

CITY OF PRAIRIE VILLAGE

December 15, 2014

Council Committee Meeting 6:00 p.m.

City Council Meeting 7:30 p.m.



COUNCIL COMMITTEE OF THE WHOLE
Council Chambers
December 15, 2014
6:00 PM

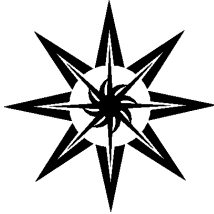
AGENDA

ASHLEY WEAVER, COUNCIL PRESIDENT

AGENDA ITEMS FOR DISCUSSION

- Annual CID Update
Kylie Stock, Lega C representative
- *COU2014-56 Consider approval of the use of forfeiture funds to purchase a van to transport the CIRT Team during operations and training
Sgt. Roberson
- *COU2014-51 Consider approval of purchase and installation of Public Works software
Keith Bredehoeft
- COU2014-52 Consider approval of 2015 Joint City/County Legislative Platform
Nolan Sunderman
- *COU2014-54 Consider approval of request for contingency funds for legal contract services
Lisa Santa Maria
- *COU2014-55 Consider approval of request for contingency funds for October KCPL street light and traffic signal billings
Lisa Santa Maria
- COU2014-57 Consider Ordinances Amending Chapter XI of the Municipal Code, revising the definition of Trucks and adding Article 15, Recreational Vehicles and Equipment - Parking and Storage
Kate Gunja & Sgt. James Carney

***Council Action Requested the same night**



CONSENT AGENDA

Council Meeting Date: December 15, 2014

COU 2014-56 **Consider expending forfeiture funds to purchase a transport vehicle for the Police Department Critical Incident Response Team (CIRT)**

RECOMMENDATION

The Police Department recommends the Council approve the use of forfeiture funds to purchase a Van to transport the CIRT Team during operations and training.

SUGGESTED MOTION

I move to approve the use of forfeiture funds to not exceed \$25,000 for the purchase of a transport Van for the CIRT Team through normal purchasing policy requirements.

BACKGROUND

The use of forfeiture funds is specified by K.S.A. 60-4117 (d.3), which states, in part, "...shall be used for such special, additional law enforcement purposes as the law enforcement agency head deems appropriate...neither future forfeitures nor the proceeds from such forfeitures shall be used in planning or adopting a law enforcement agency's budget." The State of Kansas has invested the purchase authority in the proverbial hands of the "law enforcement agency head."

Although Council approval is not required, the Chief of Police and City Administrator felt it would be reasonable to route this item through Council to be informative, transparent, and validate the need for the expenditure. Sgt. Roberson, CIRT Team Supervisor, will present information to the Council why this vehicle is necessary based on the operational needs of the CIRT Team.

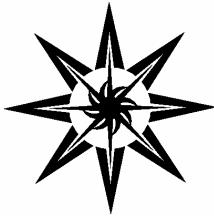
The Department does not plan to increase the size of the authorized fleet. The Command Post (circa 1989) will be retired and we will call upon other public safety agencies to provide this capability if a future incident would dictate the need.

[It should be noted that the Police Department provides the Council with a full accounting of forfeiture fund purchases on an annual basis]

Prepared By:

Wes Jordan
Chief of Police

Date: December 11, 2014



PUBLIC WORKS DEPARTMENT

Committee Meeting Date: 12/15/2014

Council Meeting Date: 12/15/2014

CONSIDER AGREEMENT FOR PUBLIC WORKS WORK MANAGEMENT SOFTWARE

RECOMMENDATION

Staff recommends the City Council approve the agreement with Lucity, Inc. for \$74,500 for Public Works Work Management Software.

BACKGROUND

The Public Works department initiated and managed a request for qualifications (RFQ) process to select a vendor to provide a new Public Works Work Management Software. The current software, VHB, has been utilized for almost 20 years and is no longer supported and prevents upgrade to the GIS software to current versions. Upgrading the system will allow for efficiencies in the operations and will minimize duplication of efforts. City crews will be able to manage work orders and inventories while in the field utilizing tablets eliminating manual or hand written information. The new software will maintain the City's asset inventories (ie. pavement, sidewalks, signs, drainage items, and trees, etc.) as well as provide service request, work order and equipment maintenance modules. The agreement also includes the data conversion for existing data as well as full implementation of the software and training for employees.

The RFQ process consisted of advertising for companies to submit their qualifications to the City for review. Four companies submitted RFQ's. All four companies were asked to provide demonstrations of their products. After demonstrations Public Works staff determined that there were two vendors that best met the department's needs and requirements. After pricing submittals were reviewed Lucity, Inc. was chosen for its product and associated price. Lucity, Inc. is based in Overland Park, KS and is currently used by several local communities including Overland Park, Leawood, Lenexa, and Johnson County. Given that the City's IT services are now provided by Johnson County IT they are already familiar with the software and its requirements.

Lucity, Inc. will allow Public Works to move forward with the current asset inventory processes and it will allow the data to be integrated with GIS making access to the data more map-centric. This system will allow our field crews to input data and manage work orders in the field. Another benefit is that City Hall staff can have access to the system as well and initial discussions have occurred regarding the use of the customer response module.

There will be a few additional items required for this project. It will require two new licenses of ESRI mapping software, a new server license and seven handheld mobile devices. These items will be purchased through the IT fund. The IT Project Fund has

\$105,000 budgeted for the complete project and is adequate for the completion of the project. Full implementation of the software will take about four months.

All similar software typically requires a yearly support fee that covers software updates and customer support. From discussions with the local communities that utilize the Lucity, Inc. software they do provide excellent support and are very responsive. Lucity, Inc. has a yearly fee of \$8,980 which will be invoiced at the end of year one and will increase by about 2.5% per year after that.

FUNDING SOURCE

Funds are budgeted in the IT Project Fund and are sufficient for purchase and installation.

ATTACHMENTS

1. Lucity, Inc. Agreement

PREPARED BY

Keith Bredehoeft, Public Works Director

December 8, 2014

SOFTWARE LICENSE AND PROFESSIONAL SERVICES AGREEMENT

ARTICLES OF AGREEMENT

This Agreement between the **City of Prairie Village, Kansas**, a Kansas municipal corporation, as "CLIENT", and **LUCITY, INC.**, as "CONTRACTOR".

WITNESSETH:

Whereas, the CONTRACTOR (a Kansas Corporation with offices located at 10561 Barkley, Suite 500, Overland Park, KS 66212) owns certain software programs that are licensed as individual program titles which are known collectively as the "*Lucity*®"; and

Whereas, the CLIENT (located at _____) would like to use, and the CONTRACTOR would like to grant the CLIENT the right to use, those software programs accessing databases residing at the CLIENT's site, while protecting the copyrights, trade secrets, confidential information, and other valuable intellectual property they contain; and

Whereas, the CLIENT is authorized and empowered to contract with the CONTRACTOR to provide professional services as hereinafter described; and

Whereas, the CONTRACTOR is registered in accordance with the laws of the State of Kansas, and is qualified to provide the professional services desired by the CLIENT; now, therefore,

IT IS AGREED THAT:

SECTION I – SOFTWARE LICENSE

The CONTRACTOR agrees to furnish various *Lucity* software programs, and grant the CLIENT a license to use these programs, in consideration of the mutual covenants and obligations expressed in the *Lucity*® Software License Agreement attached as Exhibit "A". These programs shall consist of the items listed in the Schedule of Software attached as Exhibit "B".

SECTION II – SCOPE OF SERVICES

The basic Scope of Services for the supply, implementation, support and maintenance of a **PUBLIC WORKS WORK MANAGEMENT SYSTEM**, herein referred to as "PROJECT", is as follows:

1. The CONTRACTOR agrees to furnish and perform various professional services related to on-going software technical support and maintenance items outlined in the Software Support and Maintenance Provisions attached as Exhibit "C".
2. The CONTRACTOR agrees to furnish and perform various professional services related to the items outlined the Schedule of Services attached as Exhibit "D".

Any items beyond the basic Scope of Services shall be considered as Additional Services. If authorized in writing by CLIENT, CONTRACTOR shall furnish, or obtain from others, services resulting from significant changes in the basic Scope of Services.

SOFTWARE LICENSE AND PROFESSIONAL SERVICES AGREEMENT

The cost to perform Additional Services shall be based on the rates outlined in the Schedule of Costs and Payments attached as Exhibit "E".

