

CITY OF PRAIRIE VILLAGE

December 16, 2013

Council Committee Meeting 6:00 p.m.

City Council Meeting 7:30 p.m.



**COUNCIL COMMITTEE OF THE WHOLE
Council Chambers
December 16, 2013
6:00 PM**

AGENDA

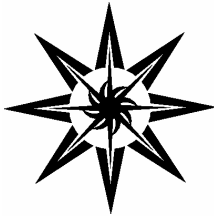
DALE WARMAN, COUNCIL PRESIDENT

AGENDA ITEMS FOR DISCUSSION

- *COU2013-55 Consider approval of use of Contingency Funds for 2013 Legal Expenses
Quinn Bennion
- *COU2013-57 Consider approval of 2014 Joint City/County Legislative Platform
Danielle Dulin
- *COU2013-56 Consider KDOT Agreement for Project 75ST0001: 75th Street - State
Line Road to Mission Road
Keith Bredehoeft

EXECUTIVE SESSIONS

***Council Action Requested the same night**



ADMINISTRATION DEPARTMENT

Council Committee Meeting Date: December 16, 2013
Council Meeting Date: December 16, 2013

***COU2013-55: Consider approval of use of Contingency Funds for 2013 Legal Expenses**

RECOMMENDATION

Staff recommends the City Council approve a transfer from General Fund Contingency to Legal Services in the amount of \$135,000.

BACKGROUND

The 2013 Budget for Legal Services was set at \$115,000 in August 2011. Year-to-date expenses total \$250,000. The significant increase in legal fees for 2013 is primarily due to planning items including the Mission Valley Special Use Permit; David Morrison's Ethics Violation; Open Carry Issue; Franchise/Utility Agreements including Google Fiber; and Personnel items.

Staff requests a transfer from Contingency to cover the cost of these projects in the amount of \$135,000.

HISTORY OF LEGAL BUDGET

Year	Budget	Expenditures
2014	\$160,000	
2013	\$115,000	\$249,735
2012	\$125,000	\$225,682
2011	\$125,000	\$115,915
2010	\$119,500	\$70,637

FUNDING SOURCE

General Fund Contingency

ATTACHMENTS

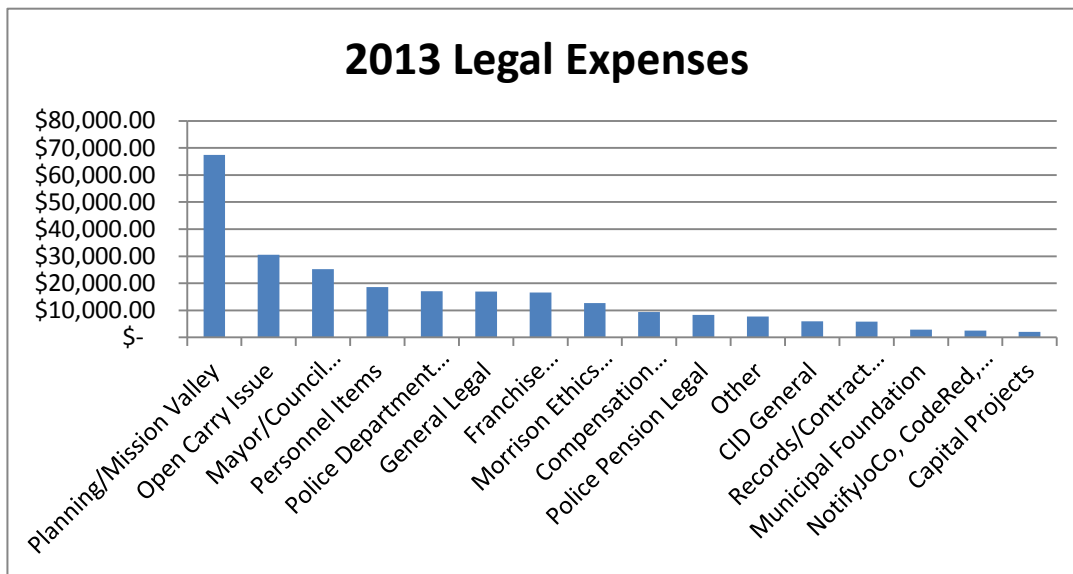
2013 Analysis of Legal Fees

PREPARED BY

Jeanne Koontz
Deputy City Clerk/Public Information Officer
December 9, 2013

2013 Legal Expenses

Project	Amount
Planning/Mission Valley	\$ 67,443.00
Open Carry Issue	\$ 30,510.30
Mayor/Council (attending mtgs, general research)	\$ 25,237.92
Personnel Items	\$ 18,636.47
Police Department Legal Issues	\$ 17,017.50
General Legal	\$ 16,987.13
Franchise Agreement/Utilities	\$ 16,546.83
Morrison Ethics Violation	\$ 12,642.50
Compensation Benefits (IRS/HRA Research)	\$ 9,428.50
Police Pension Legal	\$ 8,283.00
Other	\$ 7,686.75
CID General	\$ 6,008.75
Records/Contract Management	\$ 5,840.00
Municipal Foundation	\$ 2,882.00
NotifyJoCo, CodeRed, Trademark	\$ 2,524.00
Capital Projects	\$ 2,060.00
Total: \$ 249,734.65	





ADMINISTRATION DEPARTMENT

Council Committee Meeting Date: December 16, 2013
Council Meeting Date : December 16, 2013

COU2013-57: Consider approval of 2014 Joint City/County Legislative Platform

RECOMMENDATION

Staff recommends City Council adopt the 2014 Joint City/County Legislative Platform.

BACKGROUND

Every year the Council discusses and adopts a legislative program that establishes the City's legislative priorities for the upcoming session. The last few years the Council has adopted a joint City/County platform to assert our common positions with all of our state representatives. The County is requesting this practice continue and hosted a meeting in November with area managers. At that meeting the following changes to the 2013 Joint Platform were discussed and recommended:

Fixtures: Language supporting a three-pronged test to determine whether property is real or personal has been added.

Nonpartisan Elections: This is a new item that has been added in response to discussions about moving local government elections to November. The platform supports the current framework and opposes any legislation that would require local elections be conducted with partisan identification.

Legislative Participation: This is another new item that has been added in response to discussions from the 2013 session. The platform opposes any legislation that would prevent local officials, representing their citizens and taxpayers, from freely participating in the legislative process through advocacy.

The 2014 Joint City/County Legislative Platform is primarily a defensive position for this legislative session. However, two of the City of Prairie Village's legislators have agreed to look at the City's unsuccessful efforts to receive Expanded Investment Powers from the Pooled Money Investment Board (PMIB) despite our 'AAA' bond rating and 25% reserve policy. It is possible legislation will be brought forward that would allow local government entities to invest idle funds in higher potential investment yields that are already approved by Kansas statutes but not available without being granted permission from the PMIB.

ATTACHMENTS

2014 Joint County/City Legislative Platform

PREPARED BY

Danielle Dulin

Assistant to the City Administrator

Date: December 12, 2013

JOHNSON COUNTY GOVERNMENT AND CITIES JOINT 2014 LEGISLATIVE PLATFORM

State and local government are partners providing numerous governmental services that are funded and made available to citizens. Local units of government are closest to the citizens and very closely represent the interests of citizens in the communities in which they live. The partnership depends upon stable funding, efficient use of citizens resources, and responsiveness at the city and county level. We support respect and preservation of local authority, maintenance of local control of local revenue and spending, and oppose the devolution of State duties to local units of government without planning, time and resources. The Johnson County Government and Cities advocate on the following issues in the interests of our elected representatives and on behalf of the citizens who live in our county and cities.

FIXTURES

We are concerned about the potential impact of legislative changes to the current definition of machinery and equipment exemptions. Proposed changes in tax law to address a few isolated instances have the potential to impact our local property taxes. Any change in tax policy if utilized by manufacturers will increase residential and small business property taxes as well as property taxes on agricultural land. Increased local mill levies will also increase the taxes on motor vehicles. We continue to support the use of the three-pronged test to determine whether property is real or personal: (1) annexation to the realty; (2) adaption to the use or purpose of that part of the realty to which it is connected; and (3) the intention of the party making the annexation to make the item a permanent annexation to the freehold.

LIMITS ON APPRAISED VALUATION GROWTH

We oppose the imposition of artificial limits on appraised valuation growth or mill levy rates by the state. Such limitations erode the ability of local officials to make decisions close to the public and will reduce bond ratings, resulting in more expensive debt service payments on needed capital projects.

TAX POLICY

We oppose any further exemptions to the ad valorem property tax base, including exceptions for fitness clubs, or the state/local sales tax base. We support a thorough and comprehensive review of all exemptions and repeal of those exemptions that would not merit a state appropriation. Exemptions only shift the burden of financing vital services to an increasingly narrow tax base. Additionally, we do not support changes in State taxation policy that would significantly reduce available funding for key programs, put Kansas counties and cities at a competitive sales tax disadvantage with Missouri, or impose a sales tax on professional services.

MAINTAIN LOCAL CONTROL OF REVENUE AND SPENDING

Recognizing that communities are best served and citizens' values and standards are best reflected when local control of taxing and spending is controlled by local voters and taxpayers, we oppose any state imposition of tax or spending lids which place limits on how much revenue a local government can raise or spend from year to year.

OPPOSE UNFUNDED MANDATES

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

COMPREHENSIVE TRANSPORTATION PLAN

Recognizing it is critical to maintain Kansas infrastructure, we urge the Legislature to follow through on the commitments in the 2010 transportation plan. We recognize the current funding level is far from adequate to address ongoing statewide infrastructure funding needs. As such, it should be allocated strategically to ensure there is an identifiable long-term return on investment for the entire state. Investing in growth areas is critical to economic vitality and job creation.

STATUTORY PASS-THROUGH FUNDING

We call for the preservation of local government revenues which pass through the State of Kansas' treasury. These funds come from a longstanding partnership between local governments and the State and are generated via economic activity at the

local level. Both alcoholic liquor tax funds and the local portion of motor fuels taxes should not be withheld from local governments and siphoned into the State General Fund. Local governments in recent years have had to cope with the legislature not funding LAVTRF demand transfers and the machinery & equipment property tax “slider” and should not be forced to further aid in balancing the State’s budget.

KPERS FUNDING

We support achieving a fully-funded public employees retirement system within a reasonable period of time. The State should fully fund its portion of the employer contributions, and the local KPERS system should be separated from the state and school retirement system. The system should accumulate sufficient assets during members’ working lifetimes to pay all promised benefits when members retire.

KANSAS OPEN RECORDS AND OPEN MEETINGS ACT

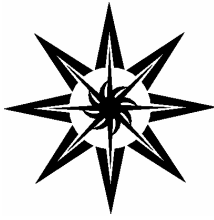
We believe that an open government is essential to building public confidence. We support the retention of the exceptions in the Kansas Open Records Act and the permitted subject matters for executive sessions contained in the Open Meetings Act currently found in the law.

NON-PARTISAN ELECTIONS

We support the current schedule and structure of local elections and are opposed to any legislation that would require that local elections be conducted with partisan identification.

LEGISLATIVE PARTICIPATION

We support local officials and their representatives’ ability to freely participate in the legislative process through advocacy and education on issues affecting local governments. Local officials, representing their citizens and taxpayers, must retain the authority to make decisions regarding membership in organizations and to participate in the legislative process through advocacy.



PUBLIC WORKS DEPARTMENT

Council Committee Meeting Date: December 16, 2013

Council Meeting Date: December 16, 2013

COU2013-56 CONSIDER KDOT AGREEMENT FOR PROJECT 75ST0001: 75TH STREET- STATELINE ROAD TO MISSION ROAD.

RECOMMENDATION

Authorize Mayor to sign KDOT agreement for Project 75ST0001: 75th Street- Stateline Road to Mission Road.

BACKGROUND

Project 75ST0001, 75th Street- Stateline Road to Mission Road was selected by the Mid-America Regional Council(MARC) to receive Federal Funds. The Kansas Department of Transportation(KDOT) administers the Federal Funds for local communities in Kansas. The agreement states that the City has or will have the required matching funds for the project and states general project requirements. This project will utilize 2014 Federal Funds. The City executed KDOT for 1302 previously committing City Funds for this project.

FUNDING SOURCE

Project Funding is available under the Capital Infrastructure Program under Project 75ST0001: 75th State Line Road to Mission Road.

RELATION TO VILLAGE VISION

- CC1a. Make streetscape improvements to enhance pedestrian safety and attractiveness of the public realm.*
- CFS3a. Ensure streets and sidewalks are in good condition by conducting maintenance and repairs as needed.*
- TR1a. Provide sidewalks in new and existing areas to allow for continuous pedestrian movement around Prairie Village.*
- TR1b. Ensure that infrastructure improvements meet the needs of all transportation users.*

ATTACHMENTS

1. KDOT Agreement

PREPARED BY

Keith Bredehoeft, Public Works Director

December 12, 2013

PROJECT NO. 46 N-0581-01
STP-N058(101)
GRADING AND SURFACING
CITY OF PRAIRIE VILLAGE, KANSAS

A G R E E M E N T

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

R E C I T A L S :

- A. The City has requested and Secretary has authorized a city street Project, as further described in this Agreement.
- B. The Secretary and the City are empowered by the laws of Kansas to enter into agreements for the construction and maintenance of city streets utilizing federal funds.
- C. The Secretary and the City desire to construct the Project.
- D. Cities are, under certain circumstances, entitled to receive assistance in the financing of the construction and reconstruction of streets and state highways, provided however, in order to be eligible for such federal aid, such work is required to be done in accordance with the laws of Kansas.

NOW THEREFORE, in consideration of these premises and the mutual covenants set forth herein, the Parties agree to the following terms and provisions.

A R T I C L E I

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

- 1. “**Agreement**” means this written document, including all attachments and exhibits, evidencing the legally binding terms and conditions of the agreement between the Parties.
- 2. “**City**” means the City of Prairie Village, Kansas, with its place of business at 3535 Somerset Drive, Prairie Village, KS 66208.
- 3. “**Construction**” means the work done on the Project after Letting, consisting of building, altering, repairing, improving or demolishing any structure, building or highway; any drainage, dredging, excavation, grading or similar work upon real property.
- 4. “**Construction Contingency Items**” mean unforeseeable elements of cost within the defined project scope identified after the Construction phase commences.
- 5. “**Construction Engineering**” means inspection services material testing, engineering consultation and other reengineering activities required during Construction of the Project.

6. **“Consultant”** means any engineering firm or other entity retained to perform services for the Project.
7. **“Contractor”** means the entity awarded the Construction contract for the Project and any subcontractors working for the Contractor with respect to the Project.
8. **“Design Plans”** means design plans, specifications, estimates, surveys, and any necessary studies or investigations, including, but not limited to, environmental, hydraulic, and geological investigations or studies necessary for the Project under this Agreement.
9. **“Effective Date”** means the date this Agreement is signed by the Secretary or his designee.
10. **“Encroachment”** means any building, structure, farming, vehicle parking, storage or other object or thing, including but not limited to signs, posters, billboards, roadside stands, fences, or other private installations, not authorized to be located within the Right of Way which may or may not require removal during Construction pursuant to the Design Plans.
11. **“FHWA”** means the Federal Highway Administration, a federal agency of the United States.
12. **“Hazardous Waste”** includes, but is not limited to, any substance which meets the test of hazardous waste characteristics by exhibiting flammability, corrosivity, or reactivity, or which is defined by state and federal laws and regulations, and any pollutant or contaminant which may present an imminent and substantial danger to the public health or welfare, including but not limited to leaking underground storage tanks. Any hazardous waste as defined by state and federal laws and regulations and amendments occurring after November 11, 1991, is incorporated by reference and includes but is not limited to: (1) 40 C.F.R. § 261 *et seq.*, Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Toxicity Characteristics Revisions; Final Rule; (2) 40 C.F.R. § 280 *et seq.*, Underground Storage Tanks; Technical Requirements and State Program Approval; Final Rules; (3) 40 C.F.R. § 300, National Oil and Hazardous Substances Pollution Contingency Plan; Final Rule; and (4) K.S.A. 65-3430 *et seq.*, Hazardous Waste.
13. **“KDOT”** means the Kansas Department of Transportation, an agency of the state of Kansas, with its principal place of business located at 700 SW Harrison Street, Topeka, KS, 66603-3745.
14. **“Letting” or “Let”** means the process of receiving bids and awarding a Construction contract for any portion of the Project.
15. **“Non-Participating Costs”** means the costs of any items or services which the Secretary, acting on his own behalf and on behalf of the FHWA, reasonably determines are not Participating Costs.
16. **“Participating Costs”** means expenditures for items or services which are an integral part of highway, bridge and road construction projects, as reasonably determined by the Secretary.

17. **“Parties”** means the Secretary of Transportation and KDOT, individually and collectively, and the City.
18. **“Preliminary Engineering”** means pre-construction activities, including but not limited to design work, generally performed by a consulting engineering firm that takes place before Letting.
19. **“Project”** means all phases and aspects of the Construction endeavor to be undertaken by the City, as and when authorized by the Secretary prior to Letting, being: **Grading and surfacing on 75th Street, from Mission to State Line in Prairie Village, Kansas**, and is the subject of this Agreement.
20. **“Project Limits”** means that area of Construction for the Project, including all areas between and within the Right of Way boundaries as shown on the Design Plans.
21. **“Responsible Bidder”** means one who makes an offer to deliver contractual services in response to a request for bid with the technical capability, financial capacity, human resources and equipment required to perform the contractual services and a record of having met similar schedules.
22. **“Right of Way”** means the real property and interests therein necessary for Construction of the Project, including fee simple title, dedications, permanent and temporary easements, and access rights, as shown on the Design Plans.
23. **“Secretary”** means Michael S. King, in his official capacity as Secretary of Transportation of the state of Kansas, and his successors.
24. **“Utilities” or “Utility”** means all privately, publicly or cooperatively owned lines, facilities and systems for producing, transmitting or distributing communications, power, electricity, light, heat, gas, oil, crude products, water, steam, waste, storm water, and other similar commodities, including fire and police signal systems which directly and/or indirectly serves the public.

ARTICLE II

SECRETARY RESPONSIBILITIES:

1. **Technical Information on Right of Way Acquisition.** The Secretary will provide technical information upon request to help the City acquire rights of way in accordance with the laws and with procedures established by KDOT’s Bureau of Right of Way and the Office of Chief Counsel and as required by FWHA directives to obtain participation of federal funds in the cost of the Project.
2. **Letting and Administration by KDOT.** The Secretary shall Let the contract for the Project and shall award the contract to the lowest Responsible Bidder upon concurrence in the award by the City. The Secretary further agrees, as agent for the City, to administer the Construction of the Project in accordance with the final Design Plans, as required by FHWA, to

negotiate with and report to the FHWA and administer the payments due the Contractor or the Consultant, including the portion of the cost borne by the City.

3. **Indemnification by Contractors.** The Secretary will require the Contractor to indemnify, hold harmless, and save the Secretary and the City from personal injury and property damage claims arising out of the act or omission of the Contractor, the Contractor's agent, subcontractors (at any tier), or suppliers (at any tier). If the Secretary or the City defends a third party's claim, the Contractor shall indemnify the Secretary and the City for damages paid to the third party and all related expenses either the Secretary or the City or both incur in defending the claim.

4. **Payment of Costs.** The Secretary agrees to be responsible for eighty percent (80%) of the total actual costs of Construction (which includes the costs of all Construction Contingency Items) and Construction Engineering, but not to exceed \$1,616,800.00 for the Project. The Secretary shall not be responsible for the total actual costs of Construction (which includes the costs of all Construction Contingency Items) and Construction Engineering that exceed \$2,021,000.00 for the Project. The Secretary shall not be responsible for the total actual costs of Preliminary Engineering, Right of Way, and Utility adjustments for the Project.

5. **Final Billing.** After receipt of FHWA acknowledgement of final voucher claim, the Secretary's Chief of Fiscal Services will, in a timely manner, prepare a complete and final billing of all Project costs for which the City is responsible and shall then transmit the complete and final billing to the City.

ARTICLE III

CITY RESPONSIBILITIES:

1. **Secretary Authorization.** The Project shall be undertaken, prosecuted and completed for and on behalf of the City by the Secretary acting in all things as its agent, and the City hereby constitutes and appoints the Secretary as its agent, and all things hereinafter done by the Secretary in connection with the Project are hereby by the City authorized, adopted, ratified and confirmed to the same extent and with the same effect as though done directly by the City acting in its own individual corporate capacity instead of by its agent. The Secretary is authorized by the City to take such steps as are deemed by the Secretary to be necessary or advisable for the purpose of securing the benefits of the current Federal-Aid Transportation Act for this Project.

2. **Legal Authority.** The City agrees to adopt all necessary ordinances and/or resolutions and to take such administrative or legal steps as may be required to give full effect to the terms of this Agreement.

3. **Conformity with State and Federal Requirements.** The City shall be responsible to design the Project or contract to have the Project designed in conformity with the state and federal design criteria appropriate for the Project in accordance with the current Local Projects LPA Project Development Manual, Bureau of Local Project's (BLP's) project memorandums, memos, the KDOT Design Manual, Geotechnical Bridge Foundation Investigation Guidelines, Bureau of Design's road memorandums, the latest version, as adopted by the Secretary, of the Manual on Uniform Traffic Control Devices (MUTCD), the current version of the Bureau of Transportation

Safety and Technology's Traffic Engineering Guidelines, and the current version of the KDOT Standard Specifications for State Road and Bridge Construction with Special Provisions, and any necessary Project Special Provisions, and with the rules and regulations of the FHWA pertaining to the Project.

4. **Design and Specifications.** The City shall be responsible to make or contract to have made Design Plans for the Project.

5. **Submission of Design Plans to Secretary.** Upon their completion, the City shall have the Design Plans submitted to the Secretary by a licensed professional engineer attesting to the conformity of the Design Plans with the items in Article III, paragraph 3 above. The Design Plans must be signed and sealed by the licensed professional engineer responsible for preparation of the Design Plans. In addition, geological investigations or studies must be signed and sealed by either a licensed geologist or licensed professional engineer in accordance with K.S.A. 74-7042, who is responsible for the preparation of the geological investigations or studies.

6. **Consultant Contract Language.** The City shall include language requiring conformity with Article III, paragraph 3 above, in all contracts between the City and any Consultant contracted with by the City to perform services for the Project. In addition, any contract between the City and any Consultant retained by them to perform any of the services described or referenced in this paragraph for the Project covered by this Agreement must contain language requiring conformity with Article III, paragraph 3 above. In addition, any contract between the City and any Consultant contracted with by the City to prepare and certify Design Plans for the Project covered by this Agreement must also contain the following provisions:

- (a) **Completion of Design.** Language requiring completion of all plan development stages no later than the current Project schedule's due dates as issued by KDOT, exclusive of delays beyond the Consultant's control.
- (b) **Progress Reports.** Language requiring the Consultant to submit to the City (and to the Secretary upon request) progress reports at monthly or at mutually agreed intervals in conformity with the official Project schedule.
- (c) **Third Party Beneficiary.** Language making the Secretary a third party beneficiary in the agreement between the City and the Consultant. Such language shall read:

"Because of the Secretary of Transportation of the State of Kansas' (Secretary's) obligation to administer state funds, federal funds, or both, the Secretary shall be a third party beneficiary to this agreement between the City and the Consultant. This third party beneficiary status is for the limited purpose of seeking payment or reimbursement for damages and costs the Secretary or the City or both incurred or will incur because the Consultant failed to comply with its contract obligations under this Agreement or because of the Consultant's negligent acts, errors, or omissions. Nothing in this provision

precludes the City from seeking recovery or settling any dispute with the Consultant as long as such settlement does not restrict the Secretary's right to payment or reimbursement."

7. **Responsibility for Adequacy of Design.** The City shall be responsible for and require any consultant retained by it to be responsible for the adequacy and accuracy of the Design Plans for the Project. Any review of these items performed by the Secretary or his representatives is not intended to and shall not be construed to be an undertaking of the City's and its Consultant's duty to provide adequate and accurate Design Plans for the Project. Reviews by the Secretary are not done for the benefit of the Consultant, the construction Contractor, the City, any other political subdivision, or the traveling public. The Secretary makes no representation, express or implied warranty to any person or entity concerning the adequacy or accuracy of the Design Plans for the Project, or any other work performed by the Consultant or the City.

8. **Authorization of Signatory.** The City shall authorize a duly appointed representative to sign for the City any or all routine reports as may be required or requested by the Secretary in the completion of the Project.

9. **Right of Way.** The City agrees to the following with regard to Right of Way:

(a) **Right of Way Acquisition.** The City will, in its own name, as provided by law, acquire by purchase, dedication or condemnation all the Right of Way shown on the final Design Plans in accordance with the schedule established by KDOT. The City agrees the necessary Right of Way shall be acquired in compliance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended by the Surface Transportation and Uniform Relocation Assistance Act of 1987, and administrative regulations contained in 49 C.F.R., Part 24, entitled Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs. The City shall certify to the Secretary, on forms provided by the KDOT's Bureau of Local Projects, such Right of Way has been acquired. The City further agrees it will have recorded in the Office of the Register of Deeds all Right of Way, deeds, dedications, permanent easements and temporary easements.

(b) **Right of Way Documentation.** The City will provide all legal descriptions required for Right of Way acquisition work. Right of way descriptions must be signed and sealed by a licensed land surveyor responsible for the preparation of the Right of Way descriptions. The City further agrees to acquire Right of Way in accordance with the laws and with procedures established by KDOT's Bureau of Right of Way and the Office of Chief Counsel and as required by FHWA directives for the participation of federal funds in the cost of the Project. The City agrees copies of all documents, including recommendations and coordination for appeals, bills, contracts, journal entries, case files, or documentation requested by the Office of Chief Counsel will be delivered within the time limits set by the Secretary.

(c) **Relocation Assistance.** The City will contact the Secretary if there will be any displaced person on the Project prior to making the offer for the property. The Parties mutually agree the Secretary will provide relocation assistance for eligible persons as defined in the Uniform Relocation Assistance and Real Property Acquisition Policies Act of

1970 as amended by the Surface Transportation and Uniform Relocation Assistance Act of 1987, and as provided in 49 C.F.R., pt. 24, entitled Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs, and in general accordance with K.S.A. 58-3501 to 58-3507, inclusive, and Kansas Administrative Regulations 36-16-1 *et seq.*

(d) Non-Highway Use of Right of Way. Except as otherwise provided, all Right of Way provided for the Project shall be used solely for public street purposes. If federal funds are used in the acquisition of Right of Way, any disposal of or change in the use of Right of Way or in access after Construction of the Project will require prior written approval by the Secretary.

(e) Trails and Sidewalks on Right of Way. Intentionally deleted.

(f) Use of City Right of Way. The Secretary shall have the right to utilize any land owned or controlled by the City, lying inside or outside the limits of the City as shown on the final Design Plans, for the purpose of constructing the Project.

10. **Removal of Encroachments.** The City shall initiate and proceed with diligence to remove or require the removal of all Encroachments either on or above the limits of the Right of Way within its jurisdiction as shown on the final Design Plans for this Project. It is further agreed all such Encroachments will be removed before the Project is advertised for Letting; except the Secretary may permit the Project to be advertised for Letting before such Encroachment is fully removed if the Secretary determines the City and the owner of the Encroachment have fully provided for the physical removal of the Encroachment and such removal will be accomplished within a time sufficiently short to present no hindrance or delay to the Construction of the Project.

11. **Future Encroachments.** Except as provided by state and federal laws, the City agrees it will not in the future permit Encroachments upon the Right of Way of the Project, and specifically will require any gas and fuel dispensing pumps erected, moved, or installed along the Project be placed no less than the distance permitted by the National Fire Code from the Right of Way line.

12. **Utilities.** The City agrees to the following with regard to Utilities:

(a) Utility Relocation. The City will move or adjust, or cause to be moved or adjusted, and will be responsible for such removal or adjustment of all existing Utilities necessary to construct the Project in accordance with the final Design Plans. New or existing Utilities to be installed, moved, or adjusted will be located or relocated in accordance with the current version of the KDOT Utility Accommodation Policy (UAP), as amended or supplemented.

(b) Status of Utilities. The City shall furnish the Secretary a list identifying existing and known Utilities affected, together with locations and proposed adjustments of the same and designate a representative to be responsible for coordinating the necessary removal or adjustment of Utilities.

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

(d) Permitting of Private Utilities. The City shall certify to the Secretary all privately owned Utilities occupying public Right of Way required for the Construction of the Project are permitted at the location by franchise, ordinance, agreement or permit and the instrument shall include a statement as to which party will bear the cost of future adjustments or relocations required as a result of street or highway improvements.

(e) Indemnification. To the extent permitted by law, the City will indemnify, hold harmless, and save the Secretary and the Contractor for damages incurred by the Secretary and Contractor because identified Utilities have not been moved or adjusted timely or accurately.

(f) Cost of Relocation. Except as provided by state and federal laws, the expense of the removal or adjustment of the Utilities located on public Right of Way shall be borne by the owners. The expense of the removal or adjustment of privately owned Utilities located on private Right of Way or easements shall be borne by the City except as provided by state and federal laws.

13. **Hazardous Waste.** The City agrees to the following with regard to Hazardous Waste:

(a) Removal of Hazardous Waste. The City shall locate and be responsible for remediation and cleanup of any Hazardous Waste discovered within the Project Limits. The City shall take appropriate action to cleanup and remediate any identified Hazardous Waste prior to Letting. The City will also investigate all Hazardous Waste discovered during Construction and shall take appropriate action to cleanup and remediate Hazardous Waste. The standards to establish cleanup and remediation of Hazardous Waste include, but are not limited to, federal programs administered by the Environmental Protection Agency, State of Kansas environmental laws and regulations, and City and County standards where the Hazardous Waste is located.

(b) Responsibility for Hazardous Waste Remediation Costs. The City shall be responsible for all damages, fines or penalties, expenses, fees, claims and costs incurred from remediation and cleanup of any Hazardous Waste within the Project Limits which is discovered prior to Letting or during Construction.

(c) Hazardous Waste Indemnification. The City shall hold harmless, defend, and indemnify the Secretary, his agents and employees from all claims, including contract claims and associated expenses, and from all fines, penalties, fees or costs imposed under state or federal laws arising out of or related to any act of omission by the City in undertaking cleanup or remediation for any Hazardous Waste.

(d) No Waiver. By signing this Agreement the City has not repudiated, abandoned, surrendered, waived or forfeited its right to bring any action, seek indemnification or seek any other form of recovery or remedy against any third party responsible for any Hazardous Waste on any Right of Way within the Project limits. The City reserves the right to bring any action against any third party for any Hazardous Waste on any Right of Way within the Project limits.

14. Inspections. The City is responsible to provide Construction Engineering for the Project in accordance with the rules and guidelines developed for the current KDOT approved construction engineering program and in accordance with the current edition of the KDOT Standard Specifications for State Road and Bridge Construction with Special Provisions and any necessary Project Special Provisions. The detailed inspection is to be performed by the City or the Consultant. The Secretary does not undertake for the benefit of the City, the Contractor, the Consultant or any third party the duty to perform the day-to-day detailed inspection of the Project, or to catch the Contractor's errors, omissions, or deviations from the final Design Plans. The City will require at a minimum all City personnel and all Consultant personnel performing Construction Engineering comply with the high visibility apparel requirements of the KDOT Safety Manual, Chapter 4, Section 8 Fluorescent Vests. The agreement for inspection services between the Secretary and the City and/or the Consultant must contain this requirement as a minimum. The City may require additional clothing requirements for adequate visibility of personnel.

15. Traffic Control. The City agrees to the following with regard to traffic control for the Project:

(a) Temporary Traffic Control. Plans for handling traffic during Construction must be included in the Design Plans and must be in conformity with the latest version, as adopted by the Secretary, of the Manual on Uniform Traffic Control Devices (MUTCD). Detour routes and road closings, if necessary, will be noted on the Design Plans. The Secretary or his authorized representative may act as the City's agent with full authority to determine the dates when any road closings will commence and terminate. The Secretary or his authorized representative shall notify the City of the determinations made pursuant to this section.

(b) Permanent Traffic Control. The location, form and character of informational, regulatory and warning signs, of traffic signals and of curb and pavement or other markings installed or placed by any public authority, or other agency as authorized by K.S.A. 8-2005, must conform to the manual and specifications adopted under K.S.A. 8-2003, and any amendments thereto are incorporated by reference and shall be subject to FHWA approval.

(c) Parking Control. The City will control parking of vehicles on the city streets throughout the length of the Project covered by this Agreement. On-street parking will be

permitted until such time as parking interferes with the orderly flow of traffic along the street.

(d) **Traffic Movements.** The arterial characteristics inherent in the Project require uniformity in information and regulations to the end that traffic may safely and expeditiously be served. The City shall adopt and enforce rules and regulations governing traffic movements as may be deemed necessary or desirable by the Secretary and the FHWA.

16. **Access Control.** The City will maintain the control of access rights and prohibit the construction or use of any entrances or access points along the Project within the City other than those shown on the final Design Plans, unless prior approval is obtained from the Secretary.

17. **Maintenance.** When the Project is completed and final acceptance is issued the City will, at its own cost and expense, maintain the Project and will make ample provision each year for such maintenance. If notified by the State Transportation Engineer of any unsatisfactory maintenance condition, the City will begin the necessary repairs within thirty (30) days and will prosecute the work continuously until it is satisfactorily completed.

18. **Financial Obligation.** The City will be responsible for twenty percent (20%) of the total actual costs of Construction (which includes the costs of all Construction Contingency Items) and Construction Engineering, up to \$2,021,000.00 for the Project. In addition, the City agrees to be responsible for one hundred percent (100%) of the total actual costs of Construction (which includes the costs of all Construction Contingency Items) and Construction Engineering that exceed \$2,021,000.00 for the Project. Further, the City agrees to be responsible for one hundred percent (100%) of the total actual costs of Preliminary Engineering, Right of Way, and Utility adjustments for the Project. The City shall also pay for any Non-Participating Costs incurred for the Project along with the associated Non-Participating Construction Engineering costs.

