal year, and are at 12.6 percent of the budget estimate. The decline is a result of a change in how the KCP&L franchise fee (September 2012 to February 2013) was accounted for during the audit process. In 2012 we were at 26.9 percent of the budget estimate.

- **Recreation Fees.** Recreation fee revenue declined \$2,518 compared to last fiscal year, and is at 2 percent of the budget estimate. In 2012 we were at 2.3 percent of the budget estimate.
- **Interest on Investments.** Interest receipts have declined \$221.00 compared to 2012, and are at 2.4 percent of the budget estimate. The City began a new investment program in 2013 (March) with the assistance of Columbia Capital. The return on these investments will be reflected in future reports. In 2012 we were at 2.3 percent of the budget estimate.
- **Capital Outlay.** Capital Outlay expenses are typically expenditures that add a fixed asset or increase the value of an existing fixed asset. These expenditures happen throughout the year.

The chart, on page 4, provides summary comparison information on revenues, expenditures and transfers for the first quarter ending March 2013 versus March 2012.



Quarterly Financial report – First Quarter Ending March 31, 2013

Year to Date Comparison to Prior Year				
General Fund	2013	2012	Over (Under)	
<b>Revenues:</b>				
Property Taxes	2,279,403	2,416,840	(137,437)	-5.69%
Sales Taxes	371,994	376,438	(4,444)	-1.18%
Use Tax	76,698	76,118	580	0.76%
Motor Vehicle Tax	114,379	139,752	(25,373)	-18.16%
Liquor Tax	27,744	29,265	(1,521)	-5.20%
Franchise Fees	224,301	510,198	(285,897)	-56.04%
Licenses & Permits	91,863	90,025	1,837	2.04%
Charges for Services	436,601	422,832	13,769	3.26%
Fines & Fees	294,921	284,711	10,211	3.59%
Recreational Fees	9,167	11,685	(2,518)	-21.55%
Interest on Investments	713	934	(221)	-23.70%
Miscellaneous	27,203	21,401	5,802	27.11%
<b>Total Revenue</b>	<b>\$3,954,987</b>	<b>\$4,380,199</b>	<b>-\$425,212</b>	<b>-9.71%</b>
<b>Transfers from Other funds:</b>				
Transfer from General Fund	-	-	-	
Transfer from Special Highway Fund	-	-	-	
Transfer from Stormwater Utility Fund	423,467	450,000	(26,533)	
Transfer from Special Parks & Rec Fun	-	-	-	
Transfer from Special Alcohol Fund	-	-	-	
<b>Total</b>	<b>423,467</b>	<b>450,000</b>	<b>(26,533)</b>	
<b>Total Sources</b>	<b>\$4,378,454</b>	<b>\$4,830,199</b>	<b>(\$451,745)</b>	
<b>Expenditures:</b>				
Personal Services	2,125,485	2,179,446	(53,961)	-2.48%
Contract Services	1,047,978	1,035,819	12,158	1.17%
Commodities	148,799	147,831	967	0.65%
Capital Outlay	5,225	1,452	3,773	259.93%
Debt Service	-	-	-	
Infrastructure	-	-	-	
Contingency	-	-	-	
<b>Total Expenditures</b>	<b>3,327,487</b>	<b>3,364,549</b>	<b>(37,062)</b>	
<b>Transfers to Other Funds:</b>				
Transfer to Capital Projects Fund	2,518,855	1,616,649	902,206	55.81%
Transfer to Bond & Interest Fund	-	-	-	
Transfer to Risk Management Fund	35,000	35,000	-	0.00%
Transfer to Economic Development	-	-	-	
Transfer to Equipment Reserve Fund	275,000	252,500	22,500	8.91%
<b>Total</b>	<b>2,828,855</b>	<b>1,904,149</b>	<b>924,706</b>	
<b>Total Uses</b>	<b>6,156,342</b>	<b>5,268,698</b>	<b>887,644</b>	

The charts, on page 5, provide information on revenue variances for the General Fund and Property Tax for the first quarter ending March 2013.

**Revenue Variances.** The chart, below, shows General Fund revenues.

General Fund	Budget	Received YTD Actual	Percent Received
Revenues:			
Property Taxes	3,924,171	2,279,403	58.1%
Sales Taxes	4,586,904	371,994	8.1%
Use Tax	868,837	76,698	8.8%
Motor Vehicle Tax	456,712	114,379	25.0%
Liquor Tax	95,422	27,744	29.1%
Franchise Fees	1,787,100	224,301	12.6%
Licenses & Permits	472,497	91,863	19.4%
Charges for Services	1,833,534	436,601	23.8%
Fines & Fees	1,166,406	294,921	25.3%
Recreational Fees	469,238	9,167	2.0%
Interest on Investments	30,000	713	2.4%
Miscellaneous	78,094	27,203	34.8%
<b>Total Revenue</b>	<b>\$15,768,915</b>	<b>\$3,954,987</b>	<b>25.1%</b>

The chart, below, shows Property Tax revenues.

Property Tax	2013 Budget	YTD Comparison		Percent Budget Received
		2013	2012	
Revenues:				
General Fund	3,924,171	2,279,403	2,416,840	58.1%
Bond & Interest Fund	1,575,598	907,930	768,615	57.6%
<b>Total Revenue</b>	<b>\$5,499,769</b>	<b>\$3,187,333</b>	<b>\$3,185,455</b>	<b>58.0%</b>

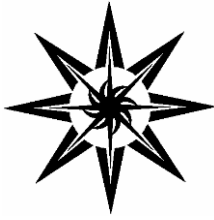
## OTHER FUNDS

The Statement of Revenues and Expenses for the quarter ended March 31, 2013 are shown on page 6.

Quarterly Financial report – First Quarter Ending March 31, 2013

	Solid Waste Management	Special Highway	Stormwater Utility	Special Parks & Rec	Special Alcohol	Bond & Interest	Capital Projects	Risk Mgmt	Economic Development	Equipment Reserve	CID Corinth	CID PV Shops
<b>Revenues:</b>												
Property Taxes						907,930						
Sales Taxes											27,673	28,210
Bond Proceeds						38,740						
Motor Vehicle Tax						27,744						
Liquor Tax												
Licenses & Permits	90		1,120									
Intergovernmental							100,000					
Charges for Services	773,568		927,513									
Interest on Investments	30		63	4		20	719	14	163	19	30	48
Miscellaneous	2,146			1,354				2,479				
<b>Total Revenue</b>	<b>775,834</b>	<b>-</b>	<b>928,697</b>	<b>27,744</b>	<b>29,101</b>	<b>946,690</b>	<b>100,719</b>	<b>2,493</b>	<b>163</b>	<b>19</b>	<b>27,703</b>	<b>28,257</b>
<b>Transfers from Other Funds:</b>												
Transfer from General Fund							2,518,855	35,000		275,000		
Transfer from Special Highway							565,813					
Transfer from Storm Water Utility Fund							312,752	840,357				
Transfer from Special Parks & Rec Fund							95,422					
<b>Total</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>312,752</b>	<b>4,020,447</b>	<b>35,000</b>	<b>-</b>	<b>275,000</b>	<b>-</b>	<b>-</b>
<b>Total Sources</b>	<b>775,834</b>	<b>-</b>	<b>928,697</b>	<b>27,744</b>	<b>29,101</b>	<b>1,259,442</b>	<b>4,121,166</b>	<b>37,493</b>	<b>163</b>	<b>275,019</b>	<b>27,703</b>	<b>28,257</b>
<b>Expenditures:</b>												
Personal Services	5,461											
Contract Services	223,146											
Commodities								3,771	22,664			44,256
Capital Outlay										26,828		
Debt Service							82,193					
Infrastructure												
Bond Costs												
<b>Total Expenditures</b>	<b>228,607</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>25,387</b>	<b>82,193</b>	<b>89,207</b>	<b>3,771</b>	<b>22,664</b>	<b>26,828</b>	<b>-</b>	<b>44,256</b>
<b>Transfers to Other Funds:</b>												
Transfer to General Fund			423,467									
Transfer to Bond & Interest Fund			312,752									
Transfer to Capital Projects Fund		565,813	840,357	95,422								
Transfer to Equipment Reserve Fund												
<b>Total</b>	<b>-</b>	<b>565,813</b>	<b>1,576,576</b>	<b>95,422</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>
<b>Total Uses</b>	<b>228,607</b>	<b>565,813</b>	<b>1,576,576</b>	<b>95,422</b>	<b>25,387</b>	<b>82,193</b>	<b>89,207</b>	<b>3,771</b>	<b>22,664</b>	<b>26,828</b>	<b>-</b>	<b>44,256</b>
<b>Sources Over(Under) Uses</b>	<b>547,227</b>	<b>(565,813)</b>	<b>(647,879)</b>	<b>(67,678)</b>	<b>3,714</b>	<b>1,177,250</b>	<b>4,031,959</b>	<b>33,722</b>	<b>(22,502)</b>	<b>248,191</b>	<b>27,703</b>	<b>(15,999)</b>





## ADMINISTRATION

Council Meeting Date: May 6, 2013

### Consideration of Request by PV Retail Partners, LLC to Enter into a Right-of-Way Maintenance Agreement to comply with the Intent of the Prairie Village Community Improvement District Development Agreement

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#### RECOMMENDATION:

The City Council should review and discuss the request by PV Retail Partners, LLC to enter into a ROW Maintenance Agreement to comply with the Intent of the Prairie Village Community Improvement District Development (CID) Agreement.

Staff recommends the City Council authorize the Mayor to execute the Right-of-Way Maintenance Agreement provided for PV Retail Partners, LLC. Given the fact the original CID Development Agreement was a negotiated agreement, the City Council should consider if it would like to request additional modifications as part of this process.

#### BACKGROUND/DISCUSSION:

The City of Prairie Village and PV Retail Partners, LLC entered into a Development Agreement for the use of Community Improvement District Funds (CID) through a 1% CID sales tax established on September 20, 2010 (Ordinance 2228). The Development Agreement was approved with the adoption of Resolution No. R-2010-12 and formalized the implementation and financing of the CID projects contained within the Agreement.

#### *Right-of-Way Maintenance Agreement to Comply with the Intent of the Prairie Village Community Improvement District Development Agreement*

As part of the Project A of the redevelopment agreement under Section 2.02(A): Special Provisions Relating to Mission Lane and Prairie Lane, the Developer, PV Retail Partners, LLC, were to make improvements to Mission Lane and would be reimbursed with CID funds for the improvements. In addition, the Developer would request vacation of both Mission Lane and Prairie Lane and assume future maintenance of these two streets.

In August 2012, Polsinelli Sughart, PC, on behalf of the Developer, submitted a preliminary and final plat for the Prairie Village Shopping Center which included the vacation of the Mission Lane and Prairie Lane. The final plat involved two additional property owners (Owner of the land for bank site and the owner of the gas station site which are not part of the CID) The Planning Commission reviewed and approved the proposed 4-lot final plat with conditions on November 6, 2012. The Developer requested continuance of the final plat until an agreement could be worked out with the two other property owners of record. The Developer was unable to work out an agreement with the two other property owners and withdrew this final plat on March 6, 2013.

On March 7, 2013 Polsinelli Sughart, PC, on the behalf of the Developer, submitted a revised final plat for just the portions of the Prairie Village Shops under the ownership of PV Retail Partners, LLC. The revised 2-lot plat called for the vacation of only a portion of Mission Lane (South of Prairie Lane). To comply with Section 2.02(A) the Developer has proposed to enter

into an Right-of-Way Maintenance Agreement to maintain the remainder of Mission Lane (North of Prairie Lane) and Prairie Lane (see Attachment A).

The Right-of-Way Maintenance Agreement has been reviewed and approved by Legal Counsel. Staff and Legal Counsel recommend the City Council approve the Agreement and authorize the Mayor to execute the agreement. In addition, Staff and Legal Counsel believe that with the approval of the Plat (vacating a portion of Mission Lane) and the execution of the Row Maintenance Agreement the general intent of provision 2.02(A) has been met requiring the developer to maintain required portions of ROW.

It should be noted that the Planning Commission approved the Prairie Village Shopping Center Final Plat with an 8 foot trail easement along the portion of Mission Lane that was being vacated. However, because the approved site plan associated with the Mission Lane Improvements does not require an 8 foot trail/pedestrian path, the Developer would not be required to construct an 8 foot trail/pedestrian path the entire length of Mission Lane as requested by the City Council. The City Council does not have any approval authority over the site plan.

### *Trail Issue Along Mission Lane*

In a letter dated October 10, 2012, the Developer, PV Retail Partners, LLC requested Modification of Section 2.02 (A) to remove the requirement that the developer provide a pedestrian access along the east side of existing Mission Lane for trail purposes. Section 2.02(A) does not specify the width of the pedestrian easement for trail purposes.

At the October 15, 2012 City Council Meeting, the City Council requested the Developer provide additional information regarding possible widths of a pedestrian easement for trail purposes along the east side of Mission Lane with the intention that the minimum width of six (6) feet be provided.

On November 7 2012, The Developer presented a study of the possible widths along the east side of Mission Lane, along with a summary of all sidewalks along Mission Lane. (see Attachment B)

The concept of a pedestrian easement for trail purposes along the east side of Mission Lane under the Development Agreement, was to provide a "wide sidewalk" to accommodate a multi-use path, not a bike trail, as noted by the Developer. This concept was actually implemented with the construction of the new UMB Bank facility in 2011. As part of the UMB site plan approval process, the bank was required to construct a ten (10) foot section of sidewalk along Mission Lane, Tomahawk Road, and Mission Road.

The Developer (Attachment B) has shown a combination of widths along the east side of Mission Lane ranging from six (6) to ten (10) feet. As noted in earlier presentations, Staff believes a minimum of eight (8) feet should be provided along the entire length of the east side of Mission Lane. Staff bases this recommendation on the fact that a standard trail width is eight (8) feet and traditionally sidewalks in pedestrian-centered shopping centers are greater than six (6) feet. Sidewalks adjacent to buildings in the Prairie Village Shopping Center are greater than six (6) feet and often exceed eight (8) feet in width.

Providing a continuous eight (8) foot sidewalk for pedestrian/trail purposes would require only minor modifications to the Mission Lane Improvements and associated Mission Lane

Improvements site plan which was approved by the Planning Commission on November 6, 2012. The modifications involve paving an additional two (2) feet (currently a landscape bed) in front of several proposed parking lot screening walls; and a slight modification to the outdoor dining area for the proposed Waid's replacement building (see Attachment C) Staff does not believe this to be an unreasonable request.

The Developer has also indicated that it would not be possible to provide an 8 foot wide sidewalk near an existing gas main. Staff has field verified that there is currently 8'2" inches of existing pavement at the gas main location (see Attachment D).

*Options Available to the City Council*

1. Accept the proposal by the Developer to construct a pedestrian/trail sidewalk per Attachment B;
2. Request the Developer construct an eight (8) foot trail/pedestrian access along the entire length of the vacated section of Mission Lane. This option would require the Developer to agree to this modification; or
3. Ask Legal Counsel to look at the possibility that the Developer is not in compliance with Section 2.02(A) and seek appropriate legal action. This option is not being recommended by Staff or Legal Council.