SECTION III – RESPONSIBILITIES OF THE CLIENT

The CLIENT shall provide information and assistance as follows:

1. Assist CONTRACTOR by placing at their disposal all available information pertinent to the PROJECT including data, standards, specifications, processes, workflows, and reports relative to the CONTRACTOR'S services.
2. Give prompt written notice to CONTRACTOR whenever CLIENT observes or otherwise becomes aware of any development that affects the Scope or timing of CONTRACTOR'S Services.
3. Bear all costs incident to compliance with the requirements of this Section III.

SECTION IV – SCHEDULE OF SERVICES

It is anticipated that the PROJECT as described in Section II will be completed and submitted to the CLIENT in accordance with the estimated schedule for major work items as shown on Exhibit "D".

The work items described shall be carried out as expeditiously as possible. The CONTRACTOR shall not be liable to the CLIENT, if delayed in, or prevented from performing the work as specified herein through any cause beyond the control of the CONTRACTOR, and not caused by his own fault or negligence including acts of nature or the public enemy, inclement weather conditions, acts, regulations, or decisions of the Government or regulatory authorities after the effective date of this Agreement, fires, floods, epidemics, strikes, jurisdictional disputes, lockouts, and freight embargoes.

SECTION V – FEES AND PAYMENTS

The CLIENT shall compensate the CONTRACTOR for the Scope of Services as described in Section II of this Agreement an amount not exceeding the total cost as shown on Exhibit "E". The maximum compensation shall not be exceeded without further authorization of Additional Services.

Labor costs, costs associated with subcontract work, bonding costs, and direct expenses such as shipping, printing, telephone and commercial computer software are included in the maximum compensation.

Payment to the CONTRACTOR shall be made in accordance with the estimated schedule of billings for work items as shown on Exhibit "E". Invoices shall be due and payable to the CONTRACTOR within forty-five (45) days of each billing.

SOFTWARE LICENSE AND PROFESSIONAL SERVICES AGREEMENT

Once this Agreement expires, or final payment has been requested and made, the CONTRACTOR shall have no more than thirty (30) days to present or file claims against the CLIENT concerning this Agreement. After that period, the CLIENT shall consider the CONTRACTOR to have waived any right to claims against the CLIENT concerning this Agreement.

The Fees and Payment provisions for the PROJECT, applicable to the *Lucity* software program licenses, provided in this Section V supersede the License Fee payment provisions provided in Section 6(a) of Exhibit "A".

SECTION VI – TERMINATION

- A. The obligation to provide further services under this Agreement may be terminated by either party upon thirty (30) days' written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party. Client may also terminate upon five (5) days written notice for any reason.
- B. In the event of termination by the CLIENT, the CONTRACTOR shall be paid for all services rendered up to and including the date of termination.
- C. In the event that the CLIENT, for any reason, decides not to proceed with the PROJECT, this Agreement shall then be considered terminated; the CONTRACTOR shall be entitled to payment as described herein for all services actually provided under this Agreement. In such event, the CLIENT shall promptly notify the CONTRACTOR in writing of its decision not to proceed with the PROJECT so that the CONTRACTOR can reassign his personnel and revise work schedules as may be required.

The Termination provisions for the PROJECT provided in this Section VI are applicable to the Scope of Services as described in Section II of this Agreement. The Term and Termination provisions provided in Section 12 of Exhibit "A" are applicable to the *Lucity*® software program licenses.

SECTION VII – INDEMNIFICATION

The CONTRACTOR shall defend, indemnify and hold the CLIENT harmless from any and all costs, liability, loss or damage the CLIENT may suffer as a result of claims, demands, costs or judgments against it arising out of the CONTRACTOR'S negligence in the performance of this Agreement.

The Indemnification provisions for the PROJECT provided in this Section VII are applicable to the Scope of Services referenced in Section II. The Limitations of Liability provisions provided in Section 11 of Exhibit "A" are applicable to the *Lucity* software program licenses.

SECTION VIII – GENERAL CONSIDERATIONS

And, finally it is agreed that:

- A. All services shall be under the direction of qualified personnel.

SOFTWARE LICENSE AND PROFESSIONAL SERVICES AGREEMENT

- B. The Scope of Services covered by this Agreement shall be subject to modification and supplementation upon the written agreement of the duly authorized representatives of the contracting parties. Modification of the terms of this Agreement may be made that would modify the maximum fees stated in the Agreement when mutually agreed by and between the CONTRACTOR and the CLIENT, and shall be incorporated in written amendments to this Agreement. The CONTRACTOR shall have no obligation to perform services in connection with a change in the Scope of Services unless the cost thereof shall be agreed to under this paragraph.
- C. The CONTRACTOR reserves the right to renegotiate this Agreement if this agreement is not signed by the CLIENT within ninety (90) days after submittal.
- D. The following Exhibits are attached to and made a part of this Agreement:
 - Exhibit "A" - *Lucity*® Software License Agreement
 - Exhibit "B" - Schedule of Software
 - Exhibit "C" - Software Support and Maintenance Provisions
 - Exhibit "D" - Schedule of Services
 - Exhibit "E" - Schedule of Costs and Invoicing

IN WITNESS WHEREOF, the CLIENT and CONTRACTOR, by their authorized representatives, have hereunto subscribed their names this _____ day of _____, 2014.

Executed in duplicate with copies to the CLIENT and CONTRACTOR.

LUCITY, INC.

CITY OF _____

By: _____
James C. Graham, P.E.

By: _____

Title: Vice President & Chief Operating Officer

Title: _____

Attest:

Attest:

By: _____

By: _____

Title: _____

Title: _____

Exhibit "A"
Lucity Software License Agreement

IMPORTANT – READ CAREFULLY BEFORE INSTALLATION

This software is subject to acceptance of the Lucity Software License Agreement. Lucity, Inc. (Lucity) is willing to license this software to you only upon the condition that you accept all of the terms and conditions contained in the Lucity Software License Agreement and any stated Special Provisions. If you do not agree with the terms and conditions as stated, please return the unopened media package, the disks, and all accompanying printed materials to Lucity for a full refund of the license fees.

THIS AGREEMENT ("**Agreement**") is between Lucity, Inc., a Kansas corporation with its principal place of business at 10561 Barkley, Suite 100, Overland Park, KS 66212 ("**Lucity**"), and **Licensee** with its software programs accessing databases residing at **Licensed Site**.

RECITALS

WHEREAS, Lucity owns certain software programs that are licensed under individual program titles which are known collectively as the "**Lucity software**";

WHEREAS, Licensee would like to use, and Lucity would like to grant Licensee the right to use, those software programs, while protecting the copyrights, trade secrets, confidential information, and other valuable intellectual property they contain.

NOW, THEREFORE, Lucity and Licensee agree as follows:

1. DEFINITIONS.

"**Program(s)**" means the object code versions of the computer software programs, databases, and related documentation.

"**Seats**" means the number of concurrent users (i.e., the number of persons using a Program at one time) permitted to use a Program.

"**Clients**" means the number of individual database setups that can be accessed by a Program.

"**Licensed Site**" means the location at which the Licensee will be permitted to store the databases used by the Program(s).

2. LICENSE GRANT.

(a) **License.** Subject to the terms and conditions of this Agreement, Lucity grants Licensee a fee-bearing nonexclusive license to use the object code versions of the Program(s) for its internal purposes during the term of this Agreement; provided, however, that (i) the number of concurrent users of each Program, including all users authorized to use any Program(s) pursuant to Section 2(b) below, shall not exceed the number of Seats for each such Program, (ii) the number of individual database setups that can be accessed by each Program shall not exceed the number of Clients for each such Program, and (iii) the location at which the databases accessed by the Program(s) reside shall be the Licensed Site designated herein.

(b) **Sublicense.** For information on granting sublicense rights, please contact Lucity.

(c) **Limited Transfer.** For information on transferring the location of the Licensed Site, please contact Lucity.

(d) **Copying.** Licensee may make only as many copies of each Program as are necessary for Licensee to utilize the total Seats for each such Program.

(e) **Future Licenses.** Lucity and Licensee may, by mutual agreement, include future licenses of the Program(s) under this Agreement by exchanging documents (i.e., a purchase order from Licensee and acknowledgment from Lucity) referencing this Agreement and the Program(s) to be licensed. Such future Program(s) shall be included as Program(s) under this Agreement. The parties agree that such purchase orders and acknowledgments shall have no effect on the terms and conditions of this Agreement, under which such Program(s) are licensed.