19. **Remittance of Estimated Share.** The City shall deposit with the Secretary its estimated share of the total Project expenses based upon estimated approved contract quantities. The City will remit its estimated share by the date indicated on the resolution form Authorization to Award Contract, Commitment of City Funds received by the City from the Secretary. The date indicated for the City to deposit its estimated share of the total Project expenses is fifty (50) days after the Letting date.

20. **Payment of Final Billing.** If any payment is due to the Secretary, such payment shall be made within thirty (30) days after receipt of a complete and final billing from the Secretary's Chief of Fiscal Services.

21. **Audit.** All local governmental units, Non-Profit Organizations, and Indian Tribal governments shall comply with Federal-Aid Transportation Act and OMB Circular A-133 "Audits of State and Local Governments, and Non-Profit Organizations." Further, the City agrees to the following provisions:

(a) It is the policy of the Secretary to make any final payments to the City for services related to the Project in a timely manner. The Single Audit Standards set forth in Federal O.M.B. Circular A-133, "Audits of States, Local Governments and Non Profit

Organizations” in 49 C.F.R. Part 18 (Common Rule), require an audit be performed by an independent certified public accountant in accordance with these standards. All information audited shall comply with 49 C.F.R. Part 18 (Common Rule).

(b) The Secretary may pay any final amount due for the authorized work performed based upon the City’s most recent Single Audit Report available and a desk review of the claim by the Contract Audit Section of KDOT’s Bureau of Fiscal Services. The City, by acceptance of this Agreement, acknowledges the final payment is subject to all single audits which cover the time period of the expenses being claimed for reimbursement. The Parties agree as the Single Audit Report becomes available for the reimbursement period (normally should occur within a period of 1-2 years), the Secretary will review the Single Audit Report for items which are declared as not eligible for reimbursement. The City agrees to refund payment made by the Secretary to the City for items subsequently found to be not eligible for reimbursement by audit.

22. **Accounting.** Upon request by the Secretary and in order to enable the Secretary to report all costs of the Project to the legislature, the City shall provide the Secretary an accounting of all actual Non-Participating Costs which are paid directly by the City to any party outside of the Secretary and all costs incurred by the City not to be reimbursed by the Secretary for Preliminary Engineering, Right of Way, Utility adjustments, Construction, and Construction Engineering work phases, or any other major expense associated with the Project.

23. **Organizational Registration Requirements.**

(a) **Dun & Bradstreet.** If it has not already done so, the City shall obtain a Data Universal Numbering System (DUNS) number, which may be obtained from Dun and Bradstreet, Inc. (D & B) by telephone (currently 866-705-5711) or the Internet (currently <http://fedgov.dnb.com/webform>).

(b) **System for Award Management.** The City agrees it shall maintain current registrations in the System for Award Management (<http://www.sam.gov>) at all times during which it has active federal awards.

24. **Cancellation by City.** If the City cancels the Project, it will reimburse the Secretary for any costs incurred by the Secretary prior to the cancellation of the Project. The City agrees to reimburse the Secretary within thirty (30) days after receipt by the City of the Secretary’s statement of the cost incurred by the Secretary prior to the cancellation of the Project.

ARTICLE IV

GENERAL PROVISIONS:

1. **Incorporation of Design Plans.** The final Design Plans for the Project are by this reference made a part of this Agreement.

2. **Civil Rights Act.** The “Special Attachment No. 1,” pertaining to the implementation of the Civil Rights Act of 1964, is attached and made a part of this Agreement.

3. **Contractual Provisions.** The Provisions found in Contractual Provisions Attachment (Form DA-146a, Rev. 06-12), which is attached hereto, are hereby incorporated in this contract and made a part hereof.

4. **Headings.** All headings in this Agreement have been included for convenience of reference only and are not be deemed to control or affect the meaning or construction or the provisions herein.

5. **Binding Agreement.** This Agreement and all contracts entered into under the provisions of this Agreement shall be binding upon the Secretary and the City and their successors in office.

6. **No Third Party Beneficiaries.** No third party beneficiaries are intended to be created by this Agreement and nothing in this Agreement authorizes third parties to maintain a suit for damages pursuant to the terms or provisions of this Agreement.

The signature page immediately follows this paragraph.

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

ATTEST:

THE CITY OF PRAIRIE VILLAGE, KANSAS

CITY CLERK (Date)

MAYOR

(SEAL)

Michael S. King, Secretary of Transportation
Kansas Department of Transportation

By: _____
Jerome T. Younger, P.E. (Date)
Deputy Secretary and
State Transportation Engineer

KANSAS DEPARTMENT OF TRANSPORTATION

Special Attachment
To Contracts or Agreements Entered Into
By the Secretary of Transportation of the State of Kansas

NOTE: Whenever this Special Attachment conflicts with provisions of the Document to which it is attached, this Special Attachment shall govern.

THE CIVIL RIGHTS ACT OF 1964, and any amendments thereto,
REHABILITATION ACT OF 1973, and any amendments thereto,
AMERICANS WITH DISABILITIES ACT OF 1990, and any amendments thereto,
AGE DISCRIMINATION ACT OF 1975, and any amendments thereto,
EXECUTIVE ORDER 12898, FEDERAL ACTIONS TO ADDRESS ENVIRONMENTAL JUSTICE IN MINORITY
POPULATIONS AND LOW INCOME POPULATIONS 1994, and any amendments thereto,
49 C.F.R. Part 26.1 (DBE Program), and any amendments thereto

NOTIFICATION

The Secretary of Transportation for the State of Kansas, in accordance with the provisions of Title VI and Title VII of the Civil Rights Act of 1964 (78 Stat. 252), §504 of the Rehabilitation Act of 1973 (87 Stat. 355) and the Americans with Disabilities Act of 1990 (42 USC 12101), the Age Discrimination Act of 1975 (42 USC 6101), the regulations of the U.S. Department of Transportation (49 C.F.R., Part 21, 23, and 27), issued pursuant to such Act, Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations (1994), and the DBE Program (49 C.F.R., Part 26.1), hereby notifies all contracting parties that, the contracting parties will affirmatively ensure that this contract will be implemented without discrimination on the grounds of race, religion, color, gender, age, disability, national origin, or minority populations and low income populations as more specifically set out in the following "Nondiscrimination Clauses".

CLARIFICATION

Where the term "Consultant" appears in the following "Nondiscrimination Clauses", the term "Consultant" is understood to include all parties to contracts or agreements with the Secretary of Transportation of the State of Kansas.

Nondiscrimination Clauses

During the performance of this contract, the Consultant, or the Consultant's assignees and successors in interest (hereinafter referred to as the "Consultant"), agrees as follows:

- 1) Compliance with regulations: The Consultant will comply with the regulations of the U.S. Department of Transportation relating to nondiscrimination in its federally-assisted programs and codified at Title 49, Code of Federal Regulations, Parts 21, 23 and 27, (hereinafter referred to as the "Regulations"). The Regulations are herein incorporated by reference and made a part of this contract.
- 2) Nondiscrimination: The Consultant, with regard to the work performed by the Consultant after award and prior to the completion of the contract work, will not discriminate on the grounds of race, religion, color, gender, age, disability, national origin or minority populations and low income populations in the selection and retention of subcontractors, including in the procurements of materials and leases of equipment. The Consultant will not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.
- 3) Solicitations for Subcontractors, including Procurements of Material and Equipment: In all solicitations, either competitive bidding or negotiation made by the Consultant for work to be performed under a subcontract including procurements of materials and equipment, each potential subcontractor or supplier shall be notified by the Consultant of the Consultant's obligation under this contract and the Regulations relative to nondiscrimination on the grounds of race, religion, color, gender, age, disability, national origin or minority populations and low income populations.

- 4) Information and Reports: The Consultant will provide all information and reports required by the Regulations, or orders and instructions issued pursuant thereto, and the Secretary of the Transportation of the State of Kansas will be permitted access to the Consultant's books, records, accounts, other sources of information, and facilities as may be determined by the Secretary of Transportation of the State of Kansas to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a Consultant is in the exclusive possession of another who fails or refuses to furnish this information, the Consultant shall so certify to the Secretary of Transportation of the State of Kansas and shall set forth what efforts it has made to obtain the information.
- 5) Employment: The Consultant will not discriminate against any employee or applicant for employment because of race, religion, color, gender, age, disability, or national origin.
- 6) Sanctions for Noncompliance: In the event of the Consultant's noncompliance with the nondiscrimination provisions of this contract, the Secretary of Transportation of the State of Kansas shall impose such contract sanctions as the Secretary of Transportation of the State of Kansas may determine to be appropriate, including, but not limited to,
 - (a) withholding of payments to the Consultant under the contract until the Consultant complies, and/or
 - (b) cancellation, termination or suspension of the contract, in whole or in part.
- 7) Disadvantaged Business Obligation
 - (a) Disadvantaged Business as defined in the Regulations shall have a level playing field to compete for contracts financed in whole or in part with federal funds under this contract.
 - (b) All necessary and reasonable steps shall be taken in accordance with the Regulations to ensure that Disadvantaged Businesses have equal opportunity to compete for and perform contracts. No person(s) shall be discriminated against on the basis of race, color, gender, or national origin in the award and performance of federally-assisted contracts.
 - (c) The Consultant, sub recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Consultant shall carry out applicable requirements of 49 C.F.R. Part 26 in the award and administration of Federally-assisted contracts. Failure by the Consultant to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy, as the recipient deems appropriate.
- 8) Executive Order 12898
 - (a) To the extent permitted by existing law, and whenever practical and appropriate, all necessary and reasonable steps shall be taken in accordance with Executive Order 12898 to collect, maintain, and analyze information on the race, color, national origin and income level of persons affected by programs, policies and activities of the Secretary of Transportation of the State of Kansas and use such information in complying with Executive Order 12898.
- 9) Incorporation of Provisions: The Consultant will include the provisions of paragraphs (1) through (8) in every subcontract, including procurements of materials and equipment, unless exempt by the Regulations, order, or instructions issued pursuant thereto. The Consultant will take such action with respect to any subcontract or procurement as the Secretary of Transportation of the State of Kansas may direct as a means of enforcing such provisions including sanctions for noncompliance: PROVIDED, however, that, in the event a Consultant becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the Consultant may request the State to enter into such litigation to protect the interests of the State.

CONTRACTUAL PROVISIONS ATTACHMENT

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

"The Provisions found in Contractual Provisions Attachment (Form DA-146a, Rev. 06-12), which is attached hereto, are hereby incorporated in this contract and made a part thereof."

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

- 1. Terms Herein Controlling Provisions:** It is expressly agreed that the terms of each and every provision in this attachment shall prevail and control over the terms of any other conflicting provision in any other document relating to and a part of the contract in which this attachment is incorporated. Any terms that conflict or could be interpreted to conflict with this attachment are nullified.
- 2. Kansas Law and Venue:** This contract shall be subject to, governed by, and construed according to the laws of the State of Kansas, and jurisdiction and venue of any suit in connection with this contract shall reside only in courts located in the State of Kansas.
- 3. Termination Due To Lack Of Funding Appropriation:** If, in the judgment of the Director of Accounts and Reports, Department of Administration, sufficient funds are not appropriated to continue the function performed in this agreement and for the payment of the charges-hereunder, State may terminate this agreement at the end of its current fiscal year. State agrees to give written notice of termination to contractor at least 30 days prior to the end of its current fiscal year, and shall give such notice for a greater period prior to the end of such fiscal year as may be provided in this contract, except that such notice shall not be required prior to 90 days before the end of such fiscal year. Contractor shall have the right, at the end of such fiscal year, to take possession of any equipment provided State under the contract. State will pay to the contractor all regular contractual payments incurred through the end of such fiscal year, plus contractual charges incidental to the return of any such equipment. Upon termination of the agreement by State, title to any such equipment shall revert to contractor at the end of the State's current fiscal year. The termination of the contract pursuant to this paragraph shall not cause any penalty to be charged to the agency or the contractor.
- 4. Disclaimer Of Liability:** No provision of this contract will be given effect that attempts to require the State of Kansas or its agencies to defend, hold harmless, or indemnify any contractor or third party for any acts or omissions. The liability of the State of Kansas is defined under the Kansas Tort Claims Act (K.S.A. 75-6101 et seq.).
- 5. Anti-Discrimination Clause:** The contractor agrees: (a) to comply with the Kansas Act Against Discrimination (K.S.A. 44-1001 et seq.) and the Kansas Age Discrimination in Employment Act (K.S.A. 44-1111 et seq.) and the applicable provisions of the Americans With Disabilities Act (42 U.S.C. 12101 et seq.) (ADA) and to not discriminate against any person because of race, religion, color, sex, disability, national origin or ancestry, or age in the admission or access to, or treatment or employment in, its programs or activities; (b) to include in all solicitations or advertisements for employees, the phrase "equal opportunity employer"; (c) to comply with the reporting requirements set out at K.S.A. 44-1031 and K.S.A. 44-1116; (d) to include those provisions in every subcontract or purchase order so that they are binding upon such subcontractor or vendor; (e) that a failure to comply with the reporting requirements of (c) above or if the contractor is found guilty of any violation of such acts by the Kansas Human Rights Commission, such violation shall constitute a breach of contract and the contract may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration; (f) if it is determined that the contractor has violated applicable provisions of ADA, such violation shall constitute a breach of contract and the contract may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration.

Contractor agrees to comply with all applicable state and federal anti-discrimination laws.

The provisions of this paragraph number 5 (with the exception of those provisions relating to the ADA) are not applicable to a contractor who employs fewer than four employees during the term of such contract or whose contracts with the contracting State agency cumulatively total \$5,000 or less during the fiscal year of such agency.

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

**COUNCIL MEETING AGENDA
CITY OF PRAIRIE VILLAGE
Council Chambers
December 16, 2013
7:30 PM**

- I. **CALL TO ORDER**
- II. **ROLL CALL**
- III. **PLEDGE OF ALLEGIANCE**
- IV. **PRESENTATIONS**

Citizen's Police Academy Graduation

- V. **PUBLIC HEARING**

2013 Budget Amendment Hearing

Adopt the 2013 Budget Amendment related to CID Funds

2014 Budget Amendment Hearing

Adopt the 2014 Budget Amendment related to Alcohol Tax Funds

- VI. **PUBLIC PARTICIPATION**

- VII. **CONSENT AGENDA**

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

By Staff

- 1. Approve Regular Council Meeting Minutes - December 2, 2013
- 2. Approve Claims Ordinance 2912
- 3. Approve Contract Agreement between Great Plains SPCA and the City of Prairie Village.
- 4. Approve a three year contract with Weather or Not for weather services in 2014 with renewal in 2015 and 2016.
- 5. Approve a three year contract with Coffee Plus for coffee service in 2014 with a renewal in 2015 and 2016.
- 6. Approve a three year contract with Jani-King of Kansas City for custodial services for 2014 with renewal in 2015 and 2016.
- 7. Approve a three year contract with Deffenbaugh Industries Inc. for roll-off container services for 2014 with renewals in 2015 and 2016.

8. Approve the 2014-2016 Annual Service bid for plumbing services from Lexington Plumbing for 2014 with renewals in 2015 and 2016.
9. Approve a three year contract with Arbor Masters for Tree Services in 2014 with renewal in 2015 and 2016.
10. Approve the contract with Kansas City Tree Care, LLC for \$61,444.00 for trimming trees in City right-of-way and parks.

By Committee

11. Adopt an Ordinance amending Chapter 1 of the Prairie Village Municipal Code, 2003, entitled "Administration" Article 2 entitled "Governing Body" by repealing the existing section 1-208 entitled "Vacancies in Governing Body; How Filled" and adopting a new Section 1-208 entitled "Vacancies in Governing Body; How Filled" and amending Chapter 6 entitled "Elections" Article 1 entitled "City Elections" Section 6-105 entitled "Councilmembers Elections:Terms" (Council Committee of the Whole - December 2, 2013)

VIII. MAYOR'S REPORT

Appointment of Ward V Council Member

IX. COMMITTEE REPORTS

Council Committee of the Whole

- COU2013-55 Consider approval of use of Contingency Funds for 2013 Legal Expenses
- COU2013-57 Consider approval of 2014 Joint City/County Legislative Platform
- COU2013-56 Consider KDOT Agreement for Project 75ST0001: 75th Street - State Line Road to Mission Road

X. STAFF REPORTS

XI. OLD BUSINESS

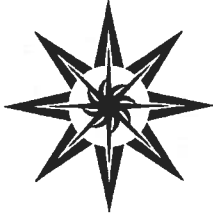
XII. NEW BUSINESS

XIII. ANNOUNCEMENTS

XIV. 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



ADMINISTRATION

Council Meeting Date: December 16, 2013

Adoption of the 2013 Budget Amendment

SUGGESTED MOTION

Move to adopt the 2013 Budget Amendment as published.

BACKGROUND

State statutes require that the City publish the budget amendment in the official newspaper of the City and hold a public hearing on the budget amendment prior to adoption. The budget amendment was published in the Legal Record on Tuesday, December 2, 2013. The public hearing was held earlier this evening.

ATTACHMENTS:

Amended Certificate for Calendar Year 2013

Prepared By:

Lisa Santa Maria

Finance Director

Date: December 12, 2013

2013

**Amended
Certificate
For Calendar Year 2013**

To the Clerk of Johnson County, State of Kansas
We, the undersigned, duly elected, qualified, and acting officers of
City of Prairie Village
certify that: (1) the hearing mentioned in the attached publication was held;(2) after the Budget Hearing this Budget was duly approved and adopted as the maximum expenditure for the various funds for the year.

Table of Contents:			2013 Amended Budget		
			Amount of 2012 Tax that was Levied	Adopted 2013 Expenditures	Proposed Amended 2013 Expenditures
Fund	K.S.A.	Page No.			
Corinth CID	12-6a34	2		450,000	800,000
PV Shops CID	12-6a34	3		470,000	600,000
0					
0					
0					
0					
Totals		XXXXXXXXXX	0	920,000	1,400,000
Summary of Amendments		4			

Attested date: _____

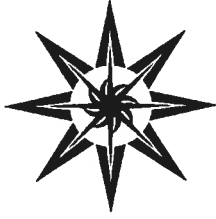
County Clerk

Assisted by: _____

Address: _____

Email: _____

Governing Body



ADMINISTRATION

Council Meeting Date: December 16, 2013

Adoption of the 2014 Budget Amendment

SUGGESTED MOTION

Move to adopt the 2014 Budget Amendment as published.

BACKGROUND

State statutes require that the City publish the budget amendment in the official newspaper of the City and hold a public hearing on the budget amendment prior to adoption. The budget amendment was published in the Legal Record on Tuesday, December 2, 2013. The public hearing was held earlier this evening.

ATTACHMENTS:

Amended Certificate for Calendar Year 2014

Prepared By:

Lisa Santa Maria

Finance Director

Date: December 12, 2013

CONSENT AGENDA

CITY OF PRAIRIE VILLAGE, KS

December 16, 2013

**CITY COUNCIL
CITY OF PRAIRIE VILLAGE
December 2, 2013**

The City Council of Prairie Village, Kansas, met in regular session on Monday, December 2, 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, Ted Odell and David Belz.

Also present were: Wes Jordan, Chief of Police; Keith Bredehoeft, Director of Public Works; Katie Logan, City Attorney; Quinn Bennion, City Administrator; Lisa Santa Maria, Finance Director; Danielle Dulin, Assistant to the City Administrator; Nic Sanders, HR Specialist and Joyce Hagen Mundy, City Clerk. Also present was Ron Williamson, City Planning Consultant.

Mayor Shaffer led those present in the Pledge of Allegiance.

PUBLIC PARTICIPATION

Chuck Dehner, 4201 West 68th Terrace, addressed the Council regarding statements made by City Administrator Quinn Bennion at the September 3rd City Council meeting. He felt the comments constituted defamation of character. The comments were in regard to the accuracy of six statements made about CID projects. Mr. Dehner contended 5 of the 6 were accurate and distributed to Council members supporting documentation. He noted in Kansas there is a criminal defamation of character provision that he believes should apply to Mr. Bennion's statements.

However, he feels that Mr. Bennion's actions were made at the direction of someone else.

Mayor Shaffer acknowledged the presence of two Rockhurst High School students attending for their American Government class

CONSENT AGENDA

Dale Warman moved the approval of the Consent Agenda for Monday, December 2, 2013:

1. Approve Regular Council Meeting Minutes - November 18, 2013
2. Approve the Interlocal Agreement between the City of Prairie Village and Johnson County Park & Recreation District for the use of City facilities for 50+ programming
3. Approve the agreement between the City of Prairie Village and Blue Valley Public Safety in the amount of \$3,648.00 for maintenance of the City's Outdoor Siren System in 2014
4. Approve the continuation of the following multi-year agreements previously approved by the Council for 2014:
 - Best Portable Toilets - expires 2014
 - City of Leawood - Porchlight agreement - expires 2107
 - DataMax - Public Works Copier - expires 2014
 - Great American Leasing - Postage Meter - expires 2018
 - Icemasters - Ice Maker Services - expires 2014
 - ImageQuest - Administration copiers - expires 2018
 - Johnson County Key - Locksmith Services - expires 2014
 - K & G Stripping - Pavement Marking Services - expires 2015
 - Keller Fire & Safety - Fire Extinguisher Services
 - Lawrence Pest Control - Pest Control Services - expires 2014
 - Midwest Office Technology - PD Copiers - expires 2018
 - Northeast Painting - Painting Services - expires 2015
 - O'Dell Services Company - HVAC Services - expires 2014
 - R.F. Fisher Electric - Electrical Services - expires 2015
 - Robin A. Lewis - Public Defender - expires 2014
 - Rosehill Gardens - Tree Planting Services - expires 2015
 - Simplex Grinnell - Fire Alarm Maintenance - expires 2015
 - Simplex Grinnell - Sprinkler System Maintenance - expires 2015
 - Windstream - Telecommunications System - expires 2015
5. Ratify the Mayor's appointment of Sarah Kelly to the Animal Control Board to complete an unexpired term expiring in April, 2015
6. Authorize KC Presort Business Mail Services to provide Mail Processing Services for the City of Prairie Village

7. Adopt Resolution 2013-05 establishing 2014 compensation ranges for the City of Prairie Village, subject to review and approval of the City Attorney
8. Approve Ordinance 2298 amending Chapter 10 of the Prairie Village Municipal Code entitled "Police" by amending Article 1 entitled "Police Department" and Section 10-116 entitled "Same; Disability Insurance"

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

MAYOR'S REPORT

Mayor Shaffer reported on activities representing the City during the past two weeks including the following: Johnson County Community College Open Forum, LKM Regional Supper, Lathrop & Gage Holiday Open House, Northeast Johnson County Chamber Gala, Highland Elementary School DARE graduation, 9 mile marker dedication at Weltner Park, Kansas City Chamber retirement event, MARC Board of Directors meeting; Greater Kansas City Chamber Annual Meeting.

COMMITTEE REPORTS

Park & Recreation Committee

Laura Wassmer reported on the dedication of the 9 mile marker dedication at Weltner Park. She noted the plaque at the marker goes into the history behind the marker and its significance. Ms Wassmer stated several agencies have been working on getting authorization for the placement of the marker for 25 years. She is pleased to have this historic site in Prairie Village.

Council Committee of the Whole

COU2013-51 Consider Request to Publish Amendment to 2014 Budget - Special Alcohol Fund

On behalf of the Council Committee of the Whole, Dale Warman moved the City Council authorize the publication of an amendment to the 2014 Budget as required by State statutes. The motion was seconded by Andrew Wang and passed unanimously.

COU2013-52 Consider Request to Publish Amendment to 2013 Budget - CID Funds

On behalf of the Council Committee of the Whole, Dale Warman moved the City Council authorize the publication of an amendment to the 2013 Budget as required by State statutes. The motion was seconded by Ted Odell and passed unanimously.

COU2013-53 Consider Adoption of Resolution prohibiting the carrying of firearms in Prairie Village Municipal Buildings in accordance with Kansas House Bill 2052

On behalf of the Council Committee, Dale Warman moved the City Council adopt Resolution 2013-06 prohibiting the carrying of firearms in Prairie Village Municipal Buildings in accordance with Kansas House Bill 2052. The motion was seconded by Ruth Hopkins and passed unanimously

Planning Commission

PC2013-08 Consider request for rezoning of 3101 West 75th Street from R-1a (Single Family Residential District) to RP-1b (Planned Single Family Residential District) and approval of Preliminary Development Plans

Ron Williamson stated the Governing Body considered the recommendation of the Planning Commission on this application on October 7th and sent the application back to the Commission for further consideration of two of the deviations from code requested by the application.

On November 5th the Planning Commission reconsidered the revised preliminary development plan increasing the size of Lots 1 and 4 from 7,821 square feet to 8,811 square feet; increasing the size of Lots 2 and 5 from 7,821 square feet to 8,119 square

feet; and decreasing the size of Lots 3 and 6 from 9,753 square feet to 9,405 square feet. The primary reason for adjusting the lot sizes is to be able to provide three-car garages on Lots 1, 3, 4, and 6. The modification of the lot lines increases the area of Lots 1, 2, 4, and 5 which is positive regardless of whether the Governing Body approves the 35% lot coverage and the 20-foot rear yard setback.

The Commission questioned the need for 3-car garages in a development that was being marketed to “empty nesters” especially considering the lot size limitations. They also expressed concern with the location of the proposed fence and its impact on the already reduced rear yard. The Commission approved the changes in the lot sizes and the requested increase in lot coverage to 35% but denied the requested rear yard setback reduction from 25 feet to 20 feet.

The Governing Body shall make its findings of fact based on the “Golden Factors” and either:

- A. Adopt the recommendation of the Planning Commission and approve the rezoning and Revised Preliminary Development Plan or revise the conditions of approval which requires a simple majority of the Governing Body (seven votes), or
- B. Override the recommendation of the Planning Commission by a simple majority vote of the Governing Body, and deny the rezoning and Preliminary Development Plan, or
- C. Continue the item to a designated meeting by a simple majority of the members present

Ruth Hopkins stated she supports the requested reduction in the rear yard setback to 20 feet. She visited Mr. Royer’s development at ____ Mission Road which has a 16’ rear yard setback and found it to be more than acceptable. She feels the proposed project meets the definition of “infill development”.

Andrew Wang noted that in his presentation to the Planning Commission, Mr. Royer stated the demographics that the homes will be marketed to are seeking more of

a patio home rear yard with minimal yard work required. He asked if there would be adequate screening when the bushes were thinned out. Mr. Williamson responded there are no evergreen trees, so the foliage would be minimal in the winter months; however, the applicant is proposing to install a perimeter fence that would also provide screening.

Mayor Shaffer confirmed that the neighbors at the neighborhood meeting held prior to the application being presented to the Planning Commission did not have any concerns with the proposed setbacks.

Steve Noll stated he visited the site and the hedge being referred to is massive. He supports the proposed plan as an innovative use of a vacant piece of land.

Ruth Hopkins moved the Governing Body adopt Ordinance 2200 approving the requested rezoning of 3101 West 75th Street from R-1a to RP-1b and the revised preliminary development plan subject to 16 conditions and with the following four deviations from ordinance requirements granted: 1) reduction of front yard setback from 30 feet to 15 feet; 2) increase in lot coverage from 30% to 35%; 3) reduction in rear yard setback from 25 feet to 20 feet and 4) reduction in the lot depth from 100 feet to 99 feet. The motion was seconded by David Belz.

Dale Warman stated he does not usually vote in opposition to the Planning Commission's recommendation; however, he feels the proposed plan with the smaller rear yards is in agreement with what is being desired by many of today's home owners.

Brooke Morehead stated here only reservation to the plan is the straight line construction of the proposed homes. Bob Mogren responded they have three quality builders lined up to build the homes and is confident that they will be high quality homes with unique features and appearances.

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

STAFF REPORTS

Administration

- Lisa Santa Maria thanked Council members for turning in receipts to assist in the closing of the year.
- Mrs. Santa Maria asked Council members to be thinking of questions they would like to see placed on the 2014 budget simulation. This will be discussed further at the January work session.
- Quinn Bennion noted the Dorr holiday display is back.
- The City has been receiving calls from residents wanting the bag increase for yard waste, which is 8 during the month of December, from the 12 bag limit in November be increased due to the late dropping of leaves.

OLD BUSINESS

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

NEW BUSINESS

Andrew Wang raised the question as to why the Mission Valley Neighborhood Association opposing the Mission Valley Development has been given equal time and status of the applicant. He noted that MVNA does not represent everyone opposing the project.

Quinn Bennion noted this has been discussed by staff many times. This is the first time opposition has been given such status. The reasoning was to reduce the amount of comments by allowing them to speak on behalf of their many members. At this point in time, it would be difficult to change.

Brooke stated that she feels that Council should attend the Public Hearing to get a complete picture of the project and the residents’ concerns.

Charles Clark noted the recent violence in the Ukraine and urged the Council to keep Prairie Village's Sister City Dolyna in their thoughts.

Dale Warman urged Council members to attend the upcoming Lathrop & Gage Legislative Breakfast to get information on the legislative issues that will be discussed in 2014.

ANNOUNCEMENTS

Committee meetings scheduled for the next two weeks include:

Planning Commission	12/03/2013	7:00 p.m.
Tree Board	12/04/2013	6:00 p.m.
Environment/Recycle Committee	12/04/2013	7:00 p.m.
Parks and Recreation Committee	12/11/2013	7:00 p.m.
Council Committee of the Whole	12/16/2013	6:00 p.m.
City Council	12/16/2013	7:30 p.m.

=====

Due to the winter holidays, the Environment/Recycle Committee will combine their November and December meetings into a single meeting this Wednesday, December 4, at 7:00 p.m. in the MPR.

The Johnson and Wyandotte Counties Council of Mayors Holiday Social is this Wednesday, December 4, at 5:30 p.m. at the Overland Park Convention Center.

The Mayor's Holiday Tree Lighting will be this Thursday, December 5, from 6:00 - 7:00 p.m. at Corinth Square.

The Employee Holiday Luncheon will be Wednesday, December 11, from 11:30 a.m. - 1:00 p.m. in the Council Chambers.

The Prairie Village Arts Council is pleased to present a mixed media exhibit by the Great Kansas City Art Association as the December exhibit in the R. G. Endres Gallery. The reception is on Friday, December 13, from 6:30 - 7:30 p.m.

The Mayor's Holiday Gala for Volunteers will be Friday, December 13 at Homestead Country Club. The Social Hours begins at 6:30 p.m., seating for dinner begins at 7:30 p.m.

Mayor Shaffer encouraged Council members to volunteer at the Gingerbread House event this Sunday at Brighton Gardens at 1:30 and 3:00 p.m.

ADJOURNMENT

With no further business to come before the City Council, the meeting was adjourned at 8:15 p.m.

Joyce Hagen Mundy
City Clerk

CITY TREASURER'S WARRANT REGISTER

DATE WARRANTS ISSUED:

Warrant Register Page No. 1

December 2, 2013

Copy of Ordinance
2912

Ordinance Page No. _____

An Ordinance Making Appropriate for the Payment of Certain Claims.
Be it ordained by the governing body of the City of Prairie Village, Kansas.

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

NAME	WARRANT NUMBER	AMOUNT	TOTAL
<u>EXPENDITURES:</u>			
Accounts Payable			
6059-6068	11/1/2013	79,801.91	
6069-6159	11/8/2013	898,218.11	
6160	11/12/2013	226.98	
6161-6174	11/15/2013	18,303.71	
6175-5252	11/22/2013	236,110.62	
6253-6254	11/25/2013	9,639.97	
6255-6260	11/29/2013	88,275.50	
Payroll Expenditures			
11/1/2013		229,155.48	
11/15/2013		226,984.01	
11/29/2013		239,432.05	
Electronic Payments			
Electronic Pmnts	11/1/2013	2,049.83	
Electronic Pmnts	11/5/2013	3,674.55	
Electronic Pmnts	11/6/2013	3,791.22	
Electronic Pmnts	11/7/2013	1,026.46	
Electronic Pmnts	11/8/2013	585.33	
Electronic Pmnts	11/12/2013	505.00	
Electronic Pmnts	11/14/2013	3,400.99	
Electronic Pmnts	11/20/2013	1,586.48	
Electronic Pmnts	11/27/2013	4,359.86	
TOTAL EXPENDITURES:			2,047,128.06
Voided Checks			
	Check #	(Amount)	
Indigo Design	6206	(2,278.40)	
TOTAL VOIDED CHECKS:			(2,278.40)
GRAND TOTAL CLAIMS ORDINANCE			2,044,849.66

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

Passed this 2nd day of Decemberr 2013.

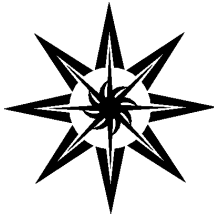
Signed or Approved this 2nd day of Decemberr 2013.

(SEAL)

ATTEST: _____

City Treasurer

Mayor



POLICE DEPARTMENT

Council Meeting Date: December 16, 2013

CONSENT AGENDA: Consider the contract agreement between Great Plains SPCA and the City of Prairie Village.

RECOMMENDATION

Staff recommends the City Council approve the 2014 contract with Great Plains to board and dispose of dogs, cats and other animals found funning at large or otherwise impounded pursuant to City ordinance.

BACKGROUND

The Department transitioned to Great Plains in 2013 to provide care for impounded animals with the expectation the City would save considerable funds based on their fee-per-service structure. To date, the Department has realized an average savings of approximately \$1600.00 per month.

The City Attorney has previously reviewed and approved contract. The only change(s) is the price per day for boarding (\$15.00 to \$25.00) per day and the administrative fee (\$50.00 to \$65.00). The increase in costs will have minimal impact since the Animal Control returns a large percentage of animals directly to the owner.

PREPARED BY

Capt. Wes Lovett

Patrol Commander

Date: December 11, 2013

City Boarding Agreement

THIS AGREEMENT (this "Agreement") is effective as of January 1, 2014, by and between **PRAIRIE VILLAGE, KANSAS ("CITY")** and **GREAT PLAINS SPCA ("GREAT PLAINS")** for and on behalf of itself and its subsidiaries.

WHEREAS, the City has enacted certain ordinances prohibiting dogs and cats from running at large in the City, mandating the licensing of dogs and cats, and providing for the impoundment and disposition of animals found running at large or otherwise in violation of said ordinances; and

WHEREAS, the City deems it desirable and in the best interest of the City to contract with Great Plains to board and dispose of dogs, cats and other animals found running at large or otherwise impounded pursuant to City ordinance.