**ATTACHMENTS:**

Attachment A: Right-of-Way Maintenance Agreement

Attachment B: Sidewalk Diagram from Developer

Attachment C: Alternative Sidewalk Pedestrian/Trail Easement Plan

Attachment D: Picture of Existing conditions by Gas Main

**PREPARED BY:**

Dennis J. Enslinger

Assistant City Administrator

May 3, 2013

Attachment A: Right-of-Way Maintenance Agreement

## RIGHT-OF-WAY MAINTENANCE AGREEMENT

**THIS RIGHT-OF-WAY MAINTENANCE AGREEMENT (THIS “AGREEMENT”),** executed as of the date of the last execution by the parties hereto, by and between the **CITY OF PRAIRIE VILLAGE, KANSAS**, a municipal corporation duly organized under the laws of the State of Kansas (“**City**”), and **PV RETAIL PARTNERS, LLC**, a Kansas limited liability company, its successors and assigns (“**Developer,**” together with the City, the “**Parties**”).

WITNESSETH:

**WHEREAS,** the Developer is owner of the real property commonly known as the Prairie Village Shopping Center, located at the northwest corner of 71<sup>st</sup> and Mission Road, Prairie Village, Kansas (the “**Shopping Center**”), which consists of Lots 1 and 2 and Tract A of the plat recorded at Book \_\_\_\_ at Page \_\_\_\_ in the Office of the Register of Deeds of Johnson County, Kansas (the “**Plat**”), as legally described and depicted on Exhibit A attached hereto;

**WHEREAS,** through recordation of the Plat, the City has vacated that portion of Mission Lane that runs through the Shopping Center, specifically that portion of Mission Lane from its intersection with Mission Road to its intersection with Prairie Lane (the “**Tract A**”);

**WHEREAS,** a portion of Prairie Lane runs along the Shopping Center’s northern boundary, specifically that portion of Prairie Lane from its intersection with Tomahawk Lane to its intersection with Mission Lane (the “**Prairie Lane Right-of-Way**”), as legally described and depicted as set forth on Exhibit B attached hereto;

**WHEREAS,** a portion of Mission Lane runs north from the Shopping Center’s northern boundary to Tomahawk Lane (the “**Mission Lane Right-of-Way**”), as legally described and depicted as set forth on Exhibit C attached hereto (together the Prairie Lane Right-of-Way and Mission Lane Right-of-Way are referred to herein as the “**Right-of-Way**”); and

**WHEREAS,** subject to the terms and conditions set forth herein, the Parties wish to obligate the Developer to maintain the Right-of-Way and for the Developer to have the right to improve the Right-of-Way from time to time pursuant to site plans and construction drawings approved by the City.

**NOW, THEREFORE,** in consideration of the foregoing and in consideration of the mutual covenants and agreements herein contained, and other good and valuable consideration, the receipt of and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. The recitals above are hereby incorporated herein and made a material part hereof.
2. The City grants the Developer the right to improve the Right-of-Way, consistent with the use of the Right-of-Way for vehicular and pedestrian public access and for utility easements, subject to Developer obtaining any City approval of all required site plans, construction drawings, and permits.

3. The Developer agrees to maintain in good repair the Right-of-Way, including snow removal, repairs/replacement, and any other necessary maintenance.
4. If the City reasonably determines that the Right-of-Way requires repair or maintenance the City shall provide written notice to the Developer indicating the necessary repair or maintenance. If the Developer does not repair or perform such maintenance within a reasonable period of time, the City may perform the required maintenance or repair and the Developer shall reimburse the City for the reasonable cost of such work.
5. In the event the City vacates less than all of the Right-of-Way, Developer's maintenance obligations shall only continue with respect to any of the Right-of-Way not so vacated and any such portion of the Right-of-Way vacated to the Developer. In the event the City vacates all of the Right-of-Way, this Agreement shall terminate and the rights and obligations of the Parties hereunder shall be of no further force and effect.
6. This Agreement shall be recorded against Lots 1 and 2 and Tract A of the Plat, as well as the Right-of-Way, and shall run with the land. Upon transfer of Lot 1, Lot 2, and/or Tract A, the Developer shall have no further rights or obligations hereunder with respect to such transferred property, and the transferee shall have all such rights and obligations hereunder associated with such transferred property.
7. Indemnity. The Developer covenants and agrees, at its expense, to pay and to indemnify and save the City and its respective members, officers, employees and agents (the "**City Indemnified Parties**") harmless from and against all loss, liability, damage or expense arising out of any and all claims, demands, expenses, penalties, fines, taxes of any character or nature whatsoever regardless of by whom imposed, and losses of every conceivable kind, character and nature whatsoever arising from the Right-of-Way, including, but not limited to, claims for loss or damage to any property or injury to or death of any person, asserted by or on behalf of any person, firm, corporation or governmental authority arising out of or in any way connected with the Right-of-Way. The Developer also covenants and agrees at its expense to pay, and to indemnify and save the City Indemnified Parties harmless of, from and against, all costs, reasonable counsel fees, expenses and liabilities incurred by them or by the Developer in any action or proceeding brought by reason of any such claim, demand, expense, penalty, fine or tax. If any action or proceeding is brought against the City Indemnified Parties by reason of any such claim or demand, the Developer, upon notice from the City, covenants to resist and defend such action or proceeding on demand of the City or their respective members, directors, officers, employees or agents. Notwithstanding the foregoing, the City Indemnified Parties shall not be indemnified against liability for damage arising out of bodily injury to persons or damage to property caused by their own negligent, willful or malicious acts or omissions or negligent, willful or malicious acts or omissions of their own members, directors, officers, employees or agents, or resulting from actions taken by Developer, or its respective members, directors, officers, employees or agents, at the direction of the City or its agents or representatives. This Section shall survive the termination of

this Agreement with respect to claims or liability arising during the term of this Agreement.

IN WITNESS WHEREOF, the City and the Developer have duly executed this Agreement pursuant to all requisite authorizations as of the date first above written.

**CITY OF PRAIRIE VILLAGE, KANSAS**

\_\_\_\_\_  
Ronald L. Shaffer, Mayor

**ATTEST:**

\_\_\_\_\_  
Joyce Hagen-Mundy, City Clerk

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Catherine P. Logan, City Attorney

STATE OF KANSAS            )  
  ) ss.  
COUNTY OF JOHNSON        )

This instrument was acknowledged before me on \_\_\_\_\_, 2013 by Ronald L. Shaffer and Joyce Hagen Mundy as Mayor and City Clerk, respectively, of the City of Prairie Village, Kansas.

In Testimony Whereof, I have hereunto set my hand and affixed my official seal the day and year first above written.

\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires:





**EXHIBIT A**

**PRAIRIE VILLAGE SHOPPING CENTER**

**Legal Description & Depiction**

Lots 1 and 2, and Tract A, Prairie Village Shopping Center, a subdivision in the City of Prairie Village, Johnson County, Kansas.

**EXHIBIT B**

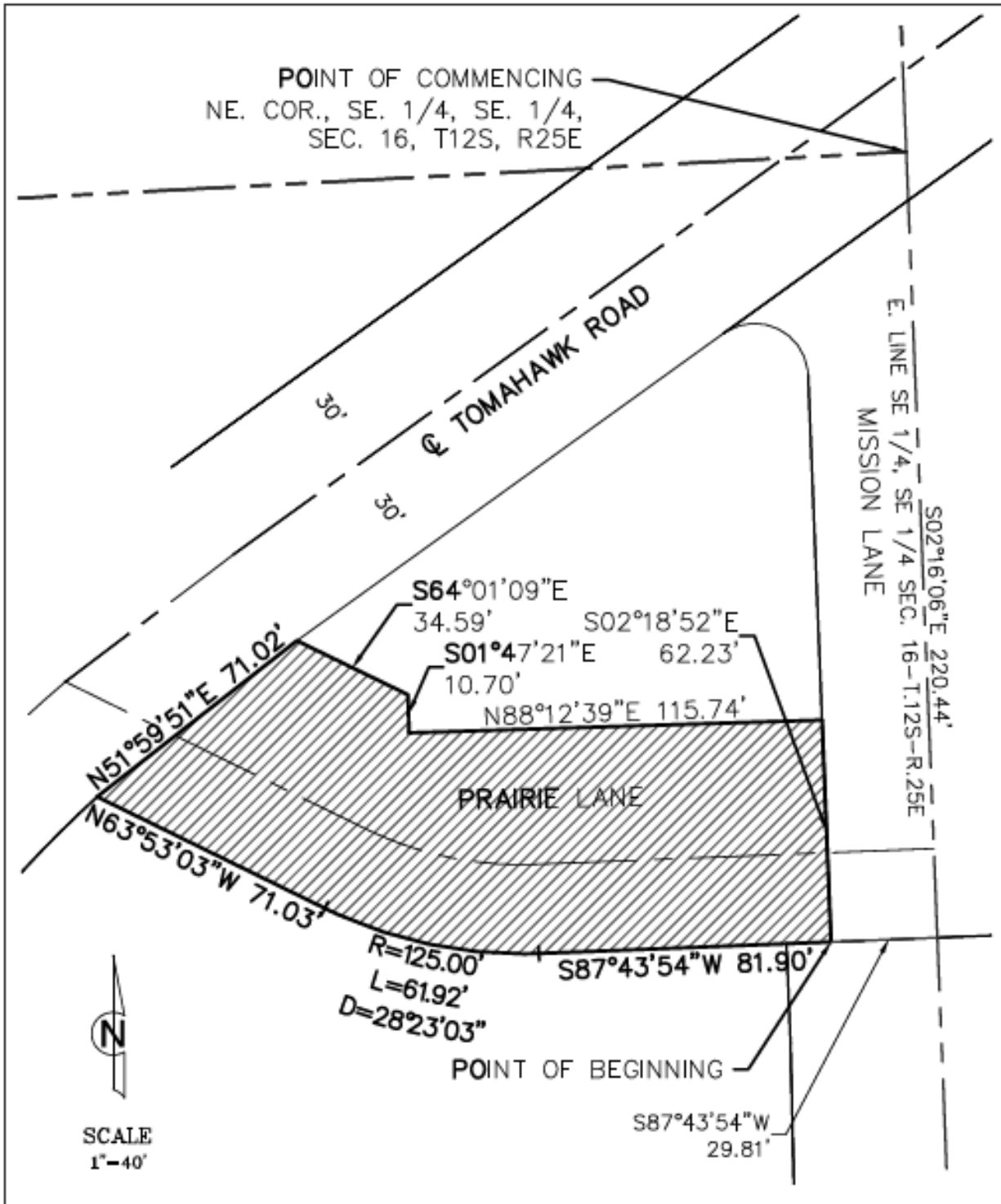
**PRAIRIE LANE RIGHT-OF-WAY**

**Legal Description & Depiction**

A tract of land in the Southeast Quarter of Section 16 Township 12 South, Range 25 East, in the City of Prairie Village, Johnson County, Kansas being bounded and described as follows:

Commencing at the Northeast Corner of the Southeast Quarter of said Southeast Quarter; thence South 02°16'06" East, along the East line of said Southeast Quarter, 220.44 feet; thence South 87°43'54" West, 29.81 feet to a point on the Westerly right-of-way line of Mission Lane, as now established, said point being the Point of Beginning of the tract of land to be herein described; thence continuing South 87°43'54" West, 81.90 feet; thence Westerly along a curve to the right being tangent to the last described course with a radius of 125.00 feet, a central angle of 28°23'03" and an arc distance of 61.92 feet; thence North 63°53'03" West, 71.03 feet to a point on the Southeasterly right-of-way line of Tomahawk Road, as now established; thence North 51°59'51" East, along said Southeasterly right-of-way line, 71.02 feet; thence South 64°01'09" East, 34.59 feet; thence South 01°47'21" East, 10.70 feet; thence North 88°12'39" East, 115.74 feet; thence South 02°18'52" East, 62.23 feet to the Point of Beginning. Containing 11,478 square feet or 0.26 acres, more or less.

*Prairie Village Shopping Center  
Lutjen No. 12078  
Date: May 1, 2013  
Right-of-Way Maintenance Agreement  
Exhibit B*



 <p>LUTJEN</p> <p>1001 N. 10th St., Suite 100 Topeka, Kansas 66606-1178 913.863.4100 www.lutjen.com</p> <p>Surveying Planning Engineering Architecture</p>	<p><b>EXHIBIT B</b></p> <p><b>PRAIRIE VILLAGE SHOPPING CENTER R/W MAINTENANCE AGREEMENT PRAIRIE VILLAGE, JOHNSON COUNTY, KS</b></p>