(f) **Limited Grant.** Except as expressly provided in this Section 2, Lucity grants and Licensee receives no right, title or interest in or to the Programs or any other deliverables provided by Lucity in connection with this Agreement and Lucity reserves and retains all such right, title, and interest.

(g) **Disaster Recovery and Testing.** The Licensee is permitted to install the Programs at its internal disaster recovery site and to store copies of the databases used by the Programs for the purposes of testing its disaster recovery plan. The Licensee is also permitted to install the Programs in a testing environment at its Licensed Site and to store copies of the databases used by the Programs for the purposes of testing future releases and training users.

3. LICENSE RESTRICTIONS.

(a) **No Reverse Engineering.** Licensee agrees not to disassemble, decompile, reverse analyze, or reverse engineer the Program(s).

(b) **No Modification.** Licensee agrees not to modify the Program(s) without the written consent of Lucity.

(c) **No Copying.** Licensee agrees not to copy the Program(s), in whole or in part, except for a reasonable number of back-up copies and copies for disaster recovery and testing purposes, and as may be necessary to utilize the total Seats for a given Program.

(d) **No Third Party Use.** Licensee will not use the Program(s) in any manner to provide computer services to third parties, except as may be necessary to implement a sublicense.

(e) **Training.** Licensee will not use the Program(s) until its personnel have received sufficient training in the use of the Program(s) to generate accurate data from the operation of the Program(s).

4. PROPRIETARY RIGHTS.

(a) **Lucity's Property.** The Program(s), in whole and in part and all copies thereof, are and will remain the sole and exclusive property of Lucity.

(b) **Licensee's Property.** Any and all information provided by Licensee, as well as any and all information generated by Licensee's use of the Programs (specifically excluding Program code), shall remain the sole and exclusive property of Licensee.

(c) **Proprietary Notices.** Licensee will not delete or alter any copyright, trademark, and other proprietary rights notices of Lucity and its licensors appearing on the Program(s). Licensee agrees to reproduce such notices on all copies it makes of the Program(s).

5. DELIVERY.

Lucity will deliver the Program(s) to Licensee, or Licensee's designated representative, within a reasonable time of execution of this Agreement by both parties.

6. FEES AND TAXES.

(a) **License Fee.** As consideration for the rights granted to Licensee under the Agreement set forth in Section 2 of this Agreement, Licensee shall remit payment to Lucity, or Lucity's designated representative, the License Fee within thirty (30) days of the Shipping Date. Late payments will be subject to a late fee of one and one-half percent (1-1/2%) per month or the maximum rate permitted by applicable law, whichever is less. Lucity may publish revised fee schedules from time to time, and any fees for future licenses for the Program(s) included under this Agreement shall be determined by Lucity's then-current fee schedule.

(b) **Taxes.** Fees due under this Agreement do not include any taxes. Licensee will be responsible for, and will promptly pay, all taxes of whatever nature (including but not limited to sales and use taxes) resulting from or otherwise associated with this Agreement or Licensee's receipt or use of the Program(s), except income taxes based on Lucity's income. In lieu of payment of such taxes, Licensee shall provide Lucity, or Lucity's designated representative, with proof of Licensee's tax exempt status.

7. WARRANTIES.

(a) **Warranty.** Lucity warrants that during the ninety (90) days following the shipping date:

- (i) the Program(s) will be capable of performing in the manner described in all the documentation in all material respects; and
- (ii) the storage media containing the Program(s) will be free from defects in materials and workmanship.

(b) **Exclusive Remedy.** In the event that the Program(s) or storage media fail to conform to such warranty, as Licensee's sole and exclusive remedy for such failure Lucity will, at its option and without charge to Licensee, repair or replace the Program(s) or storage media or refund to Licensee the License Fee paid, provided that the nonconforming item is returned to Lucity within the 90-day warranty period.

(c) **Disclaimer.** The Warranties provided in this Section are in lieu of all other warranties, express and implied, including but not limited to any implied warranties of Merchantability, and Fitness for a Particular Purpose.

(d) **Year 2000 Compliance.** "Year 2000 Compliant" means that the Program(s), when used in accordance with its associated documentation, will (a) initiate and operate, (b) correctly store, represent, and process dates, and (c) not cause or result in abnormal termination or ending, when processing data containing dates in the year 2000 and in any preceding and following years, provided that all third party applications that exchange date data with the program do so properly and accurately in a form and format compatible with the program. The Program(s) provided by Lucity under this agreement process dates only to the extent that the Program(s) use date data provided by the host or target operating system for date representations used in internal processes, such as file modifications. Any Year 2000 Compliance issues resulting from the operation of the Program(s)

Lucity Software License Agreement

are therefore necessarily subject to the Year 2000 Compliance of the relevant host or target operating system. The preceding does not apply, however, and Lucity does not assume any liability for, the performance of any applications that authorized licensees may create through use of the Program(s), nor for any Year 2000 Compliance issues that may arise from the use of the Program(s) with any third party products, including hardware, software or firmware. Except as expressly provided in this Section, Lucity makes no Year 2000 related representations or warranties for the Program(s), and any such warranties, including any implied warranties, are hereby disclaimed.

8. INDEMNITY.

(a) Duty to Indemnify and Defend.

(i) Lucity will defend or settle at Lucity's own expense, any action or other proceeding brought against Licensee to the extent that it is based on a claim that the use of the Program(s) as licensed in this Agreement infringes any U.S. copyright, patent, or that the Program(s) incorporates any misappropriated trade secrets.

(ii) Lucity will pay any and all costs, damages, and expenses (including but not limited to reasonable attorneys' fees) Licensee becomes obligated to pay in any such action or proceeding attributable to any such claim.

(iii) Lucity will have no obligation under this Section as to any action, proceeding, or claim unless: (A) Lucity is notified of it promptly; (B) Lucity has sole control of its defense and settlement; and (C) Licensee provides Lucity with reasonable assistance in its defense and settlement.

(b) Injunctions. If Licensee's use of any Program(s) under the terms of this Agreement is, or in Lucity's opinion is likely to be, enjoined due to the type of infringement or misappropriation specified in Section 8(a)(i), then Lucity may, at its sole option and expense, either:

(i) procure for Licensee the right to continue using such Program(s) under the terms of this Agreement;

(ii) replace or modify such Program(s) so that it is noninfringing and substantially equivalent in function to the enjoined Program(s); or

(iii) if options (i) and (ii) above cannot be accomplished despite the reasonable efforts of Lucity, then Lucity may both:

(A) terminate Licensee's rights and Lucity's obligations under this Agreement with respect to such Program(s); and

(B) refund to Licensee the unamortized portion of the License Fee paid based upon a 5 year straight-line depreciation, such depreciation to be deemed to have commenced on the effective date of this Agreement.

(c) Exclusive Remedy. The foregoing are Lucity's sole and exclusive obligations, and Licensee's sole and exclusive remedies, with respect to infringement or misappropriation of intellectual property rights. Lucity makes no separate warranty of noninfringement under or in connection with this agreement.

(d) Exceptions. Lucity will have no obligations under this Section 8 with respect to infringement or misappropriation arising from: (i) modifications to the Program(s) that were not made by Lucity (whether or not authorized by Lucity); (ii) Program(s) specifications or modifications requested by Licensee; or (iii) the use of Program(s) with products (including but not limited to software) not provided by Lucity.

9. CONFIDENTIAL INFORMATION.

(a) Definition. "**Confidential Information**" refers to: (i) the Program(s), including but not limited to their software source code, and any related documentation or technical or design information related to the Program(s); (ii) the business or technical information of Lucity, including but not limited to any information relating to Lucity's product plans, designs, costs, product prices and names, finances, marketing plans, business opportunities, personnel, research, development or know-how; (iii) any information reasonably and appropriately designated by Lucity as "confidential" or "proprietary" or which, under the circumstances taken as a whole, would reasonably be deemed to be confidential under applicable law; and (iv) the terms and conditions and existence of this Agreement.

(b) "Confidential Information" will not include information that:

(i) is in or enters the public domain without Licensee's breach of this Agreement;

(ii) Licensee receives from a third party without restriction on disclosure and without breach of a nondisclosure obligation; or

(iii) Licensee party develops independently, which it can prove with clear and convincing written evidence.