NOW, THEREFORE, the parties agree as follows:

1. Services provided by Great Plains:
 - a. Great Plains will provide, at its own expense, a suitable and adequate animal shelter for the proper handling of all lost, stray or otherwise impounded animals, which shelter shall be supervised by a competent person or persons. Great Plains shall be open daily at such hours as Great Plains shall determine, provided it shall be open for the public to recover animals a minimum of six hours per day during normal business hours every day. Great Plains will provide 24 hour access to Animal Control and Police Officers for the impoundment of animals.
 - b. Great Plains agrees to accept all animals picked up or delivered to Great Plains by the City or its employees; provided, however, Great Plains shall not have to accept large animals such as horses, cattle, deer or other large, vicious or dangerous animals not customarily sheltered by Great Plains.
 - c. Great Plains shall first refer all persons and calls concerning strays found in Prairie Village, Kansas to the City's Animal Control division. Great Plains agrees it will not accept an animal on behalf of the City without first obtaining authorization from the City, but does maintain the right to accept pets from citizens in said city for an appropriate relinquishment fee paid to Great Plains by the citizen should the City's Animal Control division decline impoundment of the pet under the City's contract. The City will only be billed for animals they bring in or approve for public surrender.

- d. Great Plains agrees to provide proper and adequate food, shelter, water and humane care to the animals delivered to it by the City during all times the animals are in its possession and until redeemed or otherwise disposed.
- e. Animals delivered to Great Plains who are in need of immediate medical care to treat an injury or illness, will be billed to said City at a fee not to exceed \$250 per pet if delivered during normal business hours. Examples of such injuries or illnesses include, but are not limited to: pets who have been hit by a car, broken limbs, lacerations or other open wounds, or parvo virus, etc. Routine medical care for general/common illnesses such as upper respiratory disease, heartworms, providing vaccinations, etc. will not be billed to the City and will be provided to pets delivered by City's Animal Control division under the general contract terms. The City's Animal Control division also has the option to transfer the pet to another veterinary clinic for treatment at their own expense; however, pets who are obviously or suspected to be injured or seriously ill may not, under any circumstances be delivered to Great Plains after hours. Any pet who is in the possession of the City after hours and is injured or ill must be transferred to an emergency hospital. It is not humane or acceptable for Animal Control Officers to deliver pets to Great Plains after hours who are suffering and in need of medical attention. Euthanasia will be reserved for pets who are suffering, not for pets with a treatable condition. Great Plains will not euthanize a pet, even if released by the City, who can be reasonably treated and rehabilitated. For all pets delivered to and housed at Great Plains, medical conditions will be promptly treated to prevent pain, suffering and discomfort.
- f. Great Plains agrees to hold all of the animals delivered to it by the City (except those covered by subsections g and h below) for a maximum period of 5 days for dogs and 0 days for cats (the "Holding Period"); provided, however, that any animal so impounded may be reclaimed by its legal owner within the Holding Period provided the owner pays any outstanding administrative and/or veterinary fees and charges to Great Plains. At the end of the Holding Period, all animals that remain unclaimed shall become the property of Great Plains and may be listed for adoption by Great Plains, transferred to another Humane Organization or Rescue, or humanely euthanized at the shelter. Great Plains will not knowingly list for adoption any animal that is vicious or that has been deemed dangerous.
- g. If a cat delivered to Great Plains appears to be feral, and is determined by Great Plains to be such, the cat is only required to be held for the minimum period required by the State of Kansas and then becomes the property of Great Plains.
- h. Upon request by the City, Great Plains agrees to care for animals delivered to it by the City, which require holds due to rabies observations or other violations for a period of ten (5) days as such or longer periods as requested by the City. In the event an animal

on a rabies observation hold is determined to have an owner, the animal may be transferred to a licensed Johnson County veterinarian of the owner's choice as soon as is practicable.

- i. Great Plains has the right to deworm, vaccinate, and medically treat all animals upon arrival at Great Plains regardless of the pet's condition to protect the animal and others from disease and suffering.
 - j. Great Plains agrees to keep records and make such reports as shall be reasonably required by the City concerning the animals it cares for on behalf of the City, and Great Plains shall render monthly statements to the City.
 - k. Great Plains agrees to complete any City forms provided to it by Animal Control, and to collect any further information requested by Animal Control, related to persons recovering animals.
2. Obligations of the City:
- a. Any animal that appears to be suffering from injury or illness or appears to have a contagious disease shall be (1) released to Great Plains for medical treatment not to exceed \$250 or, (2) must be taken by the City to a veterinarian of the City's choice immediately. This includes after hours impoundments. Medical conditions must be treated immediately to prevent suffering, pain and discomfort.
 - b. Once an owner is identified for any animal that is impounded for biting or injuring an individual, the animal may be released to a veterinary clinic for the remainder of the holding period, if practicable.
3. After Hours Impoundment

Great Plains prohibits inhumanely impounding an animal. Any animal impounded after normal working hours shall be provided with water and placed in a holding kennel of appropriate size. Great Plains shall provide after-hours Animal Control Officers with all necessary supplies to include litter boxes, food, bedding and cleaning supplies. Animals are not to be left in traps or in outdoor pens overnight. No animal is to be left in the facility without proper paperwork being completed by the Animal Control Officer, Police Officer or City designee impounding the animal. Great Plains is responsible to ensure that there are adequate, secure and sanitary cages or runs available for all impounded animals. Animal Control Officers may not place injured or ill animals in kennels after hours. Such pets must be transported by Animal Control to an after-hours veterinary facility for care/treatment. Pets can be transferred to Great Plains the following morning during normal business hours.

4. Fees:

In consideration for the above performance, the City agrees to pay Great Plains as follows:

- a. A one-time administrative fee of \$65.00 per dog, puppy, cat, kitten or other small animal impounded, which includes the first day of board.
- b. Each day following the first day of impoundment, boarding will be billed at \$25.00 per day, or fraction of a day, for each dog, cat or other small animal impounded.
- c. \$25.00 for each bite certificate
- d. \$50.00 per euthanasia fee, which includes disposal
- e. \$30.00 disposal fee for each animal delivered deceased
- f. \$100.00 for each non-placeable animal delivered to Great Plains. For purposes of this section, "non-placeable" shall mean an animal designated as such by the City, which due to its aggressive disposition or specific legislation cannot be adopted by a Prairie Village citizen, including feral cats.

In the event a litter or a litter with the mother is impounded, and said litter is not "weaned," no more than two administrative fees will be charged. For example, if a cat with four nursing kittens is impounded, the administrative charge would be \$130.00, not \$335.00

Any fees incurred or charges for unclaimed animals will be paid by the City. If an animal is reclaimed by its owner, Great Plains shall collect all fees from the owner.

These fees may be changed or additional fees imposed by Great Plains, provided that Great Plains gives the City sixty (60) days prior verbal or written notice of such change or additional fees in accordance with Section 13.

5. Independent Contractor:

The parties hereto agree that the services to be provided by Great Plains are being provided strictly on a contract basis. Great Plains is not and shall not be considered a part of the City and shall not be subject of the control of the City, but shall be considered an independent contractor at all times.

6. Assignability:

This agreement shall not be assignable without prior written permission of both parties

7. Non-Discrimination:

Great Plains agrees that:

- a. Great Plains shall observe the provisions of the Kansas Act against discrimination and shall not discriminate against any person in the performance of work under the present contract because of race, religion, color, sex, disability, national origin or ancestry.

- b. In all solicitation or advertisements for employees, Great Plains shall include the phrase, "equal opportunity employer" or a similar phrase to be approved by the Kansas Human Rights Commission (Commission);
- c. If Great Plains fails to comply with the manner in which it reports to the Commission in accordance with the provisions of K.S.A. 44-1031 and amendments thereto, Great Plains shall be deemed to have breached the present contract and it may be canceled, terminated or suspended, in whole or in part, by the City;
- d. If Great Plains is found guilty of a violation of the Kansas Act against discrimination under a decision or order of the Commission which has become final, Great Plains shall be deemed to have breached the present contract and it may be canceled, terminated, or suspended, in whole or in part, by the City; and
- e. Great Plains shall include the provisions of subsections 7 (a) through (d) above in every subcontract or purchase order so that such provisions will be binding upon such subcontractor or vendor.
- f. The provisions of this section shall not apply to a contract entered into by Great Plains if:
 - aa. Great Plains employs fewer than four employees during the term of such contract; or
 - bb. Great Plains contracts with the City cumulatively total \$5,000.00 or less during the fiscal year for the City.
- g. Great Plains further agrees that it shall abide by the Kansas Age Discrimination in Employment Act (K.S.A. 44-1111 et seq.) and the applicable provision in the Americans With Disabilities Act (42 U.S.C. 12101 et seq.) as well as all federal, state and local laws, ordinances and regulations applicable to Great Plains, and to furnish any certification required by any federal, state or local governmental agency in connection therewith.

8. Non-Exclusivity:

This Agreement shall not preclude the City from entering into any agreement with, or from utilizing, any other impounding entity or shelter and shall not be considered exclusive.

9. Term:

This Agreement shall be effective January 01, 2014, and shall continue in effect until December 31, 2014. The term of this Agreement shall be automatically extended at the end of the initial term for a twelve month period, and in like manner for all succeeding years, unless and until either party terminates the Agreement pursuant to Section 10, below.

Notwithstanding the foregoing or any other language contained in this Agreement, the City is obligated to pay only such periodic payments or monthly installments thereof as may lawfully be made from funds budgeted and approved for that purpose. The City agrees to notify Great Plains at the earliest possible time of the non-availability of funds from which to make any periodic payment or monthly installment.

10. Termination:

Either party may terminate this agreement at any time for their convenience by giving thirty (30) days written notice to the other party.

11. Periodic Meeting:

The parties agree to meet as needed or requested by either party during the term of this Agreement to better anticipate the needs of the parties prior to renegotiation of the Agreement.

12. Insurance:

During the term of this Agreement, Great Plains agrees to maintain insurance coverage of the types and minimum liability limits as set forth below. Great Plains shall furnish to the City a Certificate of Insurance verifying such coverage. The certificate holder on the Certificate of Insurance shall be as follows:

Prairie Village, Kansas

Prior to any material change or cancellation, the City will be given thirty (30) days advanced written notice by certified mail to the stated address of the certificate holder.

13. Minimum Liability Limits:

Commercial General Liability insurance on an occurrence basis in amounts no less than \$500,000 bodily injury and property damage per occurrence; \$500,000 general aggregate.

Industry Ratings – City will only accept coverage from an insurance carrier who carries a Best’s policyholder rating of A-:VII or better; or is a company mutually agreed upon by the City and Great Plains.

13. Notices.

The parties agree that all notices under this Agreement shall be in writing and shall be deemed to have been duly given upon either being delivered personally or upon receipt if mailed by certified mail, return receipt requested. Notices shall be sent to the representatives named below or to any subsequent representative for which notice is provided pursuant to this section.

Great Plains SPCA

City of Prairie Village

Courtney Thomas

Captain Wes Lovett

President & CEO

5428 Antioch Drive

7710 Mission

Merriam, Kansas 66202

Prairie Village, Kansas 66205

14. Entire Agreement:

This Agreement constitutes the entire agreement between the parties and supersedes all prior agreements, whether oral and written, covering the same subject matter. This Agreement may not be modified or amended except in writing mutually agreed to, accepted and signed by both parties.

15. No Third Party Beneficiaries:

Nothing contained herein shall create a contractual relationship with, or any rights in favor of, any third party.

16. Severability:

Should any provision of this Agreement 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 shall be unaffected thereby and shall continue to be valid and enforceable.

[THE BALANCE OF THIS PAGE IS LEFT INTENTIONALLY BLANK]

IN WITNESS WHEREOF, the parties understand this Agreement and have caused this Agreement to be executed by their duly authorized representatives as of the date first set forth above.

CITY OF PRAIRIE VILLAGE, KANSAS

GREAT PLAINS SPCA

By: _____
Name: Captain Wes Lovett
Title: _____
Date: _____

By: _____
Name: Courtney Thomas
Title: President & CEO
Date: _____

ATTEST:

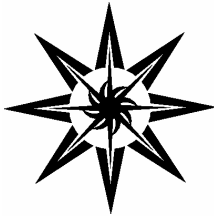
By: _____
Name: _____
Title: _____
Date: _____

APPROVED AS TO FORM:

By: _____
Name: _____
Title: _____
Date: _____

WITNESS:

By: _____
Name: _____
Title: _____
Date: _____



PUBLIC WORKS DEPARTMENT

Council Meeting Date:12/16/2013

CONSIDER WEATHER SERVICES THREE YEAR CONTRACT

RECOMMENDATION

Staff recommends the City Council approve a three year contract with Weather or Not for weather services in 2014 with renewal in 2015 and 2016.

BACKGROUND

On December 4, 2013, the City Clerk opened bids for weather services. Weather or Not submitted the only bid for an annual fee of \$8,949.00. The weather services provide forecasting and special forecast on request to Public Works staff and Swimming Pool staff via page and internet.

FUNDING SOURCE

Funds are available in the Public Works operating budget.

ATTACHMENTS

1. Service agreement with Weather or Not.

PREPARED BY

Keith Bredehoeft, Director of Public Works

AGREEMENT for WEATHER FORECAST SERVICES

This Agreement, made this _____ day of _____, _____, by and between _____, hereinafter referred to as Contractor, and the CITY OF PRAIRIE VILLAGE, KANSAS, hereinafter referred to as City, shall be in full force and effect during calendar years 2014 through 2016 with the following terms and conditions.

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

This document will be the only executed agreement. Any additions or changes must be added as a written supplement to this agreement at time of proposal. City Council must approve each year the terms of this agreement based on the budgetary allowance.

1.0 Service Specifications

- 1.1 The Contractor will provide to the Public Works Department, original all season weather forecast services developed by professional forecasters.
- 1.2 The Contractor will deliver daily forecasts by fax, e-mail (up to a maximum of 12 users) and texting (up to a maximum of 12 users) at 5:00 AM, 7:00 AM and 3:00 PM weekdays and no later than 8:00am on weekends and holidays. The daily forecast shall include current and projected weather conditions including start time and duration of rain/snow, intensity of rain, snow or ice and the potential for accumulating ice, damaging winds, dangerous temperatures, and 24-hour pavement temperature forecasts during winter weather. All forecasts shall contain enough pertinent information to allow the Public Works Department to make scheduling decisions for severe weather and emergency conditions, as well as planning for routine construction activities.
- 1.3 The Contractor will provide continual weather updates to designated personnel as conditions change and for severe weather forecasts of high winds, lightening, precipitation, and/or violent weather. A minimum of two (2) hours' notice of all winter storms and one (1) hour when possible for lightening or thunderstorm activity, will be required.
- 1.4 The Contractor will provide access for the City to control receiving of texting information for each individual contact. Each contact should be able to designate a time for blocking messages from their mobile device with an automatic restart at the end of that time frame. Individual contacts should be able to set weather thresholds and desired weather locations for notification.
- 1.5 The City may call the Contractor at any time with forecast requests and personal notification from a live meteorologist is required on a 24/7 basis. The Contractor will supply a direct contact name, phone number and email and will notify the City if this contact information changes during the Contract period. Please attach a list of all meteorologists employed by your company including an updated resume for each meteorologist.
- 1.6 The City may request to tour the business facility prior to bid award.

- 1.7 The Contractor will provide historical data requests from the City within a reasonable timeframe.
- 1.8 The City agrees that the information provided by the Contractor will not be rebroadcast, redistributed, republished, or otherwise reproduced, in whole or in part, without the written consent of the Contractor.
- 1.9 The City acknowledges that forecasting the weather is not an exact science, and releases the Contractor from any and all loss, cost, damage, liability, and expense suffered as a result of weather conditions, whether forecasted or not forecasted.
- 2.0 **General**
- 2.1 The signed agreement will be the authorization for the vendor to provide the described services.
- 2.2 Mike Helms, Field Superintendent, at phone-(913)385-4644, fax-(913)642-0117, Email-mhelms@pvkansas.com will be the City coordinator for the Contractor for providing any service and responding to any special needs.
- 2.3 All work performed by the Contractor will be of acceptable workmanlike quality and installation normally associated with this trade and shall occur to the satisfaction of the City before payment will be made by the City to the Contractor.
- 2.4 All invoices with a copy of the service report are to be sent to Public Works Department, 3535 Somerset Drive, Prairie Village, KS 66208.
- 2.5 Invoices shall be submitted for payment within sixty days of completion of work.
- 2.6 Contractor shall be responsible to provide workmen's compensation insurance and benefits for its employees.
- 2.7 It is the express intent of the parties that this Contract shall not create an employer-employee relationship. Employees of the Contractor shall not be deemed to be employees of the City and employees of the City shall not be deemed to be employees of the Contractor. The Contractor and the City shall be responsible to their respective employees for all salary and benefits. Neither the Contractor's employees nor the City's employees shall be entitled to any salary, wages, or benefits from the other party, including but not limited to overtime, vacation, retirement benefits, workers' compensation, sick leave or injury leave. Contractor shall also be responsible for maintaining workers' compensation insurance, unemployment insurance for its employees, and for payment of all federal, state, local and any other payroll taxes with respect to its employees' compensation
- 2.8 This Agreement is for the period of January 1, 2014 through December 31, 2016. Either party may terminate this agreement by giving sixty (60) days prior written notice to the other party.
- 2.9 The Contractor will commence work within ten (10) calendar days from and after receiving the fully executed agreement from the City and will complete all work covered in this contract.

- 2.10 The contractor shall be responsible for the death or injury of any employee of the contractors, while in the performance of service of the terms of this agreement and it shall hold the City harmless and shall indemnify the City for any loss it may have resulting from the contractor providing the services described in this agreement. The City shall not be responsible for any withholding of taxes or social security for any employee of contractor, nor shall it provide to any employee of contractor any fringe benefits of any kind.
- 2.11 Applicable Laws and Permits:
- A. The Contractor shall observe and comply with all applicable federal, state, and local laws, regulations, standards, ordinances or codes and shall be in compliance with all applicable licensure and permitting requirements at all times.
 - B. Pursuant to K.S.A. No. 16-113, if the Contractor does not have a resident agent in the State of Kansas, it shall execute and file "Certificate of Appointment of Process of Agent" with the Clerk of the District Court at the Johnson County, Kansas Courthouse. These forms may be obtained at the Office of the Clerk of the District Court. After execution of the documents, it shall be filed with the Clerk of the District Court. Contractor shall be responsible for the filing fee. This certificate is pursuant to the General Statutes of Kansas, and shall be filed prior to the formal execution of the Contract Documents. Failure to comply with these requirements shall disqualify the Contractor for the awarding of this Contract.
- 2.12 The Contractor may not use any subcontractors without the prior written consent of the City, which may be withheld for any reason at the City's discretion.
- 2.13 This Contract shall not be assigned by Contractor to any other party without first obtaining the written consent of the City.
- 2.14 This Contract shall be governed by and interpreted in accordance with the laws of the State of Kansas. Venue for all actions relating to this contract shall be in the district court of Johnson County, Kansas
- 2.15 Municipal Cooperative Procurement: contractor agrees to provide products and/or services to any municipality, county, or state government; public utility; non-profit hospital; educational institute; special governmental agency; and non-profit corporation performing governmental functions that participates in or is represented by the Mid-America Council of Public Purchasing (MACPP) in the greater Kansas City Metropolitan Trade Area and any member of the Mid America Regional Council (MARC).

3.0 Fees

3.1 The fee to be paid in advance for the completion of this service is:

	2014 Annual Fee	2015 Annual Fee	2016 Annual Fee
Annual Weather Forecasting Services	8949.00	8949.00	9211.00

❖ Reminder: attach copy of resumes for all meteorologists employed by your company.

4.0 References

4.1 The Contractor will provide three (3) local references of comparable work from the last twelve (12) months.

Company: Overland Park Public Works Contact: Mr. Doug Brown, Director

Phone #: 913-895-6034 Email: doug.brown@opkansas.org

Brief Description on Work: Meteorological consulting services 24/7, 365 similar to Prairie

Village, current services.

Company: Lenexa Municipal Services Contact: Mr. Chuck Williams, Director

Phone #: 913-477-7660 Email: cwilliams@lenexa.com

Brief Description on Work: Meteorological consulting services 24/7, 365 similar to Prairie

Village, current services.

Company: Leawood Public Works Contact: Mr. Joe Johnson, Director

Phone #: 913-339-6700 x131 Email: joej@leawood.org

Brief Description of Work: Meteorological consulting services 24/7, 365 similar to Prairie

Village, current services

Contractor Contact: Sara Croke

Company Name: Weather or Nort, Inc.

Address: 6342 Long Ave. Suite D

Shawnee, KS 66216

Telephone Number: 913-722-3955

Fax Number: n/a

Email: sara@weatherornot.com

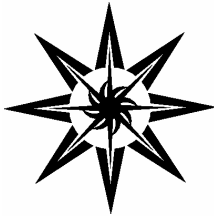
/s/
Contractor Agent Date

ATTEST:

/s/
Joyce Hagen Mundy, City Clerk Date

/s/
Catherine P. Logan, City Attorney Date

/s/
Ronald L. Shaffer, Mayor Date



PUBLIC WORKS DEPARTMENT

Council Meeting Date:12/16/2013

CONSIDER COFFEE SERVICE THREE YEAR CONTRACT

RECOMMENDATION

Staff recommends the City Council award the contract to Coffee Plus for 2014 with a renewal in 2015 and 2016.

BACKGROUND

On Wednesday, December 4, 2013, the City Clerk received a bid for a three year contract to provide coffee supplies. Public Works has two coffee locations - the Office/Garage and Crew Room. Coffee Plus is the current supplier and has been the coffee supplier since 2002. The Bid is attached. Based on prior year purchases, the cost will be within the current operating budget.

FUNDING SOURCE

Funding is in the 2014 Public Works Operating Budget.

ATTACHMENTS

1. Agreement for Coffee Service with Coffee Plus Vending & OCS

PREPARED BY

Keith Bredehoeft, Director of Public Works

AGREEMENT FOR COFFEE SERVICE

This Agreement, made this _____ day of _____, _____, by and between _____, hereinafter referred to as Contractor, and the CITY OF PRAIRIE VILLAGE, KANSAS, hereinafter referred to as City, shall be in full force and effect during calendar years 2014 through 2016 with the following terms and conditions.

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

This document will be the only executed agreement. Any additions or changes must be added as a written supplement to this agreement at time of proposal. City Council must approve each year the terms of this agreement based on the budgetary allowance.

1.0 Service Specifications

- 1.1 The Contractor will provide coffee services for the following locations:
 - a. Public Works A-building, 3535 Somerset Drive.
 - b. Public Works B-building, 3535 Somerset Drive.

- 1.2 The Contractor will provide for each location:
 - a. 1 unit including: 1 brewing unit w/warmer, 2nd warmer and continuous hot water spigot or comparable equipment. Equipment must fit in present location and hook into existing continuous water supply.
 - b. Weekly cleaning of coffee pots and delivery of coffee filters at no cost.

- 1.3 The City, in accordance with City Council Policy No. CP061 will retain the right to obtain competitive pricing on any singular item costing more than \$10,000.

- 1.4 The Contractor will supply a direct contact name, phone number and email and will notify the City if this contact information changes during the Contract period.

- 1.5 The Contractor is admonished that their employees will be properly attired, refrain from abusive language, refrain from improper behavior, and be aware that they are representing the City.

2.0 General

- 2.1 This signed agreement will be the authorization for the Contractor to provide the described services as requested by the City.

- 2.2 Suzanne Lownes, Office Manager, at phone-(913)385-4640, fax-(913)642-0117 Email-slownes@pvkansas.com, will be the contact for the Public Works facilities for the Contractor in providing any service and responding to any special needs.

- 2.3 All work performed by the Contractor will be of acceptable workmanlike quality and installation normally associated with this trade and shall occur to the satisfaction of the City before payment will be made by the City to the Contractor.

-
- 2.4 The Contractor will contact Public Works to schedule work. All work should be performed between 8:00am through 3:30pm weekdays unless otherwise stated by the City.
- 2.5 All invoices are to be sent to Public Works Department, 3535 Somerset Drive, Prairie Village, KS 66208.
- 2.6 Invoices shall be submitted for payment within sixty days of completion of work.
- 2.7 Insurance:
- A. The Contractor shall procure and maintain, at its expense, the following insurance coverage: (a) Workers' Compensation -- Statutory Limits, with Employer's Liability limits of \$100,000 each employee, \$500,000 policy limit; (b) Commercial General Liability for bodily injury and property damage liability claims with limits of not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate; and (c) Commercial Automobile Liability for bodily injury and property damage with limits of not less than \$1,000,000 each accident for all owned, non-owned and hired automobiles.
 - B. All property damaged shall be repaired or replaced to a condition immediately prior to the time of damage, and to the satisfaction of the City.
 - C. All loss or damage arising out of the nature of the work to be done, or from the action of the elements, or from floods or overflows, or from ground water, or from unusual obstructions or difficulties, or any other natural or existing circumstances either known or unforeseen, which may be encountered in the prosecution of the said work shall be sustained and borne by the Contractor at its own cost and expense.
 - D. The City shall be a named insured on such policies. Satisfactory certificates of insurance shall be filed with the City prior to starting any construction work on this Contract. The certificates shall state that thirty (30) days written notice will be given to the City before any policy coverage thereby is changed or canceled.
- 2.8 It is the express intent of the parties that this Contract shall not create an employer-employee relationship. Employees of the Contractor shall not be deemed to be employees of the City and employees of the City shall not be deemed to be employees of the Contractor. The Contractor and the City shall be responsible to their respective employees for all salary and benefits. Neither the Contractor's employees nor the City's employees shall be entitled to any salary, wages, or benefits from the other party, including but not limited to overtime, vacation, retirement benefits, workers' compensation, sick leave or injury leave. Contractor shall also be responsible for maintaining workers' compensation insurance, unemployment insurance for its employees, and for payment of all federal, state, local and any other payroll taxes with respect to its employees' compensation.
- 2.9 This Agreement is for the period of January 1, 2014 through December 31, 2016. Either party may terminate this agreement by giving sixty (60) days prior written notice to the other party.
- 2.10 The Contractor will commence work within ten (10) calendar days from and after receiving instructions from the City.
- 2.11 To the fullest extent permitted by law, with respect to the performance of its obligations in this Contract or implied by law, and whether performed by Contractor or any permitted

subcontractors hired by Contractor, the Contractor agrees to indemnify City, and its agents, servants, and employees from and against any and all claims, damages, and losses arising out of personal injury, death, or property damage, caused by the negligent acts, errors, or omissions of the Contractor or its subcontractors, to the extent and in proportion to the comparative degree of fault of the Contractor and its subcontractors. Contractor shall also pay for City's reasonable attorneys' fees, expert fees, and costs incurred in the defense of such a claim to the extent and in proportion to the comparative degree of fault of the Contractor and its subcontractors.

2.12 Applicable Laws and Permits:

- A. The Contractor shall observe and comply with all applicable federal, state, and local laws, regulations, standards, ordinances or codes and shall be in compliance with all applicable licensure and permitting requirements at all times.
- B. Pursuant to K.S.A. No. 16-113, if the Contractor does not have a resident agent in the State of Kansas, it shall execute and file "Certificate of Appointment of Process of Agent" with the Clerk of the District Court at the Johnson County, Kansas Courthouse. These forms may be obtained at the Office of the Clerk of the District Court. After execution of the documents, it shall be filed with the Clerk of the District Court. Contractor shall be responsible for the filing fee. This certificate is pursuant to the General Statutes of Kansas, and shall be filed prior to the formal execution of the Contract Documents. Failure to comply with these requirements shall disqualify the Contractor for the awarding of this Contract.

2.13 The Contractor warrants to the City that any materials furnished under this Contract will be of good quality and new unless the Contract Documents require or permit otherwise. The Contractor further warrants that the Work will conform to the requirements of the Contract Documents and will be free from defects, except for those inherent in the quality of the Work the Contract Documents require or permit. Work, materials, or equipment not conforming to these requirements may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear under normal usage. The Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment. This warranty shall be in addition to and not in limitation of any other warranty or remedy required by law or by the Contract Documents.

2.14 The Contractor may not use any subcontractors without the prior written consent of the City, which may be withheld for any reason at the City's discretion.

2.15 If, on account of a continued default or breach by either party of such party's obligations under the terms of this agreement after any notice and opportunity to cure as may be required hereunder, it shall be necessary for the other party to employ one or more attorneys to enforce or defend any of such other party's rights or remedies hereunder, then, in such event, any reasonable amounts incurred by such other party, including but not limited to attorneys' fees, experts' fees and all costs, shall be paid by the breaching or defaulting party.

2.16 This Contract shall not be assigned by Contractor to any other party without first obtaining the written consent of the City.

2.17 This Contract shall be governed by and interpreted in accordance with the laws of the State of Kansas. Venue for all actions relating to this contract shall be in the district court of Johnson County, Kansas.

3.0 Fees

3.1 The fees for the completion of these services are:

Service	Quantity	2014 Rate	2015 Rate	2016 Rate
Public Works A-building Equipment				
Public Works B-building Equipment				
Coffee (Maxwell House)				
Coffee (Decaffeinated)				
Coffee:				
Hot Tea				
Hot Chocolate				
Cream Canisters				
Sugar Canisters				
Stirrers				

4.0 **References**

4.1 The Contractor will provide three (3) local references of comparable work from the last twelve (12) months.

Company: _____ Contact: _____

Phone #: _____ Email: _____

Brief Description on Work: _____

Company: _____ Contact: _____

Phone #: _____ Email: _____

Brief Description on Work: _____

Company: _____ Contact: _____

Phone #: _____ Email: _____

Brief Description of Work: _____

Contractor Contact: _____

ATTEST:

Company Name: _____

/s/ _____
Joyce Hagen Mundy, City Clerk Date

Address: _____

/s/ _____
Catherine P. Logan, City Attorney Date

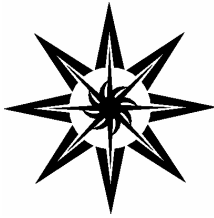
Telephone Number: _____

Fax Number: _____

Email: _____

/s/ _____
Contractor Agent Date

/s/ _____
Ronald L. Shaffer, Mayor Date



PUBLIC WORKS DEPARTMENT

Council Meeting Date: 12/16/2013

CONSIDER CUSTODIAL SERVICES THREE YEAR CONTRACT

RECOMMENDATION

Staff recommends the City Council approve the three year contract with Jani-King of Kansas City for 2014 with renewal in 2015 and 2016.

BACKGROUND

On December 4, 2013, the City Clerk received three bids for custodial services. The bid was a three year contract for Municipal Building, Public Safety Center, Community Center, Public Works, Swimming Pool, Franklin Park Restrooms and Harmon Park Pavilion Restrooms. The bid tabulation is:

Bidder	2014	2015	2016	3 Year Total
Jani-King	\$64,212.00	\$64,212.00	\$64,212.00	\$192,636.00
City Wide	\$82,124.84	\$82,124.84	\$82,124.84	\$246,374.52
Rightway	\$94,520.00	\$94,520.00	\$94,520.00	\$283,560.00

Staff will not be finalizing the contract until background searches are complete with all cleaning personnel.

FUNDING SOURCE

Funds are available in the various operations budgets.

ATTACHMENTS

1. Agreement for Custodial Services with Jani-King.

PREPARED BY

Keith Bredehoeft, Director of Public Works

AGREEMENT FOR CUSTODIAL SERVICES

This Agreement, made this _____ day of _____, _____, by and between _____, hereinafter referred to as Contractor, and the CITY OF PRAIRIE VILLAGE, KANSAS, hereinafter referred to as City, shall be in full force and effect during calendar years 2014 through 2016 with the following terms and conditions.

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

This document will be the only executed agreement. Any additions or changes must be added as a written supplement to this agreement at time of proposal. City Council must approve each year the terms of this agreement based on the budgetary allowance.

A walk through of the City Facilities is scheduled for 9:00am on November 20, 2013 starting at City Hall, 7700 Mission Road. This will be your only opportunity to tour the facilities.

1.0 **Service Specifications**

- 1.1 The Contractor will provide building custodial services on a five day (Sunday through Thursday) schedule at these locations:
 - A. Municipal Building, 7700 Mission Road
 - B. Public Safety Center, 7710 Mission Road
 - C. Public Works Facility - Building A, 3535 Somerset Drive
 - D. Public Works Facility - Building B, 3535 Somerset Drive
- 1.2 The Contractor will provide custodial services for bathrooms only on a daily schedule during the swimming pool season at these locations:
 - A. Swimming Pool Bathhouse, 7711 Delmar
 - B. Swimming Pool Filter House, 7711 Delmar
- 1.3 The Contractor will provide daily custodial services at these locations:
 - A. Community Center, 7720 Mission Road (service times based on rental schedule)
 - B. Harmon Park, 7721 Delmar (bathrooms only)
 - C. Franklin Park, 8700 Roe Avenue (bathrooms only)
- 1.4 The Contractor will be required to adjust the cleaning routine in accordance with the meeting schedule provided by the City Clerks office. Cleaning of all meeting areas should occur after all scheduled meetings of that day. All other facilities will have cleaning schedules that commence after regular building hours unless otherwise requested.
- 1.5 The Contractor will provide all labor, equipment, and cleaning materials to adequately perform the required custodial services.
- 1.6 The Contractor will identify the chemicals and will provide to the City a Material Safety Data Sheet for all chemicals used.
- 1.7 The City will provide liquid hand soap, paper towels, toilet paper, sanitary napkins, air fresheners, air freshener cartridges, batteries, and light bulbs.