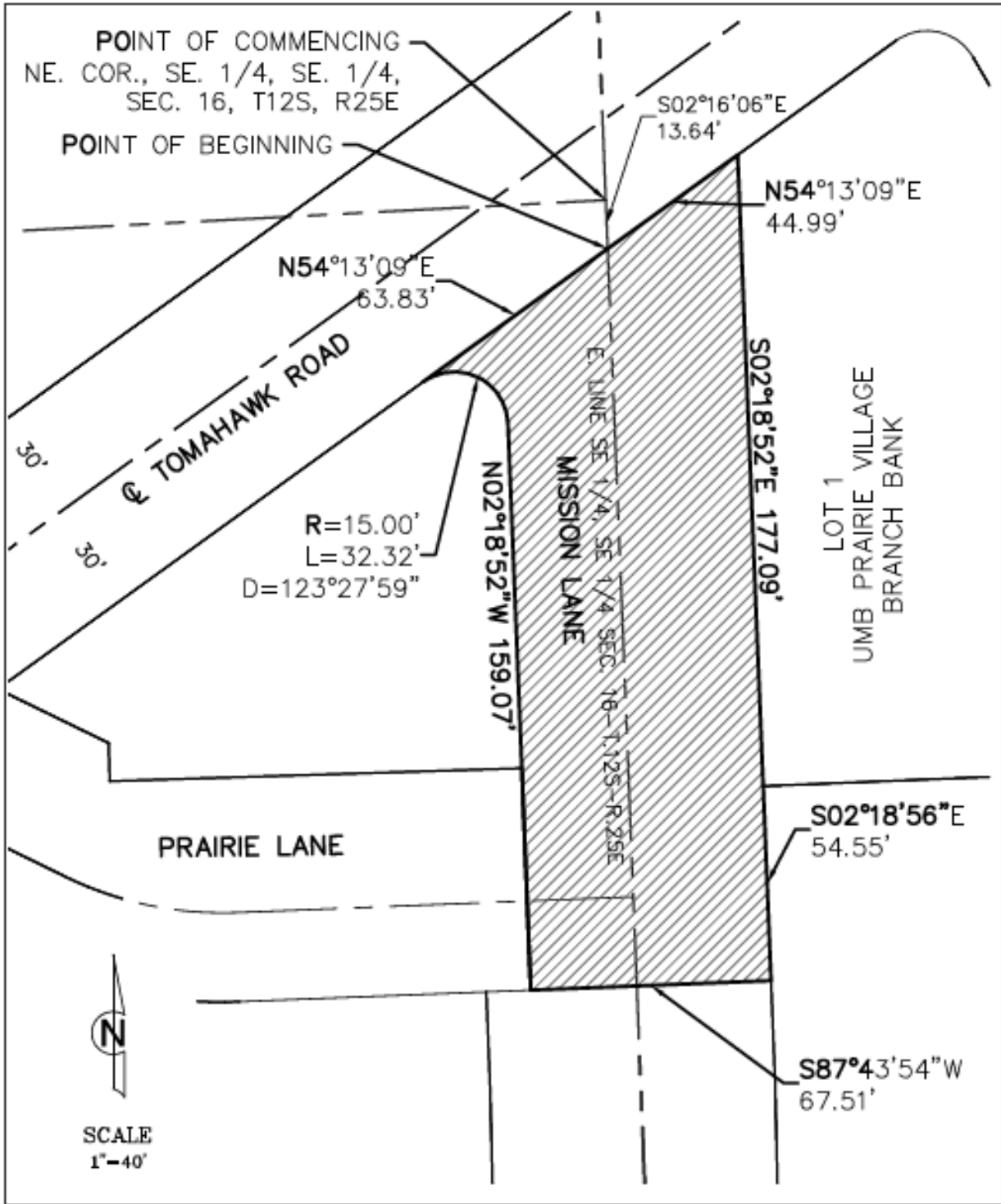
## EXHIBIT C

### MISSION LANE RIGHT-OF-WAY

#### Legal Description & Depiction

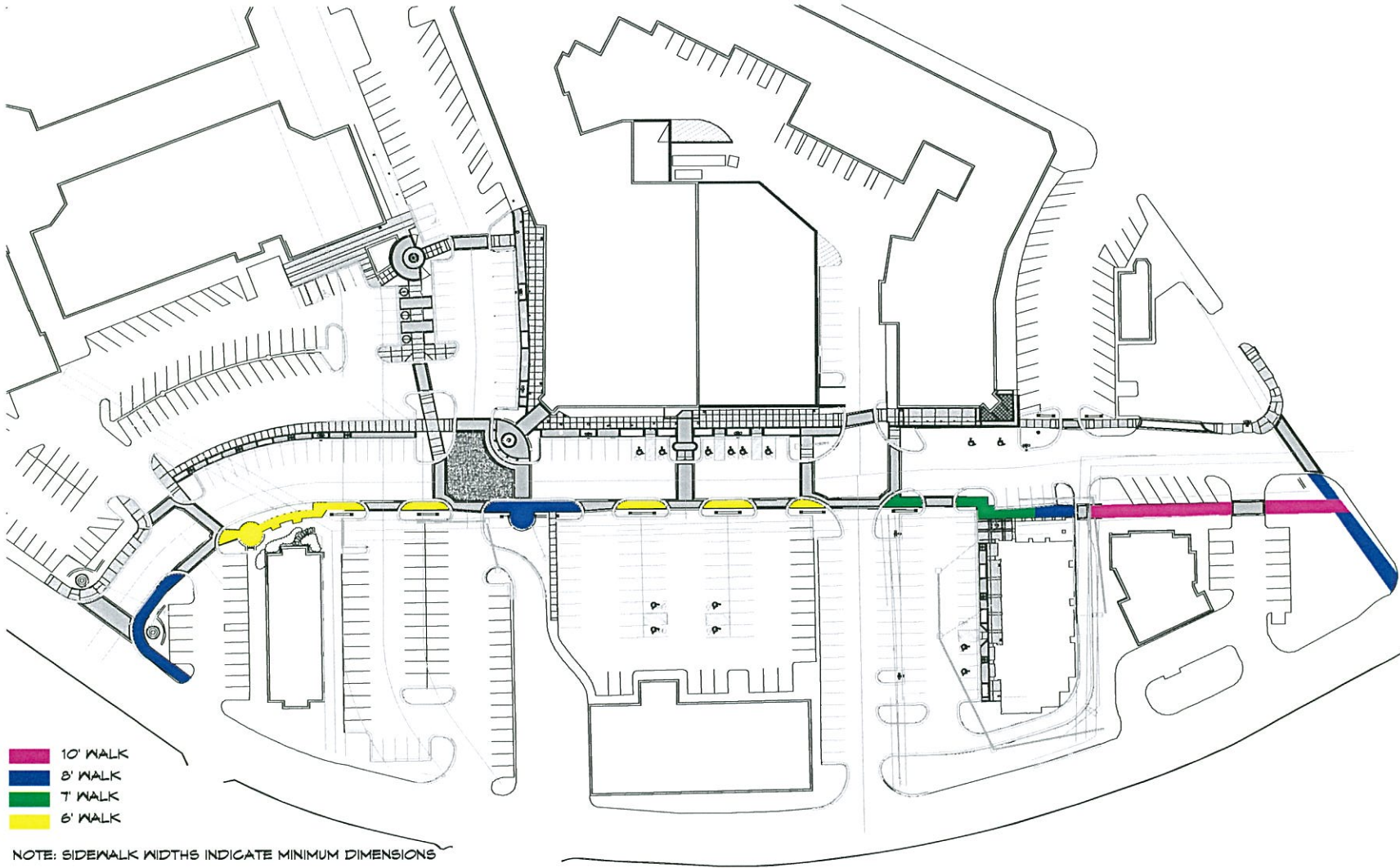
A tract of land in in the Southwest Quarter of Section 15 and the Southeast Quarter of Section 16, Township 12 South, Range 25 East, in the City of Prairie Village, Johnson County, Kansas being bounded and described as follows:  
Commencing at the Northeast Corner of the Southeast Quarter of said Southeast Quarter; thence South 02°16'06" East, along the East line of said Southeast Quarter, 13.64 feet to a point on the Southeasterly right-of-way line of Tomahawk Road, as now established, said point being the Point of Beginning of the tract of land to be herein described; thence North 54°13'09" East, along said Southeasterly right-of-way line, 44.99 feet to the Northwest Corner of Lot 1, UMB PRAIRIE VILLAGE BRANCH BANK, a subdivision in said Prairie Village, Johnson County, Kansas; thence South 02°18'52" East, along the West line of said Lot 1, 177.09 feet to the Southwest Corner of said Lot 1; thence South 02°18'56" East, 54.55 feet; thence South 87°43'54" West, 67.51 feet; thence North 02°18'52" West, 159.07 feet; thence Northwesterly along a curve to the left being tangent to the last described course with a radius of 15.00 feet, a central angle of 123°27'59" and an arc distance of 32.32 feet to a point on said Southeasterly right-of-way line; thence North 54°13'09" East, along said Southeasterly right-of-way line, 63.83 feet to the Point of Beginning. Containing 14,305 square feet or 0.33 acres, more or less.

*Prairie Village Shopping Center  
Lutjen No. 12078  
Date: May 1, 2013  
Right-of-Way Maintenance Agreement  
Exhibit C*



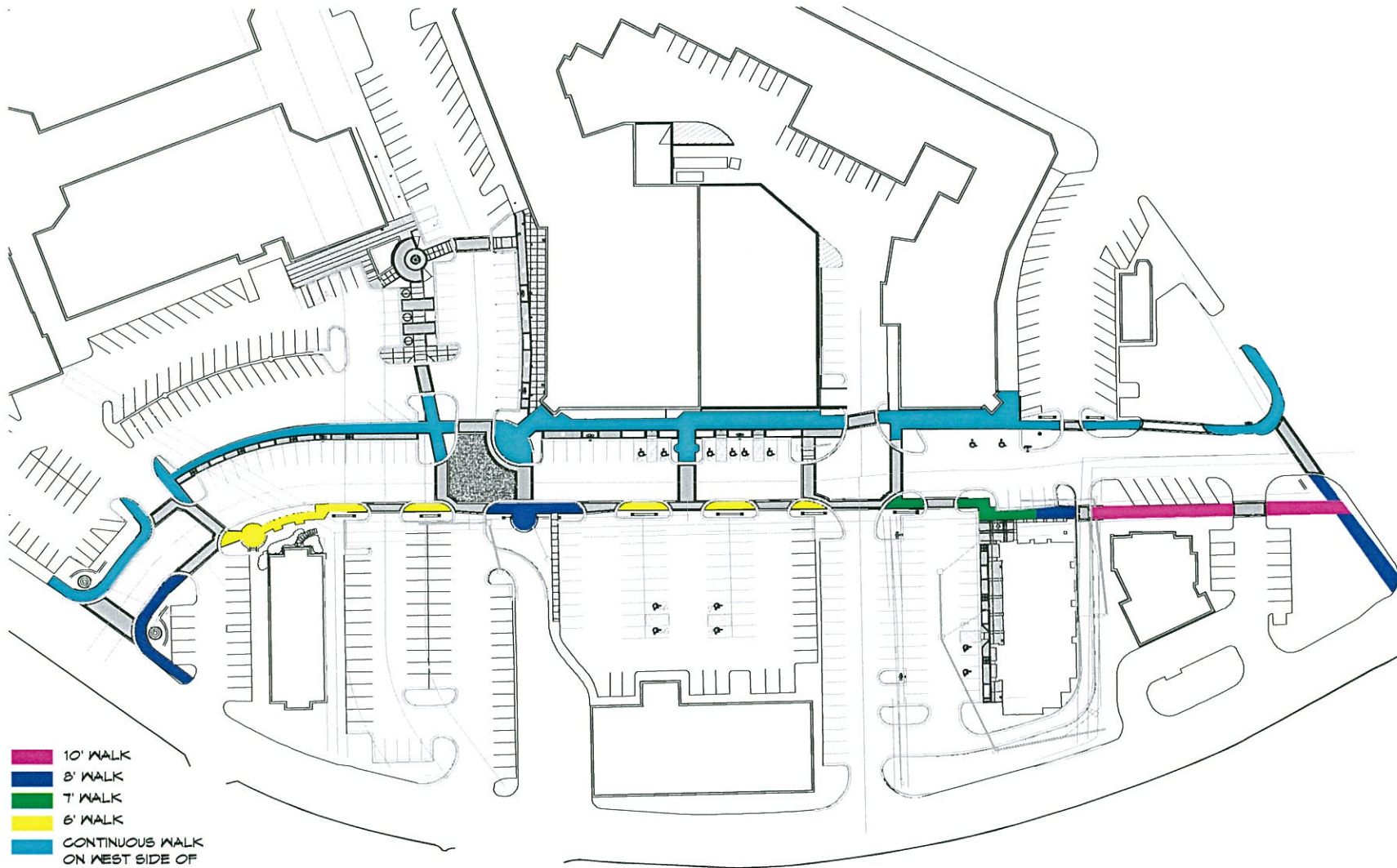
 <p>1501 N. 10th St., Suite 100 Topeka, Kansas 66604-1178 Phone: (785) 336-1111 Fax: (785) 336-1112 www.lutjen.com</p> <p>Surveying Planning Engineering Architecture</p>	LUTJEN PROFESSIONAL FIRM, L.L.C.	<b>EXHIBIT C</b>	
		<b>PRAIRIE VILLAGE SHOPPING CENTER R/W MAINTENANCE AGREEMENT PRAIRIE VILLAGE, JOHNSON COUNTY, KS</b>	

Attachment B: Sidewalk Diagram from Developer



# Sidewalk Diagram





- 10' WALK
- 8' WALK
- 7' WALK
- 6' WALK
- CONTINUOUS WALK ON WEST SIDE OF MISSION LANE

NOTE: SIDEWALK WIDTHS INDICATE MINIMUM DIMENSIONS

# Sidewalk Diagram

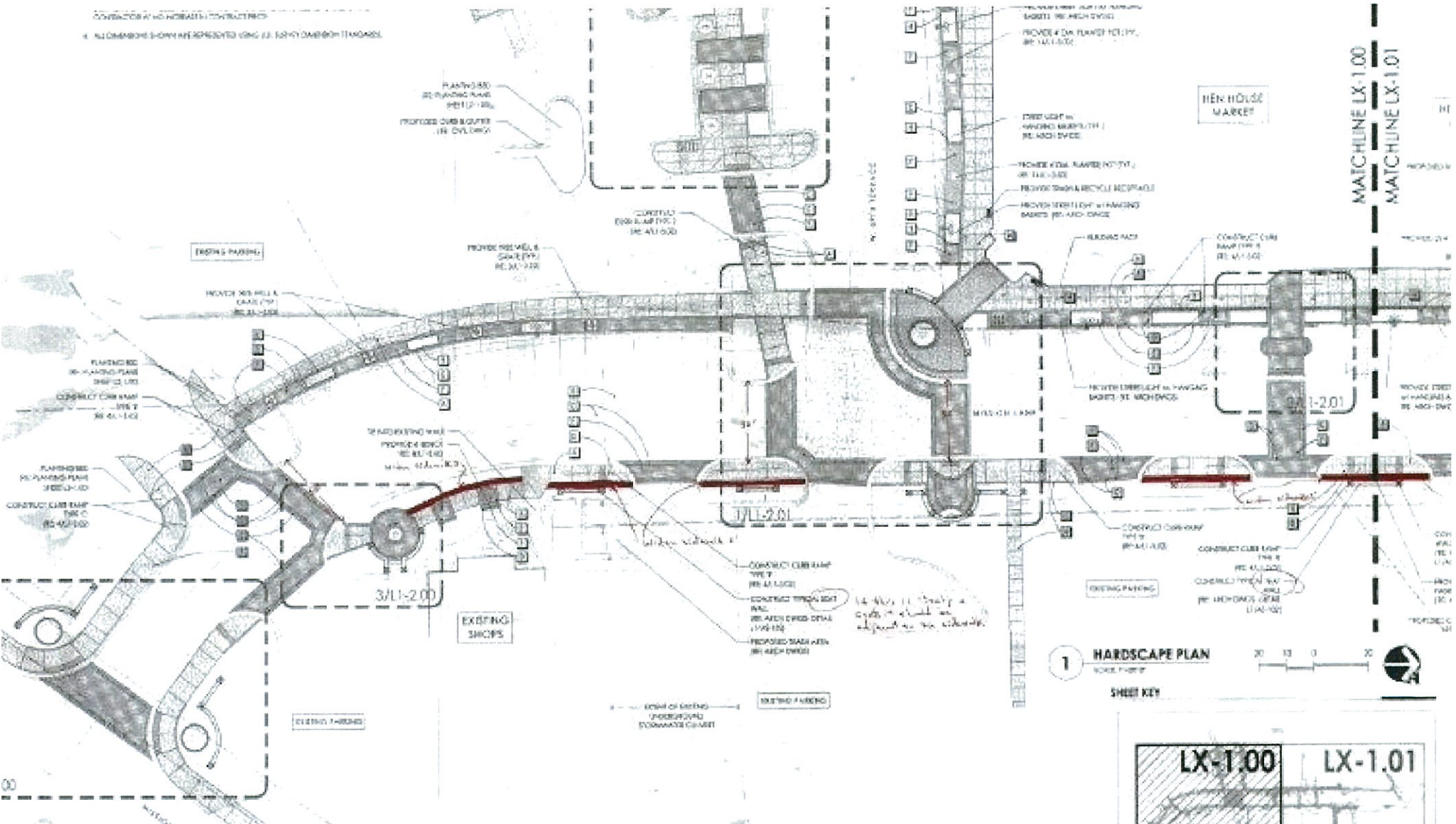




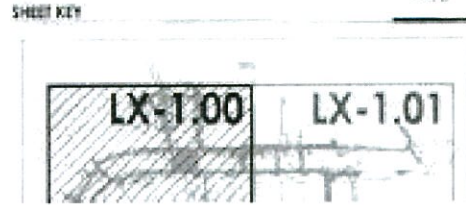
Attachment C: Alternative Sidewalk Pedestrian/Trail Easement Plan