(c) Confidentiality Obligations. Licensee agrees to take all measures reasonably required in order to maintain the confidentiality of all Confidential Information in its possession or control, which will in no event

be less than the measures Licensee uses to maintain the confidentiality of its own information of equal importance.

(d) Employee Confidentiality Procedures. Licensee agrees to inform its employees of their confidentiality obligations regarding the Program(s) and other Lucity Confidential Information. Licensee further agrees to ensure that contract employees (including temporary employees) of Licensee agree to confidentiality obligations similar to those of this Agreement.

10. MAINTENANCE AND SUPPORT.

Lucity and Licensee may, by mutual agreement, include the maintenance and support services described in the software's online help for the Program(s) under this Agreement by exchanging documents (i.e., a purchase order from Licensee and acknowledgment from Lucity) referencing this Agreement and the Program(s) to be included under such services. The parties agree that such purchase orders and acknowledgments shall have no effect on the terms and conditions of this Agreement, under which such Program(s) are licensed. Maintenance and support services are provided at a rate and for a term as mutually determined by Lucity and Licensee for the scope of services to be provided by Lucity for the Program(s) to be included under such services.

11. LIMITATIONS OF LIABILITY.

Lucity's total liability under this Agreement will be limited to the License Fee. Licensee agrees that, as part of the material consideration for Lucity licensing the Programs to Licensee hereunder, in no event will Lucity be liable to Licensee or any third party under this Agreement for any Special, Incidental, or Consequential Damages, whether based on breach of contract, tort (including negligence), product liability, or otherwise, and whether or not Lucity has been advised of the possibility of such damage. Input and/or edits of data by means other than the Lucity standard Program(s) interface may result in loss of data, and/or improper operation of the Program(s). The Licensee agrees that in no event will Lucity be liable to Licensee or any third party under this Agreement for costs necessary to diagnose, recover data and/or restore proper operation of the Program(s) resulting from said actions.

12. TERM AND TERMINATION.

(a) Term. This Agreement will continue in full force and effect perpetually, except as follows:

(b) Termination. Lucity will have the right to terminate this Agreement if Licensee breaches any material term or condition of this Agreement and fails to cure such breach within thirty (30) days of written notice from Lucity;

(c) Effect of Termination. If this Agreement is terminated, Licensee will immediately terminate any sublicenses then in effect, retrieve from sublicensees all copies of the Program(s) in sublicensees' possession, and then return to Lucity, or Lucity's designated representative, or (at Lucity's request) destroy all copies of the Program(s) in its possession or control, and an officer of Licensee will certify to Lucity in writing that it has done so.

(d) Survival. The provisions of Sections 4 (Proprietary Rights), 6(b) (Taxes), 7(b) and (c) (Warranties Exclusive Remedy and Disclaimer), 8(c) and (d) (Infringement Exclusive Remedy and Exceptions), 9 (Confidential Information), and 11 (Limitations of Liability) will survive termination of this Agreement for any reason.

(e) Nonexclusive Remedy. The exercise by Lucity of any remedies under this Agreement will be without prejudice to its other remedies under this Agreement or otherwise.

13. GENERAL PROVISIONS.

(a) Audit Rights. Licensee agrees to allow Lucity, or Lucity's designated representative, at Lucity's sole expense, upon reasonable written notice, and during Licensee's ordinary business hours, to visit the facilities in which Licensee uses the Program(s) and review Licensee's practices with regard to the Program(s).

(b) Assignment. This Agreement will bind and inure to the benefit of each party's successors and assigns, provided that either party may not assign this Agreement, in whole or in part, without written consent of both parties.

(c) Modifications. This Agreement may only be modified, or any rights under it waived, by a written document executed by both parties.

(d) Conflicting Terms. Purchase orders or similar documents relating to the Program(s) issued by Licensee will have no effect on the terms of this Agreement.

(e) Notices. All notices under this Agreement will be deemed given when delivered personally or upon receipt of by U.S. certified mail, return receipt requested, to the address shown below or as may otherwise be specified by either party to the other in accordance with this Section.

Lucity Software License Agreement

(f) Severability. If any provision of this Agreement is found illegal or unenforceable, it will be enforced to the maximum extent permissible, and the legality and enforceability of the other provisions of this Agreement will not be affected.

(g) Waiver. No failure of either party to exercise or enforce any of its rights under this Agreement will act as a waiver of such rights.

(h) Entire Agreement. This Agreement is the complete and exclusive agreement between the parties with respect to the subject matter hereof, superseding and replacing any and all prior agreements, communications, and understandings (both written and oral) regarding such subject matter. No purchase orders, acknowledgments, invoices, or other documents exchanged in the ordinary course of business shall modify or add to the terms and conditions of this Agreement.

(i) Choice of Law. This Agreement will be governed by and construed in accordance with the laws of the State of Kansas.

Copyright © 2011 Lucity, Inc. All rights reserved.

Exhibit "A"
Lucity Software License Agreement

SPECIAL PROVISIONS – ESRI ELA ADD-ON CMMS SOLUTIONS

The following provisions supersede the preceding standard terms and conditions.

Add the following to "1. DEFINITIONS.":

"Eligible Licensee" means a public-sector agency which meets the requirements of the Esri "Small Utilities" or "Small Municipal and County Government" ELA Programs as set forth by Esri. References to "Licensee" in this Agreement imply Eligible Licensee.

"Included Programs" means those specific Programs included in the ELA Add-on Lucity CMMS Solutions, for which a summary is attached as Attachment B. References to "Program(s)" in this Agreement imply Included Programs.

"Excluded Programs" means all other Lucity Programs not included in the ELA Add-on Lucity CMMS Solutions.

"Enterprise License" means an unlimited number of Seats are provided for a Program.

"Effective Date" means the date of receipt of Licensee's purchase order citing this Agreement.

Revise the following sections of "2. LICENSE GRANT." to read:

(a) License. Subject to the terms and conditions of this Agreement, Lucity grants Licensee a fee-bearing nonexclusive Enterprise License to use the object code versions of each of the Included Programs for its internal purposes during the appropriate term of this Agreement.

(f) Licenses of Excluded Programs. Lucity and Licensee may, by mutual agreement, at any time by exchanging documents (i.e., a purchase order from Licensee and acknowledgment from Lucity) referencing this Agreement and the Excluded Program(s) to be licensed, include fee-bearing nonexclusive licenses to use the object code versions of the Excluded Program(s) for its internal purposes during the appropriate term of this Agreement; provided, however, that (i) the number of concurrent users of each Excluded Program, including all users authorized to use any Excluded Program(s) pursuant to Section 2(b), shall not exceed the number of Seats for each such Excluded Program, (ii) the number of individual database setups that can be accessed by each Excluded Program shall not exceed the number of Clients for each such Excluded Program, and (iii) the location at which the databases accessed by the Excluded Program(s) reside shall be the Licensed Site designated herein. Such Excluded Program(s) shall be included as Program(s) under this Agreement exclusive of the "Special Provisions – Esri ELA Add-on CMMS Solutions". The parties agree that purchase orders and acknowledgments used for licensing Excluded Program(s) shall have no effect on the terms and conditions of this Agreement.

Revise the following section of "6. FEES AND TAXES." to read:

(a) Annual Fee. As consideration for the rights granted to Licensee under the Agreement set forth in Section 2 of this Agreement, Licensee shall remit payment to Lucity, or Lucity's designated representative, (i) the appropriate Annual Fee within thirty (30) days of the Effective Date, and (ii) the appropriate Annual Fee within thirty (30) days of anniversary of the Effective Date for each renewal period. Late payments will be subject to a late fee of one and one-half percent (1-1/2%) per month or the maximum rate permitted by applicable law, whichever is less. The appropriate Annual Fee is based on the Licensee's population or meter count on the Effective Date.

Revise the following section of "7. WARRANTIES" to read:

(a) Warranty. Lucity warrants that during the twelve (12) months following the Program(s) being put into production:

(i) the Program(s) will be capable of performing in the manner described in all the documentation in all material respects; and

(ii) the storage media containing the Program(s) will be free from defects in materials and workmanship.

(b) Exclusive Remedy. In the event that the Program(s) or storage media fail to conform to such warranty, as Licensee's sole and exclusive remedy for such failure Lucity will, at its option and without charge to Licensee, repair or replace the Program(s) or storage media or refund to Licensee the License Fee paid, provided that the nonconforming item is returned to Lucity within the twelve (12) month warranty period.