1.8 The cleaning schedule for the Contractor is:

	DAILY	WEEKLY	MONTHLY	QUARTERLY	ANNUALLY
Vacuum Carpets	X				
Sweep and mop floors (including restroom floors)	X				
Empty trash	X				
Dust desks, counters, table tops	X				
Clean drinking fountains	X				
Clean entrance glass (including all public and employee entrances)	X				
Clean restrooms (sinks, toilets, dispensers, urinals, mirrors, showers)	X				
Clean police detention areas	X				
Service restroom, kitchen and detention dispensing units	X				
Clean insects out of Light Fixtures	X				
Clean spots on doors, jams and walls	X				
Clean eating areas counters, sinks and floors	X				
Remove paper, clean outside trash cans, debris and sweep patios and entrance areas	X				
Sweep and mop floors in Municipal Bldg. basement		X			
Dust desk and table tops in Municipal Bldg. basement		X			
Dust all corners and ceiling wall joints for cobwebs		X			
Sweep Police garage		X			
Dust partitions and top ledges		X			
Dust chairs and furniture		X			
Vacuum upholstered chairs		X			
Spot clean carpets		X			
Clean and scotchguard high traffic carpet areas					X
High speed buffing of tiled floors					X
Clean under office machines, etc.					X
Clean air vents					X
Sanitize restroom walls and partitions with bleach					X
Change air freshener Cartridges and Batteries					X

	DAILY	WEEKLY	MONTHLY	QUARTERLY	ANNUALLY
Clean windows inside and out				X	
Dust blinds				X	
Dust ceiling tiles, ceiling crate and lighting fixtures in Dispatch				X	
Clean refrigerators				X	
Strip and wax floor in Police Kitchen				X	
Strip and wax floors all other areas					X
Clean light fixtures & lamps					X
Shampoo by extraction and deodorize carpets					X
Wash blinds					X

- 1.9 The Contractor will provide special request services on an hourly rate.
- 1.10 The Contractor's company shall be bonded and a background check will be required of all employees of the contractor by the City's Public Safety Department.
- 1.11 The Contractor will supply a direct contact name, phone number and email and will notify the City if this contact information changes during the contract period.
- 1.12 The Contractor is admonished that their employees will be properly attired, refrain from abusive language, refrain from improper behavior, and be aware that they are representing the City.
- 2.0 **General**
- 2.1 The signed agreement will be the authorization for the Contractor to provide the described services as requested by the City.
- 2.2 Mike Helms, Field Superintendent, at phone-(913)385-4644, fax-(913)642-0117 Email-mhelms@pvkansas.com, will be the City coordinator for the Contractor for providing any service and responding to any special needs.
- 2.3 All work performed by the Contractor will be of acceptable workmanlike quality and installation normally associated with this trade and shall occur to the satisfaction of the City before payment will be made by the City to the Contractor.
- 2.4 All invoices should be grouped by building, with a copy of the service report attached detailing date of completed items from weekly, monthly, quarterly and annual list. They are to be sent to Public Works Department, 3535 Somerset Drive, Prairie Village, KS 66208.
- 2.5 Invoices shall be submitted for payment within sixty days of completion of work.

- 2.6 Insurance:
- A. The Contractor shall procure and maintain, at its expense, the following insurance coverage: (a) Workers' Compensation -- Statutory Limits, with Employer's Liability limits of \$100,000 each employee, \$500,000 policy limit; (b) Commercial General Liability for bodily injury and property damage liability claims with limits of not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate; and (c) Commercial Automobile Liability for bodily injury and property damage with limits of not less than \$1,000,000 each accident for all owned, non-owned and hired automobiles.
 - B. All property damaged shall be repaired or replaced to a condition immediately prior to the time of damage, and to the satisfaction of the City.
 - C. All loss or damage arising out of the nature of the work to be done, or from the action of the elements, or from floods or overflows, or from ground water, or from unusual obstructions or difficulties, or any other natural or existing circumstances either known or unforeseen, which may be encountered in the prosecution of the said work shall be sustained and borne by the Contractor at its own cost and expense.
 - D. The City shall be a named insured on such policies. Satisfactory certificates of insurance shall be filed with the City prior to starting any construction work on this Contract. The certificates shall state that thirty (30) days written notice will be given to the City before any policy coverage thereby is changed or canceled.
- 2.7 It is the express intent of the parties that this Contract shall not create an employer-employee relationship. Employees of the Contractor shall not be deemed to be employees of the City and employees of the City shall not be deemed to be employees of the Contractor. The Contractor and the City shall be responsible to their respective employees for all salary and benefits. Neither the Contractor's employees nor the City's employees shall be entitled to any salary, wages, or benefits from the other party, including but not limited to overtime, vacation, retirement benefits, workers' compensation, sick leave or injury leave. Contractor shall also be responsible for maintaining workers' compensation insurance, unemployment insurance for its employees, and for payment of all federal, state, local and any other payroll taxes with respect to its employees' compensation.
- 2.8 This Agreement is for the period of January 1, 2014 through December 31, 2016. Either party may terminate this agreement by giving sixty (60) days prior written notice to the other party.
- 2.9 The Contractor will commence work within ten (10) calendar days from and after receiving instructions from the City.
- 2.10 To the fullest extent permitted by law, with respect to the performance of its obligations in this Contract or implied by law, and whether performed by Contractor or any permitted subcontractors hired by Contractor, the Contractor agrees to indemnify City, and its agents, servants, and employees from and against any and all claims, damages, and losses arising out of personal injury, death, or property damage, caused by the negligent acts, errors, or omissions of the Contractor or its subcontractors, to the extent and in proportion to the comparative degree of fault of the Contractor and its subcontractors. Contractor shall also pay for City's reasonable attorneys' fees, expert fees, and costs incurred in the defense of such a claim to the extent and in proportion to the comparative degree of fault of the Contractor and its subcontractors.

- 2.11 Applicable Laws and Permits:
- A. The Contractor shall observe and comply with all applicable federal, state, and local laws, regulations, standards, ordinances or codes and shall be in compliance with all applicable licensure and permitting requirements at all times.
 - B. Pursuant to K.S.A. No. 16-113, if the Contractor does not have a resident agent in the State of Kansas, it shall execute and file "Certificate of Appointment of Process of Agent" with the Clerk of the District Court at the Johnson County, Kansas Courthouse. These forms may be obtained at the Office of the Clerk of the District Court. After execution of the documents, it shall be filed with the Clerk of the District Court. Contractor shall be responsible for the filing fee. This certificate is pursuant to the General Statutes of Kansas, and shall be filed prior to the formal execution of the Contract Documents. Failure to comply with these requirements shall disqualify the Contractor for the awarding of this Contract.
- 2.12 The Contractor warrants to the City that any materials furnished under this Contract will be of good quality and new unless the Contract Documents require or permit otherwise. The Contractor further warrants that the Work will conform to the requirements of the Contract Documents and will be free from defects, except for those inherent in the quality of the Work the Contract Documents require or permit. Work, materials, or equipment not conforming to these requirements may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear under normal usage. The Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment. This warranty shall be in addition to and not in limitation of any other warranty or remedy required by law or by the Contract Documents.
- 2.13 The Contractor may not use any subcontractors without the prior written consent of the City, which may be withheld for any reason at the City's discretion.
- 2.14 If, on account of a continued default or breach by either party of such party's obligations under the terms of this agreement after any notice and opportunity to cure as may be required hereunder, it shall be necessary for the other party to employ one or more attorneys to enforce or defend any of such other party's rights or remedies hereunder, then, in such event, any reasonable amounts incurred by such other party, including but not limited to attorneys' fees, experts' fees and all costs, shall be paid by the breaching or defaulting party.
- 2.15 This Contract shall not be assigned by Contractor to any other party without first obtaining the written consent of the City.
- 2.16 This Contract shall be governed by and interpreted in accordance with the laws of the State of Kansas. Venue for all actions relating to this contract shall be in the district court of Johnson County, Kansas.

3.0 Fees

3.1 The fees for the completion of this service are:

Location	2014 Monthly Fee	2015 Monthly Fee	2016 Monthly Fee
Municipal Building	1450.00	1450.00	1450.00
Public Safety Center	1975.00	1975.00	1975.00
Community Center	508.00	508.00	508.00
Public Works Facility - A-building	535.00	535.00	535.00
Public Works Facility - B-building	252.00	252.00	252.00
Swimming Pool Bathhouse	375.00	375.00	375.00
Swimming Pool South Filter House	150.00	150.00	150.00
Harmon Park Restrooms	228.00	228.00	228.00
Franklin Park Restrooms	228.00	228.00	228.00
Special Service Request	2014 Hourly Rate	2015 Hourly Rate	2016 Hourly Rate
Request	15.00	15.00	15.00

4.0 References

4.1 The Contractor will provide three (3) local references of comparable work from the last twelve (12) months.

Company: Swiss Re

Contact: Marilyn Hall

Phone #: 913-676-6593

Email: marilyn_hall@swissre.com

Brief Description on Work: Janitorial Services

Company: Butler Manufacturing

Contact: Charlie Lute

Phone #: 816-968-3771

Email: cwlute@butlermfg.com

Brief Description on Work: Janitorial Services

Company: Missouri Gas Energy

Contact: Don Truax

Phone #: 816-360-5648

Email: don.truax@sug.com

Brief Description of Work: Janitorial Services

Contractor Contact: Ignacio Rovirosa

Company Name: Majestic Franchising Inc. dba
Jani0-King of Kansas City


Address: 14821 W 95th Street

Lenexa, KS 66215

Telephone Number: 913-385-1440

Fax Number: 913-385-1723

Email: irovirosa@janikingks.com

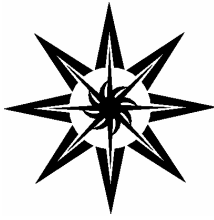
 12/4/13
Contractor Agent Date

ATTEST:

/s/ _____
Joyce Hagen Mundy, City Clerk Date

/s/ _____
Catherine P. Logan, City Attorney Date

/s/ _____
Ronald L. Shaffer, Mayor Date



PUBLIC WORKS DEPARTMENT

Council Meeting Date:12/16/2013

CONSIDER DEBRIS ROLL-OFF CONTAINER THREE YEAR CONTRACT

RECOMMENDATION

Staff recommends the City Council approve a three year contract with Deffenbaugh Industries Inc. for 2014 with renewals in 2015 and 2016.

BACKGROUND

On December 4, 2013, the City Clerk opened bids for a three year contract for roll-off container services. These containers are three sizes - 25 cubic yard, 30 cubic yard, and 40 cubic yard. They are stored at the Public Works facility and used to remove street sweepings, leaves, limbs, and some construction debris from Public Works operations.

The City Clerk received one bid, from Deffenbaugh Industries. Deffenbaugh Industries has been the provider of this service for the last 3 years.

FUNDING SOURCE

Funds are available in the 2014 Public Works operations budget.

ATTACHMENTS

1. Service Agreement with Deffenbaugh Industries Inc.

PREPARED BY

Keith Bredehoeft, Director of Public Works

AGREEMENT FOR ROLL-OFF CONTAINER SERVICES

This Agreement, made this _____ day of _____, _____, by and between _____, hereinafter referred to as Contractor, and the CITY OF PRAIRIE VILLAGE, KANSAS, hereinafter referred to as City, shall be in full force and effect during calendar years 2014 through 2016 with the following terms and conditions.

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

This document will be the only executed agreement. Any additions or changes must be added as a written supplement to this agreement at time of proposal. City Council must approve each year the terms of this agreement based on the budgetary allowance.

1.0 Service Specifications

- 1.1 The Contractor will provide roll-off container service at Public Works 3535 Somerset Drive for the removal of construction waste, street sweepings, leaves and tree debris.
- 1.2 The Contractor will provide pickup within one work day as requested by City coordinator.
- 1.3 Within 24 hours of notice, the Contractor will replace any refuse containers that are not in good condition such as doors not closing properly and fluids leaking from container.
- 1.4 The City, in accordance with City Council Policy No. CP061 will retain the right to obtain competitive pricing on any singular item costing more than \$10,000.
- 1.5 The Contractor will supply a direct contact name, phone number and email and will notify the City if this contact information changes during the Contract period.
- 1.6 The Contractor is admonished that their employees will be properly attired, refrain from abusive language, refrain from improper behavior, and be aware that they are representing the City.

2.0 General

- 2.1 The signed agreement will be the authorization for the vendor to provide the described services.
- 2.2 Mike Helms, Field Superintendent, at phone-(913)385-4644, fax-(913)642-0117, Email-mhelms@pvkansas.com will be the City coordinator for the Contractor for providing any service and responding to any special needs.
- 2.3 The City authorizes the Contractor to perform work anytime from 7:00am through 3:30pm weekdays.
- 2.4 All work performed by the Contractor will be of acceptable workmanlike quality and installation normally associated with this trade and shall occur to the satisfaction of the City before payment will be made by the City to the Contractor.

- 2.5 All invoices should be grouped by location with a copy of the service report and are to be sent to Public Works Department, 3535 Somerset Drive, Prairie Village, KS 66208.
- 2.6 Insurance:
- A. The Contractor shall procure and maintain, at its expense, the following insurance coverage: (a) Workers' Compensation -- Statutory Limits, with Employer's Liability limits of \$100,000 each employee, \$500,000 policy limit; (b) Commercial General Liability for bodily injury and property damage liability claims with limits of not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate; and (c) Commercial Automobile Liability for bodily injury and property damage with limits of not less than \$1,000,000 each accident for all owned, non-owned and hired automobiles.
 - B. All property damaged shall be repaired or replaced to a condition immediately prior to the time of damage, and to the satisfaction of the City.
 - C. All loss or damage arising out of the nature of the work to be done, or from the action of the elements, or from floods or overflows, or from ground water, or from unusual obstructions or difficulties, or any other natural or existing circumstances either known or unforeseen, which may be encountered in the prosecution of the said work shall be sustained and borne by the Contractor at its own cost and expense.
 - D. The City shall be a named insured on such policies. Satisfactory certificates of insurance shall be filed with the City prior to starting any construction work on this Contract. The certificates shall state that thirty (30) days written notice will be given to the City before any policy coverage thereby is changed or canceled.
- 2.7 It is the express intent of the parties that this Contract shall not create an employer-employee relationship. Employees of the Contractor shall not be deemed to be employees of the City and employees of the City shall not be deemed to be employees of the Contractor. The Contractor and the City shall be responsible to their respective employees for all salary and benefits. Neither the Contractor's employees nor the City's employees shall be entitled to any salary, wages, or benefits from the other party, including but not limited to overtime, vacation, retirement benefits, workers' compensation, sick leave or injury leave. Contractor shall also be responsible for maintaining workers' compensation insurance, unemployment insurance for its employees, and for payment of all federal, state, local and any other payroll taxes with respect to its employees' compensation.
- 2.8 This Agreement is for the period of January 1, 2014 through December 31, 2016. Either party may terminate this agreement by giving sixty (60) days prior written notice to the other party.
- 2.9 The Contractor will commence work within ten (10) calendar days from and after receiving the fully executed agreement from the City and will complete all work covered in this contract.
- 2.10 To the fullest extent permitted by law, with respect to the performance of its obligations in this Contract or implied by law, and whether performed by Contractor or any permitted subcontractors hired by Contractor, the Contractor agrees to indemnify City, and its agents, servants, and employees from and against any and all claims, damages, and losses arising out of personal injury, death, or property damage, caused by the negligent acts, errors, or omissions of the Contractor or its subcontractors, to the extent and in

proportion to the comparative degree of fault of the Contractor and its subcontractors. Contractor shall also pay for City's reasonable attorneys' fees, expert fees, and costs incurred in the defense of such a claim to the extent and in proportion to the comparative degree of fault of the Contractor and its subcontractors.

- 2.11 Applicable Laws and Permits:
- A. The Contractor shall observe and comply with all applicable federal, state, and local laws, regulations, standards, ordinances or codes and shall be in compliance with all applicable licensure and permitting requirements at all times.
 - B. Pursuant to K.S.A. No. 16-113, if the Contractor does not have a resident agent in the State of Kansas, it shall execute and file "Certificate of Appointment of Process of Agent" with the Clerk of the District Court at the Johnson County, Kansas Courthouse. These forms may be obtained at the Office of the Clerk of the District Court. After execution of the documents, it shall be filed with the Clerk of the District Court. Contractor shall be responsible for the filing fee. This certificate is pursuant to the General Statutes of Kansas, and shall be filed prior to the formal execution of the Contract Documents. Failure to comply with these requirements shall disqualify the Contractor for the awarding of this Contract.
- 2.12 The Contractor warrants to the City that any materials furnished under this Contract will be of good quality and new unless the Contract Documents require or permit otherwise. The Contractor further warrants that the Work will conform to the requirements of the Contract Documents and will be free from defects, except for those inherent in the quality of the Work the Contract Documents require or permit. Work, materials, or equipment not conforming to these requirements may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear under normal usage. The Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment. This warranty shall be in addition to and not in limitation of any other warranty or remedy required by law or by the Contract Documents.
- 2.13 The Contractor may not use any subcontractors without the prior written consent of the City, which may be withheld for any reason at the City's discretion.
- 2.14 If, on account of a continued default or breach by either party of such party's obligations under the terms of this agreement after any notice and opportunity to cure as may be required hereunder, it shall be necessary for the other party to employ one or more attorneys to enforce or defend any of such other party's rights or remedies hereunder, then, in such event, any reasonable amounts incurred by such other party, including but not limited to attorneys' fees, experts' fees and all costs, shall be paid by the breaching or defaulting party.
- 2.15 This Contract shall not be assigned by Contractor to any other party without first obtaining the written consent of the City.
- 2.16 This Contract shall be governed by and interpreted in accordance with the laws of the State of Kansas. Venue for all actions relating to this contract shall be in the district court of Johnson County, Kansas.

3.0 Fees

3.1 The per pickup fees for the completion of this service are:

Material	2014 Pricing			2015 Pricing			2016 Pricing		
	25 CY	30 CY	40 CY	25 CY	30 CY	40 CY	25 CY	30 CY	40 CY
Construction Waste	\$248	\$248	\$248	\$248	\$248	\$248 ⁺	\$248	\$248	\$248 ⁺
Street Sweepings	\$248	\$248	\$248	\$248	\$248	\$248 ⁺	\$248	\$248	\$248 ⁺
Leaves	\$248	\$248	\$248	\$248	\$248	\$248 ⁺	\$248	\$248	\$248 ⁺
Tree Debris	\$248	\$248	\$248	\$248	\$248	\$248 ⁺	\$248	\$248	\$248 ⁺

4.0 References

4.1 The Contractor will provide three (3) local references of comparable work from the last twelve (12) months.

Company: City of Shawnee Contact: Vicki CharlesworthPhone #: 913 742 6242 Email: _____Brief Description on Work: we provide the City of Shawnee with residential trash and recycling servicesCompany: City of Mission Contact: Laura SmithPhone #: 913 676 8350 Email: _____Brief Description on Work: we provide the City of Mission with residential trash and recycling servicesCompany: City of Unified Gov KCK/Wy.Co Contact: Mike TobinPhone #: 913 573 5400 Email: _____Brief Description of Work: we provide the Unified Government KCK with residential trash and recycling services

Contractor Contact: Delores Walton

Company Name: Deffenbaugh Industries Inc

Address: 2601 Midwest Dr
Kansas City KS 66111

Telephone Number: 913 208 7316

Fax Number: 913 667 8798

Email: dwalton@deffenbaughinc.com

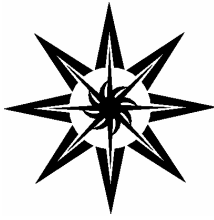
/s/  12/4/13
Contractor Agent Date

ATTEST:

/s/ _____
Joyce Hagen Mundy, City Clerk Date

/s/ _____
Catherine P. Logan, City Attorney Date

/s/ _____
Ronald L. Shaffer, Mayor Date



PUBLIC WORKS DEPARTMENT

Council Meeting Date:12/16/2013

CONSIDER PLUMBING SERVICES THREE YEAR CONTRACT

RECOMMENDATION

Staff recommends the City Council approve the 2014-2016 Annual Service bid for plumbing services from Lexington Plumbing for 2014 with renewals in 2015 and 2016.

BACKGROUND

This service agreement is for repairs and replacements to the plumbing systems in City buildings and on City grounds.

On December 4, 2013, the City Clerk received and opened bids. Only one bid was received and was from Lexington Plumbing.

Lexington Plumbing has provided the service for over twelve years. Staff finds their service acceptable.

FUNDING SOURCE

Funding is available in the appropriate department 2014 Operating Budgets. This is an on-call service so the financial impact is not determinable.

ATTACHMENTS

1. Service Agreement with Lexington Plumbing.

PREPARED BY

Keith Bredehoeft, Director of Public Works

AGREEMENT for PLUMBING SERVICES

This Agreement, made this 29th day of NOVEMBER, by and between LEWIS & PLUMBING, hereinafter referred to as Contractor, and the CITY OF PRAIRIE VILLAGE, KANSAS, hereinafter referred to as City, shall be in full force and effect during calendar years 2014 through 2016 with the following terms and conditions.

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

This document will be the only executed agreement. Any additions or changes must be added as a written supplement to this agreement at time of proposal. City Council must approve each year the terms of this agreement based on the budgetary allowance.

1.0 Service Specifications

- 1.1 The Contractor will provide plumbing services in City buildings and on City grounds.
- 1.2 The Contractor will annually check and test all backflow preventors to WaterOne standards in these locations:

Municipal Building & Public Safety Center

7710 Mission Road	Serial #112614	Fire Protection	Size 4.00
7710 Mission Road	Serial #27646	Detector Assembly	Size .75
7710 Mission Road	Serial #110200	Office Building	Size 2.50
7710 Mission Road	Serial #07931	Ornamental	Size 1.00
7710 Mission Road	Serial #BK3338	Lawn Irrigation	Size 1.00

Community Center

7720 Mission Road	Serial #50506	Cultural	Size 1.00
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Swimming Pool

7780 Mission Road	Serial #143545	Filter house	Size 2.00
7780 Mission Road	Serial #137287	Filter house	Size 2.00
7711 Delmar	Serial #19577	Bathhouse	Size 2.00
7711 Delmar	Serial #197892	Carbonator	Size .50

Public Works

3535 Somerset Drive	Serial #15535	Yard Hydrants	Size 1.50
3535 Somerset Drive	Serial #13467	Office	Size 1.50
3535 Somerset Drive	Serial #11872	Sprinkler System	Size 1.00
3535 Somerset Drive	Serial #185542	Car Wash	Size .75

Grounds & Irrigation

5114 W. 77 th St.	Serial #10572	Bennett Park	Size .75
5114 W. 77 th St.	Serial #11047	Bennett Yard Hydrant	Size .75
4903 W. 87 th St.	Serial #119976	Island Fountain	Size .75
8750 Roe Ave.	Serial #50737	Franklin Park	Size 2.00
8750 Roe Ave.	Serial #111382	Franklin Yard Hydrant	Size 1.00
7711 Delmar	Serial #37339	Harmon Irrigation	Size .75
78 th & Delmar	Serial #59156	Harmon Park	Size .75
2900 W. 79 th St.	Serial #26956	Taliaferro Park	Size 1.00
2900 W. 79 th St.	Serial #315226	Taliaferro Irrigation	Size 1.00
4601 Tomahawk Rd.	Serial #A114013	Porter Park	Size .75
7800 State Line	Serial #13469	Weltner Park	Size .75
7800 State Line	Serial #20660	Weltner Yard Hydrant	Size .75
7200 Windsor St.	Serial #25266	Windsor Park	Size 1.00
7466 Cherokee Dr.	Serial #123617	Island Hydrant	Size .75
7499 Nall Ave.	Serial #138608	Corner Irrigation	Size .75
71 st & Cherokee	Serial #A131278	Island Irrigation	Size .75
75 th & Mission	Serial #146734	Carroll Fountain	Size .75
Somerset & Roe	Serial #168985	Franklin Fountain	Size 1.00
6936 Mission Rd.	Serial #HO4920	Prairie Park Fountain	Size 1.0

- 1.3 A permit shall be applied for through the City of Prairie Village Building Inspector's Office for all repairs, at no cost to the Contractor.
- 1.4 The Contractor is required to have a valid City of Prairie Village Non-Domicile Business License while under contract with the City. License and information can be obtained at the Codes Office located at 7700 Mission Road.
- 1.5 The City, in accordance with City Council Policy No. CP061 will retain the right to obtain competitive pricing on any singular item costing more than \$10,000.

- 1.6 The Contractor will supply a direct contact name, phone number and email and will notify the City if this contact information changes during the Contract period.
- 1.7 The Contractor is admonished that their employees will be properly attired, refrain from abusive language, refrain from improper behavior, and be aware that they are representing the City.
- 2.0 **General**
- 2.1 This signed agreement will be the authorization for the Contractor to provide the described services as requested by the City.
- 2.2 Mike Helms, Field Superintendent, at phone-(913)385-4644, fax-(913)642-0117 Email-mhelms@pvkansas.com, will be the City coordinator for the Contractor for providing any service and responding to any special needs.
- 2.3 The Contractor will contact Public Works to schedule work. All work should be performed between 7:00am through 3:30pm weekdays unless otherwise stated by the City.
- 2.4 All work performed by the Contractor will be of acceptable workmanlike quality and installation normally associated with this trade and shall occur to the satisfaction of the City before payment will be made by the City to the Contractor.
- 2.5 All invoices should be grouped by location, with a copy of the service report attached, and are to be sent to Public Works Department, 3535 Somerset Drive, Prairie Village, KS 66208.
- 2.6 Invoices shall be submitted for payment within sixty days of completion of work.
- 2.7 Insurance:
- A. The Contractor shall procure and maintain, at its expense, the following insurance coverage: (a) Workers' Compensation -- Statutory Limits, with Employer's Liability limits of \$100,000 each employee, \$500,000 policy limit; (b) Commercial General Liability for bodily injury and property damage liability claims with limits of not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate; and (c) Commercial Automobile Liability for bodily injury and property damage with limits of not less than \$1,000,000 each accident for all owned, non-owned and hired automobiles.
 - B. All property damaged shall be repaired or replaced to a condition immediately prior to the time of damage, and to the satisfaction of the City.
 - C. All loss or damage arising out of the nature of the work to be done, or from the action of the elements, or from floods or overflows, or from ground water, or from unusual obstructions or difficulties, or any other natural or existing circumstances either known or unforeseen, which may be encountered in the prosecution of the said work shall be sustained and borne by the Contractor at its own cost and expense.
 - D. The City shall be a named insured on such policies. Satisfactory certificates of insurance shall be filed with the City prior to starting any construction work on this Contract. The certificates shall state that thirty (30) days written notice will be given to the City before any policy coverage thereby is changed or canceled.

- 2.8 It is the express intent of the parties that this Contract shall not create an employer-employee relationship. Employees of the Contractor shall not be deemed to be employees of the City and employees of the City shall not be deemed to be employees of the Contractor. The Contractor and the City shall be responsible to their respective employees for all salary and benefits. Neither the Contractor's employees nor the City's employees shall be entitled to any salary, wages, or benefits from the other party, including but not limited to overtime, vacation, retirement benefits, workers' compensation, sick leave or injury leave. Contractor shall also be responsible for maintaining workers' compensation insurance, unemployment insurance for its employees, and for payment of all federal, state, local and any other payroll taxes with respect to its employees' compensation.
- 2.9 This Agreement is for the period of January 1, 2014 through December 31, 2016. Either party may terminate this agreement by giving sixty (60) days prior written notice to the other party.
- 2.10 The Contractor will commence work within ten (10) calendar days from and after receiving instructions from the City.
- 2.11 To the fullest extent permitted by law, with respect to the performance of its obligations in this Contract or implied by law, and whether performed by Contractor or any permitted subcontractors hired by Contractor, the Contractor agrees to indemnify City, and its agents, servants, and employees from and against any and all claims, damages, and losses arising out of personal injury, death, or property damage, caused by the negligent acts, errors, or omissions of the Contractor or its subcontractors, to the extent and in proportion to the comparative degree of fault of the Contractor and its subcontractors. Contractor shall also pay for City's reasonable attorneys' fees, expert fees, and costs incurred in the defense of such a claim to the extent and in proportion to the comparative degree of fault of the Contractor and its subcontractors.
- 2.12 Applicable Laws and Permits:
- A. The Contractor shall observe and comply with all applicable federal, state, and local laws, regulations, standards, ordinances or codes and shall be in compliance with all applicable licensure and permitting requirements at all times.
 - B. Pursuant to K.S.A. No. 16-113, if the Contractor does not have a resident agent in the State of Kansas, it shall execute and file "Certificate of Appointment of Process of Agent" with the Clerk of the District Court at the Johnson County, Kansas Courthouse. These forms may be obtained at the Office of the Clerk of the District Court. After execution of the documents, it shall be filed with the Clerk of the District Court. Contractor shall be responsible for the filing fee. This certificate is pursuant to the General Statutes of Kansas, and shall be filed prior to the formal execution of the Contract Documents. Failure to comply with these requirements shall disqualify the Contractor for the awarding of this Contract.
- 2.13 The Contractor warrants to the City that any materials furnished under this Contract will be of good quality and new unless the Contract Documents require or permit otherwise. The Contractor further warrants that the Work will conform to the requirements of the Contract Documents and will be free from defects, except for those inherent in the quality of the Work the Contract Documents require or permit. Work, materials, or equipment not conforming to these requirements may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, alterations to the

Work not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear under normal usage. The Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment. This warranty shall be in addition to and not in limitation of any other warranty or remedy required by law or by the Contract Documents.

- 2.14 The Contractor may not use any subcontractors without the prior written consent of the City, which may be withheld for any reason at the City's discretion.
- 2.15 If, on account of a continued default or breach by either party of such party's obligations under the terms of this agreement after any notice and opportunity to cure as may be required hereunder, it shall be necessary for the other party to employ one or more attorneys to enforce or defend any of such other party's rights or remedies hereunder, then, in such event, any reasonable amounts incurred by such other party, including but not limited to attorneys' fees, experts' fees and all costs, shall be paid by the breaching or defaulting party.
- 2.16 This Contract shall not be assigned by Contractor to any other party without first obtaining the written consent of the City.
- 2.17 This Contract shall be governed by and interpreted in accordance with the laws of the State of Kansas. Venue for all actions relating to this contract shall be in the district court of Johnson County, Kansas.

3.0 Fees

3.1 The fees for the completion of this service is:

Regular Hourly Employees	2014		2015		2016	
	Hourly Rate	Overtime Rate	Hourly Rate	Overtime Rate	Hourly Rate	Overtime Rate
Supervisor	\$90	\$115	\$92	\$117	\$94	\$119
Journeyman Plumber	\$90	\$115	\$92	\$117	\$94	\$119
Apprentice Plumber	\$70	\$90	\$72	\$92	\$75	\$100
Helper	\$70	\$90	\$72	\$92	\$75	\$100
Equipment Operator	\$90	\$115	\$92	\$117	\$94	\$119
Equipment Rates	Hourly Rate	Daily Rate	Hourly Rate	Daily Rate	Hourly Rate	Daily Rate
Backhoe w/transport	\$120	\$1000	\$120	\$1000	\$120	\$1000
Air compressor	\$20	\$160	\$20	\$160	\$20	\$160
Electric Jack Hammer	N/C	N/C	N/C	N/C	N/C	N/C
Dump Truck	\$80	\$600	\$80	\$600	\$80	\$600
2-1/2" Pump	N/C	N/C	N/C	N/C	N/C	N/C
Materials	Percentage Markup		Percentage Markup		Percentage Markup	
Purchase invoice cost plus	25%		25%		25%	

4.0 References

4.1 The Contractor will provide three (3) local references of comparable work from the last twelve (12) months.

Company: RANTON QUALITY SCHOOLS Contact: MICHAEL COGAN
Phone #: (816)-985-0950 Email: MICHAEL.COGAN@RANTON.SCHOOLS.ORG

Brief Description on Work: EMERGENCY PLUMBING SERVICE WORK, PLUMBING PROJECTS, BID WORK, UTILITIES, AND PREVENTATIVE MAINTENANCE.

Company: MC REALTY Contact: RICH FORTUNE
Phone #: 816-843-1098 Email: RJFORTUNE@MCREALTYKC.COM

Brief Description on Work: EMERGENCY PLUMBING SERVICE WORK, DRAINS, PIPING PROJECTS, UNDERGROUND WORK, AND CONSTRUCTION JOBS.

Company: ROCKHURST UNIVERSITY Contact: Steve Lyons
Phone #: 816-501-4044 Email: STEVE.LYONS@ROCKHURST.EDU

Brief Description of Work: PLUMBING PROJECTS, UTILITY WORK, DRAINS, AND EMERGENCY WORK.

Contractor Contact: DM ATTELL ATTEST:
Company Name: LEXINGTON PLUMBING
Address: 1020 TROOST Joyce Hagen Mundy, City Clerk Date

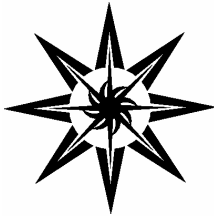
KANSAS CITY, MO 64108

Telephone Number: 816-231-2254 Catherine P. Logan, City Attorney Date

Fax Number: 816-241-3782

Email: dm@lexingtonplumbing.com

DM ATTELL 11/29/13 Ronald L. Shaffer, Mayor Date
Contractor Agent Date



PUBLIC WORKS DEPARTMENT

Council Meeting Date: 12/16/2013

CONSIDER TREE SERVICES THREE YEAR CONTRACT

RECOMMENDATION

Staff recommends the City Council approve a three year contract with Arbor Masters for Tree Services in 2014 with renewal in 2015 and 2016.

BACKGROUND

On December 4, 2013, the City Clerk received bids for tree services, which includes tree and stump removal, tree spraying, bucket truck rental and emergency tree work. The City Clerk received four bids - Arbor Masters, KC Arborist, Kansas City Tree Company, and VanBooven Lawn Landscape.

Using the 2012 tree expenditures the following estimates were created showing Arbor Masters as the estimated low bidder. Arbor Masters has worked with the City in the past and has found their service acceptable.

	Arbor Masters	KC Arborist	KC Tree	VanBooven
2014	\$77,305.00	\$99,696.00	\$78,938.00	\$86,118.00
2015	\$79,480.00	\$103,528.00	\$78,938.00	\$91,063.00
2016	\$80,955.00	\$107,347.00	\$80,823.00	\$96,589.00
3 Year Total	<u>\$237,740.00</u>	<u>\$310,571.00</u>	<u>\$238,699.00</u>	<u>\$273,770.00</u>

FUNDING SOURCE

Funds are budgeted in the 2014 Public Works Operating Budget. This is an on-call service so the financial impact is not determinable.