CONSTRUCTION AND HARDSCAPE CONSTRUCTORS

1. ALL DIMENSIONS SHOWN ARE REPRESENTED USING U.S. CUSTOMARY UNITS ONLY.



**1 HARDSCAPE PLAN**  
Scale: 1/8" = 1'-0"



MATCHLINE LX-1.00  
MATCHLINE LX-1.01

N. SIDE TERRACE

HEN HOUSE MARKET

EXISTING SHOPS

EXISTING TERRACE

EXISTING PARKING

BOUNDARY OF EXISTING UNDERGROUND UTILITIES

*14'-0" x 11'-0" study area  
study is shown as adjacent to the sidewalk*

CON. PAV. (1'-0" x 1'-0")  
CON. PAV. (2'-0" x 2'-0")  
PROPOSED C/S

EXISTING PARKING

CONSTRUCT CURB LAMP TRAY 8  
RE: 4/11/20  
CONSTRUCT CURB LAMP TRAY 9  
RE: 4/11/20  
CONSTRUCT CURB LAMP TRAY 10  
RE: 4/11/20

CONSTRUCT CURB LAMP TRAY 5  
RE: 4/11/20

CONSTRUCT CURB LAMP TRAY 6  
RE: 4/11/20

CONSTRUCT CURB LAMP TRAY 7  
RE: 4/11/20

CONSTRUCT CURB LAMP TRAY 4  
RE: 4/11/20

CONSTRUCT CURB LAMP TRAY 3  
RE: 4/11/20

CONSTRUCT CURB LAMP TRAY 2  
RE: 4/11/20

CONSTRUCT CURB LAMP TRAY 1  
RE: 4/11/20

CONSTRUCT CURB LAMP TRAY 0  
RE: 4/11/20

CONSTRUCT CURB LAMP TRAY -1  
RE: 4/11/20

CONSTRUCT CURB LAMP TRAY -2  
RE: 4/11/20

CONSTRUCT CURB LAMP TRAY -3  
RE: 4/11/20

CONSTRUCT CURB LAMP TRAY -4  
RE: 4/11/20

CONSTRUCT CURB LAMP TRAY -5  
RE: 4/11/20

CONSTRUCT CURB LAMP TRAY -6  
RE: 4/11/20

CONSTRUCT CURB LAMP TRAY -7  
RE: 4/11/20

CONSTRUCT CURB LAMP TRAY -8  
RE: 4/11/20

CONSTRUCT CURB LAMP TRAY -9  
RE: 4/11/20

CONSTRUCT CURB LAMP TRAY -10  
RE: 4/11/20

CONSTRUCT CURB LAMP TRAY -11  
RE: 4/11/20

CONSTRUCT CURB LAMP TRAY -12  
RE: 4/11/20

CONSTRUCT CURB LAMP TRAY -13  
RE: 4/11/20

CONSTRUCT CURB LAMP TRAY -14  
RE: 4/11/20

REARING FACE

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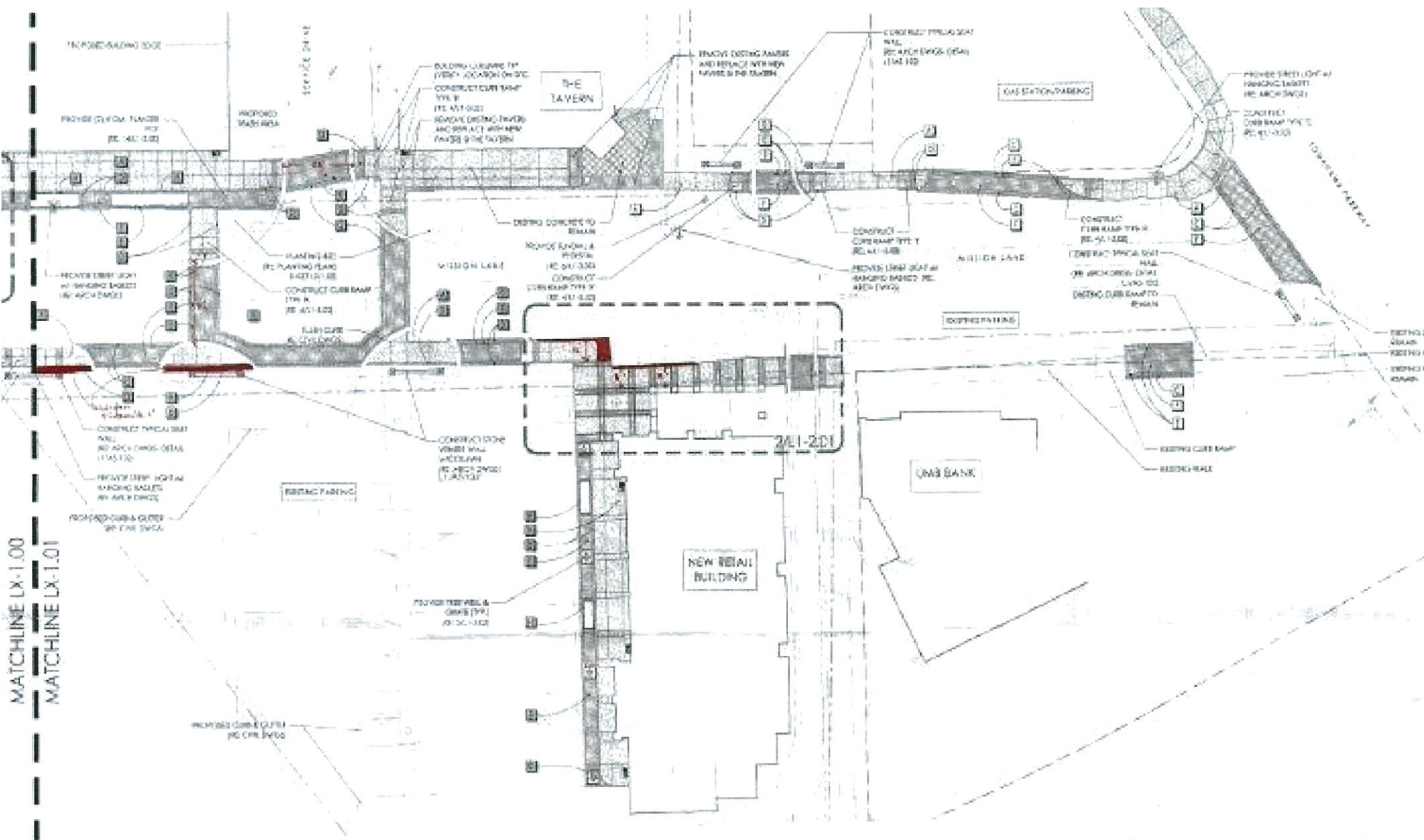
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MATCHLINE LX-1.00  
 MATCHLINE LX-1.01

**HARDSCAPE NOTES**

1. ALL DIMENSIONS SHALL APPLY UNLESS OTHERWISE NOTED.

**1 HARDSCAPE PLAN**  
 SCALE: 1/8" = 1'-0"



Attachment D: Picture of Existing conditions by Gas Main



**MAYOR'S ANNOUNCEMENTS**  
**May 6, 2013**

**Committee meetings scheduled for the next two weeks include:**

Planning Commission	05/07/2013	7:00 p.m.
Parks & Recreation Committee	05/08/2013	7:00 p.m.
JazzFest Committee	05/09/2013	7:00 p.m.
Sister City Committee	05/13/2013	7:00 p.m.
Prairie Village Arts Council	05/15/2013	7:00 p.m.
Council Committee of the Whole	05/20/2013	6:00 p.m.
City Council	05/20/2013	7:30 p.m.

=====

The Prairie Village Arts Council is pleased to announce an abstract photography exhibit by Jacia Humiston in the R.G. Endres Gallery for the month of May. The reception will be held on May 10th, from 6:30 to 7:30 p.m.

Recreation memberships are for sale in the City Clerk's Office. The pool opens on Saturday, May 25<sup>th</sup>, at 11:00 a.m.

The City offices will be closed on Monday, May 27<sup>th</sup>, in observation of the Memorial Day Holiday. Deffenbaugh also observes this holiday so pick-up will be delayed.

**INFORMATIONAL ITEMS**  
**May 6, 2013**

1. Planning Commission Agenda - May 7, 2013
2. JazzFest Committee Minutes - March 7, 2013
3. Prairie Village Arts Council Minutes - March 20, 2013
4. Environment/Recycle Committee Minutes - March 27, 2013
5. VillageFest Committee Minutes - March 28, 2013
6. Tree Board Minutes - April 3, 2013
7. Finance Committee Minutes - April 9, 2013
8. Council Committee of the Whole Minutes - April 15, 2013
9. First Quarter 2013 Crime Report
10. Mark Your Calendars

**PLANNING COMMISSION AGENDA  
CITY OF PRAIRIE VILLAGE  
TUESDAY, MAY 7, 2013  
\*\*VILLAGE PRESBYTERIAN CHURCH\*\*  
6641 MISSION ROAD  
7:00 P. M.**

- I. ROLL CALL
- II. APPROVAL OF PC MINUTES - APRIL 2, 2013
- III. NON-PUBLIC HEARINGS
  - PC2013-112 Site Plan Approval - First Floor Elevation  
9109 Fontana  
Zoning: R-1a  
Applicant: Dan Quigley
  - PC2013-113 Sign Standards for the Prairie Village Shopping Center  
NW Corner 71<sup>st</sup> & Mission Road  
Zoning: C-2  
Applicant: Lega C Properties
  - PC2013-115 Final Plat Approval -  
Meadowbrook Executive Building  
5250 West 94<sup>th</sup> Terrace  
Zoning: C-0  
Applicant: Polsinelli Shughart
- IV. PUBLIC HEARINGS
  - PC2013-04 Amendment to Special Use Permit for Private School  
Monarch Montessori School  
7501 Belinder Avenue  
Zoning: R-1a  
Applicant: Lindsay McAnany, Monarch Montessori
  - PC2013-05 Request for Special Use Permit for Adult Senior Dwellings  
8500 Mission Road  
Zoning: R-1a  
Applicant: John Petersen, Polsinelli Shughart representing Tutera  
Family Communities
  - PC2013-114 Site Plan Approval - Mission Chateau  
8500 Mission Road  
Zoning: R-1a  
Applicant: John Petersen, Polsinelli Shughart representing Tutera  
Family Communities
- V. OTHER BUSINESS
- VI. ADJOURNMENT

Plans available at City Hall if applicable

If you can not be present, comments can be made by e-mail to

[Cityclerk@Pvkansas.com](mailto:Cityclerk@Pvkansas.com)

**\*Any Commission members having a conflict of interest, shall acknowledge that conflict prior to the hearing of an application, shall not participate in the hearing or discussion, shall not vote on the issue and shall vacate their position at the table until the conclusion of the hearing.**



## **JAZZ FEST COMMITTEE**

**March 6:30 p.m.**

Present: Jack Shearer, Gloria Shearer, Donelea Hesper, Dan Andersen, JD Kinney, Chris Huff, Diane Mares, Brooke Morehead and Jeanne Koontz.

### **Fundraising**

Jack Shearer reported that the sponsorship levels have been revised as follows:

- \$15,000 Louis Armstrong - Presenting Sponsor
- \$10,000 Charlie Park - Artist Sponsor
- \$5,000 Ella Fitzgerald - Event Sponsor
- \$1,750 Thelonius Monk - Corporate Tent
- \$400 Miles Davis - Corporate Table
- \$150 & up - Friends of Jazz

The committee will be receiving \$500 from the Ella Fitzgerald Foundation and permission to use their logo.

Joyce announced that letters have been sent to all former donors. Packets will be sent out Friday to the contacts requested by Brenda. The list of contacts was distributed and reviewed. Jack asked for any additional names or businesses that should be added to the list.

Brooke felt that Hunt Midwest and Benton House would be addressed separately. She also added the Polsinelli law firm to the list for Brenda to contact.

Dan Andersen asked if the committee would be applying for a grant from the Boylan Foundation. Jack reported that Mayor Shaffer would be meeting with the Constantinos and Lane4 representatives next week. Chris Huff will follow up with Cable-Dahmer, Dr. Reichman and Rasmussen Chiropractic. JD will talk with people at Claridge Court.

### **Website**

Chris Huff will be working on updating the Website and monitoring the face book account.

### **Vendors**

Jack Shearer reported that he had spoken with Alan Gaylin who was interested in returning as a vendor and would be allowing the use of his liquor license for the sale of drinks by the committee. Possible vendor fees and possible vendors were discussed. It was the committee's desire to have a variety of quality food offerings. Brooke encouraged the committee to use Prairie Village businesses. Suggested vendors included BRGR, Spin Pizza, Blue Moose, Salty Iguana, Melys and Noodles & Company.

**Financial Statement**

The financial statement was distributed and reviewed. Revenue included \$2000 from the Regnier Foundation, \$500 from the Bank of Blue Valley and \$294.65 from Standard Beverage Corporation. Expenditures included payment of Brenda Pelofsky and printing costs for a total of \$3,538.24. The current balance available is \$893.04.

Brooke Morehead questioned why the \$10,000 from the City was not reflected. It was also noted the donation from the PV Arts Council was not reflected.

Brooke Morehead asked for a letter that could be used for in-kind donations. Jack and Joyce will prepare.

**Next Meeting**

The next meeting will be Thursday, April 4<sup>th</sup> at 6:30 p.m. at Dan's House.

**Adjournment**

The meeting was adjourned at 8:00 p.m.

Prairie Village Arts Council  
Wednesday, March 20, 2013  
7:00 p.m.  
City Hall Council Chambers

Minutes

The Prairie Village Arts Council met at 7:00 p.m. in the City Council Chambers at City Hall. Members present: Shelly Trewolla, Chair, Jack Shearer, and Art Weeks. Guests: Jeff Berg and Matt Dehaemers. Staff: Dennis Enslinger.

No Quorum so no formal business was conducted, however, the members present listed to the presentations for informational purposes only.

**Minutes**

The minutes will be under consideration at the April 17, 2013 meeting.

**Financial Reports**

Mr. Enslinger presented the financial reports for the city budget Prairie Village Municipal Foundation accounts.

**City Council Report**

Council Member Wassmer was not present.

**Exhibit/Receptions**

March Exhibit/Reception – Jere A. Hanney (Mixed Media), March 8, 2013; 6:30-7:30 p.m.  
Shelly Trewolla noted there was a good attendance at the event

April Exhibit/Reception – Dale Cole and Rick Scaletty (Photography), April 12, 2013; 6:30-7:30 p.m. Dennis Enslinger noted that he would not be in attendance. Joyce Mundy will likely be the staff member in attendance.

**New Business**

Review of Artist: Susan Righter (mixed media) December or June 2013. This item will be heard at the April 17, 2013.

**Old Business**

Presentation by Jeff Berg on 1% for Art Work as part of the Corinth Square CID

Mr. Berg and Matt Dehaemers, artist, were present. Matt provided a PowerPoint presentation with examples of his work (see attached). He then provided some conceptual images of the artwork which would be installed at the Corinth Shopping Center.

Welcome Center at Rockport Missouri – Interesting images mixed in with quilt patterns. Used farm images as a point of reference. Living on the land and with the land and using the land sod houses. Drawing on images of typical Nichol's house image of brand new homes, historic photographs.

Evolution of roofline growth of home, one roofline to another roofline creating a playful arch. It will be located on the holiday tree corner.

Shelly stability – refinement needs to address that it is a piece of artwork. Discussion on how to prevent climbing and lighting the structure.

It would be located on the

NEA Place Making Grant – look into this grant.

Shooting Stars Gala – Sunday, April 7, 2013 Reception 3 p.m., Awards Ceremony 4:15 p.m. Mr. Enslinger noted that he needs to turn in list of members who would like to attend. He noted that he would send out the notice to the Committee members.

Meeting was adjourned at 7:45 p.m.