Lucity Software License Agreement

Revise “**10. MAINTENANCE AND SUPPORT.**” to read as follows:

Maintenance and support services for the Included Programs are included in the Esri ELA Add-on CMMS Solutions offering. For Excluded Programs, Lucity and Licensee may, by mutual agreement, include the maintenance and support services described in the software’s online help for the Excluded Program(s) under this Agreement by exchanging documents (i.e., a purchase order from Licensee and acknowledgment from Lucity) referencing this Agreement and the Excluded Program(s) to be included under such services. The parties agree that such purchase orders and acknowledgments shall have no effect on the terms and conditions of this Agreement, under which such Excluded Program(s) are licensed. Maintenance and support services are provided at a rate and for a term as mutually determined by Lucity and Licensee for the scope of services to be provided by Lucity for the Excluded Program(s) to be included under such services.

Revise the following section of “**12. TERM AND TERMINATION.**” to read:

(b) Termination. Lucity will have the right to terminate this Agreement if Licensee breaches any material term or condition of this Agreement and fails to cure such breach within thirty (30) days of written notice from Lucity; Licensee will have the right to terminate this Agreement for any reason by giving thirty (30) days written notice to Lucity.

(f) Term. Except as follows, this Agreement will continue in full force and effect for:

- (i) one (year) from the Effective Date of this Agreement, with automatic renewal for two (2) additional one (1) year periods, unless Licensee provides written notice of termination thirty (30) days prior to the date of renewal; and/or
- (ii) perpetually for Excluded Program(s).

Revise the following section of “**13. GENERAL PROVISIONS.**” to read:

(i) Choice of Law. This Agreement will be governed by and construed in accordance with the laws of the state in which Licensee is located.

EXHIBIT "B"
Schedule of Software

For the Project Lucity agrees to furnish licenses of the various *Lucity*® software programs listed in the following table, and grant the City such licenses to use these programs for the fees as indicated, in consideration of the mutual covenants and obligations expressed in the *Lucity*® Software License Agreement provided as Exhibit "A".

Solution	Software Licensing			
	Basis		Fees	
	Quantity	Unit	Unit	Extended
Work Orders	5	Seat	\$ 1,200.00	\$ 6,000.00
Requests	3	Seat	\$ 500.00	\$ 1,500.00
Work Administrator	1	Seat	\$ 3,000.00	\$ 3,000.00
Web Citizen	1	Site	\$ 3,000.00	\$ 3,000.00
Inventory Control	2	Seat	\$ 2,000.00	\$ 4,000.00
<u>Asset Bundle</u> Storm Streets Bundle ¹ Traffic ² Tree Facility/Equipment Fleet/Equipment	6	Seat	\$ 2,000.00	\$12,000.00
GIS Web Map	1	Site	\$ 5,000.00	\$ 5,000.00
GIS Desktop	1	Seat	\$ 2,000.00	\$ 2,000.00
Mobile	7	Install	\$ 1,200.00	\$ 8,400.00
TOTAL				\$44,900.00
Notes				
¹ Streets Bundle includes Streets, Pavement and Right-of-way.				
² Traffic Bundle includes Signs & Street Lights				

EXHIBIT "C"
Software Support and Maintenance Provisions

For the various *Lucity* software programs listed in Exhibit "B", Lucity agrees to furnish to the City resources and perform various professional services related to on-going software technical support and maintenance as outlined in this Exhibit "C".

ASM PROGRAM RESOURCES AND SERVICES

On-going software technical support and maintenance resources and services provided through the Lucity Constant Connection Program are summarized in the attached exhibit titled "TECHNICAL SUPPORT AND SERVICES".

ASM PROGRAM FEES

The annual fee for the Constant Connection Program are based on software licenses detailed in Exhibit "B". The first year annual support and maintenance cost is **\$8,980.00**. A 2.5% increase is applied for each future year. The first year ASM payment is due 12 months following contract execution.

EXHIBIT "C"
Software Support and Maintenance Provisions



Technical Support and Software Maintenance Services

Clients Only Web site

Users have 24/7/365 access to our Help Desk support resources through the "Clients Only" section of our website (www.lucity.com). In addition to serving as a portal by which clients can submit requests and track their resolution status, the Clients Only site provides a knowledge base, software downloads, discussion boards, FAQs, user group information and more.

Toll-free Telephone Support

Lucity support staff is available to respond to inquiries Monday through Friday (i.e., business days) from 7:00 a.m. to 7:00 p.m., Central Standard Time.

Web Support Technology

We are able to provide the highest level of software support via the Web. This technology enables us to "see" your computer, allowing us to troubleshoot the problem in your environment and easily deliver a solution. In addition, this technology provides additional training capabilities for new users, staff refresher courses, etc.

User Conferences

Subscribers to our Annual Support & Maintenance (ASM) Program receive discounted fees to our Annual Conference & Training (ACT) event. The ACT provides you with an ideal place to complete training courses, network with co-users, work with our staff and explore additional resources we may have to offer.

Software Patches

We continually refine our applications - from problem resolution to minor enhancements, we always strive to strengthen the software. As an ASM subscriber, you will be provided with these patches for the supported program(s) as they become available.

Software Upgrades / New Releases

We are constantly improving all of our products. We incorporate new functionality and new tools to help you get the most out of the software. This Program provides you with upgrades (new releases) of the support program(s) as they become available.

Documentation and Self-Help

Electronic Help Manuals

Users can access a database of help through the Electronic Help Manuals within Lucity applications. These how-to guides give users an overview of applications, modules, functions and features. Users can search for information by table of contents, index or search.

Release Notes

With every new software release, Lucity provides a list of new additions. Release notes explain how the software has changed, including added functions and features or corrected software issues.

Lucity, Inc. 800.492.2468 www.lucity.com

EXHIBIT "D"
Schedule of Services

IMPLEMENTATION

Following is an outline of the Implementation Plan

Configuration and Installation

Working together on-site with the City's designated System Administrator, we will download the Lucity software install media from our Client Portal Web site and complete software installation procedures and processes including:

- Establishing multiple environments for testing/development, production, and backup/recovery
- Configuring integration with the City's Windows Active Directory security (if applicable)
- Performing system-level testing (to ensure satisfactory performance) and performance tuning actions (if necessary)

Lucity will facilitate an on-site "Discovery Workshop" to solicit, review and assess input from the City for configuring the work management system. Workshop topics will include:

- Discussion of industry best practices and current ("as-is") and desired ("to be") business processes, end-user workflows, and preventive maintenance (PM) activities/schedules; appropriate legacy data for conversion/migration; and relevant documents/forms/reports and related software applications
- Demonstrations of how the EAMS can support those best practices, desired processes and workflows, activities, data and documents through the capabilities (configuration, functionality, integration, tracking and reporting) of the Lucity products
- Identification of the various end-user types and roles, and discuss system access and privileges of each to be supported through the Lucity Security capabilities
- Discuss audit tracking and reporting (operational, managerial and regulatory) requirements
- Gather the specific data and information needed for subsequent software configuration and integration efforts

Based on the knowledge acquired from the Discovery Workshop, we will align the City's needs for the solution with capabilities of the Lucity products. Results and configuration recommendations will be developed, including:

- Those specific practices, processes and workflows, activities, data and documents to be supported by the solution
- Any alterations to processes and workflows that could be made to take best advantage of the software capabilities
- Details of the initial software configuration for:
 - Formalizing data input, display, query, report and exchange requirements
 - Setting up the architecture and standards of the work management capabilities to effectively and efficiently organize, manage and track service requests, activities (work orders and preventive maintenance), and resources (employees, equipment, contractors, materials and parts)
 - Identifying the infrastructure asset attributes to collect/update, analyze, and track
 - Personalizing user interfaces to support the various workflows of software end-users

EXHIBIT “D”
Schedule of Services

With the City’s approval of our recommendations, we will initially configure the software using the applications, parameters and settings available with the Lucity products for “customization”. We will next convene an on-site “Review Workshop” to assess the initially configured software, and identify any needed revisions. Several iterations of the configuration may be necessary to fully support the City’s needs. If so we will host several follow-up meetings with City staff to exchange information, coordinate necessary efforts, and gain approval of the final software configuration.

GIS Integration

We will work with City staff to configure and test the bi-directional GIS integration, and incorporate GIS asset data into the Lucity solution, using the Lucity GIS solutions as described below. The GIS data incorporated will be data available at the time. To address additional GIS data that may become available later, we will provide appropriate training to the System Administrator.