ATTACHMENTS

1. Arbor Masters Agreement for Tree Services

PREPARED BY

Keith Bredehoeft, Director of Public Works

AGREEMENT FOR TREE SERVICES

This Agreement, made this _____ day of _____, _____, by and between _____, hereinafter referred to as Contractor, and the CITY OF PRAIRIE VILLAGE, KANSAS, hereinafter referred to as City, shall be in full force and effect during calendar years 2014 through 2016 with the following terms and conditions.

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

This document will be the only executed agreement. Any additions or changes must be added as a written supplement to this agreement at time of proposal. City Council must approve each year the terms of this agreement based on the budgetary allowance.

1.0 Service Specifications

- 1.1 The Contractor shall designate one person who is a licensed arborist that is responsible for the supervision of all work being performed. This person shall be thoroughly familiar with the specified requirements and the methods needed for the proper performance of the work and who shall direct all work performed.
- 1.2 The Contractor shall assign one person who shall serve as the main contact for the City for purposes of scheduling inspections, emergencies, and maintaining communication. The Contractor will supply a direct contact name, phone number and email and will notify the City if this contact information changes during the Contract period .
- 1.3 The City will inspect the work on a regular basis and report to the Contractor's supervisor any problems.
- 1.4 The Contractor will immediately report to the City supervisor any problems or hazards that are observed during the course of the trimming work.
- 1.5 The Contractor will use proper equipment and tools for the work. All equipment and tools will be in near-original working and sanitized condition to prevent the spread of tree diseases.
- 1.6 The DBH will mean the diameter of the tree measured at a height of five feet from the ground.
- 1.7 The Contractor will take all safety precautions to protect the workers and the general public. Traffic control signs and other markings will be in accordance with the latest Manual of Uniform Traffic Control Devices (MUTCD) as published by the Federal Highway Administration. Failure to provide proper traffic controls will result in work being stopped until the requirements are met.
- 1.8 The Contractor is required to have a valid City of Prairie Village Non-Domicile Business License while under contract with the City. License and information can be obtained at the Codes Office located at 7700 Mission Road.

-
- 1.9 The City, in accordance with City Council Policy No. CP061 will retain the right to obtain competitive pricing on any singular item costing more than \$10,000.
 - 1.10 The Contractor is admonished that their employees will be properly attired, refrain from abusive language, refrain from improper behavior, and be aware that they are representing the City.
 - 2.0 **General**
 - 2.1 This signed agreement will be the authorization for the Contractor to provide the described services as requested by the City.
 - 2.2 Mike Helms, Field Superintendent, at phone-(913)385-4644, fax-(913)642-0117 Email-mhelms@pvkansas.com, will be the City coordinator for the Contractor for providing any service and responding to any special needs.
 - 2.3 All work performed by the Contractor will be of acceptable workmanlike quality and installation normally associated with this trade and shall occur to the satisfaction of the City before payment will be made by the City to the Contractor.
 - 2.4 All invoices should be grouped by location, with a copy of the service report attached, and are to be sent to Public Works Department, 3535 Somerset Drive, Prairie Village, KS 66208.
 - 2.5 Invoices shall be submitted for payment within sixty days of completion of work.
 - 2.6 Insurance:
 - A. The Contractor shall procure and maintain, at its expense, the following insurance coverage: (a) Workers' Compensation -- Statutory Limits, with Employer's Liability limits of \$100,000 each employee, \$500,000 policy limit; (b) Commercial General Liability for bodily injury and property damage liability claims with limits of not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate; and (c) Commercial Automobile Liability for bodily injury and property damage with limits of not less than \$1,000,000 each accident for all owned, non-owned and hired automobiles.
 - B. All property damaged shall be repaired or replaced to a condition immediately prior to the time of damage, and to the satisfaction of the City.
 - C. All loss or damage arising out of the nature of the work to be done, or from the action of the elements, or from floods or overflows, or from ground water, or from unusual obstructions or difficulties, or any other natural or existing circumstances either known or unforeseen, which may be encountered in the prosecution of the said work shall be sustained and borne by the Contractor at its own cost and expense.
 - D. The City shall be a named insured on such policies. Satisfactory certificates of insurance shall be filed with the City prior to starting any construction work on this Contract. The certificates shall state that thirty (30) days written notice will be given to the City before any policy coverage thereby is changed or canceled.

- 2.7 It is the express intent of the parties that this Contract shall not create an employer-employee relationship. Employees of the Contractor shall not be deemed to be employees of the City and employees of the City shall not be deemed to be employees of the Contractor. The Contractor and the City shall be responsible to their respective employees for all salary and benefits. Neither the Contractor's employees nor the City's employees shall be entitled to any salary, wages, or benefits from the other party, including but not limited to overtime, vacation, retirement benefits, workers' compensation, sick leave or injury leave. Contractor shall also be responsible for maintaining workers' compensation insurance, unemployment insurance for its employees, and for payment of all federal, state, local and any other payroll taxes with respect to its employees' compensation.
- 2.8 This Agreement is for the period of January 1, 2014 through December 31, 2016. Either party may terminate this agreement by giving sixty (60) days prior written notice to the other party.
- 2.9 The Contractor will commence work within ten (10) calendar days from and after receiving instructions from the City.
- 2.10 To the fullest extent permitted by law, with respect to the performance of its obligations in this Contract or implied by law, and whether performed by Contractor or any permitted subcontractors hired by Contractor, the Contractor agrees to indemnify City, and its agents, servants, and employees from and against any and all claims, damages, and losses arising out of personal injury, death, or property damage, caused by the negligent acts, errors, or omissions of the Contractor or its subcontractors, to the extent and in proportion to the comparative degree of fault of the Contractor and its subcontractors. Contractor shall also pay for City's reasonable attorneys' fees, expert fees, and costs incurred in the defense of such a claim to the extent and in proportion to the comparative degree of fault of the Contractor and its subcontractors
- 2.11 Applicable Laws and Permits:
- A. The Contractor shall observe and comply with all applicable federal, state, and local laws, regulations, standards, ordinances or codes and shall be in compliance with all applicable licensure and permitting requirements at all times. This compliance includes, but is not limited to, any quarantines in place at time of work, removal or movement of product associated with this contract.
 - B. Pursuant to K.S.A. No. 16-113, if the Contractor does not have a resident agent in the State of Kansas, it shall execute and file "Certificate of Appointment of Process of Agent" with the Clerk of the District Court at the Johnson County, Kansas Courthouse. These forms may be obtained at the Office of the Clerk of the District Court. After execution of the documents, it shall be filed with the Clerk of the District Court. Contractor shall be responsible for the filing fee. This certificate is pursuant to the General Statutes of Kansas, and shall be filed prior to the formal execution of the Contract Documents. Failure to comply with these requirements shall disqualify the Contractor for the awarding of this Contract.

- 2.12 The Contractor warrants to the City that any materials furnished under this Contract will be of good quality and new unless the Contract Documents require or permit otherwise. The Contractor further warrants that the Work will conform to the requirements of the Contract Documents and will be free from defects, except for those inherent in the quality of the Work the Contract Documents require or permit. Work, materials, or equipment not conforming to these requirements may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear under normal usage. The Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment. This warranty shall be in addition to and not in limitation of any other warranty or remedy required by law or by the Contract Documents.
- 2.13 The Contractor may not use any subcontractors without the prior written consent of the City, which may be withheld for any reason at the City's discretion.
- 2.14 If, on account of a continued default or breach by either party of such party's obligations under the terms of this agreement after any notice and opportunity to cure as may be required hereunder, it shall be necessary for the other party to employ one or more attorneys to enforce or defend any of such other party's rights or remedies hereunder, then, in such event, any reasonable amounts incurred by such other party, including but not limited to attorneys' fees, experts' fees and all costs, shall be paid by the breaching or defaulting party.
- 2.15 This Contract shall not be assigned by Contractor to any other party without first obtaining the written consent of the City.
- 2.16 This Contract shall be governed by and interpreted in accordance with the laws of the State of Kansas. Venue for all actions relating to this contract shall be in the district court of Johnson County, Kansas.
- 3.0 Work Hours**
- 3.1 The City authorizes non-emergency work to be preformed between 7:00am through 3:30pm weekdays.
- 3.2 The City will provide the Contractor with a door hanger to be placed on each residence where the tree work will occur in the next 24 hours. The Contractor shall notify the City supervisor on a daily basis of where tree work will occur. The Contractor shall communicate immediately any changes in work schedule to the City supervisor.
- 3.3 The Contractor shall obtain prior approval from the City before scheduling any work outside the normal working hours.
- 4.0 Tree Removal**
- 4.1 The Contractor will cut and remove the trees and stumps as listed on work order within 30 days of date of the written request by the City. Those trees listed as dangerous will be removed within 72 hours.

- 4.2 The stump will be ground to 18 inches below ground level and level with the surrounding ground. All grindings will be removed.
- 4.3 The stump hole will be filled with six inches of compacted topsoil and twelve inches of compacted subsoil. The topsoil must be compacted to prevent any settling below former ground level. No seeding is required.
- 4.4 Disposal of all debris removed from the work site is the responsibility of the Contractor and must be disposed of in a proper manner.

5.0 **Tree Spraying**

- 5.1 Upon request, the Contractor will provide spraying of trees for disease or pests.
- 5.2 The Contractor will have a licensed pesticide applicator doing or supervising the spraying work.
- 5.3 The City must approve the chemicals being used before any applications.
- 5.4 The Contractor will take all safety precautions and issue all warnings as required by local, state, or federal specifications.
- 5.5 The Contractor will identify the chemicals and will provide a Material Safety Data Sheet for all chemicals used.

6.0 **Emergency Service**

- 6.1 The Contractor will be available 24 hours per day and seven days per week during the life of this contract for tree services as specified herein.
- 6.2 The Contractor must be able to respond within four hours for emergency tree removal, tree trimming and tree debris removal. A telephone number and/or a pager number will be provided to the City.
- 6.3 The Contractor will have available for their use for tree removal a brush chippers, bed grinders, bucket trucks, log trucks with loader device, skid loaders, and tractor trailer trucks. All equipment rates will include operator, fuel, repairs and maintenance.
- 6.4 A list of Emergency Equipment as detailed in the Fee Schedule should be attached to the bid, listing out each equipment type and the number of units that the Contractor owns. You may also add any other major equipment owned by the Contractor that relates to Tree Emergency Services. Also list all certified arborists employed by the Contractor.

7.0 Fee Schedule

DESCRIPTION	UNITS	2014	2014	2015	2015	2016	2016
		Regular Unit Price	Emergency Unit Price	Regular Unit Price	Emergency Unit Price	Regular Unit Price	Emergency Unit Price
Removal on Arterial or Collector Streets (Includes labor & all equipment)							
DBH 0 to 12 inches	EA	100	125	110	135	110	135
DBH 13 to 24 inches	EA	340	395	350	400	350	450
DBH 25 to 36 inches	EA	650	650	650	750	650	750
DBH 37 to 48 inches	EA	750	950	950	1100	950	1190
DBH 49 to 60 inches	EA	1200	1200	1200	1200	1200	1200
Removal on Local Streets and City Properties (Includes labor & all equipment)							
DBH 0 to 12 inches	EA	100	125	110	135	110	135
DBH 13 to 24 inches	EA	300	400	315	400	330	475
DBH 25 to 36 inches	EA	800	600	600	675	600	700
DBH 37 to 48 inches	EA	700	900	725	900	900	1100
DBH 49 to 60 inches	EA	1100	1100	1100	1100	1100	1100
Rental Equipment (non-tree removal work, incl. operator and vehicle)							
Bucket Truck	HR	75	75	75	75	75	75
Tree Spade 44"-80" Diam. Hole	HR	165	165	165	165	165	165
Misc.							
Spraying trees (Includes labor & equip.)	GAL	9.00	9.00	9.00	9.00	9.00	9.00
Tree trimming (Includes labor & equip.)	HR	130	180	130	180	130	180
Arborist Inspection Services (Includes labor & equip.)	EA INSP.	40	40	40	40	40	40

DESCRIPTION	UNITS	2014	2014	2015	2015	2016	2016
		Regular Unit Price	Emergency Unit Price	Regular Unit Price	Emergency Unit Price	Regular Unit Price	Emergency Unit Price
Emergency Equipment							
Horizontal Grinder Min. 500 HP	HR	500	500	500	500	600	600
Claw Loader w/28 CY Capacity Dump Bed	HR	200	200	250	250	250	250
Excavator w/Clam Bucket 230 HP	HR	130	130	150	150	150	150
Wheel Loader - Dump Height 9' 130 HP	HR	130	130	150	150	150	150
Track Loader - Dump Height 8' 80 HP	HR	100	100	100	100	125	125
Uni-Loader w/Grapple Bucket 70 HP	HR	100	100	100	100	125	125
Tractor w/Barrel Bed 15 CY	HR	120	120	120	120	120	120
Tractor w/Ejector Bed 72 CY	HR	160	160	160	160	160	160
Tractor w/Box Bed 28 CY	HR	120	120	120	120	120	120
Light Tower - Towed 440,000 Lumens	HR	40	40	40	40	40	40
Stump Grinder	HR	65	65	65	65	65	65
Attach list of requested items as outlined in section 6.4 Emergency Services							

8.0 References - SEE ATTACHED

8.1 The Contractor will provide three (3) local references of comparable work from the last twelve (12) months.

Company: _____ Contact: _____

Phone #: _____ Email: _____

Brief Description on Work: _____

Company: _____ Contact: _____

Phone #: _____ Email: _____

Brief Description on Work: _____

Company: _____ Contact: _____

Phone #: _____ Email: _____

Brief Description of Work: _____

Contractor Contact: MARK CANTRELL ATTEST: _____

Company Name: ARBOR MASTERS TREE LANDSCAPE

Address: 8250 COLE PKWY Joyce Hagen Mundy, City Clerk Date

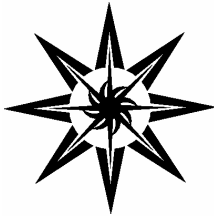
SHAWNEE MISSION KS 66227

Telephone Number: 913-441-8888 /s/ _____ Catherine P. Logan, City Attorney Date

Fax Number: 913-441-8922

Email: mcantrell@arbormasters.com

/s/ Mark Cantrell 12/3/13 /s/ _____ Ronald L. Shaffer, Mayor Date



PUBLIC WORKS DEPARTMENT

Council Meeting Date: December 16, 2013

Consider Bid Award for 2013 Tree Trimming Program

RECOMMENDATION

Staff recommends the City Council approve the award of a bid to Kansas City Tree Care, LLC for \$61,444.00 for trimming trees in City right-of-way and parks.

BACKGROUND

This bid is the annual tree trimming of trees in the City right-of-way. The areas to be trimmed are trees in Area 41 bounded by 75th Street, 79th St, Roe Avenue and Nall Avenue; and trees in Area 42 bounded by 75th Street, 83rd Street, Mission Road and Roe Avenue and a section from 79th Street, 83rd Street, Reinhardt and Mission Road. A map depicting these areas is attached. Also the following parks were requested for bid; Bennett, Brenizer, Mccrum, Porter, Prairie and Windsor. All the trees will be trimmed to remove any dead wood larger than 2-inches, remove limbs interfering with sight line to traffic signals and street signs, and with a cone under the street lights.

Since the pricing came in less than expected there is additional tree trimming funds available. Staff has obtained prices to trim the trees in the remaining parks that were not originally bid That bid amount is an additional \$13,900.00 for Harmon/Santa Fe, Taliaferro, Schliiffke, Weltner and Franklin Parks.

Kansas City Tree has done the tree trimming work the last couple of years and did a satisfactory job on the projects.

Five bids were received and opened on December 4, 2013, by the City Clerk. The bid tab is:

Bidder	Total
Kansas City Tree	\$ 47,544.00
Custom Tree	\$ 60,000.00
Arbor Masters	\$ 61,750.00
KC Arborist	\$ 76,124.00
VanBooven	\$ 92,275.00

* Request is low bidder plus \$13,900 for additional parks for a total of \$61,444.00.

FUNDING SOURCE

Funding is available in the 2013 Public Works Operating Budget.

RELATION TO VILLAGE VISION

CC1; Make streetscape improvements to enhance pedestrian safety and attractiveness of the public realm

CFS2: Preserve and protect natural areas

ATTACHMENTS

Construction Agreement for Tree Trimming
Tree Trimming Area Maps (3)

PREPARED BY

Keith Bredehoeft, Director of Public Works

December 10, 2013

Bid submitted by **Kansas City Tree Care, LLC**

BID PROPOSAL FORM

TREE TRIMMING

To the City of Prairie Village, Kansas:

The **undersigned Bidder**, having examined the Project Manual and other proposed Contract Documents, and all Addenda thereto; and being acquainted with and fully understanding (a) the extent and character of the work covered by this Proposal; (b) the location, arrangement, and specified requirements for the proposed work; (c) the location, character, and condition of existing buildings, streets, roads, sidewalks, driveways, curbs, gutters, trees, sewers, utilities, drainage, and other installations both surface and underground that may affect or be affected by the proposed work; (d) the nature and extent of the excavations to be made, and the type, character and general condition of materials to be excavated; (e) the necessary handling and re-handling of excavated materials; (f) the location and extent of necessary or probable dewatering requirements; (g) the difficulties and hazards to the work that might be caused by storm and flood water; (h) local conditions relative to labor, transportation, and hauling facilities; and (l) all other factors and conditions affecting or that may be affected by the work,

HEREBY PROPOSES to furnish all required material, supplies, equipment, tools, and plant; to perform all necessary labor and supervision; and to construct, install, erect, and complete all work stipulated in, required by, and in accordance with, the proposed Contract Documents, and Project Manual referred to therein (as altered, amended, or modified by addenda), in the manner and time prescribed, and that the Bidder will accept in full payment sums determined by applying to the quantities of the following items, the following unit prices and/or any lump sum payments provided, plus or minus any special payments and adjustments provided in the Specifications, and the Bidder understands that the estimated quantities herein given are not guaranteed to be exact or total quantities required for the completion of the work, and that increases or decreases may be made over or under the estimated quantities to provide for needs that are determined during the progress of the Work and that prices bid shall apply to such increased or decreased quantities as follows:

ITEMIZED PROPOSAL

Item No.	Description	Unit	Quantities	Unit Price	Total
1	101 Mobilization	L.S.	N/A	None	-
2	682 Tree Trimming Area 41	L.S.	N/A	None	\$9,999.00
3	701 Traffic Maintenance	None	N/A	None	-----
Total Area 41					

Bid submitted by Kansas City Tree Care, LLC

Item No.	Description	Unit	Quantities	Unit Price	Total
1	101 Mobilization	L.S.	N/A	None	-
2	682 Tree Trimming Area 42	L.S.	N/A	None	\$28,995.00
3	701 Traffic Maintenance	None	N/A	None	-----
Total Area 42					

Item No.	Description	Unit	Quantities	Unit Price	Total
1	101 Mobilization	L.S.	N/A	None	-
2	682 Tree Trimming Area - Park	L.S.	N/A	None	\$1,450.00
3	701 Traffic Maintenance	None	N/A	None	-----
Total Area - Bennett Park 5100 W 77th Street					

Item No.	Description	Unit	Quantities	Unit Price	Total
1	101 Mobilization	L.S.	N/A	None	-
2	682 Tree Trimming Area - Park	L.S.	N/A	None	\$800.00
3	701 Traffic Maintenance	None	N/A	None	-----
Total Area - Brenizer Park 4000 Tomahawk Road					

Item No.	Description	Unit	Quantities	Unit Price	Total
1	101 Mobilization	L.S.	N/A	None	-
2	682 Tree Trimming Area - Park	L.S.	N/A	None	\$1,250.00
3	701 Traffic Maintenance	None	N/A	None	-----
Total Area - McCrum Park 6920 Roe Avenue					

Bid submitted by Kansas City Tree Care, LLC

Item No.	Description	Unit	Quantities	Unit Price	Total
1	101 Mobilization	L.S.	N/A	None	-
2	682 Tree Trimming Area - Park	L.S.	N/A	None	\$2,400.00
3	701 Traffic Maintenance	None	N/A	None	-----
Total Area - Porter Park 4601 Tomahawk Road					

Item No.	Description	Unit	Quantities	Unit Price	Total
1	101 Mobilization	L.S.	N/A	None	-
2	682 Tree Trimming Area - Park	L.S.	N/A	None	\$500.00
3	701 Traffic Maintenance	None	N/A	None	-----
Total Area - Prairie Park 6938 Mission Road					

Item No.	Description	Unit	Quantities	Unit Price	Total
1	101 Mobilization	L.S.	N/A	None	-
2	682 Tree Trimming Area - Park	L.S.	N/A	None	\$2,150.00
3	701 Traffic Maintenance	None	N/A	None	-----
Total Area - Windsor Park 7200 Windsor Street					

Item No.	Description	Unit	Quantities	Unit Price	Total
1	101 Mobilization	L.S.	N/A	None	-
2	682 Tree Trimming Area - Park	L.S.	N/A	None	\$4,750.00
3	701 Traffic Maintenance	None	N/A	None	-----
Total Area - Harmon Park/Santa Fe Trail Park					

Item No.	Description	Unit	Quantities	Unit Price	Total
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Bid submitted by Kansas City Tree Care, LLC

Item No.	Description	Unit	Quantities	Unit Price	Total
1	101 Mobilization	L.S.	N/A	None	-
2	682 Tree Trimming Area - Park	L.S.	N/A	None	\$2,400.00
3	701 Traffic Maintenance	None	N/A	None	-----
Total Area - Taliaferro Park					

Item No.	Description	Unit	Quantities	Unit Price	Total
1	101 Mobilization	L.S.	N/A	None	-
2	682 Tree Trimming Area - Park	L.S.	N/A	None	\$600.00
3	701 Traffic Maintenance	None	N/A	None	-----
Total Area - Schliffke Park					

Item No.	Description	Unit	Quantities	Unit Price	Total
1	101 Mobilization	L.S.	N/A	None	-
2	682 Tree Trimming Area - Park	L.S.	N/A	None	\$1,650.00
3	701 Traffic Maintenance	None	N/A	None	-----
Total Area - Weltner Park					

Item No.	Description	Unit	Quantities	Unit Price	Total
1	101 Mobilization	L.S.	N/A	None	-
2	682 Tree Trimming Area - Park	L.S.	N/A	None	\$4,500.00
3	701 Traffic Maintenance	None	N/A	None	-----
Total Area - Franklin Park					

Bid submitted by Kansas City Tree Care, LLC

PROPOSAL QUANTITIES

The unit price bid for each item shall include all of the Contractor's cost and profit including equipment, labor, supervision, material and all incidentals necessary to furnish the work complete and ready for use.

PROPOSAL ABBREVIATIONS

LS - LUMP SUM EA - EACH

The **undersigned Bidder** declares:

That, if this proposal is accepted, to complete the work by the March 31, 2014 completion date.

That he/she has been regularly engaged in contract work of the class required by the specifications for five years, and respectfully invites your attention to the following work that has been completed under his/her direction:

Project Number	Location	Contact & Telephone

That he/she has personally examined the location of the proposed work and determined the amount and character of the proposed work, and the material and equipment necessary to complete the same in compliance with the accompanying contract documents and project manual.

The undersigned proposes and agrees, if this proposal is accepted, to provide all necessary machinery, tools, equipment and other means of construction, and to do all the work specified in the documents of the contract in the manner therein prescribed and according to the requirements of the City as therein set forth.

Addendum receipt:

The undersigned Bidder acknowledges receipt of the following addenda to the Contract Documents:

- Addendum NO. _____, Date _____
- Addendum NO. _____, Date _____
- Addendum NO. _____, Date _____
- Addendum NO. _____, Date _____
- Addendum NO. _____, Date _____

Bid submitted by Kansas City Tree Care, LLC

The undersigned Bidder hereby declares that the only persons or firms interested in the Proposal as principal or principals is or are named herein and that no other persons or firms than herein mentioned have any interest in this Proposal on in the Contract to be entered into; and this Proposal is made without connection with any other person, company or parties making a bid or proposal; and that it is in all respects fair and in good faith, without collusion or fraud.

The undersigned Bidder agrees and assures the City that if awarded this Contract, the Bidder will fully abide by the requirements of these Contract Documents.

In submitting this bid, the undersigned declares that he/she is of lawful age and executed the accompanying bid on behalf of this bidder therein named, and that he/she had lawful authority to do so. The undersigned further declares that he/she has not directly or indirectly entered into any agreement, expressed or implied, with and bidder or bidders, having for his/her object the controlling of the price or amount of such bid or any bids, the limiting of the bids or bidders, the parceling or farming out to any bidder or bidders, or other persons, of any part of the subject matter of the bid or bids or of the profits thereof, and that he/she has not and will not divulge the sealed bid to any person whomsoever, except those having a partnership or other financial interest with bidder in said bid or bids, until after sealed bid or bids are opened.

The undersigned further declares that he/she has carefully examined the Notice to Bidders, Instructions to Bidders and other Contract Documents, and he/she has inspected the actual location of the work, together with the local sources of supply, and has satisfied himself as to all conditions and quantities, and understands that in signing this Bid he/she waives all right to plead any misunderstanding regarding the same. The undersigned Bidder agrees that the accompanying bid deposit shall become the property of the City, should the Bidder fail or refuse to execute the Contract or furnish Bond as called for in the Contract Documents within the time provided.

If written notice of the acceptance of this bid is mailed, faxed, or delivered to the undersigned Bidder within thirty (30) calendar days after the date of opening of the bids, or any time thereafter before this bid is withdrawn, the undersigned Bidder will, within ten (10) calendar days after the date of such mailing, faxing, or delivery of such notice, execute and deliver a Contract in the form of Contract attached.

Enclosed is a certified check, cashier's check or bid bond in the amount of _____ DOLLARS(\$ _____), made payable to the City of Prairie Village, which the undersigned agrees is subject to being forfeited to and becoming the property of the City of Prairie Village as liquidated damages and not as penalty, together with other legal remedies the Cities may choose to invoke, all set forth in the Instruction to Bidders Section, should this Bid be accepted and the Contract be awarded to this Bidder and he/she should fail to enter into an Agreement in the form prescribed and to furnish the required insurance, bonds and other required documents within ten (10) calendar days as above stipulated, otherwise the bid security shall be returned to the undersigned upon signing of the Agreement and delivery of the approved bonds and other required documents to the City of Prairie Village, Kansas.

The undersigned Bidder hereby designates as the office of the Bidder to which such notice of acceptance may be mailed, faxed, or delivered:

Bid submitted by Kansas City Tree Care, LLC

Signature of Bidder: Kansas City Tree Care, LLC

If a Corporation: _____,

By _____

Title **Owner**

DATED: _____

Kansas City Tree Care, LLC
Typed name of Bidder (Company)

(913)894-4767
Telephone Number

Zach Johnson
Typed name of Contact

(866)923-4311
Fax Number

1505 Merriam Lane
Street Address

Kansascitytreecare@yahoo.com
Email Address

Kansas City, KS 66103
City, State, Zip

If the Bidder is a corporation, supply the following information:

State in which incorporated: **Kansas**

Name and business address of its:

President: **Jack Johnson - 5217 Walmer, Mission, KS 66202**

Secretary: **Jackie Melchior - 1505 Merriam Lane, Kansas City, KS 66103**

SEAL

Bid submitted by Kansas City Tree Care, LLC

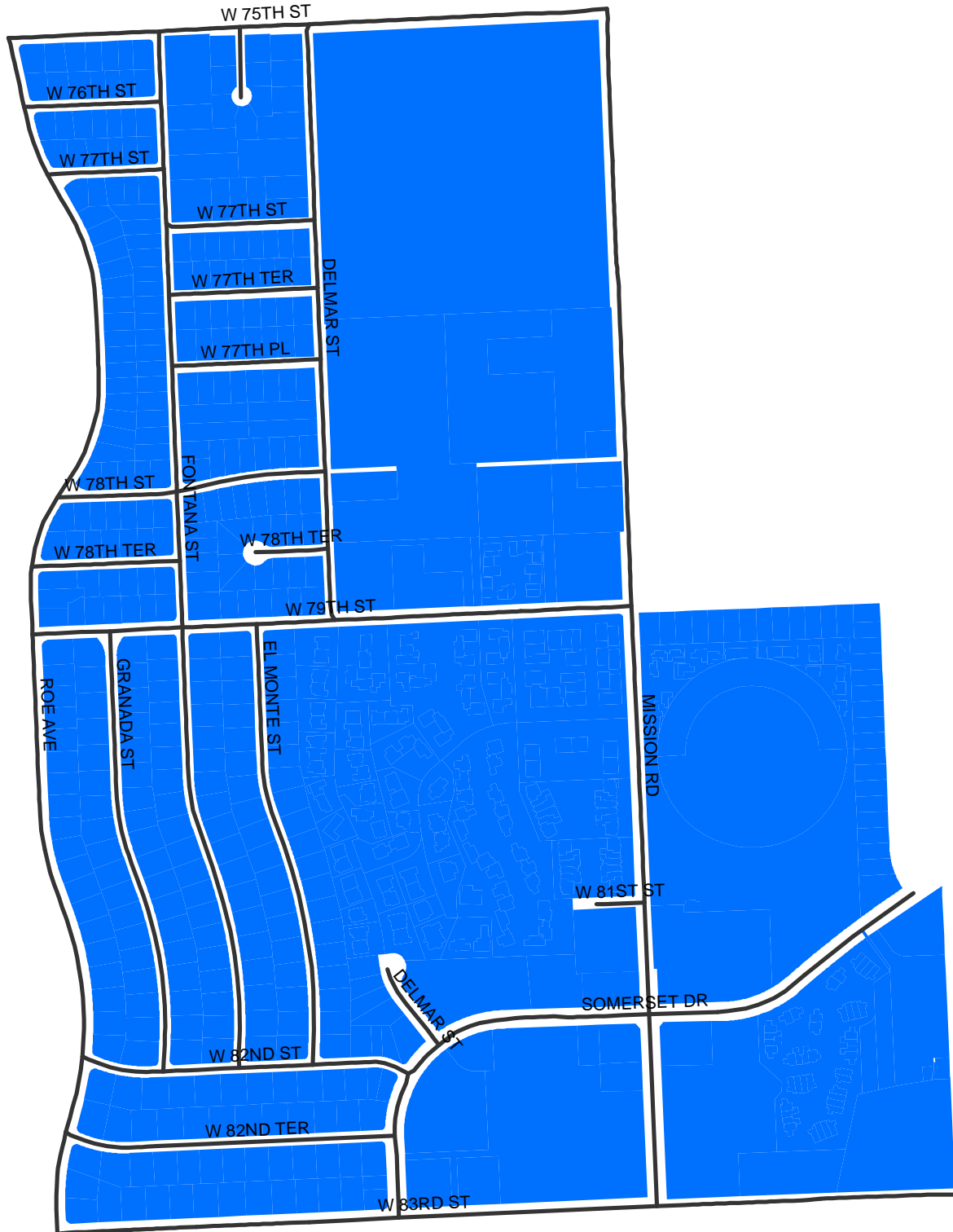
Date _____

Attached hereto is a Bid Bond for the sum of \$ _____ or

Cashier's Check for \$ 2,377.20 made payable to the City of Prairie Village, Kansas.

An additional Cashier's Check for \$ _____ made payable to the City of Prairie Village, Kansas.

Work Area 42



Legend

 Area_42



THE CITY OF PRAIRIE VILLAGE
Star of Kansas
Created by Public Works GIS

November 1, 2013

Prairie Village Parks - 2013 Tree Trimming



THE CITY OF PRAIRIE VILLAGE
Star of Kansas
Created by Public Works GIS

November 1, 2013



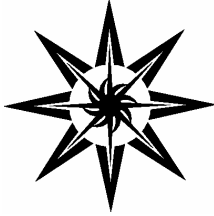
Work Area 41



Legend

 Area_41





CITY CLERK DEPARTMENT

**Council Meeting Date: December 16, 2013
CONSENT AGENDA**

Consider Amendment to Municipal regarding Vacancy in the Office of Mayor

RECOMMENDATION

MOVE THE GOVERNING BODY ADOPT AN ORDINANCE AMENDING CHAPTER 1 OF THE PRAIRIE VILLAGE MUNICIPAL CODE, 1973, ENTITLED "ADMINISTRATION" ARTICLE 2 ENTITLED "GOVERNING BODY" BY REPEALING THE EXISTING SECTION 1-208 ENTITLED "VACANCIES IN GOVERNING BODY; HOW FILLED" AND ADOPTING A NEW SECTION 1-208 ENTITLED "VACANCIES IN GOVERNING BODY; HOW FILLED" AND AMENDING CHAPTER VI ENTITLED "ELECTIONS" ARTICLE 1 ENTITLED "CITY ELECTIONS" SECTION 6-105 ENTITLED "COUNCILMEMBERS ELECTIONS; TERMS"

BACKGROUND

In June, 2001, the City Council adopted Charter Ordinance No. 20 relating to filling a vacancy in the office of the Mayor. The ordinance was duly published and became effective 61 days after final publication in the Johnson County Sun on Wednesday, July 1, 2001.

This was discussed at the Council Committee of the Whole meeting on December 2nd and it was noted that this information was also referenced in Chapter 6 "Elections". The attached ordinance amends the City Code to be in agreement with Charter Ordinance 20 in both Chapter 1 and Chapter 6 of the municipal code..

The City Attorney has reviewed and approved the amendment.

ATTACHMENTS

Council Committee Minutes - December 2, 2013
Proposed Ordinance

PREPARED BY

Joyce Hagen Mundy
City Clerk

December 13, 2013,

COUNCIL COMMITTEE OF THE WHOLE
December 2, 2013

The Council Committee of the Whole met on Monday, December 2, 2013 at 6:00 p.m. in the Council Chambers. The meeting was called to order by Council President Dale Warman with the following members present: Mayor Shaffer, Ashley Weaver, Ruth Hopkins, Steve Noll, Laura Wassmer, Brooke Morehead, Charles Clark, Ted Odell and David Belz. Staff Members present: Wes Jordan, Chief of Police; Keith Bredehoeft, Public Works Director; Katie Logan, City Attorney; Quinn Bennion, City Administrator; Lisa Santa Maria, Finance Director; Danielle Dulin, Assistant to the City Administrator; Nic Sanders, HR Specialist and Joyce Hagen Mundy, City Clerk.