# PRAIRIE VILLAGE ENVIRONMENT AND RECYCLE COMMITTEE

Minutes, March 27, 2013

Pete Jarchow, for the steering committee, called the meeting to order at 7:05 p.m. Attending were Pete, Karin McAdams, Dennis Enslinger, Thomas O'Brien, Margaret Goldstein, Deborah English, Mary English, Polly Swafford, Ben Claypool, Bob Pierson, Barbara Brown, Ashley Weaver, Amy Bell (a new attendee) and Julie Coon, the evening's speaker.

The minutes from February were approved as corrected.

## **Guest speaker: Julie Coon, Environmental Compliance Manager for Johnson County**

- **Composting pilot project at Normandy Square**

- Deffenbaugh has facilities for composting food waste and how to use them; hence they are experimenting with collecting food waste in a small, controlled area: Normandy Square Homes Association, an area with 80 households.
- At the outset, 35 collection bins were distributed, but there was little education and therefore poor participation. Now there will be more education to help overcome the "ick" factor and answer many questions.
- Our committee has helped finance the collection receptacles and will continue to do so.
- Tracking participation is important but is not easy. Our committee could help do this.
- Deffenbaugh will offer free compost in April, at Santa Fe Park, along with composting information.
- Members of the committee had a great many questions and some suggestions on this topic.

- **Five-year waste management plan update:**

- In 2005, 22% of households participated in solid waste diversion. Since then the number has approximately doubled.
- The large-item pickup is an important part of waste diversion but is not really measurable because of the informal pickup by resellers.
- The next major education campaign will involve commercial waste disposal.

## **Reports and business**

- **Earth Fair:**

- A signup sheet was passed to gather volunteer commitments for the fair.
- Many committee members offered to distribute posters and postcards

- **Education:**

- The committee would like to sponsor a series of programs, open to the community, on a variety of environmental topics. These would be less formal than the Community Forum and might involve potluck suppers before the programs.
- A motivational project could be to provide a set of criteria that local people would have to meet (efforts to help the environment), after which they would be able to display a special car sticker affirming their efforts. Ideally these marks of distinction would become sought after in the community.
- The committee has tentatively agreed to meet again on April 22 at 6:00 at Panera.

- **Community Forum:** Deb English reported that the committee is still looking at possible topics and will send out a survey to many contacts, including KNRC.
- **Village Fest**
  - Deb is persisting with the project of a stationary bike that lights up a light bulb.
  
  - All agreed to the idea of nominating Linda Smith for a spirit award.

**Other business – the proposed budget for 2013-14**

\$750 Education

\$3500 Earth Fair

\$500 Village Fest

\$800 Community Forum

\$1000 e-recycling

\$200 Jazz Fest

\$1200 Normandy Square composting project

**2014-15**

We should ask for more in 2014-15, because the Community Gardens will no longer be supported by their grant. The plots earn money for the city, since their fees can't come directly to the PVERC. Other estimates should be raised: \$900 for education and \$900 for the Forum.

The meeting adjourned at 8:40

The next meeting will be held on April 24 at 7:00 p.m.

Respectfully submitted,

Karin McAdams

## VILLAGEFEST COMMITTEE

**March 28, 2013**

The VillageFest Committee met March 28, 2013 at 7:00 pm. Present and presiding, Marianne Noll. Members present: Cindy Clark, Toby Fritz, Danielle Dulin, Ed Roberts, Deke Rohrbach, Dale Warman and Jeanne Koontz.

### **Minutes**

Ed Roberts moved approval of the minutes of the February 28, 2013 meeting. The motion passed unanimously.

### **Staff Reports**

#### **A. Administration**

Marianne gave an update on the inflatables. The previous inflatable company is now owned by a company who operates fireworks and will not be available on July 4<sup>th</sup>. Staff solicited bids from a variety of inflatable companies and recommends the low bid, Action Inflatables Mega Events, for \$1,375. Marianne suggested placing a sign at the slide/bounce combo noting it is for 6 & under.

Jeanne gave an update on the Velcro Wall and the U:Launchers. The committee decided to wait on making a decision until available space could be determined. The committee discussed the draw of the Video Game Van. Cindy said there was not a big crowd at the van last year.

### **Wow Item**

Marianne reported that Quinn suggested having a mobile zip line. There are not any mobile zip lines in the Kansas City area. However, Fun Services can bring in a mobile zip line from Ohio for \$3,800. The committee was in favor of the idea and suggested roping off the zip line area. Dale said he would inform council on Monday night to gauge their reaction. The attraction will need to be heavily marketed on facebook and pvpost.

### **Planning Group Reports**

#### **A. Entertainment - Deke Rohrbach**

Deke reported she looked at a few bluegrass bands but feels they are too mellow for VillageFest. She feels they do not have enough sound for the space. Deke also looked at the Scott Peery Band, a country band, who is trying to go National. She stated she is gravitating toward The Brew. Deke said she is concerned about shade at the stage. She will follow up with the stage company.

Deke reported she contacted Parisi and Roasterie about coffee donations and is filling out the necessary donation request forms.

#### **B. Craft Center - Patty Jordan**

Marianne reported that Patty contacted the Home Depot and they will return this year.

#### **C. Crafts - Cindy Clark**

Cindy stated she has received three applications so far.

#### **D. Patriotic Service - Marianne Noll**

Marianne reported that Quinn looked into a Brass Band but the fee is \$700 for two hours. Deke suggested a Fife & Drum Corps. Marianne said we could use a DJ again. Dale said he has used a bagpiper for a number of years at the Lineman's Rodeo. Deke said she will ask her contact at the VFW for ideas.

E. Food Vendors - Susan Forrest

The following vendors will be coming and providing their own electricity: Hy-Vee, the Popcorn Man, and Rex Nolen. Hy-Vee will serve breakfast pastries this year. Marianne will contact the scouts about selling water.

F. Information Booth - Beth Cavanaugh

No Report.

G. Volunteers - Beth Cavanaugh

No Report.

H. Decorations -

Marianne asked committee members to think of ideas for decorations. She stated there are 90 full size flags that can be used to line Mission Rd.

I. Sponsorships - Jeanne Koontz & Marianne Noll

No report.

J. Pie Baking Contest - Danielle Dulin

Danielle stated she would like to have the pies displayed in a visual location and suggested by the pancake breakfast. The budget is \$650 which will include prizes for each category and incidentals. The committee decided to serve pie slices after the contest and take donations for them. One volunteer is needed.

K. Bike Rodeo - Adam Taylor

No Report.

L. Fingerprinting - Masonic Lodge

No report.

M. Community Spirit Award - Toby Fritz

The judges for the Community Spirit Award are Joel Crown, Bob Pisciotta and Mary Rimann.

N. History Display - Ted Fritz

Marianne said she would prepare a craft that would be applicable to the history display.

O. Wow Item -

Marianne asked the committee to think about the wow item.

**Other Business**

The committee would like to have a misting tent.

The next meeting is April 25, 2013 at 7:00 pm. The meeting adjourned at 8:00 pm.

Marianne Noll  
Chair



## **TREE BOARD**

**City of Prairie Village, Kansas**

### **MINUTES (DRAFT)**

**Wednesday April 3, 2013  
Public Works Conference Room  
3535 Somerset Drive**

Board Members: Jack Lewis, Greg VanBooven, Deborah Nixon, Luci Mitchell, Rick Howell

Other Attendees: Suzanne Lownes, Dale Warman

Greg VanBooven called the meeting to order at 6:00 p.m. with a quorum present.

- 1) Review and Approve Minutes of March 6, 2013-** Motion by Deborah Nixon, second by Greg VanBooven **Approved unanimously.**

#### **2) Emerald Ash Borer Discussion**

Suzanne Lownes updated the Board on staff discussions concerning the Emerald Ash Borer with \$50,000 being requested in the 2014 Operating Budget for hiring a contractor to do a thorough inventory of all of the City Ash Trees, with sizes, and following a predetermined rating system also with the potential of geocoding all the trees. Deborah Nixon and Greg VanBooven indicated that they thought that the City was putting itself behind by not beginning the process until 2014. They discussed that the Tree Board members should do the inventory themselves this summer that way the funding for 2014 can be used to start the process of treating and removing trees. Suzanne Lownes said she would discuss this option with staff and have an update for the next meeting.

Suzanne Lownes also discussed the thought of creating an Emerald Ash Borer Subcommittee to help set up the rating criteria and review possible contractors for the work.

#### **3) Sub-Committee Report**

##### **3.1) Arbor Day a) Arbor Day Event**

The Arbor Day event will be April 27<sup>th</sup> at 9:00am at Franklin Park. Rick Howell will talk to KAT Nursery about donating a Kousa Dogwood to replace the one that previously died. City Staff will look for a nice shaded place to plant the tree, near the pavilion.

#### **4) Old Business**

- 4.1)** Luci Mitchell wanted to remind the Board that she will be at the Earth Day Event at Shawnee Mission East on April 13<sup>th</sup> at the Tree Board table. Suzanne Lownes said she would check with Luci on what she might need for EAB handouts or a raffle prize.

- 4.2)** Suzanne Lownes updated the Board on her discussions with the USDA about placing Emerald Ash Borer traps in a couple of locations. They will be placing one at Porter Park in one of the two large Ash trees located on the east side of the parking lot. They will also be placing one at Public Works near the back lot since that is where most of the tree debris is located.

**5) New Business**

None

**6) Next Meeting**

The next meeting will be May 1, 2013 at 6:00pm at the Public Works Facility.

Arbor Day Event will be April 27<sup>th</sup> at 9:00am at Franklin Park

The meeting adjourned at 7:05 p.m.

Minutes prepared by Suzanne Lownes.

## FINANCE COMMITTEE

April 9, 2013

The Finance Committee met on April 9, 2013. Council members Present: Chairman Charles Clark, David Belz, and Steve Noll. Guests Present: Kathy Thompsen and Jeff White. Staff Present: Quinn Bennion, Dennis Enslinger and Lisa Santa Maria. Absent: Michael Kelly.

The Committee met to discuss:

### **2014 Budget**

The City ended the 2012 fiscal year with a 39% fund balance. The target ending fund balance is 25 percent of revenues (excluding transfers). Revenues were at 101.1 percent of projections, and expenditures were at 91.9 percent of appropriations. The 2013 and 2014 budget expectation is that expenditures will be closer to 95-97% of appropriations.

Part of the fund balance will be used for items approved on the Significant Budget Proposals list (attached). The Committee discussed the compensation study which is on the Significant Budget Proposals list and is scheduled for further discussion at the April 15<sup>th</sup> Council meeting. The last compensation study was done in 2006 and recommendations from that study will be presented at the Council meeting. The committee feels that Council needs to accept all of the study recommendations, or none of the recommendations. Health insurance will also be discussed at the Monday night meeting.

Staff recommends that the fund balance be used for budget items, which includes parks, Emerald Ash Borer infestation, equipment reserve and street improvements.

### **CID Developer Payments**

The City Council approved the establishment of a Community Improvement District (CID) at the Corinth Square and Prairie Village Shopping Centers on September 20, 2011. Both shopping centers collect an additional 1% sales tax (effective January 1, 2011). The additional 1% is in effect for a maximum of 22 years.

As part of the Corinth and Prairie Village Center CID's, the City Council and CSN Retail Partners LLC signed a Development Agreement which establishes the allowable uses of the additional sales tax funds. The City holds all funds collected by the CID until the developer requests reimbursement for an allowable expense (i.e. signature project, target project, or tenant projects). The City then reviews the reimbursement request to ensure that it is an eligible expense and has been completed. Upon the completion of the project, the City then reimburses the developer for any eligible expenses.

The City currently has \$3,510,610.74 in pending request from Corinth and \$213,268.39 from the Prairie Village Shops. It is anticipated that the final total payment due the developer will be approximately \$14 million. The City receives about \$450,000 in sales tax a year for each shopping center. The City will have to start paying the developer interest (prime rate + 2%) which is approximately 5.25% on unpaid approved reimbursements.

## FINANCE COMMITTEE

April 9, 2013

The City is exploring bonding the CID payments while waiting for the revenue to arrive. Jeff White from Columbia Capital Management, LLC outlined three bonding choices:

1. GO Bond – this becomes a tax payer liability, but gets the best interest rate
2. Annual Appropriation Structure – issue bonds and appropriate debt payments in annual budget. This is considered less of an obligation and would issue at a lesser bond rating (but not much less)
3. Revenue Bonds – These are easily marketed in part because of the positive history on the shops. The City would need to provide coverage and would pay a higher interest rate because the bonds are not backed by the full faith and credit of the City.

Bonding the debt would save funds for future projects rather than using it to pay interest. It was the original intent of the CID to incentivize the developer to invest dollars in the shopping center, and this has occurred.

The Committee would like to revisit this issue in the fall. It is likely that the bond rates will have gone up by then.

### Expanded Powers

The City drafted and introduced new language to a house member (Stephanie Clayton), but it was not filed this year. The City will continue to pursue this issue with Senator Kay Wolf and Representative Stephanie Clayton. It is in the city's best interest to be allowed to invest under Expanded Powers.

### Investment of Idle Cash

Jeff White from Columbia Capital and Lisa discussed the investment plan for the City's idle cash. Currently, about 75% of the City's idle cash is invested in:

Agency Discount Notes -	6%
Treasury Notes -	24%
Municipal Bonds -	12%
Agency Bonds -	16%
Certificates of Deposit -	42%

Bids were put out to local banks and all investments are held in City accounts. The new investment strategy for the city's idle funds is already proving beneficial.

### Capitalization Threshold

The City currently has a *capitalization threshold* of \$1,000 for any item purchased with a useful of greater than one year. These items are given a fixed asset tag and depreciated.

## **FINANCE COMMITTEE**

**April 9, 2013**

The Governmental Accounting, Auditing, and Financial Reporting (GAAFR) recommend a minimum capitalization threshold of \$5,000. Our current auditors (Berberich Trahan) are comfortable with a level between \$1,000 and \$5,000.

The Committee also discussed raising the Purchase Order and Purchasing Card (Pcard) requirement from \$2,000 to \$2,500.

The Committee was in favor of:

- Raising the capitalization threshold from \$1,000 to \$5,555
- Raising the Purchase Order requirement from \$2,000 to \$2,500
- Raising the Purchase Card requirement from \$2,000 to \$2,500

**Meeting was adjourned at 4:35 p.m.**

**Significant Budget Proposals  
Proposed 2014 Budget**

The Significant Budget Proposals list has been updated to reflect Council action (votes) taken at the March 18, 2013 Council Committee of the Whole meeting. The following Significant Budget Proposals have been identified for discussion during the 2014 Budget process by Council and staff.