With the Lucity GIS Desktop solution:

- The CMMS can be configured to link directly to the asset feature classes managed within the City GIS using the Geodatabase Configuration application (extension in ArcCatalog)
 - This configuration allows attribute field mapping from the feature classes to the associated Lucity asset tables. The City can determine which GIS attributes to share with the Lucity software, and which to maintain solely in the GIS.
- GIS data (attribute and spatial information for assets, road names, etc.) can be incorporated into Lucity using the Synchronization application (extension in ArcMap)
 - Synchronization of GIS and Lucity data is made when add/edit processes are saved (in either the GIS or Lucity). Upon saving a GIS edit session, the synchronization automatically (with no user intervention required) updates Lucity with edited, non-spatial data. Upon saving edits in Lucity, non-spatial attribute updates are automatically “pushed” to the GIS.
- Valid and appropriate data from the GIS can be “loaded” into Lucity, map-related query and display functions to be supported by the software configured, and the integration refined as needed.

With the Lucity GIS Web solution:

- ArcServer services (map, geometry and geocode) published using standard Esri tools (primarily ArcMap) can be consumed to display a web-based map for end users. The MetaData Server Object extension is enabled on certain map services or the City can deploy feature services to allow Lucity to query field and table name information. Once the map/feature services are created and configured, the City can author maps in the Lucity UI Administrator application by selecting one or more of these published services.
- The software can push edits to the geodatabase. This functionality requires a map service or feature service to be authored containing the feature classes to be updated. The Geodatabase Update service object extension must be enabled only for map services. The City can use the UI Administrator application to configure the URL to the map service that handles updates to the geodatabase, and configure settings to handle situations when the map/feature service cannot be reached or the update fails.

Data Conversion

EXHIBIT "D"
Schedule of Services

We understand that sources of legacy data from the City's current VHB solution will be converted into the Lucity software. Lucity will be responsible for migrating this information. Based on discussions with the City, a data conversion document will be prepared that will allow the City to map fields from the VHB system to the Lucity database. This includes but is not limited to asset, asset inspection, work orders, service requests, and additional workflow setup tables. In addition, the City may consider additional data for conversion and migration to the Lucity system, including Excel spreadsheets or Microsoft Access databases. A Data Import application is provided with the Lucity software that can be used with these sources of data. We will assist the System Administrator in establishing the mapping between the source and destination data fields, name and save defined imports, and complete the import processes.

Lucity will also configure a fuel import routine to process vehicle fueling records from the City's FuelMaster software. Using the Lucity standard data importer, Luciy will configure an import routine to automatically or periodically import fuel data to the Lucity fuel module.

As for other sources of data (PDF, jpeg, TIFF, Laserfiche scans, CCTV video, paper plats/plans, employee memory), we assume the City will be responsible for incorporating appropriate information into the software:

- The software Document Control feature is available for linking externally managed electronic files (documents, images, video, web pages, etc.) to Lucity records. We will assist the System Administrator in use of this Document Control feature.
- The configured Lucity system will include personalized data input forms that will expedite the City's population of information from paper records and "employee memory".

Acceptance Testing

We will certify in writing to the City when the software is installed and "ready for testing". This readiness for testing can be considered sequential – software installed, software with initial configuration, software with migrated data, and software with final configuration. We understand that unless the City provides written notification within ninety (90) days after installation that the software is not operating in accordance with documented functionality (per Proposal responses and demonstrations), the system will be deemed accepted.

We are assuming the City will be responsible for testing, and we will remedy any discrepancies at no cost to the City. We will assist the City in developing test case scenarios for use during acceptance testing.

Training

Following are outlines of the typical training efforts we provide. We will prepare and submit a Training Plan customized to the City's needs based on the specific system configuration, interfaces and integrations. Training work will proceed with approval of the Plan by the City.

System Administration

The goal of this training is for the System Administrator to be reasonably self-sufficient in refining, expanding and sustaining the Lucity software.

- *System installation and maintenance*

EXHIBIT "D"

Schedule of Services

- Completing procedures as outlined in the Installation Help Guide for the initial Lucy software installation and future software upgrades
- Reviewing the documentation provided as Installation deliverables
- Reviewing the technical support and software maintenance services and resources available we provide through the Lucy Constant Connection Program
- Discussing the current backup and recovery practices for the City's data, and reviewing suggested practices specific to the software
- *Security*
 - Completing procedures as outlined in the Security Help Guide for adding new end-users, and defining end-user group and individual permissions for software access and use
- *Configuration*
 - Using the applications, parameters and settings available with the Lucy products to refine the software configuration
- *Documents*
 - Completing procedures for establishing links between Lucy records and externally managed electronic documents
 - Adding custom content to the on-line Help system via hyperlinks to externally managed information
- *Integration*
 - Using the Lucy solutions for completing processes for configuring and refining the GIS integration and other Lucy interfaces (i.e. Fleet)
- *Reporting*
 - Adding custom reports
- *Data import/export*
 - Importing data using the Data Import application, and exporting data using the Lucy reporting capabilities

We will provide training to the System Administrator through on-site sessions and "hands-on" training included within the joint efforts to complete other implementation tasks.

End-User Production

This hands-on training consists of a series of workshops and breakout sessions completed on-site. The goal of this training is to provide end-users the knowledge, skills and confidence to adhere to business processes and successfully complete their specific operational workflows.

- *General*
 - *Dashboard*: Using "Home" pages with personalized real-time content
 - *Filter*: Creating queries to produce specific record sets
 - *Locate*: Quickly finding a specific record within the current "Filter"
 - *Show in Map*: Opening a GIS map and zooming to assets and locations (customer addresses, work sites, etc.)
 - *Document Control*: Linking electronic documents (images, videos, as-built drawings, O&M manuals, web site links, etc.) to records
 - *Subset Manager*: Loading filtered data from one application into other applications
 - *Browse*: Creating and exporting ad-hoc reports
 - *Reports*: Using standard report templates

EXHIBIT "D"
Schedule of Services

- *Help*: Using the on-line, context-sensitive Help system
- Work management
 - Receiving/creating, routing and completing service requests, and work orders in response to service requests
 - Establishing work order templates for recurring activities and PM schedules for assets
 - Creating, assigning, routing and completing work orders from templates and PM schedules
 - Performing in-house and external billing of work order costs
 - Maintaining inventories of parts and materials used on work orders
 - Viewing linked electronic documents
 - Using GIS to locate customers and work locations
 - Producing operational, management and regulatory reports
- Asset management
 - Collecting and maintaining asset attributes
 - Establishing appropriate relationships between assets
 - Assessing the condition, and tracking the operating status, of assets
 - Interpreting asset lifecycle costs
 - Viewing linked electronic documents
 - Using GIS to locate assets and display condition assessment data
 - Validating and transferring data from external data collection systems
 - Producing operational, management and regulatory reports
- Work planning and budgeting
 - Creating, analyzing, reporting and updating activity Work Plans

We suggest end-users be segregated into groups that share common requirements with regard to access and use of the solution. This segregation will be done on the following basis:

- Major work units
 - Office personnel
 - Field personnel
- User levels
 - Casual user
 - Routine user
 - Heavy user
 - Ad hoc report creator
 - Management
 - System administrator
- Mobile Users

EXHIBIT "D"
Schedule of Services

IMPLEMENTATION COSTS

Task	Efforts			Costs		
	Trips	Hours	Lump Sum	Labor	Expenses	Total
Project Management			\$ 3,810.00	\$ 3,810.00	\$ -	\$ 3,810.00
Configuration and Installation	6	80		\$ 8,000.00	\$ 180.00	\$ 8,180.00
GIS Integration	1	24		\$ 2,400.00	\$ 30.00	\$ 2,430.00
Data Conversion & Fuel Master Import		70		\$ 7,000.00	\$ -	\$ 7,000.00
Training	6	80		\$ 8,000.00	\$ 180.00	\$ 8,180.00
TOTALS	13	254	\$ 3,810.00	\$ 29,210.00	\$ 390.00	\$ 29,600.00
Notes						
Standard labor rates (per person) are \$800.00 per on-site day and \$100.00 per remote hour. An additional amount equal to fifteen percent (15%) of labor costs calculated from these rates is included to cover project management and contract administration efforts.						
Estimated expenses are \$30.00 per trip. Expenses will be billed at actual cost without mark-up.						