Presentation by LegaC - Annual Corinth Square and Village Shops Update

Kylie Stock with LegaC Properties presented the annual Corinth Square and Village Shops CID update. Ms Stock presented photographs of the progress on the new retail building replacing the Waid's building. The estimated finished cost of this building is \$1.7M. She acknowledged the delay in the completion of this building and called upon John Davis with Foresight Real Estate Services who explained the delay was primarily due to the poor soil composition beneath the surface requiring additional new soil to be brought in for fill and delays caused by unmapped Johnson County Wastewater lines. The projected completion of the new building is the middle of January. 2,700 square feet will be leased to Starbucks with a projected opening in April, 2014. They do not have the other space under contract at this time. The vacated Starbucks space and the site previously occupied by Dolce will be turned over to Einstein Brothers, who have a target opening dated of September, 2014.

With the delay in completion of the new retail building, they have postponed beginning work on Mission Lane until March/April of 2014. This work will be done in stages to have minimal disruption in traffic at the center and they will be seeking permission to work extended hours on the project. The projected completion is November 2014 at an estimated cost of \$2.5M

Hen House renovations have been tabled due to the holidays. The total estimated improvements to the shopping center will be approximately \$4.0M

Ms Stock reviewed the timetable for improvements at Corinth Shopping Center beginning with Phase 1 - CVS in April, 2013; Phase 2 - Main Square Improvements - completed in October, 2012 and Phase 3 - Hen House Renovation completed in June, 2013.

Lane4 commissioned local artist Matthew Dehaemers to do the recently installed Art Sculpture called "Prairie Evolution". The piece is built from steel frame with colored glass and is located at the front of the center between Salty Iguana and Spin Pizza. The CID agreement commits 10% of the expenditures be spent on art at the Center. Brooke Morehead confirmed that 10% of \$4M was spent. Ms Stock noted with cost of the

sculpture, the fountain and electrical work plus planned landscaping by the sculpture will exceed \$80,000.

Plans for the Corinth Square Shopping Center in 2014 include a facelift of the Hattie's building with new façade, roof and new signage. They are also looking at replacing the monument sign at Corinth South. Mrs. Morehead asked about the Arby's building. Ms Stock responded that they do not own Arby's. It has a ground lease.

Report from Consolidated Fire District #2

Fire Chief Gary Lamons with Consolidated Fire District #2 provided an update on fire activity. The total number of calls received over the past year has increased by 15% and the fire loss numbers are also higher although the number of fire calls is down. He was pleased to report the Strategic Planning Process started this summer has been completed and the report is available on their website. The department is anticipating several retirements in 2014 and has begun the hiring process anticipating hiring 3 or 4 new personnel.

The Department has closed on the property on the south end of Meadowlake Golf Course, 95th & Rosewood for their new fire station to replace the existing station at 9011 Roe. Charles Clark stated he has received calls from residents surrounding this property regarding the impact of the new station. Chief Lamons stated they would be having meeting with the surrounding neighbors and stated he anticipates the impact to be very similar to that experienced by the current station on Roe.

***COU2013-51 Consider Request to Publish the Amendment to the 2014 Budget - Special Alcohol Fund**

Finance Director Lisa Santa Maria stated that under KSA 79-41a04 the City receives a distribution from the Local Alcoholic Liquor Fund and is required to deposit 1/3 of the monies to the general fund, 1/3 to a special parks and recreation fund and 1/3 to a special alcohol and drug programs fund. The monies in the special alcohol and drug program have to be used for services or programs whose main purpose is alcoholism and drug abuse prevention and education. The D.A.R.E program is funded from these funds. The estimated fund balance at the end of 2014 is \$101,834. The Police Department has determined it will be able to expend part of this fund balance on the D.A.R.E program in 2014. Since the 2014 budget was set prior to them having this information, it is recommended to amend the budget to allow the use of the funds.

This Amendment to the 2014 Budget increases the total expenditure budget for the Special Alcohol Fund by \$20,000. The attached form is required by the State in order for the City to amend its budget.

Funding for the expenditures in the Special Alcohol Fund comes from the existing Liquor Excise tax. There will not be a change to the tax levy that was originally published for the 2014 budget. The amendment allows for increased expenditures in the D.A.R.E program.

State statutes require that the City hold a public hearing on the budget amendment at least ten days after publication. To comply with these statutory requirements, the public hearing has been scheduled for the City Council's regular meeting on Monday, December 16, 2013. The Notice of Budget Hearing will be published in The Legal Record on Tuesday, December 3, 2013

Ruth Hopkins questioned why this was not included in the initial budget adopted in August. Mrs. Santa Maria stated funds were included in the original budget; however, it has been determined that additional funds are available to be used and this amendment makes it possible for the Police Department to access these funds.

Charles Clark made the following motion, which was seconded by Steve Noll and passed unanimously:

**AUTHORIZE STAFF TO PUBLISH THE AMENDMENT TO
THE 2014 BUDGET AS REQUIRED BY STATE STATUTES
COUNCIL ACTION TAKEN
12/02/2013**

***COU2013-52 Consider Request to Publish the Amendment to the 2013 Budget**

Lisa Santa Maria presented an amendment to the 2013 Budget increasing the total expenditure budget for the Corinth Community Improvement District and the PV Shops Community Improvement District. The original 2013 Budgets were adopted based on lower forecasted beginning fund balances. The ending 2012 fund balances were higher than expected due to lower than anticipated 2012 reimbursements.

This Amendment to the 2013 Budget establishes a budget that reflects maximum expenditures for the Corinth CID and the PV Shops CID. The attached form is required by the State in order for the City to amend its budget.

Funding for the expenditures in the CID Funds comes from the existing 1.00% sales tax. There will not be a change to the tax levy that was originally published for the 2013 budget. The amendment does not alter or change the CID agreement or commitments.

State statutes require that the City hold a public hearing on the budget amendment at least ten days after publication. To comply with these statutory requirements, the public hearing has been scheduled for the City Council's regular meeting on Monday, December 16, 2013. The Notice of Budget Hearing will be published in The Legal Record on Tuesday, December 3, 2013.

Charles Clark made the following motion, which was seconded by Steve Noll and passed unanimously:

**AUTHORIZE STAFF TO PUBLISH THE AMENDMENT TO
THE 2013 BUDGET AS REQUIRED BY STATE STATUTES
COUNCIL ACTION TAKEN
12/02/2013**

***COU2013-53 Consider Adopting a Resolution to prohibit the carrying of firearms in Prairie Village Municipal Buildings in accordance with Kansas House Bill 2052**

City Attorney Katie Logan stated Kansas House Bill 2052 requires the city to prohibit firearms in designated facilities. The City Council has provided guidance to Staff to prepare a Security Plan and adopt a Resolution to meet the 4-year exemption guidelines specified in House Bill 2052. The Security Plan and Resolution are required in order to continue prohibiting firearms in Prairie Village Municipal Buildings. During the exemption period, the City will have time to budget for any additional security measures required.

Ruth Hopkins made the following motion, which was seconded by Laura Wassmer and passed unanimously:

**ADOPT RESOLUTION 2013-06 PROHIBITING THE CARRYING
OF FIREARMS IN PRAIRIE VILLAGE MUNICIPAL BUIDLINGS IN
ACCORDANCE WITH KANSAS HOUSE BILL 2052
COUNCIL ACTION TAKEN
12/02/2013**

COU2013-54 Consider Amendment to Municipal Code regarding Vacancy in the Office of the Mayor

Quinn Bennion noted in June, 2001, the City Council adopted Charter Ordinance No. 20 relating to filling a vacancy in the office of the Mayor. The ordinance was duly published and became effective 61 days after final publication in the Johnson County SUN on Wednesday, July 1, 2001.

The Charter Ordinance outlines the process to fill a Mayoral vacancy as follows:

- The Council President acts as Mayor for a period of time not to exceed 30 days.
- A Mayor is elected from the members of the Council to serve until the next scheduled City election
- The vacancy in the Council seat shall be filled by appointment of the Mayor to complete the term of office.

The existing code was not revised to be consistent with the Charter Ordinance and staff has prepared an ordinance amending the current code to be in agreement with the Charter Ordinance. The City Attorney has reviewed and approved the proposed amendment.

Mr. Bennion stressed that the Charter Ordinance supersedes the ordinance language in the municipal code. City Attorney Katie Logan confirmed this.

Ted Odell noted the code in noncompliance with the Charter Ordinance is also found in Section 6-105 under "Elections". He asked what the intent of the change made by the Charter Ordinance.

Ruth Hopkins responded that the Council felt that under the existing code that has the Council President becoming Mayor until the next Mayoral election opened the door for an inexperienced Council member to take on the position of Mayor for a potentially significant length of time. The Council wanted more control in who would become Mayor and to have that position filled by the election process, without the cost of a special election at the next city election.

Ted Odell stated he would like to see the process to be followed included in the code, noting that it could become contentious.

Ruth Hopkins made the following motion, which was seconded by Andrew Wang and passed by a vote of 8 to 2 with Morehead and Odell voting "nay".

**THE GOVERNING BODY ADOPT AN ORDINANCE AMENDING
CHAPTER 1 OF THE PRAIRIE VILLAGE MUNICIPAL CODE,
1973, ENTITLED "ADMINISTRATION" ARTICLE 2 ENTITLED
"GOVERNING BODY" BY REPEALING THE EXISTING SECTION
1-208 ENTITLED "VACANCIES IN GOVERNING BODY; HOW FILLED"
AND ADOPTING A NEW SECTION 1-208 ENTITLED "VACANCIES
IN GOVERNING BODY; HOW FILLED" AND AMENDING CHAPTER
VI ENTITLED "ELECTIONS" ARTICLE 1 ENTITLED "CITY ELECTIONS"
SECTION 6-105 ENTITLED "COUNCILMEMBERS ELECTIONS; TERMS"
COUNCIL ACTION REQUIRED
CONSENT AGENDA**

Mrs. Hopkins expressed concern that the Code was not updated in 2001 and asked how this happened. Staff explained that a Charter Ordinance does not become effective until 61 days after its publication. She was not involved in this ordinance and did not know why another ordinance was not prepared to change the code. She added that not all Charter Ordinances are reflected in the Municipal Code.

Ruth Hopkins asked if there were adequate checks and balances in place. Mr. Bennion responded he felt there were. The Code is recodified periodically.

Mrs. Morehead noted she googled "Municipal Code" and the code that was brought up was dated 2005 and listed Council members from 2005. Mr. Bennion explained the adopting ordinance of recodification of the code lists the Council members at the time of codification. He noted the first page indicates an update was made on September 13, 2013.

Charles Clark stated he felt the Charter Ordinance change is an improvement to the existing process for filing a mayoral vacancy without the expense of holding a special election.

EXECUTIVE SESSION

Charles Clark moved pursuant to KSA 75-4319 (b) (6) that the Governing Body, recess into Executive Session in the Multi-Purpose Room for a period not to exceed 15 minutes

for the purpose of discussion of possible acquisition of property. Present will be the Mayor, City Council, City Administrator, Assistant to the City Administrator and City Attorney. The motion was seconded by Laura Wassmer and passed unanimously.

Council President Dale Warman reconvened the meeting at 7:05 p.m.

STAFF REPORTS

Public Safety

- Chief Jordan advised that CodeRed service will expire at the end of the year. A final CodeRed message will be sent advising those receiving CodeRed messages that they may sign up for similar messages through the Notify JoCo system.
- Chief invited Council members to join staff for the “Shop with a Cop” event on Thursday afternoon, December 12th in conjunction with the Prairie Village Municipal Foundation.

Public Works

- Keith Bredehoeft announced the upcoming meeting on the Rock Creek Project next Tuesday.
- The final paving project, 68th Street was completed last weekend.
- The Professional Engineering Services will be received on Wednesday and the selection committee including Brooke Morehead and Ted Odell will meet next week to review the proposals.
- The dedication of the 9 mile point signs in Weltner Park was held last weekend.
- There is a possibility of snow this coming weekend - staff is ready.

Brooke Morehead asked if the City had considered providing leaf pickup services by staff or through an outside contractor. Mr. Bredehoeft responded it has been discussed in the past. Laura Wassmer asked that it be investigated. Steve Noll explained the program operated by their homes association for these services.

Administration

- Danielle Dulin announced that three vendors have provided sample chairs to replace the existing Council Chairs. The chairs are located in the MPR and Council members should try them and select their preferred chair. Mrs. Dulin noted the same chair will be purchased for all.
- The Planning Commission will hear the Mission Chateau application tomorrow evening. The meeting site has been moved to the Shawnee Mission East Cafeteria to accommodate the anticipated public attending the meeting.

ADJOURNMENT

Council President Dale Warman adjourned the meeting at 7:20 p.m.

Dale Warman

Council President

Ordinance No. _____

AN ORDINANCE AMENDING CHAPTER 1 OF THE PRAIRIE VILLAGE MUNICIPAL CODE, 1973, ENTITLED "ADMINISTRATION" ARTICLE 2 ENTITLED "GOVERNING BODY" BY REPEALING THE EXISTING SECTION 1-208 ENTITLED "VACANCIES IN GOVERNING BODY; HOW FILLED" AND ADOPTING A NEW SECTION 1-208 ENTITLED "VACANCIES IN GOVERNING BODY; HOW FILLED" AND AMENDING CHAPTER VI ENTITLED "ELECTIONS" ARTICLE 1 ENTITLED "CITY ELECTIONS" SECTION 6-105 ENTITLED "COUNCILMEMBERS ELECTIONS; TERMS"

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

Section I.

The existing Section 1-208 of the Prairie Village Municipal Code, 1973, entitled "Vacancies in Governing Body; How Filled" is hereby repealed.

Section II.

Chapter 1 of the Prairie Village Municipal Code, 1973, entitled "Administration" Article 2 entitled "Governing Body" is hereby amended by repealing the existing Section 1-208 and adopting a new Section 1-208 entitled "Vacancies in Governing Body; How Filled" to read as follows:

- 1-208. VACANCIES IN GOVERNING BODY; HOW FILLED. (a) In case of a vacancy occurring by reason of resignation, death, removal from office or when the mayor no longer resides in the City, the President of the Council will fill the vacancy by serving as Mayor until the Council elects a new Mayor. The Council shall elect, by a majority of those Council Members present, a new Mayor from those Council Members serving at the time of the vacancy within thirty (30) days from the vacancy to serve until the next regularly scheduled City election. The vacancy in the Council created by the Council electing a new Mayor will be filled in accordance with Section 1-208(b) of the Prairie Village Municipal Code.
- (b) In case of a vacancy occurring by reason of resignation, death, removal from office or when a councilmember no longer resides in the ward in which the council member has been elected, the mayor, by and with the consent of the remaining councilmembers may appoint some suitable elector residing in such ward to fill the vacancy until the next election for that council position.
- (C.O. No. 20, Sec. 1; C.O. No. 13, Sec. 3; C.O. No. 14, Sec. 2)

Section III.

Chapter 6 of the Prairie Village Municipal Code, 1973, entitled "Elections" Article 1 entitled "City Elections" is hereby amended by repealing the existing Section 6-105 and adopting a new Section 6-105 entitled "Councilmembers Elections; Terms" to read as follows:

- 6-105. COUNCILMEMBERS ELECTIONS; TERMS. In every other odd numbered year, a mayor shall be elected from the city at large, who shall hold office for four years and until a successor is elected and qualified. In cases of a vacancy occurring by reason of resignation, death, removal from office or when the mayor no longer

resides in the city, the President of the Council will fill the vacancy by serving as Mayor until the Council elects a new Mayor. The Council shall elect, by a majority of those Council Members present, a new Mayor from those Council Members serving at the time of the vacancy within thirty (30) days from the vacancy to serve until the next regularly scheduled City election. The vacancy in the Council created by the Council electing a new Mayor will be filled in accordance with Section 1-208(b) of the Prairie Village Municipal Code. The mayor of the city shall receive such compensation as may be fixed by ordinance.

In each even numbered year commencing with the year 1992, there shall, in the city be elected one councilmember from each ward who shall hold office for four years and until a successor is elected and qualified. In case of a vacancy occurring by reason of resignation, death, removal from office or when a councilmember no longer resides in the ward in which the councilmember has been elected, the mayor, by and with the consent of the remaining councilmembers may appoint some suitable elector residing in such ward to fill the vacancy until the next election for that council position.

The mayor may appoint such other officers as are created by statute and/or ordinance, who shall hold their offices for a period of four years, unless sooner removed by the mayor and council. All officers of the city shall receive such compensation as may be fixed by ordinance. (C.O. No. 20, Sec. 1; C.O. No. 13, Sec. 3; C.O. No. 14, Sec. 2)

Section IV

This ordinance shall take effect and be in force effective upon publication.

PASSED AND APPROVED THIS ___ day of _____, 2013.

/s/ Ronald L. Shaffer
Ronald L. Shaffer, Mayor

ATTEST:
/s/ Joyce Hagen Mundy
Joyce Hagen Mundy, City Clerk

APPROVED AS TO FORM:
/s/ Catherine P. Logan
Catherine P. Logan, City Attorney



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.

Name Courtney McFadden Spouse's Name Tim
Address 4923 W 90th St Zip 66207 Ward 5
Telephone: Home 913 381-8089 Work [REDACTED] Fax [REDACTED]
E-mail cmcfadden01@yahoo.com Other Number(s): [REDACTED]
Business Affiliation AT&T
Business Address [REDACTED]
What Committee(s) interests you? Ward 5 Council Opening

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.

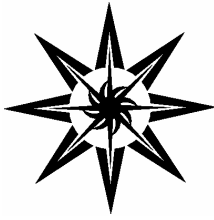
I am a manager at AT&T who is responsible for maintaining key relationships with 20 accounts in the city. I am also a wonderful wife and mother while also balancing working with several local charities.

I am a proud resident of PV and follow all of the community ~~news~~ news and attend community events.

If you are looking for someone who is personable and passionate, I am your person.

I look forward to speaking with you more about this opportunity.

Thank you for your interest in serving our community.



ADMINISTRATION DEPARTMENT

Council Committee Meeting Date: December 16, 2013
Council Meeting Date: December 16, 2013

***COU2013-55: Consider approval of use of Contingency Funds for 2013 Legal Expenses**

RECOMMENDATION

Staff recommends the City Council approve a transfer from General Fund Contingency to Legal Services in the amount of \$135,000.

BACKGROUND

The 2013 Budget for Legal Services was set at \$115,000 in August 2011. Year-to-date expenses total \$250,000. The significant increase in legal fees for 2013 is primarily due to planning items including the Mission Valley Special Use Permit; David Morrison's Ethics Violation; Open Carry Issue; Franchise/Utility Agreements including Google Fiber; and Personnel items.

Staff requests a transfer from Contingency to cover the cost of these projects in the amount of \$135,000.

HISTORY OF LEGAL BUDGET

Year	Budget	Expenditures
2014	\$160,000	
2013	\$115,000	\$249,735
2012	\$125,000	\$225,682
2011	\$125,000	\$115,915
2010	\$119,500	\$70,637

FUNDING SOURCE

General Fund Contingency

ATTACHMENTS

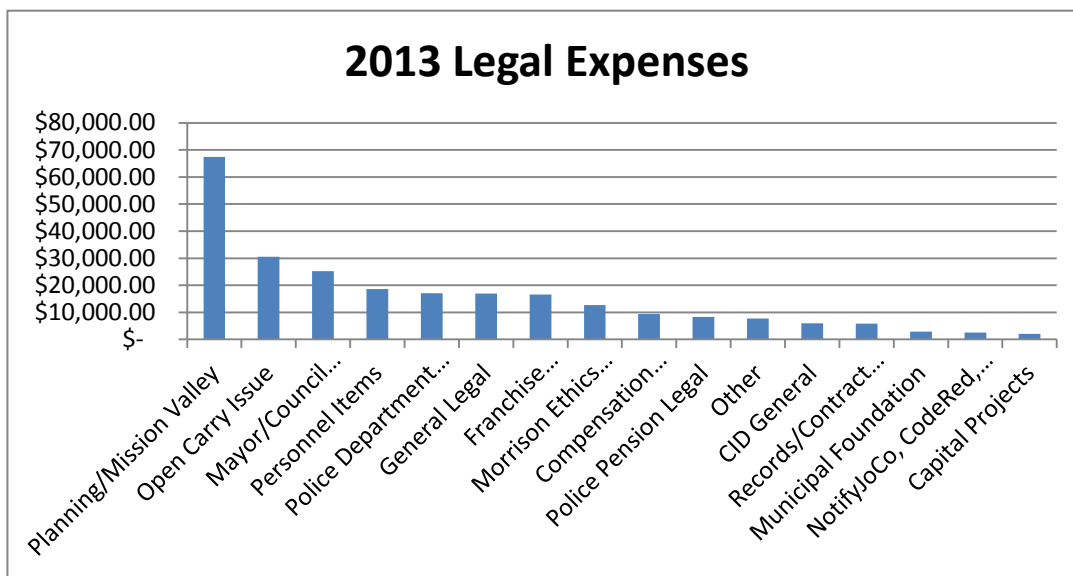
2013 Analysis of Legal Fees

PREPARED BY

Jeanne Koontz
Deputy City Clerk/Public Information Officer
December 9, 2013

2013 Legal Expenses

Project	Amount
Planning/Mission Valley	\$ 67,443.00
Open Carry Issue	\$ 30,510.30
Mayor/Council (attending mtgs, general research)	\$ 25,237.92
Personnel Items	\$ 18,636.47
Police Department Legal Issues	\$ 17,017.50
General Legal	\$ 16,987.13
Franchise Agreement/Utilities	\$ 16,546.83
Morrison Ethics Violation	\$ 12,642.50
Compensation Benefits (IRS/HRA Research)	\$ 9,428.50
Police Pension Legal	\$ 8,283.00
Other	\$ 7,686.75
CID General	\$ 6,008.75
Records/Contract Management	\$ 5,840.00
Municipal Foundation	\$ 2,882.00
NotifyJoCo, CodeRed, Trademark	\$ 2,524.00
Capital Projects	\$ 2,060.00
Total: \$ 249,734.65	





ADMINISTRATION DEPARTMENT

Council Committee Meeting Date: December 16, 2013

Council Meeting Date : December 16, 2013

COU2013-57: Consider approval of 2014 Joint City/County Legislative Platform

RECOMMENDATION

Staff recommends City Council adopt the 2014 Joint City/County Legislative Platform.

BACKGROUND

Every year the Council discusses and adopts a legislative program that establishes the City's legislative priorities for the upcoming session. The last few years the Council has adopted a joint City/County platform to assert our common positions with all of our state representatives. The County is requesting this practice continue and hosted a meeting in November with area managers. At that meeting the following changes to the 2013 Joint Platform were discussed and recommended:

Fixtures: Language supporting a three-pronged test to determine whether property is real or personal has been added.

Nonpartisan Elections: This is a new item that has been added in response to discussions about moving local government elections to November. The platform supports the current framework and opposes any legislation that would require local elections be conducted with partisan identification.

Legislative Participation: This is another new item that has been added in response to discussions from the 2013 session. The platform opposes any legislation that would prevent local officials, representing their citizens and taxpayers, from freely participating in the legislative process through advocacy.

The 2014 Joint City/County Legislative Platform is primarily a defensive position for this legislative session. However, two of the City of Prairie Village's legislators have agreed to look at the City's unsuccessful efforts to receive Expanded Investment Powers from the Pooled Money Investment Board (PMIB) despite our 'AAA' bond rating and 25% reserve policy. It is possible legislation will be brought forward that would allow local government entities to invest idle funds in higher potential investment yields that are already approved by Kansas statutes but not available without being granted permission from the PMIB.

ATTACHMENTS

2014 Joint County/City Legislative Platform

PREPARED BY

Danielle Dulin

Assistant to the City Administrator

Date: December 12, 2013

JOHNSON COUNTY GOVERNMENT AND CITIES JOINT 2014 LEGISLATIVE PLATFORM

State and local government are partners providing numerous governmental services that are funded and made available to citizens. Local units of government are closest to the citizens and very closely represent the interests of citizens in the communities in which they live. The partnership depends upon stable funding, efficient use of citizens resources, and responsiveness at the city and county level. We support respect and preservation of local authority, maintenance of local control of local revenue and spending, and oppose the devolution of State duties to local units of government without planning, time and resources. The Johnson County Government and Cities advocate on the following issues in the interests of our elected representatives and on behalf of the citizens who live in our county and cities.

FIXTURES

We are concerned about the potential impact of legislative changes to the current definition of machinery and equipment exemptions. Proposed changes in tax law to address a few isolated instances have the potential to impact our local property taxes. Any change in tax policy if utilized by manufacturers will increase residential and small business property taxes as well as property taxes on agricultural land. Increased local mill levies will also increase the taxes on motor vehicles. We continue to support the use of the three-pronged test to determine whether property is real or personal: (1) annexation to the realty; (2) adaption to the use or purpose of that part of the realty to which it is connected; and (3) the intention of the party making the annexation to make the item a permanent annexation to the freehold.

LIMITS ON APPRAISED VALUATION GROWTH

We oppose the imposition of artificial limits on appraised valuation growth or mill levy rates by the state. Such limitations erode the ability of local officials to make decisions close to the public and will reduce bond ratings, resulting in more expensive debt service payments on needed capital projects.

TAX POLICY

We oppose any further exemptions to the ad valorem property tax base, including exceptions for fitness clubs, or the state/local sales tax base. We support a thorough and comprehensive review of all exemptions and repeal of those exemptions that would not merit a state appropriation. Exemptions only shift the burden of financing vital services to an increasingly narrow tax base. Additionally, we do not support changes in State taxation policy that would significantly reduce available funding for key programs, put Kansas counties and cities at a competitive sales tax disadvantage with Missouri, or impose a sales tax on professional services.

MAINTAIN LOCAL CONTROL OF REVENUE AND SPENDING

Recognizing that communities are best served and citizens' values and standards are best reflected when local control of taxing and spending is controlled by local voters and taxpayers, we oppose any state imposition of tax or spending lids which place limits on how much revenue a local government can raise or spend from year to year.

OPPOSE UNFUNDED MANDATES

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

COMPREHENSIVE TRANSPORTATION PLAN

Recognizing it is critical to maintain Kansas infrastructure, we urge the Legislature to follow through on the commitments in the 2010 transportation plan. We recognize the current funding level is far from adequate to address ongoing statewide infrastructure funding needs. As such, it should be allocated strategically to ensure there is an identifiable long-term return on investment for the entire state. Investing in growth areas is critical to economic vitality and job creation.

STATUTORY PASS-THROUGH FUNDING

We call for the preservation of local government revenues which pass through the State of Kansas' treasury. These funds come from a longstanding partnership between local governments and the State and are generated via economic activity at the

local level. Both alcoholic liquor tax funds and the local portion of motor fuels taxes should not be withheld from local governments and siphoned into the State General Fund. Local governments in recent years have had to cope with the legislature not funding LAVTRF demand transfers and the machinery & equipment property tax “slider” and should not be forced to further aid in balancing the State’s budget.

KPERS FUNDING

We support achieving a fully-funded public employees retirement system within a reasonable period of time. The State should fully fund its portion of the employer contributions, and the local KPERS system should be separated from the state and school retirement system. The system should accumulate sufficient assets during members’ working lifetimes to pay all promised benefits when members retire.

KANSAS OPEN RECORDS AND OPEN MEETINGS ACT

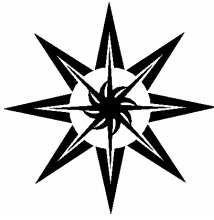
We believe that an open government is essential to building public confidence. We support the retention of the exceptions in the Kansas Open Records Act and the permitted subject matters for executive sessions contained in the Open Meetings Act currently found in the law.

NON-PARTISAN ELECTIONS

We support the current schedule and structure of local elections and are opposed to any legislation that would require that local elections be conducted with partisan identification.

LEGISLATIVE PARTICIPATION

We support local officials and their representatives’ ability to freely participate in the legislative process through advocacy and education on issues affecting local governments. Local officials, representing their citizens and taxpayers, must retain the authority to make decisions regarding membership in organizations and to participate in the legislative process through advocacy.



PUBLIC WORKS DEPARTMENT

Council Committee Meeting Date: December 16, 2013

Council Meeting Date: December 16, 2013

COU2013-56 CONSIDER KDOT AGREEMENT FOR PROJECT 75ST0001: 75TH STREET- STATELINE ROAD TO MISSION ROAD.

RECOMMENDATION

Authorize Mayor to sign KDOT agreement for Project 75ST0001: 75th Street- Stateline Road to Mission Road.

BACKGROUND

Project 75ST0001, 75th Street- Stateline Road to Mission Road was selected by the Mid-America Regional Council(MARC) to receive Federal Funds. The Kansas Department of Transportation(KDOT) administers the Federal Funds for local communities in Kansas. The agreement states that the City has or will have the required matching funds for the project and states general project requirements. This project will utilize 2014 Federal Funds. The City executed KDOT for 1302 previously committing City Funds for this project.

FUNDING SOURCE

Project Funding is available under the Capital Infrastructure Program under Project 75ST0001: 75th State Line Road to Mission Road.

RELATION TO VILLAGE VISION

- CC1a. Make streetscape improvements to enhance pedestrian safety and attractiveness of the public realm.*
- CFS3a. Ensure streets and sidewalks are in good condition by conducting maintenance and repairs as needed.*
- TR1a. Provide sidewalks in new and existing areas to allow for continuous pedestrian movement around Prairie Village.*
- TR1b. Ensure that infrastructure improvements meet the needs of all transportation users.*

ATTACHMENTS

1. KDOT Agreement

PREPARED BY

Keith Bredehoeft, Public Works Director

December 12, 2013

PROJECT NO. 46 N-0581-01
STP-N058(101)
GRADING AND SURFACING
CITY OF PRAIRIE VILLAGE, KANSAS

A G R E E M E N T

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

R E C I T A L S :

- A. The City has requested and Secretary has authorized a city street Project, as further described in this Agreement.
- B. The Secretary and the City are empowered by the laws of Kansas to enter into agreements for the construction and maintenance of city streets utilizing federal funds.
- C. The Secretary and the City desire to construct the Project.
- D. Cities are, under certain circumstances, entitled to receive assistance in the financing of the construction and reconstruction of streets and state highways, provided however, in order to be eligible for such federal aid, such work is required to be done in accordance with the laws of Kansas.

NOW THEREFORE, in consideration of these premises and the mutual covenants set forth herein, the Parties agree to the following terms and provisions.

A R T I C L E I

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

- 1. **“Agreement”** means this written document, including all attachments and exhibits, evidencing the legally binding terms and conditions of the agreement between the Parties.
- 2. **“City”** means the City of Prairie Village, Kansas, with its place of business at 3535 Somerset Drive, Prairie Village, KS 66208.
- 3. **“Construction”** means the work done on the Project after Letting, consisting of building, altering, repairing, improving or demolishing any structure, building or highway; any drainage, dredging, excavation, grading or similar work upon real property.
- 4. **“Construction Contingency Items”** mean unforeseeable elements of cost within the defined project scope identified after the Construction phase commences.
- 5. **“Construction Engineering”** means inspection services material testing, engineering consultation and other reengineering activities required during Construction of the Project.

6. **“Consultant”** means any engineering firm or other entity retained to perform services for the Project.
7. **“Contractor”** means the entity awarded the Construction contract for the Project and any subcontractors working for the Contractor with respect to the Project.
8. **“Design Plans”** means design plans, specifications, estimates, surveys, and any necessary studies or investigations, including, but not limited to, environmental, hydraulic, and geological investigations or studies necessary for the Project under this Agreement.
9. **“Effective Date”** means the date this Agreement is signed by the Secretary or his designee.
10. **“Encroachment”** means any building, structure, farming, vehicle parking, storage or other object or thing, including but not limited to signs, posters, billboards, roadside stands, fences, or other private installations, not authorized to be located within the Right of Way which may or may not require removal during Construction pursuant to the Design Plans.
11. **“FHWA”** means the Federal Highway Administration, a federal agency of the United States.
12. **“Hazardous Waste”** includes, but is not limited to, any substance which meets the test of hazardous waste characteristics by exhibiting flammability, corrosivity, or reactivity, or which is defined by state and federal laws and regulations, and any pollutant or contaminant which may present an imminent and substantial danger to the public health or welfare, including but not limited to leaking underground storage tanks. Any hazardous waste as defined by state and federal laws and regulations and amendments occurring after November 11, 1991, is incorporated by reference and includes but is not limited to: (1) 40 C.F.R. § 261 *et seq.*, Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Toxicity Characteristics Revisions; Final Rule; (2) 40 C.F.R. § 280 *et seq.*, Underground Storage Tanks; Technical Requirements and State Program Approval; Final Rules; (3) 40 C.F.R. § 300, National Oil and Hazardous Substances Pollution Contingency Plan; Final Rule; and (4) K.S.A. 65-3430 *et seq.*, Hazardous Waste.
13. **“KDOT”** means the Kansas Department of Transportation, an agency of the state of Kansas, with its principal place of business located at 700 SW Harrison Street, Topeka, KS, 66603-3745.
14. **“Letting” or “Let”** means the process of receiving bids and awarding a Construction contract for any portion of the Project.
15. **“Non-Participating Costs”** means the costs of any items or services which the Secretary, acting on his own behalf and on behalf of the FHWA, reasonably determines are not Participating Costs.
16. **“Participating Costs”** means expenditures for items or services which are an integral part of highway, bridge and road construction projects, as reasonably determined by the Secretary.