Item	Description	Background / Description of Project	Estimated Budget Amount 2014	Council Meeting Discussion
A 2	Develop a plan for parks funding and more park/green space (Parks Master Plan)	Discussed by Finance, Council and Parks and Rec Committee. Sales tax initiative not pursued in 2012. Staff and Parks and Rec Committee are recommending adding projects. Staff anticipates parks funding to be between \$200,000 - \$300,000 annually in the CIP budget for several years. More information and a presentation will occur in May from the Parks and Rec Committee.	\$ (250,000)	20-May-13
A 3	Address Emerald Ash Borer infestation	Currently being researched. The Tree Board discussed this item in January and will provide a recommendation in the coming months.. There needs to be a decision to treat and / or remove street trees.  Contract to remove trees depends on the dbh (thickness) of the tree. Prices vary from \$140-\$1215. The average of the cost of arterial avenues and minor streets is \$575. For 737, trees that is \$423,775 total. This is also assuming our 2013 contract agreement rate.  The cost for a single treatment on average is \$87.02 (using city labor). Because the treatment works for two years the true annual cost is \$43.51 per tree or \$33,540.87 a year excluding admin and training costs.  The estimate represents spreading the cost over 5 years.	\$ (50,000)	1-Apr-13
A 4	Rental licensing program enhancement and home ownerships initiatives	Estimated cost includes a staff position for inspection and program administration. There is also a one-time cost for a vehicle and other equipment. Cost could be offset with a fee increase. There are currently 800 rental properties license.	\$ (65,000)	20-May-13
A 7	Comprehensive Compensation Study	Recommended if Council desires to review employee salary and benefits structure. Full study includes pay, insurance and retirement plans.	\$ (30,000)	15-Apr-13

**Significant Budget Proposals  
 Proposed 2014 Budget**

A 8	Pool closing on weekdays after start of school	<p>Closing the pool Mon-Thurs after the start of schools, would save wages of concession and life guards less lost revenue. Council Committee reviewed recently and did not pursue.</p> <table border="1" data-bbox="814 272 1619 695"> <thead> <tr> <th></th> <th>Members</th> <th>Drop-in</th> <th>Total Attendance</th> <th>Gate Revenue</th> </tr> </thead> <tbody> <tr> <td>Week 1 M-Th 2012</td> <td>295</td> <td>121</td> <td>416</td> <td>\$ 624.00</td> </tr> <tr> <td>Week 2 M-Th 2012</td> <td>428</td> <td>99</td> <td>527</td> <td>\$ 494.00</td> </tr> <tr> <td>Week 3 M-Th 2012</td> <td>534</td> <td>142</td> <td>676</td> <td>\$ 696.00</td> </tr> <tr> <td><b>Total 2012</b></td> <td><b>1257</b></td> <td><b>362</b></td> <td><b>1619</b></td> <td><b>\$ 1,814.00</b></td> </tr> <tr> <td>Week 1 M-Th 2011</td> <td>442</td> <td>119</td> <td>561</td> <td>\$ 610.00</td> </tr> <tr> <td>Week 2 M-Th 2011</td> <td>503</td> <td>138</td> <td>641</td> <td>\$ 658.00</td> </tr> <tr> <td>Week 3 M-Th 2011**</td> <td>0</td> <td>0</td> <td>0</td> <td>\$ -</td> </tr> <tr> <td><b>Total 2011</b></td> <td><b>945</b></td> <td><b>257</b></td> <td><b>1202</b></td> <td><b>\$ 1,268.00</b></td> </tr> <tr> <td>Week 1 M-Th 2010</td> <td>435</td> <td>169</td> <td>604</td> <td>\$ 880.00</td> </tr> <tr> <td>Week 2 M-Th 2010</td> <td>189</td> <td>111</td> <td>300</td> <td>\$ 552.00</td> </tr> <tr> <td>Week 3 M-Th 2010*</td> <td>204</td> <td>47</td> <td>251</td> <td>\$ 224.00</td> </tr> <tr> <td><b>Total 2010</b></td> <td><b>828</b></td> <td><b>327</b></td> <td><b>1155</b></td> <td><b>\$ 1,656.00</b></td> </tr> </tbody> </table> <p>*Closed one day                  ** Pool Closed 8 days early at the advice of the Johnson County Health Department</p>		Members	Drop-in	Total Attendance	Gate Revenue	Week 1 M-Th 2012	295	121	416	\$ 624.00	Week 2 M-Th 2012	428	99	527	\$ 494.00	Week 3 M-Th 2012	534	142	676	\$ 696.00	<b>Total 2012</b>	<b>1257</b>	<b>362</b>	<b>1619</b>	<b>\$ 1,814.00</b>	Week 1 M-Th 2011	442	119	561	\$ 610.00	Week 2 M-Th 2011	503	138	641	\$ 658.00	Week 3 M-Th 2011**	0	0	0	\$ -	<b>Total 2011</b>	<b>945</b>	<b>257</b>	<b>1202</b>	<b>\$ 1,268.00</b>	Week 1 M-Th 2010	435	169	604	\$ 880.00	Week 2 M-Th 2010	189	111	300	\$ 552.00	Week 3 M-Th 2010*	204	47	251	\$ 224.00	<b>Total 2010</b>	<b>828</b>	<b>327</b>	<b>1155</b>	<b>\$ 1,656.00</b>	\$ 8,000	
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A 10	Accelerate Street Maintenance	Accelerate street maintenance with a bond issue or a mill levy increase. With the current assessed valuation estimate for 2012, 1 mill would raise \$282,170.	\$ -	1-Apr-13																																																																	
A 11	Video System - Police Department	<p>Replacement units for in-car video/audio systems.</p> <p>13 units - \$78,000                      13 installations - \$5,200</p> <p>Total = \$83,200</p>	\$ (83,200)	3-Jun-13																																																																	
A 12	Mill levy increase	This is an option even though the preference is not to. With the current assessed valuation estimate for 2012, 1 mill would raise \$282,170.	\$ 282,170	ongoing																																																																	

**Significant Budget Proposals  
Proposed 2014 Budget**

B 2	Evaluate Community Program budgets	Village Fest - \$16k, Environmental Committee - \$8k, Arts Council - \$13.5k and Sister City - \$4k	\$ -	6-May-13
B 24	Employee Merit Pool for 2014	The 2014 Budget will include a merit increase for employees. A smaller or elimination of the increase results in lower increases in FICA, retirement, etc., \$80,000 per 1% of salary. Eliminating the employee merit pool will have negative impact on morale and recruitment.	\$ -	3-Jun-13
B 25	Employee Appreciation Events	<p>The City holds an Annual Employee Appreciation Event to recognize employees for their hard work and dedication. The following are invited: full-time employees, crossing guards, bailiff, mayor and council members. Each person is allowed to bring one guest. The cost also includes the purchase of gift certificates for police officers who are required to work the night of the event and cannot attend.</p> <p>Employee Appreciation Events 2012 Sporting KC \$10,452, 146 attendance 2011 Royals \$6,665, 108 attendance 2010 New Theatre \$8,599, 109 attendance</p> <p>2013 budget = \$15,000 2012 actual = \$15,399 – the expenditures include the appreciation event, holiday lunch and milestone anniversary recognition.</p> <p>Other options discussed previously: New Dinner Theatre, bowling, Worlds of Fun, Starlight Theater, Country Club Dinner</p>	\$ -	1-Apr-13
B 28	Discuss lump sum merit awards	<p>No "one-time" payment for employees at max of range for performance review.</p> <p>At the end of 2012, only one employee received a lump-sum payment for their employee performance evaluation. The payment was a result of their base salary + performance increase being higher than the top of the range. Budget impact in 2012 of \$140.00. There are five employees currently within 2% of their range maximum.</p>	\$ -	1-Apr-13
B 29	Health Insurance Premiums	Employees pay a greater portion of health insurance premiums	\$ -	15-Apr-13
B 50	Treasurer Position	The Treasurer position is a standing appointment and the Mayor desires to continue that appointment. This position provides additional review of City financial activity. This item has been removed from budget consideration.	\$ <del>5,040</del>	



Significant Budget Proposals  
 Proposed 2014 Budget

**Removed from A List - not a part of 2014 budget process**

A 1	Community Center Feasibility Study	Determine what additional action is needed. If Council wants to proceed, additional project funds will be needed in the CIP budget. At the 03/4/13 meeting, Council voted to not pursue further action at this time.	\$ -
A 5	Review necessity of pet licenses / enumeration	Explore revenue and cost of administering animal licensing program and enumeration. Also discuss the benefits and drawbacks of licensing pets. Savings would be nominal, but would enable staff to focus on other priorities. Will be explored in 2013, but will not affect 2014 budget preparation. This item has been added to the Council's priority initiative list.	\$ -
A 6	Explore the purchase of the city's street light and /or traffic signal system	Currently KCPL owns the street lights and signal systems. The city pays an annual tariff for the use. Several neighboring cities have found it cost effective (long term) to purchase these systems through the issue of bonds. This item will be explored in 2013, but will not affect the 2014 budget preparation. This item is already included on the Council's budget priority list.  <b>2013 Budget:</b> Street lights - \$690k Traffic signals - \$680k	\$ -
A 9	WC Insurance Coverage	Explore joining KERIT instead of traditional Worker's Compensation coverage. Kerit is first dollar coverage with no deductibles. Savings amount reflects transferring to KERIT and cancellation penalty. The Insurance Committee explored the possibility of joining the KERIT insurance pool for workers comp insurance on three occasions and has not recommended a change. This item has been added to the Council's priority initiative list.	\$ 30,000

Columbia Capital Management, LLC  
**PORTFOLIO SUMMARY**  
*City of Prairie Village*  
*Consolidated*  
*March 31, 2013*

<u>Security Type</u>	<u>Total Cost</u>	<u>Market Value</u>	<u>Pct. Assets</u>	<u>Cur. Yield</u>	<u>Est. Annual Income</u>
<b>Fixed Income</b>					
Agency Discount Notes	999,897.50	999,992.00	4.7	0.0	0.00
Treasury Notes	3,725,445.31	3,723,234.40	17.6	1.0	36,250.00
Municipal Bonds	1,919,535.95	1,916,150.80	9.1	2.8	52,737.50
Agency Bonds	2,413,362.23	2,412,280.50	11.4	0.9	21,345.00
	<u>9,058,240.99</u>	<u>9,051,657.70</u>	42.8	1.2	110,332.50
<b>Cash and Equiv.</b>					
Certificate of Deposit	6,500,000.00	6,500,000.00	30.7	0.3	17,170.00
Cash and Equivalents	5,609,519.92	5,609,519.92	26.5	0.0	0.00
	<u>12,109,519.92</u>	<u>12,109,519.92</u>	57.2	0.1	17,170.00
<b>TOTAL PORTFOLIO</b>	<b>21,167,760.91</b>	<b>21,161,177.62</b>	<b>100.0</b>	<b>0.6</b>	<b>127,502.50</b>

Columbia Capital Management, LLC  
**FIXED INCOME PORTFOLIO**  
*City of Prairie Village*  
**Consolidated**  
 March 31, 2013

Quantity	Security	Unit Cost	Total Cost	Price	Market Value	Accrued Interest	Market Value +Accr.Int.	Pct. Assets	Yield To Mat.	Duration
<b>Agency Discount Notes</b>										
1,000,000	FEDL HOME LN MTG CORP DISC NT 0.000% Due 04-16-13	99.99	999,897.50	100.00	999,992.00	0.00	999,992.00	6.4	0.0	0.0
	Agency Discount Notes Total		999,897.50		999,992.00	0.00	999,992.00	6.4	0.0	0.0
<b>Treasury Notes</b>										
2,000,000	UNITED STATES TREAS NTS 0.750% Due 09-15-13	100.34	2,006,718.75	100.29	2,005,704.00	652.17	2,006,356.17	12.9	0.1	0.5
1,700,000	UNITED STATES TREAS NTS 1.250% Due 03-15-14	101.10	1,718,726.56	101.03	1,717,530.40	923.91	1,718,454.31	11.0	0.2	1.0
	Treasury Notes Total		3,725,445.31		3,723,234.40	1,576.09	3,724,810.49	23.9	0.1	0.7
<b>Municipal Bonds</b>										
50,000	OVERLAND PARK KANS 2.000% Due 09-01-13	100.76	50,382.00	100.74	50,370.50	83.33	50,453.83	0.3	0.2	0.4
145,000	JOHNSON CNTY KANS UNI SCH DIST 5.000% Due 10-01-13	102.50	148,618.25	102.39	148,459.70	3,625.00	152,084.70	1.0	0.2	0.5
50,000	JOHNSON CNTY KANS UNI SCH DIST 4.000% Due 10-01-13	101.94	50,970.00	101.89	50,946.00	1,000.00	51,946.00	0.3	0.2	0.5
25,000	WICHITA KANS 4.000% Due 06-01-15	108.10	27,025.50	107.29	26,823.75	333.33	27,157.08	0.2	0.6	2.1
250,000	BALDWIN CITY KANS 2.000% Due 09-01-15	103.90	259,740.00	104.02	260,052.50	416.67	260,469.17	1.7	0.3	2.4
10,000	JOHNSON CNTY KANS UNI SCH DIST 4.000% Due 09-01-15	108.42	10,842.40	108.44	10,844.20	33.33	10,877.53	0.1	0.5	2.3
60,000	JOHNSON CNTY KANS UNI SCH DIST 2.000% Due 09-01-15	103.54	62,123.40	103.65	62,191.80	100.00	62,291.80	0.4	0.5	2.4
125,000	LEAVENWORTH CNTY KANS UNI SCH 2.000% Due 09-01-15	103.89	129,860.00	104.02	130,026.25	208.33	130,234.58	0.8	0.3	2.4
10,000	WICHITA KANS 3.000% Due 09-01-15	105.85	10,585.40	105.68	10,567.60	25.00	10,592.60	0.1	0.6	2.3
500,000	GARDNER KANS 2.000% Due 10-01-15	104.12	520,605.00	104.14	520,685.00	5,000.00	525,685.00	3.4	0.3	2.4

Columbia Capital Management, LLC  
**FIXED INCOME PORTFOLIO**  
*City of Prairie Village*  
*Consolidated*  
*March 31, 2013*

Quantity	Security	Unit Cost	Total Cost	Price	Market Value	Accrued Interest	Market Value +Accr.Int.	Pct. Assets	Yield To Mat.	Dura- tion
400,000	FEDERAL HOME LOAN BANKS 0.180% Due 03-06-14	100.02	400,063.20	100.00	399,990.00	50.00	400,040.00	2.6	0.2	0.9
	Agency Bonds Total		2,413,362.23		2,412,280.50	4,987.50	2,417,268.00	15.5	0.1	0.5
<b>Certificate of Deposit</b>										
1,200,000	Bank Midwest 0.150% Due 09-08-13	100.00	1,200,000.00	100.00	1,200,000.00	111.29	1,200,111.29	7.7	0.1	0.4
5,000,000	Capital Federal 0.290% Due 03-05-15	100.00	5,000,000.00	100.00	5,000,000.00	1,032.88	5,001,032.88	32.1	0.3	1.9
300,000	Capital Federal 0.290% Due 03-05-15	100.00	300,000.00	100.00	300,000.00	61.97	300,061.97	1.9	0.3	1.9
	Certificate of Deposit Total		6,500,000.00		6,500,000.00	1,206.14	6,501,206.14	41.7	0.3	1.6
<b>TOTAL PORTFOLIO</b>			<b>15,558,240.99</b>		<b>15,551,657.70</b>	<b>26,268.68</b>	<b>15,577,926.38</b>	<b>100.0</b>	<b>0.2</b>	<b>1.2</b>

Columbia Capital Management, LLC  
**UNREALIZED GAINS AND LOSSES**  
*City of Prairie Village*  
*Consolidated*  
*March 31, 2013*