EXHIBIT "E"
Schedule of Costs and Invoicing

The following table summarizes costs and invoicing for the software licenses and services to be provided by Lucity to the City for the Project.

Item	Total	Invoicing
Software License Fees (reference Exhibit "B")	\$44,900.00	Fifty percent (50%) will be invoiced upon software installation. The remaining fifty percent (50%) will be invoiced after acceptance testing or prior to the first training session.
ASM Program Fees – First Year (reference Exhibit "C")	Included	Year 1 support & maintenance will expire 12 months after software installation.
Services Costs (reference Exhibit "D")	\$29,600.00	Monthly as incurred
TOTAL – Project Costs	\$74,500.00	
ASM Program Fees – Renewals (reference Exhibit "C")		One hundred percent (100%) will be invoiced sixty (60) days prior to ASM Program expiration date

Additional Services Price List

Training (amounts do not include project management fees)

Onsite or web: \$125 per hour plus direct expenses (amount includes Project Management fee)

* Each application may require different amounts of days of training. Lucity will work with each client to determine specific amount of sessions needed.

Implementation Services (amounts do not include project management fees)

Remote Services \$125 per hour

Custom Report Writing \$100 per hour

Custom Programming \$125-\$150 per hour

Project Management

Administration fee – 15% of total cost of services

* Project Management is a percentage of training and services costs to cover administration fees associated with project management and will fluctuate with changes in the services contracted for.

Note: All prices are in US Dollars and sales tax is not included.



ADMINISTRATION DEPARTMENT

Council Committee Date: December 15, 2014

City Council Meeting Date: January 5, 2015

COU2014-52: Consider approval of 2015 Joint City/County Legislative Platform

RECOMMENDATION

Staff recommends a motion to adopt the 2015 Joint City/County Legislative Platform.

BACKGROUND

Each year the City Council discusses and adopts a legislative program which establishes the City's legislative priorities for the upcoming session. Over the last few years, the Council has adopted a joint City/County platform to assert our common positions with all of our state legislators. The County is requesting this practice continue and hosted a meeting in November with area managers. The document is substantially the same as the 2014 Platform. At that meeting, the following changes to the 2014 Joint Platform were discussed and recommended:

Metro Law Enforcement Mutual Aid: Support for this item will assist in allowing law enforcement agencies to work cooperatively with their counterparts in Missouri. The State of Missouri passed legislation in 2014 and now the State of Kansas must pass the legislation. This would allow law enforcement agencies in Johnson County, Leavenworth County, Miami County, and Wyandotte County to cross state lines to respond to critical emergency incidents and allow Missouri agencies to cross into Kansas.

International Symbol of Access: This item promotes a change in Federal law regarding the Americans with Disability Act to allow for the use of a new Accessible Icon. The new icon hopes to change the focus to reinforcing that people with disabilities can be active and engaged.

Overall, this platform is not intended to encompass all issues which may impact Prairie Village residents but contains those issues which are of high importance and likely to be considered by the legislature in 2015. The Johnson County Board of County Commissioners approved the Joint City/County Legislative Platform at their December 4, 2014 meeting.

ATTACHMENTS

2015 Joint County/City Legislative Platform

PREPARED BY

Nolan Sunderman

Assistant to the City Administrator

Date: December 10, 2014

JOHNSON COUNTY GOVERNMENT AND CITIES JOINT 2015 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.

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 support the continued absence of 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.

LIMITS ON APPRAISED VALUATION GROWTH

We support the continuation of no artificial limits on appraised valuation growth or budgets 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 support stable revenue sources and urge the Legislature not to provide any further exemptions to the ad valorem property tax base, including exceptions for fitness clubs, or the state/local sales tax base, as well as industry specific special tax treatment through exemptions or property classification. We do not support changes in State taxation policy that would narrow the tax base or 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.

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 funded responsibilities. Any budget reductions or changes in state taxation that reduce state resources with an impact on 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 government services, the State should provide greater flexibility and increased local ability to raise revenue beyond primarily sales and property tax sources.

COMPREHENSIVE TRANSPORTATION PLAN

Recognizing it is critical to maintain Kansas infrastructure, we urge the Legislature to follow through on the commitments in the Comprehensive Transportation Plan known as T-WORKS. We recognize the current funding level is far from adequate to address ongoing statewide infrastructure funding needs. As such, funds 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.

JOHNSON COUNTY GOVERNMENT AND CITIES JOINT 2015 LEGISLATIVE PLATFORM

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 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. Additionally, we support the existing allowances for cost recovery for open records included under current 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, or vacancies in non-partisan elected positions be filled through partisan means.

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 without cumbersome reporting requirements.

INTERNATIONAL SYMBOL OF ACCESS

Johnson County supports updating the Americans with Disabilities Act (ADA) regulations to allow for the use of the new concept "Accessible Icon" to identify ADA compliance, and urges the Kansas Legislature to encourage the United States Government to make the necessary changes to law to allow for its use. The symbol aims to remove the idea that it is representative of people with disabilities and change the focus to reinforcing that people with disabilities can be active and engaged in their lived environment. The goal is to change the perceptions of how society and individuals view people with disabilities.

METRO LAW ENFORCEMENT MUTUAL AID

We support mutual aid legislation allowing law enforcement agencies to work cooperatively with their counterparts in adjoining states. Such agreements can foster more efficient responses to emergencies.



ADMINISTRATION

Council Committee Meeting Date: December 15, 2014

City Council Meeting Date: December 15, 2014

COU2014-54 - Request for Contingency Funds for Legal Contract Services

RECOMMENDATION

Staff recommends the Council authorize the use of \$265,762.79 in contingency funds to be used for Legal Contract Services.

SUGGESTED MOTION

The City Council authorizes the use of \$265,762.79 in contingency funds to be used for Legal Contract Services.

BACKGROUND

The 2014 budget for Legal Contract Services was \$160,000. Actual Legal Contract Services is \$425,762.79. Attached is a summary of legal costs by project area. Of note, if not for the Mission Valley lawsuit challenging the SUP, the legal budget would be within \$10,000 of budgeted funds.

Staff is requesting an additional \$265,762.79 in contingency funds to cover the current overages from the FY2014 budget amount of \$160,000.

The legal invoices were paid as they were received during the year.

ATTACHMENTS

- Summary of 2014 Legal Expenses
- Summary of Legal Costs (2009 to 2014)

FUNDING SOURCE

City Council approved \$500,000 in contingency funds in FY2014 budget. The City Council has previously allocated \$56,000 in contingency funds for the Access Control System (new door lock system).

PREPARED BY

Lisa Santa Maria

Finance Director

Date: December 15, 2014

City of Prairie Village
2014 Legal Expenses Paid (Jan - October) - Lathrop Gage

Project	Amount
Mission Valley SUP, Mission Chateau Zoning Appeal & Marsh et al	\$ 275,771.56
Mayor/Council (attending mtgs, general research)	\$ 51,039.66
Police Department Legal Issues	\$ 9,529.25
General Legal	\$ 38,925.43
Personnel Items	\$ 10,050.00
General Planning Matters	\$ 5,919.25
Police Pension Legal	\$ 5,854.14
Open Carry Issue	\$ 6,192.50
Compensation Benefits (IRS/HRA Research)	\$ 3,903.50
Building Codes	\$ 2,360.00
Records/Contract Management	\$ 467.50
Court	\$ 431.50
Franchise Agreement/Utilities	\$ 354.00
CID General (paid out of CID funds)	\$ 5,201.00
Capital Projects	\$ 236.00
Morrison Ethics Violation	\$ 1,941.50
Park Acquisition - Homestead Site	\$ 5,226.00
Meadowbrook development	\$ 2,271.50
Other	\$ 88.50
<hr/>	
Total:	\$ 425,762.79
<hr/>	

**City of Prairie Village
Legal Expenses
Budget to Actual
(2009 2014)**

Fiscal Year	Budget	Actual	Difference
2009	\$105,500	\$157,535	(\$52,035)
2010	119,500	70,637	48,863
2011	125,000	110,516	14,484
2012	125,000	225,682	(100,682)
2013	115,000	249,735	(134,735)
2014	160,000	425,763	(265,763)
2015	200,000		



ADMINISTRATION

Council Committee Meeting Date: December 15, 2014
City Council Meeting Date: December 15, 2014

COU2014-55 - Request for Contingency Funds for October KCPL Street Light and Traffic Signal Billings

RECOMMENDATION

Staff recommends the Council authorize the use of \$118,530.66 in contingency funds to be used for October KCPL Street Light and Traffic Signal billing.