17. **“Parties”** means the Secretary of Transportation and KDOT, individually and collectively, and the City.
18. **“Preliminary Engineering”** means pre-construction activities, including but not limited to design work, generally performed by a consulting engineering firm that takes place before Letting.
19. **“Project”** means all phases and aspects of the Construction endeavor to be undertaken by the City, as and when authorized by the Secretary prior to Letting, being: **Grading and surfacing on 75th Street, from Mission to State Line in Prairie Village, Kansas**, and is the subject of this Agreement.
20. **“Project Limits”** means that area of Construction for the Project, including all areas between and within the Right of Way boundaries as shown on the Design Plans.
21. **“Responsible Bidder”** means one who makes an offer to deliver contractual services in response to a request for bid with the technical capability, financial capacity, human resources and equipment required to perform the contractual services and a record of having met similar schedules.
22. **“Right of Way”** means the real property and interests therein necessary for Construction of the Project, including fee simple title, dedications, permanent and temporary easements, and access rights, as shown on the Design Plans.
23. **“Secretary”** means Michael S. King, in his official capacity as Secretary of Transportation of the state of Kansas, and his successors.
24. **“Utilities” or “Utility”** means all privately, publicly or cooperatively owned lines, facilities and systems for producing, transmitting or distributing communications, power, electricity, light, heat, gas, oil, crude products, water, steam, waste, storm water, and other similar commodities, including fire and police signal systems which directly and/or indirectly serves the public.

ARTICLE II

SECRETARY RESPONSIBILITIES:

1. **Technical Information on Right of Way Acquisition.** The Secretary will provide technical information upon request to help the City acquire rights of way in accordance with the laws and with procedures established by KDOT’s Bureau of Right of Way and the Office of Chief Counsel and as required by FWHA directives to obtain participation of federal funds in the cost of the Project.
2. **Letting and Administration by KDOT.** The Secretary shall Let the contract for the Project and shall award the contract to the lowest Responsible Bidder upon concurrence in the award by the City. The Secretary further agrees, as agent for the City, to administer the Construction of the Project in accordance with the final Design Plans, as required by FHWA, to

negotiate with and report to the FHWA and administer the payments due the Contractor or the Consultant, including the portion of the cost borne by the City.

3. **Indemnification by Contractors.** The Secretary will require the Contractor to indemnify, hold harmless, and save the Secretary and the City from personal injury and property damage claims arising out of the act or omission of the Contractor, the Contractor's agent, subcontractors (at any tier), or suppliers (at any tier). If the Secretary or the City defends a third party's claim, the Contractor shall indemnify the Secretary and the City for damages paid to the third party and all related expenses either the Secretary or the City or both incur in defending the claim.

4. **Payment of Costs.** The Secretary agrees to be responsible for eighty percent (80%) of the total actual costs of Construction (which includes the costs of all Construction Contingency Items) and Construction Engineering, but not to exceed \$1,616,800.00 for the Project. The Secretary shall not be responsible for the total actual costs of Construction (which includes the costs of all Construction Contingency Items) and Construction Engineering that exceed \$2,021,000.00 for the Project. The Secretary shall not be responsible for the total actual costs of Preliminary Engineering, Right of Way, and Utility adjustments for the Project.

5. **Final Billing.** After receipt of FHWA acknowledgement of final voucher claim, the Secretary's Chief of Fiscal Services will, in a timely manner, prepare a complete and final billing of all Project costs for which the City is responsible and shall then transmit the complete and final billing to the City.

ARTICLE III

CITY RESPONSIBILITIES:

1. **Secretary Authorization.** The Project shall be undertaken, prosecuted and completed for and on behalf of the City by the Secretary acting in all things as its agent, and the City hereby constitutes and appoints the Secretary as its agent, and all things hereinafter done by the Secretary in connection with the Project are hereby by the City authorized, adopted, ratified and confirmed to the same extent and with the same effect as though done directly by the City acting in its own individual corporate capacity instead of by its agent. The Secretary is authorized by the City to take such steps as are deemed by the Secretary to be necessary or advisable for the purpose of securing the benefits of the current Federal-Aid Transportation Act for this Project.

2. **Legal Authority.** The City agrees to adopt all necessary ordinances and/or resolutions and to take such administrative or legal steps as may be required to give full effect to the terms of this Agreement.

3. **Conformity with State and Federal Requirements.** The City shall be responsible to design the Project or contract to have the Project designed in conformity with the state and federal design criteria appropriate for the Project in accordance with the current Local Projects LPA Project Development Manual, Bureau of Local Project's (BLP's) project memorandums, memos, the KDOT Design Manual, Geotechnical Bridge Foundation Investigation Guidelines, Bureau of Design's road memorandums, the latest version, as adopted by the Secretary, of the Manual on Uniform Traffic Control Devices (MUTCD), the current version of the Bureau of Transportation

Safety and Technology's Traffic Engineering Guidelines, and the current version of the KDOT Standard Specifications for State Road and Bridge Construction with Special Provisions, and any necessary Project Special Provisions, and with the rules and regulations of the FHWA pertaining to the Project.

4. **Design and Specifications.** The City shall be responsible to make or contract to have made Design Plans for the Project.

5. **Submission of Design Plans to Secretary.** Upon their completion, the City shall have the Design Plans submitted to the Secretary by a licensed professional engineer attesting to the conformity of the Design Plans with the items in Article III, paragraph 3 above. The Design Plans must be signed and sealed by the licensed professional engineer responsible for preparation of the Design Plans. In addition, geological investigations or studies must be signed and sealed by either a licensed geologist or licensed professional engineer in accordance with K.S.A. 74-7042, who is responsible for the preparation of the geological investigations or studies.

6. **Consultant Contract Language.** The City shall include language requiring conformity with Article III, paragraph 3 above, in all contracts between the City and any Consultant contracted with by the City to perform services for the Project. In addition, any contract between the City and any Consultant retained by them to perform any of the services described or referenced in this paragraph for the Project covered by this Agreement must contain language requiring conformity with Article III, paragraph 3 above. In addition, any contract between the City and any Consultant contracted with by the City to prepare and certify Design Plans for the Project covered by this Agreement must also contain the following provisions:

- (a) **Completion of Design.** Language requiring completion of all plan development stages no later than the current Project schedule's due dates as issued by KDOT, exclusive of delays beyond the Consultant's control.
- (b) **Progress Reports.** Language requiring the Consultant to submit to the City (and to the Secretary upon request) progress reports at monthly or at mutually agreed intervals in conformity with the official Project schedule.
- (c) **Third Party Beneficiary.** Language making the Secretary a third party beneficiary in the agreement between the City and the Consultant. Such language shall read:

"Because of the Secretary of Transportation of the State of Kansas' (Secretary's) obligation to administer state funds, federal funds, or both, the Secretary shall be a third party beneficiary to this agreement between the City and the Consultant. This third party beneficiary status is for the limited purpose of seeking payment or reimbursement for damages and costs the Secretary or the City or both incurred or will incur because the Consultant failed to comply with its contract obligations under this Agreement or because of the Consultant's negligent acts, errors, or omissions. Nothing in this provision

precludes the City from seeking recovery or settling any dispute with the Consultant as long as such settlement does not restrict the Secretary's right to payment or reimbursement."

7. **Responsibility for Adequacy of Design.** The City shall be responsible for and require any consultant retained by it to be responsible for the adequacy and accuracy of the Design Plans for the Project. Any review of these items performed by the Secretary or his representatives is not intended to and shall not be construed to be an undertaking of the City's and its Consultant's duty to provide adequate and accurate Design Plans for the Project. Reviews by the Secretary are not done for the benefit of the Consultant, the construction Contractor, the City, any other political subdivision, or the traveling public. The Secretary makes no representation, express or implied warranty to any person or entity concerning the adequacy or accuracy of the Design Plans for the Project, or any other work performed by the Consultant or the City.

8. **Authorization of Signatory.** The City shall authorize a duly appointed representative to sign for the City any or all routine reports as may be required or requested by the Secretary in the completion of the Project.

9. **Right of Way.** The City agrees to the following with regard to Right of Way:

(a) **Right of Way Acquisition.** The City will, in its own name, as provided by law, acquire by purchase, dedication or condemnation all the Right of Way shown on the final Design Plans in accordance with the schedule established by KDOT. The City agrees the necessary Right of Way shall be acquired in compliance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended by the Surface Transportation and Uniform Relocation Assistance Act of 1987, and administrative regulations contained in 49 C.F.R., Part 24, entitled Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs. The City shall certify to the Secretary, on forms provided by the KDOT's Bureau of Local Projects, such Right of Way has been acquired. The City further agrees it will have recorded in the Office of the Register of Deeds all Right of Way, deeds, dedications, permanent easements and temporary easements.

(b) **Right of Way Documentation.** The City will provide all legal descriptions required for Right of Way acquisition work. Right of way descriptions must be signed and sealed by a licensed land surveyor responsible for the preparation of the Right of Way descriptions. The City further agrees to acquire Right of Way in accordance with the laws and with procedures established by KDOT's Bureau of Right of Way and the Office of Chief Counsel and as required by FHWA directives for the participation of federal funds in the cost of the Project. The City agrees copies of all documents, including recommendations and coordination for appeals, bills, contracts, journal entries, case files, or documentation requested by the Office of Chief Counsel will be delivered within the time limits set by the Secretary.

(c) **Relocation Assistance.** The City will contact the Secretary if there will be any displaced person on the Project prior to making the offer for the property. The Parties mutually agree the Secretary will provide relocation assistance for eligible persons as defined in the Uniform Relocation Assistance and Real Property Acquisition Policies Act of

1970 as amended by the Surface Transportation and Uniform Relocation Assistance Act of 1987, and as provided in 49 C.F.R., pt. 24, entitled Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs, and in general accordance with K.S.A. 58-3501 to 58-3507, inclusive, and Kansas Administrative Regulations 36-16-1 *et seq.*

(d) Non-Highway Use of Right of Way. Except as otherwise provided, all Right of Way provided for the Project shall be used solely for public street purposes. If federal funds are used in the acquisition of Right of Way, any disposal of or change in the use of Right of Way or in access after Construction of the Project will require prior written approval by the Secretary.

(e) Trails and Sidewalks on Right of Way. Intentionally deleted.

(f) Use of City Right of Way. The Secretary shall have the right to utilize any land owned or controlled by the City, lying inside or outside the limits of the City as shown on the final Design Plans, for the purpose of constructing the Project.

10. **Removal of Encroachments.** The City shall initiate and proceed with diligence to remove or require the removal of all Encroachments either on or above the limits of the Right of Way within its jurisdiction as shown on the final Design Plans for this Project. It is further agreed all such Encroachments will be removed before the Project is advertised for Letting; except the Secretary may permit the Project to be advertised for Letting before such Encroachment is fully removed if the Secretary determines the City and the owner of the Encroachment have fully provided for the physical removal of the Encroachment and such removal will be accomplished within a time sufficiently short to present no hindrance or delay to the Construction of the Project.

11. **Future Encroachments.** Except as provided by state and federal laws, the City agrees it will not in the future permit Encroachments upon the Right of Way of the Project, and specifically will require any gas and fuel dispensing pumps erected, moved, or installed along the Project be placed no less than the distance permitted by the National Fire Code from the Right of Way line.

12. **Utilities.** The City agrees to the following with regard to Utilities:

(a) Utility Relocation. The City will move or adjust, or cause to be moved or adjusted, and will be responsible for such removal or adjustment of all existing Utilities necessary to construct the Project in accordance with the final Design Plans. New or existing Utilities to be installed, moved, or adjusted will be located or relocated in accordance with the current version of the KDOT Utility Accommodation Policy (UAP), as amended or supplemented.

(b) Status of Utilities. The City shall furnish the Secretary a list identifying existing and known Utilities affected, together with locations and proposed adjustments of the same and designate a representative to be responsible for coordinating the necessary removal or adjustment of Utilities.

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

(d) Permitting of Private Utilities. The City shall certify to the Secretary all privately owned Utilities occupying public Right of Way required for the Construction of the Project are permitted at the location by franchise, ordinance, agreement or permit and the instrument shall include a statement as to which party will bear the cost of future adjustments or relocations required as a result of street or highway improvements.

(e) Indemnification. To the extent permitted by law, the City will indemnify, hold harmless, and save the Secretary and the Contractor for damages incurred by the Secretary and Contractor because identified Utilities have not been moved or adjusted timely or accurately.

(f) Cost of Relocation. Except as provided by state and federal laws, the expense of the removal or adjustment of the Utilities located on public Right of Way shall be borne by the owners. The expense of the removal or adjustment of privately owned Utilities located on private Right of Way or easements shall be borne by the City except as provided by state and federal laws.

13. **Hazardous Waste.** The City agrees to the following with regard to Hazardous Waste:

(a) Removal of Hazardous Waste. The City shall locate and be responsible for remediation and cleanup of any Hazardous Waste discovered within the Project Limits. The City shall take appropriate action to cleanup and remediate any identified Hazardous Waste prior to Letting. The City will also investigate all Hazardous Waste discovered during Construction and shall take appropriate action to cleanup and remediate Hazardous Waste. The standards to establish cleanup and remediation of Hazardous Waste include, but are not limited to, federal programs administered by the Environmental Protection Agency, State of Kansas environmental laws and regulations, and City and County standards where the Hazardous Waste is located.

(b) Responsibility for Hazardous Waste Remediation Costs. The City shall be responsible for all damages, fines or penalties, expenses, fees, claims and costs incurred from remediation and cleanup of any Hazardous Waste within the Project Limits which is discovered prior to Letting or during Construction.

(c) Hazardous Waste Indemnification. The City shall hold harmless, defend, and indemnify the Secretary, his agents and employees from all claims, including contract claims and associated expenses, and from all fines, penalties, fees or costs imposed under state or federal laws arising out of or related to any act of omission by the City in undertaking cleanup or remediation for any Hazardous Waste.

(d) No Waiver. By signing this Agreement the City has not repudiated, abandoned, surrendered, waived or forfeited its right to bring any action, seek indemnification or seek any other form of recovery or remedy against any third party responsible for any Hazardous Waste on any Right of Way within the Project limits. The City reserves the right to bring any action against any third party for any Hazardous Waste on any Right of Way within the Project limits.

14. Inspections. The City is responsible to provide Construction Engineering for the Project in accordance with the rules and guidelines developed for the current KDOT approved construction engineering program and in accordance with the current edition of the KDOT Standard Specifications for State Road and Bridge Construction with Special Provisions and any necessary Project Special Provisions. The detailed inspection is to be performed by the City or the Consultant. The Secretary does not undertake for the benefit of the City, the Contractor, the Consultant or any third party the duty to perform the day-to-day detailed inspection of the Project, or to catch the Contractor's errors, omissions, or deviations from the final Design Plans. The City will require at a minimum all City personnel and all Consultant personnel performing Construction Engineering comply with the high visibility apparel requirements of the KDOT Safety Manual, Chapter 4, Section 8 Fluorescent Vests. The agreement for inspection services between the Secretary and the City and/or the Consultant must contain this requirement as a minimum. The City may require additional clothing requirements for adequate visibility of personnel.

15. Traffic Control. The City agrees to the following with regard to traffic control for the Project:

(a) Temporary Traffic Control. Plans for handling traffic during Construction must be included in the Design Plans and must be in conformity with the latest version, as adopted by the Secretary, of the Manual on Uniform Traffic Control Devices (MUTCD). Detour routes and road closings, if necessary, will be noted on the Design Plans. The Secretary or his authorized representative may act as the City's agent with full authority to determine the dates when any road closings will commence and terminate. The Secretary or his authorized representative shall notify the City of the determinations made pursuant to this section.

(b) Permanent Traffic Control. The location, form and character of informational, regulatory and warning signs, of traffic signals and of curb and pavement or other markings installed or placed by any public authority, or other agency as authorized by K.S.A. 8-2005, must conform to the manual and specifications adopted under K.S.A. 8-2003, and any amendments thereto are incorporated by reference and shall be subject to FHWA approval.

(c) Parking Control. The City will control parking of vehicles on the city streets throughout the length of the Project covered by this Agreement. On-street parking will be

permitted until such time as parking interferes with the orderly flow of traffic along the street.

(d) **Traffic Movements.** The arterial characteristics inherent in the Project require uniformity in information and regulations to the end that traffic may safely and expeditiously be served. The City shall adopt and enforce rules and regulations governing traffic movements as may be deemed necessary or desirable by the Secretary and the FHWA.

16. **Access Control.** The City will maintain the control of access rights and prohibit the construction or use of any entrances or access points along the Project within the City other than those shown on the final Design Plans, unless prior approval is obtained from the Secretary.

17. **Maintenance.** When the Project is completed and final acceptance is issued the City will, at its own cost and expense, maintain the Project and will make ample provision each year for such maintenance. If notified by the State Transportation Engineer of any unsatisfactory maintenance condition, the City will begin the necessary repairs within thirty (30) days and will prosecute the work continuously until it is satisfactorily completed.

18. **Financial Obligation.** The City will be responsible for twenty percent (20%) of the total actual costs of Construction (which includes the costs of all Construction Contingency Items) and Construction Engineering, up to \$2,021,000.00 for the Project. In addition, the City agrees to be responsible for one hundred percent (100%) of the total actual costs of Construction (which includes the costs of all Construction Contingency Items) and Construction Engineering that exceed \$2,021,000.00 for the Project. Further, the City agrees to be responsible for one hundred percent (100%) of the total actual costs of Preliminary Engineering, Right of Way, and Utility adjustments for the Project. The City shall also pay for any Non-Participating Costs incurred for the Project along with the associated Non-Participating Construction Engineering costs.

19. **Remittance of Estimated Share.** The City shall deposit with the Secretary its estimated share of the total Project expenses based upon estimated approved contract quantities. The City will remit its estimated share by the date indicated on the resolution form Authorization to Award Contract, Commitment of City Funds received by the City from the Secretary. The date indicated for the City to deposit its estimated share of the total Project expenses is fifty (50) days after the Letting date.

20. **Payment of Final Billing.** If any payment is due to the Secretary, such payment shall be made within thirty (30) days after receipt of a complete and final billing from the Secretary's Chief of Fiscal Services.

21. **Audit.** All local governmental units, Non-Profit Organizations, and Indian Tribal governments shall comply with Federal-Aid Transportation Act and OMB Circular A-133 "Audits of State and Local Governments, and Non-Profit Organizations." Further, the City agrees to the following provisions:

(a) It is the policy of the Secretary to make any final payments to the City for services related to the Project in a timely manner. The Single Audit Standards set forth in Federal O.M.B. Circular A-133, "Audits of States, Local Governments and Non Profit

Organizations” in 49 C.F.R. Part 18 (Common Rule), require an audit be performed by an independent certified public accountant in accordance with these standards. All information audited shall comply with 49 C.F.R. Part 18 (Common Rule).

(b) The Secretary may pay any final amount due for the authorized work performed based upon the City’s most recent Single Audit Report available and a desk review of the claim by the Contract Audit Section of KDOT’s Bureau of Fiscal Services. The City, by acceptance of this Agreement, acknowledges the final payment is subject to all single audits which cover the time period of the expenses being claimed for reimbursement. The Parties agree as the Single Audit Report becomes available for the reimbursement period (normally should occur within a period of 1-2 years), the Secretary will review the Single Audit Report for items which are declared as not eligible for reimbursement. The City agrees to refund payment made by the Secretary to the City for items subsequently found to be not eligible for reimbursement by audit.

22. **Accounting.** Upon request by the Secretary and in order to enable the Secretary to report all costs of the Project to the legislature, the City shall provide the Secretary an accounting of all actual Non-Participating Costs which are paid directly by the City to any party outside of the Secretary and all costs incurred by the City not to be reimbursed by the Secretary for Preliminary Engineering, Right of Way, Utility adjustments, Construction, and Construction Engineering work phases, or any other major expense associated with the Project.

23. **Organizational Registration Requirements.**

(a) **Dun & Bradstreet.** If it has not already done so, the City shall obtain a Data Universal Numbering System (DUNS) number, which may be obtained from Dun and Bradstreet, Inc. (D & B) by telephone (currently 866-705-5711) or the Internet (currently <http://fedgov.dnb.com/webform>).

(b) **System for Award Management.** The City agrees it shall maintain current registrations in the System for Award Management (<http://www.sam.gov>) at all times during which it has active federal awards.

24. **Cancellation by City.** If the City cancels the Project, it will reimburse the Secretary for any costs incurred by the Secretary prior to the cancellation of the Project. The City agrees to reimburse the Secretary within thirty (30) days after receipt by the City of the Secretary’s statement of the cost incurred by the Secretary prior to the cancellation of the Project.

ARTICLE IV

GENERAL PROVISIONS:

1. **Incorporation of Design Plans.** The final Design Plans for the Project are by this reference made a part of this Agreement.

2. **Civil Rights Act.** The “Special Attachment No. 1,” pertaining to the implementation of the Civil Rights Act of 1964, is attached and made a part of this Agreement.

3. **Contractual Provisions.** The Provisions found in Contractual Provisions Attachment (Form DA-146a, Rev. 06-12), which is attached hereto, are hereby incorporated in this contract and made a part hereof.

4. **Headings.** All headings in this Agreement have been included for convenience of reference only and are not be deemed to control or affect the meaning or construction or the provisions herein.

5. **Binding Agreement.** This Agreement and all contracts entered into under the provisions of this Agreement shall be binding upon the Secretary and the City and their successors in office.

6. **No Third Party Beneficiaries.** No third party beneficiaries are intended to be created by this Agreement and nothing in this Agreement authorizes third parties to maintain a suit for damages pursuant to the terms or provisions of this Agreement.

The signature page immediately follows this paragraph.

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

ATTEST:

THE CITY OF PRAIRIE VILLAGE, KANSAS

CITY CLERK (Date)

MAYOR

(SEAL)

Michael S. King, Secretary of Transportation
Kansas Department of Transportation

By: _____
Jerome T. Younger, P.E. (Date)
Deputy Secretary and
State Transportation Engineer

KANSAS DEPARTMENT OF TRANSPORTATION

Special Attachment
To Contracts or Agreements Entered Into
By the Secretary of Transportation of the State of Kansas

NOTE: Whenever this Special Attachment conflicts with provisions of the Document to which it is attached, this Special Attachment shall govern.

THE CIVIL RIGHTS ACT OF 1964, and any amendments thereto,
REHABILITATION ACT OF 1973, and any amendments thereto,
AMERICANS WITH DISABILITIES ACT OF 1990, and any amendments thereto,
AGE DISCRIMINATION ACT OF 1975, and any amendments thereto,
EXECUTIVE ORDER 12898, FEDERAL ACTIONS TO ADDRESS ENVIRONMENTAL JUSTICE IN MINORITY
POPULATIONS AND LOW INCOME POPULATIONS 1994, and any amendments thereto,
49 C.F.R. Part 26.1 (DBE Program), and any amendments thereto

NOTIFICATION

The Secretary of Transportation for the State of Kansas, in accordance with the provisions of Title VI and Title VII of the Civil Rights Act of 1964 (78 Stat. 252), §504 of the Rehabilitation Act of 1973 (87 Stat. 355) and the Americans with Disabilities Act of 1990 (42 USC 12101), the Age Discrimination Act of 1975 (42 USC 6101), the regulations of the U.S. Department of Transportation (49 C.F.R., Part 21, 23, and 27), issued pursuant to such Act, Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations (1994), and the DBE Program (49 C.F.R., Part 26.1), hereby notifies all contracting parties that, the contracting parties will affirmatively ensure that this contract will be implemented without discrimination on the grounds of race, religion, color, gender, age, disability, national origin, or minority populations and low income populations as more specifically set out in the following "Nondiscrimination Clauses".

CLARIFICATION

Where the term "Consultant" appears in the following "Nondiscrimination Clauses", the term "Consultant" is understood to include all parties to contracts or agreements with the Secretary of Transportation of the State of Kansas.

Nondiscrimination Clauses

During the performance of this contract, the Consultant, or the Consultant's assignees and successors in interest (hereinafter referred to as the "Consultant"), agrees as follows:

- 1) Compliance with regulations: The Consultant will comply with the regulations of the U.S. Department of Transportation relating to nondiscrimination in its federally-assisted programs and codified at Title 49, Code of Federal Regulations, Parts 21, 23 and 27, (hereinafter referred to as the "Regulations"). The Regulations are herein incorporated by reference and made a part of this contract.
- 2) Nondiscrimination: The Consultant, with regard to the work performed by the Consultant after award and prior to the completion of the contract work, will not discriminate on the grounds of race, religion, color, gender, age, disability, national origin or minority populations and low income populations in the selection and retention of subcontractors, including in the procurements of materials and leases of equipment. The Consultant will not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.
- 3) Solicitations for Subcontractors, including Procurements of Material and Equipment: In all solicitations, either competitive bidding or negotiation made by the Consultant for work to be performed under a subcontract including procurements of materials and equipment, each potential subcontractor or supplier shall be notified by the Consultant of the Consultant's obligation under this contract and the Regulations relative to nondiscrimination on the grounds of race, religion, color, gender, age, disability, national origin or minority populations and low income populations.

- 4) Information and Reports: The Consultant will provide all information and reports required by the Regulations, or orders and instructions issued pursuant thereto, and the Secretary of the Transportation of the State of Kansas will be permitted access to the Consultant's books, records, accounts, other sources of information, and facilities as may be determined by the Secretary of Transportation of the State of Kansas to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a Consultant is in the exclusive possession of another who fails or refuses to furnish this information, the Consultant shall so certify to the Secretary of Transportation of the State of Kansas and shall set forth what efforts it has made to obtain the information.
- 5) Employment: The Consultant will not discriminate against any employee or applicant for employment because of race, religion, color, gender, age, disability, or national origin.
- 6) Sanctions for Noncompliance: In the event of the Consultant's noncompliance with the nondiscrimination provisions of this contract, the Secretary of Transportation of the State of Kansas shall impose such contract sanctions as the Secretary of Transportation of the State of Kansas may determine to be appropriate, including, but not limited to,
 - (a) withholding of payments to the Consultant under the contract until the Consultant complies, and/or
 - (b) cancellation, termination or suspension of the contract, in whole or in part.
- 7) Disadvantaged Business Obligation
 - (a) Disadvantaged Business as defined in the Regulations shall have a level playing field to compete for contracts financed in whole or in part with federal funds under this contract.
 - (b) All necessary and reasonable steps shall be taken in accordance with the Regulations to ensure that Disadvantaged Businesses have equal opportunity to compete for and perform contracts. No person(s) shall be discriminated against on the basis of race, color, gender, or national origin in the award and performance of federally-assisted contracts.
 - (c) The Consultant, sub recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Consultant shall carry out applicable requirements of 49 C.F.R. Part 26 in the award and administration of Federally-assisted contracts. Failure by the Consultant to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy, as the recipient deems appropriate.
- 8) Executive Order 12898
 - (a) To the extent permitted by existing law, and whenever practical and appropriate, all necessary and reasonable steps shall be taken in accordance with Executive Order 12898 to collect, maintain, and analyze information on the race, color, national origin and income level of persons affected by programs, policies and activities of the Secretary of Transportation of the State of Kansas and use such information in complying with Executive Order 12898.
- 9) Incorporation of Provisions: The Consultant will include the provisions of paragraphs (1) through (8) in every subcontract, including procurements of materials and equipment, unless exempt by the Regulations, order, or instructions issued pursuant thereto. The Consultant will take such action with respect to any subcontract or procurement as the Secretary of Transportation of the State of Kansas may direct as a means of enforcing such provisions including sanctions for noncompliance: PROVIDED, however, that, in the event a Consultant becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the Consultant may request the State to enter into such litigation to protect the interests of the State.

CONTRACTUAL PROVISIONS ATTACHMENT

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

"The Provisions found in Contractual Provisions Attachment (Form DA-146a, Rev. 06-12), which is attached hereto, are hereby incorporated in this contract and made a part thereof."

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

- 1. Terms Herein Controlling Provisions:** It is expressly agreed that the terms of each and every provision in this attachment shall prevail and control over the terms of any other conflicting provision in any other document relating to and a part of the contract in which this attachment is incorporated. Any terms that conflict or could be interpreted to conflict with this attachment are nullified.
- 2. Kansas Law and Venue:** This contract shall be subject to, governed by, and construed according to the laws of the State of Kansas, and jurisdiction and venue of any suit in connection with this contract shall reside only in courts located in the State of Kansas.
- 3. Termination Due To Lack Of Funding Appropriation:** If, in the judgment of the Director of Accounts and Reports, Department of Administration, sufficient funds are not appropriated to continue the function performed in this agreement and for the payment of the charges-hereunder, State may terminate this agreement at the end of its current fiscal year. State agrees to give written notice of termination to contractor at least 30 days prior to the end of its current fiscal year, and shall give such notice for a greater period prior to the end of such fiscal year as may be provided in this contract, except that such notice shall not be required prior to 90 days before the end of such fiscal year. Contractor shall have the right, at the end of such fiscal year, to take possession of any equipment provided State under the contract. State will pay to the contractor all regular contractual payments incurred through the end of such fiscal year, plus contractual charges incidental to the return of any such equipment. Upon termination of the agreement by State, title to any such equipment shall revert to contractor at the end of the State's current fiscal year. The termination of the contract pursuant to this paragraph shall not cause any penalty to be charged to the agency or the contractor.
- 4. Disclaimer Of Liability:** No provision of this contract will be given effect that attempts to require the State of Kansas or its agencies to defend, hold harmless, or indemnify any contractor or third party for any acts or omissions. The liability of the State of Kansas is defined under the Kansas Tort Claims Act (K.S.A. 75-6101 et seq.).
- 5. Anti-Discrimination Clause:** The contractor agrees: (a) to comply with the Kansas Act Against Discrimination (K.S.A. 44-1001 et seq.) and the Kansas Age Discrimination in Employment Act (K.S.A. 44-1111 et seq.) and the applicable provisions of the Americans With Disabilities Act (42 U.S.C. 12101 et seq.) (ADA) and to not discriminate against any person because of race, religion, color, sex, disability, national origin or ancestry, or age in the admission or access to, or treatment or employment in, its programs or activities; (b) to include in all solicitations or advertisements for employees, the phrase "equal opportunity employer"; (c) to comply with the reporting requirements set out at K.S.A. 44-1031 and K.S.A. 44-1116; (d) to include those provisions in every subcontract or purchase order so that they are binding upon such subcontractor or vendor; (e) that a failure to comply with the reporting requirements of (c) above or if the contractor is found guilty of any violation of such acts by the Kansas Human Rights Commission, such violation shall constitute a breach of contract and the contract may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration; (f) if it is determined that the contractor has violated applicable provisions of ADA, such violation shall constitute a breach of contract and the contract may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration.

Contractor agrees to comply with all applicable state and federal anti-discrimination laws.

The provisions of this paragraph number 5 (with the exception of those provisions relating to the ADA) are not applicable to a contractor who employs fewer than four employees during the term of such contract or whose contracts with the contracting State agency cumulatively total \$5,000 or less during the fiscal year of such agency.

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

MAYOR'S ANNOUNCEMENTS

December 16, 2013

Committee meetings scheduled for the next two weeks:

Council Committee of the Whole	01/06/2014	6:00 p.m.
City Council	01/06/2014	7:30 p.m.

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The Prairie Village Arts Council is pleased to present a mixed media exhibit by the Greater Kansas City Arts Association as the December exhibit in the R. G. Endres Gallery.

The City offices will be closed Wednesday, December 25, in observance of Christmas Day, and Wednesday, January 1, in observance of New Year's Day. Deffenbaugh observes both of these holidays so pick-up will be delayed by one day each of these weeks.

The City is offering holiday tree recycling sites from December 16 – January 20 at Porter, Franklin, and Taliaferro Parks.

INFORMATIONAL ITEMS

December 16, 2013

1. Communications Committee Minutes - June 26, 2013
2. Environment/Recycle Committee Minutes - September 25, 2013
3. Planning Commission Minutes - November 5, 2013
4. Tree Board Minutes - November 6, 2013
5. Mark Your Calendars

COMMUNICATIONS COMMITTEE
June 26, 2013
MINUTES

The Communications Committee met on June 26, 2013 at 6:00 pm in the Multi-Purpose Room. Members present: Chairman David Belz, Heather Schrotberger and Michael Arrandale-Arnold. Also present: Quinn Bennion, Dennis Enslinger and Jeanne Koontz.

Approve Minutes

The April 10, 2012 minutes were approved as written.

Discuss website homepage refresh

Jeanne overviewed the new features of Vision CMS 6 including the page template builder, audio & video embedding, drag and drop image and file uploading, widget based layout options, new form builder, in-page content editing, GovTrack CRM (citizen requests), photo gallery & slideshow and friendly url's. The upgrade would include a redesign of the homepage and responsive design for mobile and tablet devices.

VisionLive Subscription Service will be offered with CMS 6. The subscription service is an annual subscription rate of \$6,600 which includes maintenance, unlimited hosting services, upgrades for the visionCMS, newly developed CMS components and a free redesign after four years of visionLive service. Currently, the City is paying \$6,606 for maintenance and hosting services.

The cost of the upgrade including responsive design and graphic redesign is \$31,106. There is \$10,000 budgeted in the Economic Development Fund and \$30,000 budgeted in the Equipment Reserve Fund.

The committee asked questions about the VisionLive service. Jeanne confirmed that the cost is currently budgeted. David asked if the upgrade would save staff time. Jeanne responded that the implementation would likely increase staff time but over the long-run it should decrease staff time with the additional features offered. It will also provide more features for residents.

David asked what year the budget money is allocated. Jeanne responded the money is allocated in the 2013 budget.

Heather moved to recommend the City Council approve the upgrade to Vision CMS 6, Graphic Design Services, Responsive Design and Vision Live Hosting in the amount of \$31,106 with an annual fee of \$6,600. Michael seconded the motion which passed unanimously.

Discuss NotifyJoCo - notification system

Quinn updated the committee on the previous discussion regarding PVNotify (notifications for neighborhood specific communications). Staff initiated an RFP on two separate occasions and hired a developer at one time but the software was never completed. Since that time, Johnson County partnered with cities in Johnson County and WaterOne to purchase an emergency notification system that also does non-emergency notifications. The system was launched in February and the City has been using it for non-emergency notifications since that time.

Jeanne gave a demonstration of the sign-up process and look at the back-end of the software. She asked the committee to provide feedback/suggestions on Prairie Village's use of the system.

David asked if Code Red participants would be automatically signed up for NotifyJoCo. Quinn said they will not be signed up because the City does not own the data and they have not specifically agreed to sign up for NotifyJoCo. Quinn noted the Police Department will transition from Code Red later in the year. Mission Hills is also using the new system. The system costs \$5,000 per year which is the same amount as Code Red.