Date	Quantity	Security	Unit Cost	Total Cost	Price	Market Value	Unrealized Gain/Loss	% G/L
<b>Agency Discount Notes</b>								
03-04-2013	1,000,000	FEDL HOME LN MTG CORP DISC NT 0.000% Due 04-16-13	99.99	999,897.50	100.00	999,992.00	94.50	0.0
				999,897.50		999,992.00	94.50	0.0
<b>Treasury Notes</b>								
03-05-2013	2,000,000	UNITED STATES TREAS NTS 0.750% Due 09-15-13	100.34	2,006,718.75	100.29	2,005,704.00	-1,014.75	-0.1
03-05-2013	1,700,000	UNITED STATES TREAS NTS 1.250% Due 03-15-14	101.10	1,718,726.56	101.03	1,717,530.40	-1,196.16	-0.1
				3,725,445.31		3,723,234.40	-2,210.91	-0.1
<b>Municipal Bonds</b>								
03-25-2013	50,000	OVERLAND PARK KANS 2.000% Due 09-01-13	100.76	50,382.00	100.74	50,370.50	-11.50	0.0
03-12-2013	145,000	JOHNSON CNTY KANS UNI SCH DIST 5.000% Due 10-01-13	102.50	148,618.25	102.39	148,459.70	-158.55	-0.1
03-22-2013	50,000	JOHNSON CNTY KANS UNI SCH DIST 4.000% Due 10-01-13	101.94	50,970.00	101.89	50,946.00	-24.00	0.0
02-28-2013	25,000	WICHITA KANS 4.000% Due 06-01-15	108.10	27,025.50	107.29	26,823.75	-201.75	-0.7
03-06-2013	250,000	BALDWIN CITY KANS 2.000% Due 09-01-15	103.90	259,740.00	104.02	260,052.50	312.50	0.1
02-28-2013	10,000	JOHNSON CNTY KANS UNI SCH DIST 4.000% Due 09-01-15	108.42	10,842.40	108.44	10,844.20	1.80	0.0
03-12-2013	60,000	JOHNSON CNTY KANS UNI SCH DIST 2.000% Due 09-01-15	103.54	62,123.40	103.65	62,191.80	68.40	0.1
03-04-2013	125,000	LEAVENWORTH CNTY KANS UNI SCH 2.000% Due 09-01-15	103.89	129,860.00	104.02	130,026.25	166.25	0.1
03-12-2013	10,000	WICHITA KANS 3.000% Due 09-01-15	105.85	10,585.40	105.68	10,567.60	-17.80	-0.2
03-06-2013	500,000	GARDNER KANS 2.000% Due 10-01-15	104.12	520,605.00	104.14	520,685.00	80.00	0.0
02-28-2013	75,000	JOHNSON CNTY KANS UNI SCH DIST 4.000% Due 10-01-15	108.26	81,197.25	108.09	81,064.50	-132.75	-0.2
03-06-2013	100,000	SEDGWICK CNTY KANS UNI SCH DIS 4.000% Due 10-01-15	108.88	108,876.00	108.73	108,735.00	-141.00	-0.1
03-01-2013	35,000	JOHNSON CNTY KANS UNI SCH DIST 4.000% Due 09-01-16	111.53	39,034.80	110.60	38,711.40	-323.40	-0.8
03-04-2013	50,000	LEAWOOD KANS 3.500% Due 09-01-16	109.98	54,990.50	109.81	54,906.50	-84.00	-0.2

Columbia Capital Management, LLC  
**PROJECTED FIXED INCOME CASH FLOWS**  
*City of Prairie Village*  
**Consolidated**  
*Beginning March 31, 2013*

Security	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Total
<b>Treasury Notes</b>													
UNITED STATES TREAS NTS 0.750% Due 09-15-13							7,500.00						7,500.00
UNITED STATES TREAS NTS 1.250% Due 03-15-14							10,625.00						10,625.00
<b>TOTAL</b>							18,125.00						18,125.00
<b>Municipal Bonds</b>													
OVERLAND PARK KANS 2.000% Due 09-01-13							500.00						500.00
JOHNSON CNTY KANS UNI SCH DIST 5.000% Due 10-01-13		3,625.00						3,625.00					7,250.00
JOHNSON CNTY KANS UNI SCH DIST 4.000% Due 10-01-13		1,000.00						1,000.00					2,000.00
WICHITA KANS 4.000% Due 06-01-15				500.00						500.00			1,000.00
BALDWIN CITY KANS 2.000% Due 09-01-15							2,500.00						2,500.00
JOHNSON CNTY KANS UNI SCH DIST 4.000% Due 09-01-15							200.00						200.00
JOHNSON CNTY KANS UNI SCH DIST 2.000% Due 09-01-15							600.00						600.00
LEAVENWORTH CNTY KANS UNI SCH 2.000% Due 09-01-15							1,250.00						1,250.00
WICHITA KANS 3.000% Due 09-01-15							150.00						150.00
GARDNER KANS 2.000% Due 10-01-15		5,000.00						5,000.00					10,000.00
JOHNSON CNTY KANS UNI SCH DIST 4.000% Due 10-01-15		1,500.00						1,500.00					3,000.00

Columbia Capital Management, LLC  
**PROJECTED FIXED INCOME CASH FLOWS**  
*City of Prairie Village*  
**Consolidated**  
*Beginning March 31, 2013*

Security	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Total
FEDERAL HOME LOAN BANKS 0.180% Due 03-06-14							360.00						360.00
<b>TOTAL</b>				1,007,812.50			2,860.00			7,812.50			1,018,485.00
<b>Certificate of Deposit</b> Bank Midwest 0.150% Due 09-08-13							900.00						900.00
<b>TOTAL</b>							900.00						900.00
<b>GRAND TOTAL</b>		<b>16,625.00</b>		<b>1,008,312.50</b>			<b>31,128.75</b>	<b>16,625.00</b>		<b>8,312.50</b>			<b>1,081,003.75</b>

**COUNCIL COMMITTEE OF THE WHOLE**  
**April 15, 2013**

The Council Committee of the Whole met on Monday, April 15, 2013 at 6:00 p.m. in the Council Chambers. The meeting was called to order by Council President Charles Clark with the following members present: Mayor Ron Shaffer, Ashley Weaver, Dale Warman, Steve Noll, Ruth Hopkins, Andrew Wang, Laura Wassmer, Brooke Morehead, David Morrison, Charles Clark, Ted Odell and David Belz. Staff Members present: Wes Jordan, Chief of Police; Keith Bredehoeft, Interim Public Works Director; Katie Logan, City Attorney; Quinn Bennion, City Administrator; Dennis Enslinger, Assistant City Administrator; Lisa Santa Maria, Finance Director; Nic Sanders, Human Resources Specialist; Danielle Dunn, Assistant to the City Administrator and Joyce Hagen Mundy, City Clerk.

**COU2013-13 Consider approval of an agreement with Mercer Group, Inc. to conduct the executive search for the Public Works Director position**

Quinn Bennion noted in February, City Council directed staff to hire an executive recruitment firm to assist with the selection of a new Public Works Director. The selection process was initiated with a Request for Proposal. The City received ten submittals resulting in a competitive process. The selection committee has been asked to recommend the recruitment firm, work through the recruitment process and eventually select the Public Works Director.

The committee consists of Mayor Shaffer, Laura Wassmer, Dale Warman, Ted Odell, Doug Brown (Public Works Director in Overland Park) and the City Administrator. The selection committee reviewed each response and considered the following criteria in ranking and selecting the firms:

- Ability to respond to the information requested in the RFP
- Ability to relate to Prairie Village and represent PV's needs
- Previous experience with Public Works Director searches
- Database of possible candidates / connections with Public Works Directors
- Cost of the service
- Proposed timeline
- Proposed process

The committee narrowed the responses to four firms for phone interviews. Based on the information provided and the interviews, the selection committee recommends Mercer Group, Inc. to conduct the executive search. Mercer Group, Inc. is familiar with Prairie Village and conducted the Police Chief and City Administrator searches in 2007. However, Mr. Bennion noted the search will take time. He anticipates it will be late summer before the process is completed. The funding for this search will come from the General Fund Contingency.



Brooke Morehead confirmed the base fee of \$15,000 with expenses not to exceed \$8,000. Mr. Bennion stated the expenses would include travel to Prairie Village, lodging and per diem, telephone, correspondence, advertising, researching, sourcing, reference and background investigation, data assemblage and report preparation and transmittal.

Ruth Hopkins made the following motion, which was seconded by Laura Wassmer and passed unanimously:

**MOVE THE CITY COUNCIL ENTER INTO AN AGREEMENT WITH THE MERCER GROUP, INC. TO CONDUCT THE EXECUTIVE SEARCH FOR THE CITY'S PUBLIC WORKS DIRECTOR POSITION**

**COUNCIL ACTION TAKEN  
4/15/2013**

**COU2013-14 Consider changes to City Council Policy: CP061 - Purchasing**

Lisa Santa Maria reported the Finance Committee met on April 9<sup>th</sup> and discussed increasing the dollar amount on expenditures requiring purchase orders for the purchase of items from \$2,000 to \$2,500. Mrs. Santa Maria noted purchased made on Pcards save the City on processing and handling costs. The transactional or process cost, of using a traditional procure-to-pay process, often involving a purchase order, invoice and check payment is the same regardless of the dollar amount of the purchase. Estimates of the process cost with traditional processing range from \$50 to \$200, often exceeding the value of the item being purchased.

Pcards provide a means of streamlining the procure-to-pay process, allowing the City to procure goods and services in a timely manner, reduce transaction costs, track expenses, take advantage of supplier discounts, making purchasing and/or accounts payable department more efficient. Mrs. Santa Maria noted the City receives an annual rebate from UMB Bank on all purchases made on the Pcard. The 2012 rebate was \$715.69.

It is also recommended the bid requirement for a single item also be changed from \$2,000 to \$2,500 to be consistent with the Purchase Order and Pcard limits.

Ruth Hopkins made the following motion, which was seconded by Laura Wassmer and passed unanimously:

**MOVE THE CITY COUNCIL APPROVE REVISIONS TO CITY COUNCIL POLICY - CP061 ENTITLED PURCHASING CHANGING THE REQUIREMENT FOR ANY SINGULAR ITEM PURCHASE FROM \$2,000 TO \$2,500.**

**COUNCIL ACTION TAKEN  
04/15/12**

**COU2013-15 Consider change to City Council Policy: CP056 - Financial Management Policies**

At the April 9<sup>th</sup> meeting of the Finance Committee, the committee also discussed increasing the capitalization threshold on items with a useful life of greater than one year from \$1,000 to \$5,000. Mrs. Santa Maria noted the Governmental Accounting, Auditing and Financial Reporting (GAAFR) guidelines recommend a minimum \$5,000 capitalization threshold. She added that changing the capitalization threshold will affect which items are considered Fixed Assets.

Charles Clark noted this eliminates having to prepare depreciation schedules yearly on small purchases and stressed that it does not eliminate inventory controls. Mrs. Santa Maria added the city auditors are comfortable with the proposed change.

Ruth Hopkins made the following motion, which was seconded by Ted Odell and passed unanimously:

**MOVE THE CITY COUNCIL APPROVE REVISIONS TO COUNCIL POLICY CP056 ENTITLED FINANCIAL MANAGEMENT POLICIES CHANGING THE CAPITALIZATION THRESHOLD (FIXED ASSETS) FROM \$1,000 TO \$5,000.**

**COUNCIL ACTION TAKEN  
04/15/12**

**Discussion regarding 2014 Budget - Overview of significant Items**

Quinn Bennion stated this evening's on-going budget discussion of significant items will focus on A7 - "Comprehensive Compensation Study" and B29 - "Health Insurance Premiums". He introduced Nic Sanders, Human Resources Specialist, to present the information.

**A7 Comprehensive Compensation Study**

Nic Sanders began his presentation with an explanation of Salary Ranges which are required by state statutes and how they are established. The ranges provide a minimum level of compensation at which an individual can be paid for an identified position and a maximum level of compensation. The City also identifies a mid-point in the range. All employees in that job classification are paid at a level somewhere between the minimum and maximum.

Prior to 2007 the Mid America Regional Center (MARC) Salary Study was used to establish ranges. The minimum and maximum were determined based on the average of other Johnson County municipalities. If the average minimum/maximum increased, then the minimum/maximum was increased. If the average minimum/maximum decreased, the range stayed the same.

In 2006, FBD completed a comprehensive compensation and benefits study implemented in 2007. The study cost \$29,857 and took over one year to complete. It compared both compensation and benefits as well as provided a review of job

descriptions. The study provided recommendations based on survey data on salary ranges and health and welfare benefits from both municipalities and the private sector when applicable. Mr. Sanders reviewed the sources of comparison noting that in some situations national data is needed and in others regional data is satisfactory. He also noted that all cities selected to be surveyed did not choose to participate.

The FBD Study recommendations included the following:

1. Adjustment of pay ranges based on market reference points; with the initial cost of \$46,490 to “bring employees to new minimums”.
  - a. Police Officer Step System for police officers below the mid-point of the salary range at an initial cost of \$7,100 in 2007. Discontinued in 2011.
2. Increase life insurance benefit for non-commissioned employees.
3. Increase vacation benefit.
4. Offer paid military leave
5. Decrease employee family medical coverage cost paid by employer.

Mr. Sanders stated action was only taken on #1 and #4. He presented a chart reflecting the percentage increases approved by the City for the past 7 years and how these were determined and the average performance percentage increases given over those years.

Ted Odell asked how long it had been since a compensation study had been done when the FBD study was done. Mr. Sanders stated he did not know, but stated a study had likely not been done prior to the FBD study and the FBD study was the only one in the 10 years he’s been with the city. However, he stressed that staff looks at salary ranges internally on an annual basis.

Brooke asked if the salary numbers reflected benefits as well as compensation. Mr. Sanders responded they reflected only paid compensation. He noted on the average an employee receives an additional 35% of the salary in benefits. She asked if that information could be given to the Council.

Quinn Bennion noted those amounts vary greatly depending on individual choices for single or family insurance coverage, whether they participate in KPERS or in the Police Pension and other potential benefits. Mrs. Morehead stated she was interested from the tax perspective - salary, overtime, FICA, retirement, etc. and not the value of insurance.

Mr. Bennion stated the direction the staff is seeking is whether or not to include in the 2014 budget funding for a comprehensive compensation study.

Charles Clark reported when the last study was done, Council members were expecting data that would decrease personnel costs and the study came back recommending an increase in several areas. He stressed the Council cannot be certain that a study will result in the savings for the City and advised fellow council members not to support a study if they were not willing to follow all the recommendations of the study.

Laura Wassmer agreed with Mr. Clark that the Council must be prepared to follow the recommendation after having conducted the study. She is not in favor of pursuing a comprehensive compensation study.

Andrew Wang disagreed stating he felt some data was necessary on which to base compensation decisions regardless of what the study says. He does not believe the study mandates action by the Council. He views it as information on which to base decisions.

Ruth Hopkins asked why the City moved away from the MARC Study. Mr. Sanders noted the data received from the study was a year old.

Laura Wassmer strongly disagreed with Mr. Wang that if a study reveals that city employees are underpaid, she does not feel the City can do nothing.

Dale Warman feels there needs to be some basis for the established levels of compensation and asked if staff felt comfortable with the current levels of compensation.

Nic Sanders responded that the recent economy has helped employers greatly in that there are not a lot of other job opportunities available.

Chief Jordan responded that they are experiencing turnover issues in the Police Department. Since 2007, there has been a 50% turnover in police officers. However, he is not losing people over pay. He noted he is having trouble attracting qualified candidates. He stated the FBD study did was problems for staff when all the recommendations of the study were not implemented. Employees felt devalued and that failure to act continues to come up.

David Belz asked if staff felt they could take care of employees' needs without a full range study. Nic Sanders responded that staff continues to address staff needs. He noted in 2013 a new job description and salary range was added for the Codes Department. Mr. Belz noted that the actions taken over the past years were not based on nothing. They were based on a staff analysis of several different employment related indexes, cost of living index and information from neighboring municipalities. He does not see a need for a full-blown study as long as the city can make the necessary adjustments to remain competitive and fair to its employees.