Michael asked for an update on whether subscriber data is public. Quinn stated subscriber data in government notification systems is not considered a public record since the state law was modified a few years ago.

Discuss the potential filming of council meetings

The committee tabled the item until the next meeting.

The meeting was adjourned at 6:45 pm.

David Belz
Chair

PRAIRIE VILLAGE ENVIRONMENT AND RECYCLE COMMITTEE

Minutes, September 25, 2013

Pete Jarchow, for the Steering Committee, opened the meeting at 7:00 p.m. Attending were Pete, Barbara Brown, Ben Claypool, Deb English, Thomas O'Brien, Danielle Dulin, Margaret Goldstein, Al Pugsley, Kathy Riorden, Polly Swafford, Karin McAdams, Clara Ma, and a visitor, Liz Henry.

The minutes from August 28 were approved as written.

Reports and business

- **Community Forum:** The date is October 3, 5:30 p.m., and the theme is "What's in our Water?"
 - A volunteer sheet was passed, and committee members filled it all.
 - Responses have been slow. Most local legislators have been unable to come. Barbara Bollier asked for the power point presentation, but that won't be possible.
 - Quite a few postcards came back with incorrect addresses. The registration table will make an extra effort to check people's contact information. Door prize tickets should also help verify information.
 - It was decided not to discontinue sending postcards, because many people don't open their email.
 - Tom will send out one more email, and there may be coverage in the Shawnee Mission East *Harbinger*.
 - To make sure that people who eat dinner have actually paid, registration people will hand out old playing cards to each person who is eligible for dinner.
 - KNRC usually covers the speaker honorarium, customarily \$100.
- **Community Gardens**
 - At the October general meeting, new officers will be elected.
 - There are still problems with inappropriate behavior on the part of two plot holders and with too-tall crops, but solutions are being discussed.
 - The gardens have donated 132 pounds of produce each (plus a great deal of kale) to the Meneilly Center and Hillcrest Covenant Church.
- **Earth Fair:**
 - The committee has found a manager for next year's Earth Fair: Linda Gourley, who was recommended by Thomas O'Brien.
 - Pete will re-contact the SME commercial art teacher to make sure that she's working on having the students make posters for the fair.

- **Education Committee:**

- The committee has been searching for an appropriate project.
- A possible idea is to find ways to help Prairie Village stores limit the number of plastic bags that they give to customers.
- Members noted that there are cities with laws that either prohibit plastic bag use or require retailers to charge for giving bags. At the very least we could spark a publicity campaign for retailers that already give a \$.05 refund for people who bring their own bags – and encourage other merchants to do so.
- Other possibilities are to put out a petition to find out how much interest there is in this issue, to promote the recycling of plastic bags, or to help educate school children on the plastic bag issue. There are a lot of educational materials that graphically depict the damage that plastic bags do to sea creatures.

- **Other business:**

- Danielle Dulin, responding to a discussion at last month's meeting, noted that there are ways that Deffenbaugh could monitor how many people are recycling.
- Al reminded us about the Concert for the Climate, coming on September 28, and Bill McKibben's talk the night before.

The meeting adjourned at 8:15

The next meeting will be held on October 23 at 7:00 p.m.

Respectfully submitted,

Karin McAdams

PLANNING COMMISSION MINUTES November 5, 2013

ROLL CALL

The Planning Commission of the City of Prairie Village met in regular session on Tuesday, November 5, 2013, in the fellowship hall of Village Presbyterian Church at 6641 Mission Road. Chairman Ken Vaughn called the meeting to order at 7:00 p.m. with the following members present: Bob Lindeblad, Randy Kronblad, Nancy Wallerstein, Gregory Wolf and Nancy Vennard.

The following persons were present in their advisory capacity to the Planning Commission: Ron Williamson, City Planning Consultant; Danielle Dulin, Assistant to the City Administrator; Keith Bredehoeft, Public Works Director, Jim Brown, Building Official and Joyce Hagen Mundy, City Clerk/Planning Commission Secretary. Also present was Andrew Wang Council liaison and David Waters, representing the City Attorney.

APPROVAL OF MINUTES

The following corrections were made to the September 10, 2013 minutes:

- Page 2 - Bob Royer's address should be **7805** not 7005 Mission Road
- Page 4 - 3rd paragraph RP-1 Districts should be "**RP-1b Districts**"
- Page 20 - 2nd paragraph Paul Warbe should be "**Paul Wrablica**"

Randy Kronblad moved the approval of the Planning Commission minutes of September 10, 2013 with the corrections noted above. The motion was seconded by Nancy Vennard and passed 5 to 0 with Greg Wolf abstaining due to his absence at that meeting.

PUBLIC HEARING

Ron Williamson stated that the Governing Body has returned PC2013-08 - Request for Rezoning of the property at 3101 West 75th Street from R-1a to RP-1b for reconsideration specifically of the two requested deviations that were denied by the Planning Commission. The two deviations that were denied by the Planning Commission were a reduction in the rear yard setback from 25 feet to 20 feet and an increase in the lot coverage from 30% to 35%. Mr. Royer made a presentation to the Governing Body stating that in order to market the lots to builders they have been negotiating with, a larger footprint is needed. A motion was made by the Governing Body to approve the rezoning with all of the requested deviations; however, it failed to meet the two-thirds vote requirement to override the Planning Commission recommendation. The Governing Body then moved to return the item for reconsideration to the Planning Commission on the basis that there was no neighborhood opposition and Village Vision encourages higher density and intensity infill development.

Mr. Williamson noted the applicant has revised the preliminary development plan increasing the size of Lots 1 and 4 from 7,821 square feet to 8,811 square feet; increasing the size of Lots 2 and 5 from 7,821 square feet to 8,119 square feet; and decreasing the size of Lots 3 and 6 from 9,753 square feet to 9,405 square feet. The

primary reason for adjusting the lot sizes is to be able to provide three-car garages on Lots 1, 3, 4, and 6. The modification of the lot lines increases the area of Lots 1, 2, 4, and 5 which is positive regardless of whether the Commission approves the 35% lot coverage and the 20-foot rear yard setback.

Mr. Williamson stated after reconsidering the application, the Commission may resubmit its original application or submit a new or amended recommendation.

Robert Royer, 7805 Mission Road, stated the revised plans submitted to the Commission have incorporated the additional 10' right-of-way and show the proposed size and floor plan of houses on those lots. All six lots have the same floor plan with the four corner lots having three-car garages, instead of two-car garages. He has contacted two builders who are interested in building the homes if they are allowed to have the increased lot coverage of 35%. The builders do not feel the homes would be marketable under the required 30% maximum lot coverage.

Mr. Royer referenced Chapter 19.24 of the Prairie Village Code entitled "Planned Zoning Districts" which states the intention of planned zoning procedures is to encourage efficient development and redevelopment of small tracts, innovative and imaginative site planning, and conservation of natural resources and minimum waste of land." The code (Section 19.24.010C) goes on to say "Deviations in yard requirements, setbacks and relationship between buildings . . . may be approved by the Planning Commission and City Council . . ." It further states (Section 19.24.010F), "The developer will be given latitude in using innovative techniques in the development of land not feasible under the application of standard zoning requirements. . ." Mr. Royer stated the width of the Mogren property is 224 feet making it unfeasible to incorporate the standard zoning requirements.

Chadwick Court meets the spirit and intent of the Code and of Village Vision which encourages neighborhoods with unique character, strong property values and quality housing options for families and individuals of a variety of ages and incomes". Village Vision goes on to provide the following direction - "Improve the Development/Redevelopment Process"

- Encourage Appropriate Redevelopment
- Permit higher residential densities

Mr. Royer noted that once completed Chadwick Court would bring in approximately \$65,000 per year in tax revenue to the City with no additional cost to the city for road construction or maintenance.

Nancy Wallerstein questioned if the existing out building would be remaining and how many trees would be lost. Mr. Royer responded the plan was to remove the brush and small trees and retain, but trim back the larger trees.

Bob Mogren, owner of the property, noted he uses the shed/out building to store his lawn mower equipment and could be removed if that is the desire of the Commission.

Bob Lindeblad noted on the site plan lots 3 and 6 have the curb from the street clipping the corners of the garage. It doesn't work. Mr. Royer stated the intent of the site plan was to show the layout. This is a preliminary plan. They will make the necessary changes for the garages on the final plans. Mr. Lindeblad responded that he was more comfortable with the open space on the plan, but still feels the units are too big. Mr. Williamson stated it could be approved subject to having the necessary setback from the street or continue the item and require revised plans to be submitted..

Nancy Vennard stated that the previous plan only had two three-car garages. She doesn't see a need for three-car garages, especially when he has been asked to reduce the footprint. Smaller homes at a lower cost would have a much larger sales market. Mr. Royer responded their builders state that even empty nesters want three-car garages. He noted the need to have all the primary amenities on the first floor to accommodate the desires of empty nesters. He stated he would like to be able to offer homes at a lower cost; however, the cost to create the necessary infrastructure for the development alone is over \$100,000. Mrs. Vennard responded the people wanting three-car garages are moving south, they recognize for the convenience of the location and amenities Prairie Village offers, they will need to give up three-car garages. Very well designed homes with two car garages could be constructed within the guidelines of the Commission.

Nancy Wallerstein asked if they would be trimming the trees on the fence line and if the fence would be set back 20 feet as she felt this would interfere with the existing hedgerow which covers approximately 10 feet in width. She asked if the hedgerow was the property line and how far from the hedgerow would the fence be located. Mr. Royer responded - three feet.

Bob Lindeblad confirmed that the property had been surveyed and the trees are on their property. Bob Mogren responded that approximately 20% of the hedgerow will be removed as it consists of brush and dead trees.

Nancy Vennard asked if there was currently a fence on the property. Mr. Royer responded there is a four foot chain link fence on the property line that will be replaced with a six foot cedar fence.

Nancy Wallerstein asked if the trees on 75th Street would be preserved. Mr. Mogren responded those that are not dead will be preserved.

Bob Lindeblad asked if there would be any outdoor patio area that would extend into the 20 foot rear yard setback. Mr. Royer responded that it would be more of a courtyard space than a rear yard.

Bob Lindeblad asked if the neighbors were told there would be a five-foot reduction in the rear yard setback. Mr. Royer responded they were shown plans reflecting the 20 foot rear yard setback.

Chairman Ken Vaughn asked if there was anyone present to speak on this application. Being none, he closed the public hearing at 7:35 p.m.

Bob Lindeblad stated he is satisfied with the lot coverage being increased from 30% to 35%, but feels a better effort should have been made to look at plans that would accommodate the 25 foot rear yard setback. He would have liked to see more creativity and imagination in the development than the straight-line layout of six identical homes. Mr. Royer responded with the limitations of this site including a lot depth of 99 feet. The floor plans are to simply show what can be done. He, too, would like to see six unique customized homes.

Ron Williamson noted the final plans will need to be approved by the Planning Commission and more detailed drawings and facades can be addressed at that time.

Nancy Vennard stated she has a problem with the 20 foot rear yard setback especially on the east side. She does not feel 20 feet is sufficient for a rear yard. Mr. Royer stated these are not rear yards; they are courtyards of a low maintenance development. Ken Vaughn noted the development has the advantage of having the hedgerow screening the properties from the adjacent properties.

Nancy Wallerstein asked if the recommendation was changed if it would still require a two-thirds vote to override the Planning Commission recommendation. Mr. Williamson when an item is returned to the Governing Body only a simple majority is required to override the Planning Commission recommendation.

Randy Kronblad does not feel the proposed fence will be able to be located on the hedgerow and thus the 20 foot rear yard setback is not sufficient.

Randy Kronblad moved the Planning Commission return application PC2013-08 to the Governing Body recommending that the rezoning be granted subject to the revised replatting and with the following three deviations from ordinance requirements granted:

- 1) Reduce the front yard setback from 30 feet to 15 feet.
- 2) Increase the lot coverage from 30% to 35%.
- 3) Reduce the lot depth from 100 feet to 99 feet and that the required rear yard setback of 25 feet be retained.

The motion was seconded by Nancy Wallerstein and passed unanimously.

PC2013-120 Request for Preliminary Plat Approval - Chadwick Court 3101 West 75th Street

Ron Williamson stated the plat is dependent upon the approval of the Preliminary Development Plan that is a part of the Zoning Change Request from R-1A to RP-1B. It was continued at the last meeting to this meeting pending approval by the Governing Body on the requested rezoning. It will need to be continued again.

Randy Kronblad moved the Planning Commission continue PC2013-120 until such time as the rezoning is resolved. The motion was seconded by Nancy Vennard and passed unanimously.

Chairman Ken Vaughn noted there was one routine non-public hearing application on the Commission's agenda and asked permission of the Commission to move that item up on the agenda for consideration prior to PC2013-11. The Commission agreed with the change in the agenda.

**PC2013-125 Request for Approval of Sign Standards
3520 West 75th Street**

Steve Chellgren, representing Big Industrial noted that a few years ago a monument sign was approved 3500 West 75th Street and would now like to place a similar sign at their building at 3520 West 75th Street. Before a monument sign can be constructed for a multi-tenant office building sign standards must be approved. They have submitted sign standards very similar to those approved for 3500 West 75th Street and after their approval will return to the Planning Commission for approval of a monument sign.

Danielle Dulin stated Windsor-Continental Investors, LLC owns both the office buildings at 3520 West 75th Street and 3500 West 75th Street and the proposed sign standards are very similar. However, Section II.G of the proposed sign standards do not allow roof mounted signs, but the building currently has a roof mounted sign on the awning above the entrance that will need to be removed to comply with the sign standards. Additionally, the proposed sign standards include standards for signs that will be included on the monument wall, but the application for this will be submitted under a separate later application that will reflect location of the sign as well as sign materials and design.

Bob Lindeblad moved the Planning Commission approve the proposed sign standards for 3520 West 75th Street (The Continental Building) subject to the following conditions:

- 1) That the roof mounted sign on the awning above the entrance be removed prior to the installation of any other signage.
- 2) That the applicant returns to the Planning Commission for approval of the design and location of the monument wall and this condition is added as item #6 to Section I of the sign standards.
- 3) That the applicant submit the revised sign standards to the City prior to obtaining any sign permit.

The motion was seconded by Nancy Wallerstein and passed unanimously.

**PC2013-11 Request for Special Use Permit for Adult Senior Dwellings
8500 Mission Road**

Chairman Ken Vaughn reviewed the procedure for the public hearing noting that each presenter will be given 30 minutes followed by public comment limited to three minutes per individual followed by a 15 minute rebuttal period for each the applicant and a representative of Mission Valley Neighborhood Association

John Petersen with Polsinelli, 6201 College Blvd., Suite 500, addressed the Commission on behalf of MVS, LLC stating that although only he and Joe Tutera would be addressing the Commission, Randy Bloom and other members of the development team are present and available to answer any questions. Mr. Petersen stated they had a lot of supporters wanting to attend this hearing; however, he advised them their support would be presented and they didn't need to attend. To that point, Mr. Petersen stated they have 494 e-mails and 249 letters in support of the project being presented this evening.

Joe Tutera, 7611 State Line Road, Suite 301, stated they have preserved the design elements while combining the skilled nursing facility and memory care facility into one building. The memory care facility has been relocated from a separate building to underneath the skilled nursing unit opening up more open green space. At the request of the neighbors who stated they did not want rental villas as the transitional element between their property and the main complex, they have created nine single family lots of more than 10,000 square feet each that generally line up with the property lines to the south. They will be owner occupied and will be custom built homes.

The Assisted Living and Independent Living structures have the same design elements as previously submitted. The streetscape along Mission Road was retained and they have been able to preserve the height of the structures, which for the most part are lower than the existing school on the property.

Mr. Tutera reviewed a slide showing the location of the facilities and a comparison of heights of their facilities with the existing adjacent properties. The heights were very similar and the transition is from highest on the north end adjacent to the apartment projects to lower on the south end adjacent to the single-family dwellings.

The same level of stormwater retention and same parking ratios are reflected in this plan as in the previous plan. Mr. Tutera presented the proposed site plan with an overlay of the existing school to provide a more clear comparison. They are proposing to use the same brick/stucco/stone design elements with a lowered roof line and the tops of the windows will be consistent with two story structures.

John Petersen noted this project is to be reviewed objectively following the criteria established by the City. He then presented a review of the project per the special use permit and code requirements. He believes the first criteria that the special use complies with all applicable provisions of these regulations including intensity of use regulations, yard regulations and use limitations is fundamental. He noted that standard measurement for residential development is that of units per acre. The square foot per acre measurement desired by the opponent is a commercial development measurement. The total land area required for the proposed use by ordinance is 237,400 square feet. The site area is 557,632 square feet (2.3 times greater than the proposed use). The setbacks are at least 3.5 times greater than what is required by code with the side yard setback on the north property line being 32 times greater. The maximum height allowed is 45' and the maximum height of the proposed development is

40'. Maximum not coverage allowed is 30% and the proposed lot coverage is 21.4%. Off-street Parking setbacks are more than twice that required by code.

In his presentation, Mr. Petersen referenced the staff report prepared by Ron Williamson, the City's Planning Consultant for his review of the special use permit requirements agreeing with the staff findings. In reference to the impact on neighboring properties, the Todd Appraisal which was submitted by the applicant and it was noted that in Johnson County almost all senior communities are located adjacent to single family residences and they work well together. He agrees with Mr. Williamson that through design, landscaping and setbacks the dominance of this project can be mitigated and will not hinder the development or use of adjacent properties.

The proposed plan has 316 parking spaces on site which exceeds the code requirements by 61 spaces. Mr. Petersen noted the screening elements in place to screen the view of parking from adjacent properties. There will also be a plan in place to address parking during special events. Staff and vendors will be prohibited from parking in the adjacent neighborhoods under condition #11 of the staff recommendation.

The storm drainage and traffic studies have been completed and submitted to city staff for review and approval. The city's professional staff has stated that in general the overall design is compatible with the area with the details of the design addressed during site plan review.

In addressing the Golden Factors, Mr. Petersen referenced the first factor - "The character of the neighborhood" is the defining factor. He stated neighborhood does not just include the one component of adjacent property owners. He quoted the staff report stating "the properties in the neighborhood around the proposed project range from high density apartments to high-end large lot single-family dwellings plus the office and business uses in Corinth South Center. The Mission Valley School site has served as a buffer between the high density and low density residential uses.

Chairman Vaughn advised Mr. Petersen that his time period was up.

Mr. Petersen closed stating this plan is consistent with the city's comprehensive plan "Village Vision". He noted that although the applicant is in agreement with the 14 conditions for approval recommended by staff for the special use permit and the 18 conditions for approval recommended on the site plan, they would like to have the opportunity to specifically address #2 on the special use permit and #17 on the site plan.

Gregory Wolf asked how the applicant envisioned the single family lots to be developed. Mr. Petersen responded they will be platted and open for sale to builders for development. He noted they have had builders already express interest in the lots.

Ron Williamson questioned why the size of the Memory Care/Skilled Nursing facility increased in size. Mr. Petersen responded the footprint of the Memory Care Unit will slide under the building design of the Skilled Nursing Unit and in doing so they need to add stairwells and open hallways and this change adds approximately 6,000 more

square feet that will have a minimal impact on the exterior but a significant impact on the interior. Joe Tutera added that approximately 2,500 to 3,000 of the additional square feet will be for the stairwells. They will continue to refine the actual dimensions through the final site plan approval process.

Chairman Ken Vaughn opened the public hearing for comment in support of the application. No one wished to address the Commission. Chairman Vaughn called upon John Duggan with the Mission Valley Neighborhood Association for his presentation.

John Duggan, Duggan Shadwick Doer & Kurlbaum, LLC, 11040 Oakmont, urged the Commission to protect his property owners' due process rights. He stated this application is an attempt to remove from his clients the ability to file a protest petition.

Mr. Duggan began his presentation with quotes from City Council members in their defeat of the previous application. He went on to state that the application being presented meets the requirements for a Mixed Use District and should be processed as such. However, he believes the new MVS application fails to comply with Kansas Law as the applicant has not complied with the City's zoning ordinance with respect to notice, and therefore, approval of the application would be invalid.

The City's code notice by mail to all "owners of lands located within two hundred feet, except public streets and ways." 20 days prior to the public hearing. The applicant did not exclude Mission Road when determining the property owners entitled to notice, thus a number of property owners within the 200 foot radius to the east were excluded from the calculation and not provided notice as required.

The applicant's refusal to recognize the south and southwest adjoining landowners' property rights to receive notice and in turn file a protest petition is premised on the hope that the City will find that "the area to be altered with a change in land use should include only the Assisted/Independent Living and SNF facilities and not the outer boundaries of the entire proposed Mission Chateau development. Mr. Duggan noted that under its previous application, the applicant agreed that the villa-style residences to the south were within the area proposed to be altered and thus afforded the adjoining property owners their right to file a protest petition. Mr. Duggan stated this application takes the inconsistent and disingenuous position that only the Assisted/Independent Living and SNF facility should be considered "the area proposed to be altered" under K.S.A. 12-757.

John Duggan continued noting the Kansas Supreme Court has specifically recognized the validity of a protest petition which measured the requisite distance requirement from the outer boundary of the lot, despite that only a limited portion of the lot was subject to a special use permit and provided several case references.

Mr. Duggan stated the staff report requires the platting the entire 18 acre property. The city's subdivision regulations do not contemplate the ability to subdivide property for the purpose of defeating a special use permit. He believes the proposed development cannot be approved in piecemeal fashion; at base, the entire "Mission Chateau Senior

Living Community” constitutes a planned mixed use development which must be considered as one application under zoning regulation 19.23. Any consideration by the City of this piecemeal application scheme would constitute invalid haphazard zoning enacted without any reasonable basis but for the advancement of MVS/ private interest in evading the adjoining property owners’ right to file a protest petition.

Mr. Duggan stated the applicant is seeking the City’s approval for an application to change the land use on the subject property from what was exclusively a public school to what would contain several uses: (1) single-family dwellings; and (2) a special use permit for senior adult dwellings and (3) nursing care or continuous health care services . . . on the premises that it is a subordinate accessory use. Despite assuring its potential residents a variety of uses in its senior living “campus”, the applicant is claiming - solely for purposes of avoiding he adjoining landowners’ right to file a protest petition - that the City must consider its special use permit application separate from its eventual plat approval for the single-family dwellings to the south and southwest.

The applicant proposes a variety uses on one common lot. The intent of the City zoning ordinance demands that it be reviewed as a single application for rezoning as a “MXD” Planned Mixed Use District. Mr. Duggan stated this is backhanded spot zoning to submit what is really a mixed use district project as a single family residential district project.

John Duggan also noted that this application interferes with the MVS,LLC lawsuit and that he City should abstain from action on the renewed application because MVS has removed the case from the jurisdiction of the City to the jurisdiction of the District Court through its appeal and any action from the City on the matter would interfere with the District Court proceeding. He believes by appealing the City’s decision, MVS has terminated the City’s power to reconsider MVS application for a Special Use Permit. Since the District Court now possesses jurisdiction over the matter, the City should avoid potentially-conflicting parallel litigation and abstain from acting on the MVS’ application for a special use permit.

Mr. Duggan was advised his 30 minute time limit was approaching. He stated this is not a new application and noted the earlier application that was defeated by the City Council, due to its size and density, is now bigger - 325,890 square feet. Mr. Duggan made a comparison between the proposed project and the Santa Marta project in Olathe. He advised the Commission that it may recommend denial based on only the aesthetics of the project as demonstrated by case law references provided by Mr. Duggan.

This is a very disappointing development of the most promising piece of land within the City of Prairie Village. Mr. Duggan urged the Commission to protect the City’s character and the rights of its residents and property owners. This development is not compatible with the adjacent single family residential properties that surround it and does not meet the required Golden Factors. Mr. Duggan stated common sense will tell you that this is a commercial development. He advised the Commission to take one of the following three actions:

- 1) Stay the proceedings until the lawsuit filed in the District Court is resolved
- 2) Deny the application
- 3) Make the corrections to the public notice and notification for appropriate due process.

Chairman Ken Vaughn called for a ten minute recess.

Chairman Vaughn reconvened the meeting at 9:10.

Bob Lindeblad asked that before the public hearing is continued for a response from the city's legal representative on whether the meeting was properly noticed.

David Waters, representing the City Attorney, stated the actual notice references the entire lot and the 12.8 acre site and generally complies with notice requirements with the legal description referenced. The standard practice of the City has been that the notice area is that immediately adjacent to the proposed "use change".

Bob Lindeblad asked if the legal description was on file at City Hall. Mr. Waters responded it was. Gregory Wolf confirmed it was Mr. Waters' opinion that proper notice was given. Mr. Wolf asked for a legal opinion on hearing this application while there was a pending lawsuit in District Court. Mr. Waters responded that this is a different application and the appeal of the previous application does not prohibit the applicant from pursuing other actions. He does not believe the city would be in violation to consider this application. Mr. Wolf asked what would happen if the District Court overturns the city's earlier decision. Mr. Waters responded it would be handed back to the City for action.

Nancy Vennard asked about the contention that this application should be filed as a rezoning for a mixed use district. Mr. Waters replied a mixed use district has totally different uses, i.e. residential, retail, restaurant, etc. not broader uses of a residential nature.

Randy Kronblad asked for clarification on the notification area. Ron Williamson responded that either the legal description or general application area can be used with the statement that plans are available for review. The statutes do not require publication of the legal description.

Bob Lindeblad confirmed it is the opinion of legal consul that the public hearing should be continued. Mr. Waters noted the case reference by Mr. Duggan was regarding an annexation and not applicable to this application.

Chairman Vaughn reopened the public hearing and called for public comment.

Steve Carman, 8521 Delmar, stated that he is within 200' of the 18 acre outer boundary and did not receive a notice. Mr. Carman reference the amendment to the City's comprehensive plan relative to this location and noted the numerous references in the plan to the input of the community. He noted he has attended all but one of the

community meetings and at all the meetings the common thread of the message was that this project was too large, too dense, and too tall and did not fit within the community. He noted at the end of the first meeting before the Planning Commission, Chairman Vaughn directed the applicant to work with the residents to find a plan that was acceptable to both parties. They have not.

David Waters stated he has re-examined the notice and recommends that the Commission continue this item to allow for legal staff to do further research on the issue.

Nancy Wallerstein moved the Planning Commission continue PC2013-11 to the December 3rd meeting to allow for legal staff to address the issues raised. The motion was seconded by Randy Kronblad. It was confirmed that if new notice is required, it can be done to allow for consideration by the Commission on December 3rd. It was recommended that both attorneys review the notice prior to its publication. Both attorneys agreed.

The motion to continue was voted on and passed unanimously.

NON-PUBLIC HEARINGS

PC2013-126 Site Plan Approval - Mission Chateau 8500 Mission Road

PC2013-127 Preliminary Plat Approval - Mission Chateau 8500 Mission Road

Bob Lindeblad moved the Planning Commission continue applications PC2013-126 Site Plan Approval and Preliminary Plat Approval for Mission Chateau at 8500 Mission Road to the December 3, 2013 Planning Commission meeting. The motion was seconded by Randy Kronblad and passed unanimously.

OTHER BUSINESS

Consider 2014 Planning Commission Meeting/Submittal Schedule

Joyce Hagen Mundy reviewed the proposed 2014 meeting and submittal schedule following the scheduled first Tuesday of the month meeting date. She noted, in the past, the Commission has stated they were prefer not to meet on election days and the 2014 calendar has meetings on April 1st and November 4th which are both election days. Mr. Lindeblad stated he would rather not meet on election days.

Nancy Wallerstein moved to approve the schedule as proposed. The motion was seconded by Gregory Wolf and passed unanimously.

NEXT MEETING

The Secretary noted that at this time the City has received four applications for special use permits for the before/after school programs at the elementary schools and one site plan approval for a wall. Danielle Dulin announced that there may also be a site plan submittal for Westlake Hardware. The December meeting will be held at the cafeteria of Shawnee Mission East.

ADJOURNMENT

With no further business to come before the Commission, Chairman Ken Vaughn adjourned the meeting at 9:35 p.m.

Ken Vaughn
Chairman

TREE BOARD

City of Prairie Village, Kansas

MINUTES (DRAFT)

**Wednesday November 6, 2013
Public Works Conference Room
3535 Somerset Drive**

Board Members: Greg VanBooven, Deborah Nixon, Rick Howell

Other Attendees: Linda Marcusen, Dale Warman, Suzanne Lownes

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

- 1) Review and Approve Minutes of September 4, 2013-** Motion by Greg VanBooven, second by Deborah Nixon. **Approved unanimously.**

- 2) St Ann's Landscape Plan Review – Revised Submittal** – After reviewing the plan and looking at the changes there was a motion by Greg VanBooven and a second by Rich Howell to approve the plan as submitted. **Approve unanimously.**

- 3) Sub-Committee Report**
 - 3.1) EAB** – Suzanne Lownes updated the board that the ash tree inventory had been turned in and has been entered into the spreadsheet and staff will be reviewing the information to help formulate the next steps. There are a few park trees that have not been inventoried but will look at for spring. Greg VanBooven updated the board that he went out with the monitoring group and no new EAB areas have been found at Shawnee Mission Park or the Deffenbaugh site. There was extensive EAB affected trees at the Kansas City, KS site near Providence Hospital.
 - 3.2) Fall Seminar** – The board felt that Dennis Patton did a great job at the Fall Seminar. There were good questions and his information was very informative for residents.

- 3) Old Business**

The board brought up the YMCA plan that they had seen earlier. Suzanne Lownes updated them that as far as she knew that the plan had not been formally submitted but that since they had concerns about the slope that they would recommend it coming through Tree Board once it is formally submitted.

- 4) New Business**
 - 4.1)** Linda Marcusen introduced herself to the board and shared her interest in becoming a Tree Board member. There was a motion by Deborah Nixon that the Tree Board recommend Linda Marcusen be appointed by the Mayor to the Tree Board, Greg VanBooven seconded. **Approved unanimously.**

- 4.2) Deborah Nixon informed the board that she is about to complete the process to become a Master Gardner. The board congratulated Deb.
- 4.3) Suzanne Lownes informed the board that Keith Bredehoeft has been appointed Public Works Director.

5) Next Meeting

The next meeting will be February 5, 2014 at 6:00pm at the Public Works Facility.

Happy Holidays!!!

The meeting adjourned at 7:00 p.m.

Minutes prepared by Suzanne Lownes.

**Council Members
Mark Your Calendars
December 16, 2013**

December 2013	Greater Kansas City Arts Association exhibit in the R. G. Endres Gallery
December 16	City Council Meeting
December 25	City offices closed in observance of Christmas
January 2014	Diana Werts oil and pastel exhibit in the R. G. Endres Gallery
January 1	City offices closed in observance of New Year's Day
January 6	City Council Meeting
January 10	Artist reception in the R. G. Endres Gallery 6:30 - 7:30 p.m.
January 16	2014 State of the Cities Address (Sylvester Powell Community Center) 11:00 a.m. Networking, 11:30 a.m. Program begins
January 20	City offices closed in observance of Martin Luther King, Jr. Day
January 21	City Council Meeting
February 2014	Jason Filbeck, Jodi Schnakenberg, and Adam Finkelson mixed media exhibit in the R. G. Endres Gallery
February 3	City Council Meeting
February 5	City Hall Day (Topeka)
February 14	Artist reception in the R. G. Endres Gallery 6:30 - 7:30 p.m.
February 17	City offices closed in observance of President's Day
February 18	City Council Meeting
March 2014	CPII photography exhibit in the R. G. Endres Gallery
March 3	City Council Meeting
March 14	Artist reception in the R. G. Endres Gallery 6:30 - 7:30 p.m.
March 17	City Council Meeting
April 2014	Lucinda Baker exhibit in the R. G. Endres Gallery
April 7	City Council Meeting
April 11	Artist reception in the R. G. Endres Gallery 6:30 - 7:30 p.m.
April 21	City Council Meeting
May 2014	Wayne Wilkes oil and acrylic exhibit in the R. G. Endres Gallery
May 5	City Council Meeting
May 9	Artist reception in the R. G. Endres Gallery 6:30 - 7:30 p.m.
May 19	City Council Meeting
May 26	City offices closed in observance of Memorial Day
June 2014	Helen Benson mixed media exhibit in the R. G. Endres Gallery
June 2	City Council Meeting
June 13	Artist reception in the R. G. Endres Gallery 6:30 - 7:30 p.m.
June 16	City Council Meeting
July 2014	Senior Arts Council mixed media exhibit in the R. G. Endres Gallery
July 4	City offices closed in observance of Independence Day
July 4	VillageFest

July 7	City Council Meeting
July 11	Artist reception in the R. G. Endres Gallery 6:30 - 7:30 p.m.
July 21	City Council Meeting
August 2014	
August 4	City Council Meeting
August 8	Artist reception in the R. G. Endres Gallery 6:30 - 7:30 p.m.
August 18	City Council Meeting
September 2014	
	Shannon and Judy Manning mixed media exhibit in the R. G. Endres Gallery
September 1	City offices closed in observance of Labor Day
September 2	City Council Meeting
September 6	JazzFest
September 12	Artist reception in the R. G. Endres Gallery 6:30 - 7:30 p.m.
September 15	City Council Meeting
October 2014	
	State of the Arts exhibit in the R. G. Endres Gallery
October 6	City Council Meeting
October 10	Artist reception in the R. G. Endres Gallery 6:30 - 7:30 p.m.
October 20	City Council Meeting
November 2014	
	Jhulan Mukharji and Ada Koch mixed media exhibit in the R. G. Endres Gallery
November 3	City Council Meeting
November 14	Artist reception in the R. G. Endres Gallery 6:30 - 7:30 p.m.
November 17	City Council Meeting
November 27	City offices closed in observance of Thanksgiving
November 28	City offices closed in observance of Thanksgiving
December 2014	
	Kathleen Manning photography exhibit in the R. G. Endres Gallery
December 1	City Council Meeting
December 11	Artist reception in the R. G. Endres Gallery 6:30 - 7:30 p.m.
December 15	City Council Meeting
December 25	City offices closed in observance of Christmas