Steve Noll asked if staff was comfortable with the accurateness of the information in the MARC study. Quinn Bennion responded staff is to the level of depth presented by the study. He noted MARC does their comparisons on "job title" and these are not always reflective of the work performed. For example, the job description for the city's "Building Official" in Prairie Village is not the same as "Building Officials" in other cities. A comprehensive study compares positions based on the actual job description, required skills, education, experience, etc.

Steve Noll stated it is a question of the value of the expenditure. He does not feel the expenditure required for a formal study does not result in significantly more or better information than is currently being used.

**B27 Health Insurance Premiums**

Nic Sanders stated the city’s current cost sharing is determined on a “Base” plan with the city paying the following percentage of premium:

- Employee - 100% city share (\$399)
- Employee + 1 - 83% city share (\$801)
- Family - 75% city share (\$1423)

The same dollar amount is paid towards other insurance plans by coverage level.

Mr. Sanders reviewed the four health insurance plans offered by the City and their respective costs:

Plan Type	City Cost Single	EE Cost Single	City Cost Employee +1	EE Cost Employee +1	City Cost Family	EE Cost Family
PPO Base Plan	399	0	801	164	1068	355
HMO Plan	399	33	801	245	1068	474
High Deductible/HAS	399	0	801	37	1068	170
Buy-Up PPO Plan	399	132	801	484	1068	826

The City pays \$4,786 annually for Employee Health Insurance Coverage; \$9,616 for Employee +1 Health Insurance Coverage and \$12,812 for Family Health Insurance Coverage.

Mr. Sanders noted that 33% of the claims filed were by non-employees under family and employee +1 coverage.

Mr. Sanders stated that under state statute, the City is required to offer health insurance coverage to retirees until age 65. Employees pay for 100% or 125% of the premium cost. He noted changing employee coverage could lead to administrative burden under the Affordable Care Act.

Staff cautioned that increasing the cost of employee coverage could create a disincentive to elect coverage and if covered employees drop below 100, providers could require individual underwriting leading to higher premiums.

Staff presented a chart providing a comparison of Johnson County cities health insurance plans offered and cost comparison. Mr. Sanders noted direct comparisons are difficult as some of these cities are self insured, the plan benefits are not the same and the plan types are general classifications. The cities of Fairway, Roeland Park and Merriam have joined a pool and have been advised to expect a 25% increase in premium costs for 2014.

Charles Clark commended Mr. Sanders on his presentation and stated he could see the number of employees on the plan dropping below 100 if employee coverage cost was increased, noting that those with employee only have the lowest claims history.

David Belz stated as a philosophy he does not see anything wrong with employees paying some portion of the premium. Quinn Bennion noted that prior to 2011 all employees were required to take city insurance. When the requirement was dropped 4 employees dropped coverage. Mr. Sanders noted that some employees receive better coverage under their spouse's health insurance plan and he felt there would be some who would drop the city's coverage if charged a portion of the premium cost.

Andrew Wang asked if consideration had been given to increase the cost for those carrying family coverage as they have the highest number of claims. Nic Sanders stated one of the recommendations of the FBD study was to increase the percentage of premium paid by the City on family coverage from 75% to 80%.

Laura Wassmer noted the projected savings would be minimal and she does not feel it merits the potential problems that could be created by lowering the percentage of premium paid by the City. David Belz agreed noting that Prairie Village currently pays the lowest percentage of premium costs for family coverage of the Johnson County cities compared.

Charles Clark stated the questions before the Committee is whether or not to include \$30,000 in the 2014 budget for a comprehensive compensation study and whether or not to reduce the amount of premium paid for employee only health insurance coverage.

Andrew Wang moved to include \$30,000 in the 2014 budget for a comprehensive compensation study. The motion was seconded by Ted Odell. The motion failed by a vote of 3 (Wang, Morrison, Odell) to 8.

Ruth Hopkins asked about joining with other cities to get a higher base number of employees. Mr. Sanders responded there are insurance pools available.

Quinn Bennion stated the city did look into joining with another city 2008-2009 that had CBIZ as their agent and Blue Cross/Blue Shield as their provider. Blue Cross/Blue Shield was not supportive and CBIZ wanted a multiple year agreement. The risks and difficulties of a pooled program were discussed.

Council President Charles Clark asked for a motion to decrease the percentage of premium covered by the City for employee only health insurance. Being no motion, staff was advised to make no changes.

Quinn Bennion noted that this issue will come before Council again when the insurance renewals are considered. Staff is projecting a 10% increase for the 2014 budget. Mr. Bennion noted, however, the City has not had an increase in premiums over the past three years.

Andrew Wang stated he would like to see a way to bring more employee awareness of costs.

Nic Sanders stated that the City has instituted programs that address this in some areas. The \_\_\_ plan was offered three years ago. If an employee chooses to smoke or use tobacco products, they pay an additional cost differential to the City. This is also the case if an employee chooses not to participate in the health risk assessment provided by the City.

**Adjournment**

With no further business to come before the Council Committee, Council President Charles Clark adjourned the meeting at 7:20 p.m.

Charles Clark  
Council President

# PRAIRIE VILLAGE

## FIRST QUARTER CRIME REPORT - 2013

CRIME	2009	2010	2011	2012	2013	AVERAGE	2013 +/- AVG
Homicide	0	0	0	0	0	0.00	0.00
Rape	1	0	0	3	0	0.80	-0.80
Robbery	3	1	1	2	1	1.60	-0.60
Assault	17	30	19	17	24	21.40	2.60
Burglary	13	10	26	12	19	16.00	3.00
Residence	12	10	25	12	17	15.20	1.80
Business/ Miscellaneous	1	0	1	0	2	0.80	1.20
Theft	37	61	32	49	52	46.20	5.80
Auto Theft	2	5	5	1	6	3.80	2.20
Arson	0	0	0	1	0	0.20	-0.20
Forgery	9	1	0	3	3	3.20	-0.20
Fraud	1	3	3	7	8	4.40	3.60
Criminal Damage	21	33	44	33	32	32.60	-0.60
Sexual Offenses	0	7	1	3	0	2.20	-2.20
<b>TOTAL</b>	<b>104</b>	<b>151</b>	<b>131</b>	<b>131</b>	<b>145</b>	<b>132.40</b>	<b>12.60</b>

ACCIDENTS	2009	2010	2011	2012	2013	AVERAGE	2013 +/- AVG
Fatal	0	0	0	0	1	0.20	0.80
On-Street - injury	4	10	7	3	7	6.20	0.80
On-Street +\$1,000 - no injury	52	68	76	60	41	59.40	-18.40
On-Street -\$1,000 - no injury	9	9	13	18	10	11.80	-1.80
Private Property - injury	0	1	0	0	0	0.20	-0.20
Private Property - no injury	17	13	28	14	13	17.00	-4.00
Walk-In - no injury	11	12	17	11	8	11.80	-3.80
<b>TOTAL</b>	<b>93</b>	<b>113</b>	<b>141</b>	<b>106</b>	<b>80</b>	<b>106.60</b>	<b>-26.60</b>

MENTAL HEALTH	2009	2010	2011	2012	2013	AVERAGE	2013 +/- AVG
Suicide			0	1	1	0.67	0.33
Attempted Suicide			2	5	3	3.33	-0.33
Involuntary Committal			7	4	1	4.00	-3.00
Voluntary Committal			8	3	3	4.67	-1.67
All Other Mental Health			16	12	30	19.33	10.67
<b>TOTAL</b>			<b>33</b>	<b>25</b>	<b>38</b>	<b>32.00</b>	<b>6.00</b>

<b>TOTALCALLS</b>	<b>1,930</b>	<b>1,713</b>	<b>1,523</b>	<b>1,540</b>	<b>1,455</b>	<b>1,632.20</b>	<b>-177.20</b>
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# MISSION HILLS

## FIRST QUARTER CRIME REPORT - 2013

CRIME	2009	2010	2011	2012	2013	AVERAGE	2013 +/- AVG
Homicide	0	0	0	0	0	0.00	0.00
Rape	0	1	0	0	0	0.20	-0.20
Robbery	0	0	0	0	0	0.00	0.00
Assault	3	2	0	2	1	1.60	-0.60
Burglary	5	0	0	1	3	1.80	1.20
Residence	4	0	0	1	3	1.60	1.40
Business	1	0	0	0	0	0.20	-0.20
Theft	6	6	6	7	6	6.20	-0.20
Auto Theft	0	0	0	1	2	0.60	1.40
Arson	0	0	0	0	0	0.00	0.00
Forgery	0	0	0	0	0	0.00	0.00
Fraud	0	0	0	2	0	0.40	-0.40
Criminal Damage	5	5	14	3	2	5.80	-3.80
Sexual Offenses	0	0	0	1	0	0.20	-0.20
<b>TOTAL</b>	<b>19</b>	<b>14</b>	<b>20</b>	<b>17</b>	<b>14</b>	<b>16.80</b>	<b>-2.80</b>

ACCIDENTS	2009	2010	2011	2012	2013	AVERAGE	2013 +/- AVG
Fatal	0	0	0	0	0	0.00	0.00
On-Street - injury	1	1	0	0	0	0.40	-0.40
On-Street +\$1,000 - no injury	7	3	4	5	7	5.20	1.80
On-Street -\$1,000 - no injury	1	5	1	3	1	2.20	-1.20
Private Property - injury	0	0	0	0	1	0.20	0.80
Private Property - no injury	1	1	0	1	0	0.60	-0.60
Walk-In - no injury	0	2	0	0	0	0.40	-0.40
<b>TOTAL</b>	<b>10</b>	<b>12</b>	<b>5</b>	<b>9</b>	<b>9</b>	<b>9.00</b>	<b>0.00</b>

MENTAL HEALTH	2009	2010	2011	2012	2013	AVERAGE	2013 +/- AVG
Suicide			0	0	0	0.00	0.00
Attempted Suicide			0	0	0	0.00	0.00
Involuntary Committal			2	0	1	1.00	0.00
Voluntary Committal			0	0	0	0.00	0.00
All Other Mental Health			0	1	1	0.67	0.33
<b>TOTAL</b>			<b>2</b>	<b>1</b>	<b>2</b>	<b>1.67</b>	<b>0.33</b>

<b>TOTALCALLS</b>	<b>376</b>	<b>358</b>	<b>300</b>	<b>322</b>	<b>364</b>	<b>344.00</b>	<b>20.00</b>
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# PRAIRIE VILLAGE - MISSION HILLS

## FIRST QUARTER CRIME REPORT - 2013

CRIME	2009	2010	2011	2012	2013	AVERAGE	2013 +/- AVG
Homicide	0	0	0	0	0	0.00	0.00
Rape	1	1	0	3	0	1.00	-1.00
Robbery	3	1	1	2	1	1.60	-0.60
Assault	20	32	19	19	25	23.00	2.00
Burglary	18	10	26	13	22	17.80	4.20
Residence	16	10	25	13	20	16.80	3.20
Business/ Miscellaneous	2	0	1	0	2	1.00	1.00
Theft	43	67	38	56	58	52.40	5.60
Auto Theft	2	5	5	2	8	4.40	3.60
Arson	0	0	0	1	0	0.20	-0.20
Forgery	9	1	0	3	3	3.20	-0.20
Fraud	1	3	3	9	8	4.80	3.20
Criminal Damage	26	38	58	36	34	38.40	-4.40
Sexual Offenses	0	7	1	4	0	2.40	-2.40
<b>TOTAL</b>	<b>123</b>	<b>165</b>	<b>151</b>	<b>148</b>	<b>159</b>	<b>149</b>	<b>9.80</b>

ACCIDENTS	2009	2010	2011	2012	2013	AVERAGE	2013 +/- AVG
Fatal	0	0	0	0	1	0.20	0.80
On-Street - injury	5	11	7	3	7	6.60	0.40
On-Street +\$1,000 - no injury	59	71	80	65	48	64.60	-16.60
On-Street -\$1,000 - no injury	10	14	14	21	11	14.00	-3.00
Private Property - injury	0	1	0	0	1	0.40	0.60
Private Property - no injury	18	14	28	15	13	17.60	-4.60
Walk-In - no injury	11	14	17	11	8	12.20	-4.20
<b>TOTAL</b>	<b>103</b>	<b>125</b>	<b>146</b>	<b>115</b>	<b>89</b>	<b>116</b>	<b>-26.60</b>

MENTAL HEALTH	2009	2010	2011	2012	2013	AVERAGE	2013 +/- AVG
Suicide			0	1	1	0.67	0.33
Attempted Suicide			2	5	3	3.33	-0.33
Involuntary Committal			9	4	2	5.00	-3.00
Voluntary Committal			8	3	3	4.67	-1.67
All Other Mental Health			16	13	31	20.00	11.00
<b>TOTAL</b>			<b>35</b>	<b>26</b>	<b>40</b>	<b>33.67</b>	<b>6.33</b>

<b>TOTALCALLS</b>	<b>2,306</b>	<b>2,071</b>	<b>1,823</b>	<b>1,862</b>	<b>1,819</b>	<b>1,976</b>	<b>-157.20</b>
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**Council Members  
Mark Your Calendars  
May 6, 2013**

<b>May 2013</b>	Jacia Humiston exhibit in the R.G. Endres Gallery
May 6	City Council Meeting
May 10	Artist reception in the R. G. Endres Gallery 6:30 - 7:30 p.m.
May 20	City Council Meeting
May 27	City offices closed in observance of Memorial Day
<b>June 2013</b>	
June 3	City Council Meeting
June 14	Artist reception in the R. G. Endres Gallery 6:30 - 7:30 p.m.
June 17	City Council Meeting
<b>July 2013</b>	Senior Arts Council exhibit in the R.G. Endres Gallery
July 1	City Council Meeting
July 4	City offices closed in observance of Independence Day
July 4	VillageFest
July 12	Artist reception in the R. G. Endres Gallery 6:30 - 7:30 p.m.
July 15	City Council Meeting
<b>August 2013</b>	
August 5	City Council Meeting
August 9	Artist reception in the R. G. Endres Gallery 6:30 - 7:30 p.m.
August 19	City Council Meeting
<b>September 2013</b>	
September 2	City offices closed in observance of Labor Day
September 3	City Council Meeting
September 7	Jazz Festival
September 13	Artist reception in the R. G. Endres Gallery 6:30 - 7:30 p.m.
September 16	City Council Meeting
September 25	Shawnee Mission Education Foundation Fall Breakfast
<b>October 2013</b>	State of the Arts Exhibit in the R. G. Endres Gallery
October 7	City Council Meeting
October 11	Artist reception in the R. G. Endres Gallery 6:00 - 8:00 p.m.
October 21	City Council Meeting
<b>November 2013</b>	
November 4	City Council Meeting
November 8	Artist reception in the R. G. Endres Gallery 6:30 - 7:30 p.m.
November 12 - 16	National League of Cities Conference in Seattle, WA
November 18	City Council Meeting
November 28	City offices closed in observance of Thanksgiving
November 29	City offices closed in observance of Thanksgiving
<b>December 2013</b>	Greater Kansas City Arts Association exhibit in the R. G. Endres Gallery
December 2	City Council Meeting
December 13	Artist reception in the R. G. Endres Gallery 6:30 - 7:30 p.m.

December 16 City Council Meeting  
December 25 City offices closed in observance of Christmas