SUGGESTED MOTION

The City Council authorizes the use of \$118,530.66 in contingency funds to be used for KCPL Street Light and Traffic Signal billing.

BACKGROUND

KCPL moved from semiannual billing to monthly in the fiscal year 2014. In prior years (2013 below) we paid twice a year:

03/31/2013	\$330,248.47 (Sept - Feb)
09/30/2013	\$338,362.98 (March - Aug)

Because 2014 was the transition year from semiannual to monthly billing, the City paid September - December of 2013 in fiscal year 2014. Instead of being billed for twelve months in 2014, the city was actually billed for fourteen (14) months (September 2013 - October 2014). The remaining two months (November - December 2014) will be paid in 2015. The new billing cycle will be from November 2014 to October 2015. The 2015 budget is based on twelve months and the City will pay twelve months.

Staff is requesting an additional \$118,530.66 in contingency funds to cover the current overages from the FY2014 budget.

ATTACHMENTS

N/A

FUNDING SOURCE

City Council approved \$500,000 in contingency funds in FY2014 budget. The City Council has previously allocated \$56,000 in contingency funds for the Access Control System (new door lock system).

PREPARED BY

Lisa Santa Maria
Finance Director

Date: December 15, 2014



ADMINISTRATION

Committee of the Whole: December 15, 2014
City Council Meeting: January 5, 2014

Consider Ordinances Amending Chapter XI of the Municipal Code, revising the definition of Trucks and adding Article 15, RV Parking and Storage

BACKGROUND:

Over the past year the City Council has discussed revisions to the Recreational Vehicles and Equipment Parking and Storage provisions. A City Council work group was formed to look at the issue. Proposed new regulations were brought before the City Council in August. As part of this revision, the RV Parking and Storage provisions will move to Chapter XI of the Municipal Code from the Zoning Ordinances. The following represents a summary of the recommended changes from the City Council work group as presented to the Committee of the Whole in August.

Summary of current provisions and recommended changes/additions in **bold text**:

- All RVs must be parked on a hard surface
- **Items shall not be permanently parked in front of the front building line or in front of the front building line of the properties directly adjacent.**
- Five feet away from rear lot line
- Five feet away from side lot line
- In all instances, an RV must be at least 15 feet from the street.
- **RV must be fully screened up to 6 feet**
- **All covers must be custom fit to the contours of the boat, RV or trailer (Note, covers are not required, only if one is present).**

As part of these revisions and the movement of these regulations in to Chapter XI, the Police Department and Codes Administration staff have discussed updating the definition of Truck. This definition currently is found in Chapter XI, specifically 11-711. "Truck" is also currently found in the definitions for Chapter 19.38. At the December 1 Committee of the Whole Meeting, the Committee provided direction on the current interpretation of Truck to incorporate into the revisions.

The attached drafts incorporate the revisions that have been discussed over the past few months related to the definition of Trucks and the RV storage provisions.

One item for Council to discuss is the effective date of these changes. During the Work Group discussions on this topic, it was recognized that screening other necessary changes to accommodate RVs on property could take time. Council should provide direction on an effective date.

ATTACHMENTS:

- Redline version, Article 7 (definition of trucks)

- Redline version, Article 15 (RV Storage) – Note: This redline version incorporates the revisions to the Parking and Storage Section 11-1503 that were presented to and discussed by the Council in August and November but does not show as redline. Revisions shown in this draft are additional revisions made by the City Attorney regarding definitions, penalties and other minor technical items.
- Ordinance adopting Article 7 (this includes “clean” version of text)
- Ordinance adopting Article 15 (this includes “clean” version of text)

PREPARED BY:

Kate Gunja

Assistant City Administrator

Date: December 11, 2014

ARTICLE 7. LOCAL TRAFFIC REGULATIONS

11-701. DEFINITIONS.

A. "Bus" shall mean a motor vehicle, other than vehicles commonly referred to as passenger vans, full size vans or minivans, designed or used to carry 10 or more passengers.

B. "Commercial vehicle" shall mean any motor vehicle other than bus or a passenger vehicle (as each is defined in this article) or a recreational vehicle (as defined in Section 11-1501 of Article 15 of this Chapter).

C. "Passenger vehicle" means a motor vehicle designed primarily for the transportation of people as opposed to equipment, freight or other vehicles, and sold primarily to individuals for personal use, and includes cars, except as excluded below, vehicles commonly referred to as passenger vans, full size vans or minivans (whether or not seats have been removed to allow the carrying of cargo), and, except as excluded below, vehicles commonly referred to as pickup trucks.

A motor vehicle shall not be excluded from the definition of "passenger vehicle" (a) because such vehicle is carrying items commonly found in residential areas, such as ladders, saw horses, or building materials, or (b) because accessories, such as racks, storage boxes or shells have been added to the vehicle, provided that the original exterior walls of the vehicle remain intact.

The following vehicles are excluded from the term "passenger vehicle":

(a) Pickup trucks that do not have the traditional pickup bed and side walls;

(b) Vans that have extended height or width and are primarily designed to carry cargo instead of passengers;

(c) Vehicles with aerial buckets or platforms (e.g. "cherry pickers"), welding equipment, mechanical lifts or arms designed to assist in loading and unloading freight; and

(d) Vehicles commonly referred to as step vans, box vans, flatbed trucks, buses as defined in this article, semi-tractors and trailers, former military vehicles, cement mixers, construction equipment, and any vehicle with dual rear axles.

D. “~~A.~~Traffic ~~Signs~~—~~Any signs~~” means any sign, marking or device placed or erected by authority of a public body or official having jurisdiction for the purpose of regulating, warning or guiding traffic.

E. “~~B.~~Traffic ~~Signal~~—~~Any signal~~” means any device whether manually, electrically or mechanically operated by which traffic is alternatively directed to stop and permitted to proceed.

F. “Truck” means any bus or commercial vehicle as defined in this article.

11-702. TRAFFIC CONTROL DEVICES AND MARKINGS. The current Standard Traffic Ordinance as for Kansas Cities adopted by the city from time to time pursuant to Article 6 of this chapter is hereby modified by adding thereto the following:

The governing body may, by resolution, establish and fix the location of such traffic control devices as may be deemed necessary to guide and warn traffic under the provisions of this chapter/article, other traffic ordinances and the state laws. The city shall place and maintain such traffic control signs, signals and devices when and as may be required by the authority of the governing body to make effective the provisions of this chapter/article and other ordinances for the regulation of traffic. Any official traffic control device placed pursuant to this section shall be marked and labeled on a map of the City of Prairie Village for the purpose of displaying all such traffic control devices and shall be filed with the city clerk to be open to inspection and available to the public at all reasonable hours of business.

~~44-704~~11-703. TRAFFIC CONTROL LOCATIONS. There is incorporated by reference for the purpose of regulating traffic within the city limits, that certain traffic control locations adopted by the governing body and on file in the office of the city clerk and all additions and/or elections made by council hereinafter be adopted traffic control locations in the city.

~~11-705.~~ AMENDMENT TO STANDARD TRAFFIC ORDINANCE; REPEALED.

~~44-706~~11-704. SAME; SPEED LIMIT CHANGES.

A. It having been determined upon the basis of an engineering and traffic investigation that the speed limits permitted by state law and by Section 33 of the current Standard Traffic Ordinance (~~Edition of 2004~~) for Kansas Cities adopted by the city from time to time pursuant to Article 6 of this chapter, are greater or less than is reasonable or safe under the conditions found to exist upon the following streets and/or parts of streets, the following speed limits shall apply where indicated, except as provided in subsections (b) and (c) hereof:

(1)(4) 75th Street from State Line Road to Walmer Street -- 35 miles per hour.

(2)(2) Mission Road, from 75th Street south to 95th Street, within the city -- 35 miles per hour.

- ~~(3)~~(3) Mission Road, from northern City limit south to 75th Street -- 30 miles per hour.
- ~~(4)~~(4) Nall Avenue from 63rd Street to 95th Street -- 35 miles per hour.
- ~~(5)~~(5) Roe Avenue from northern City limit to 95th Street -- 35 miles per hour.
- ~~(6)~~(6) 95th Street from Mission Road to Nall Avenue -- 35 miles per hour.
- ~~(7)~~(7) 83rd Street from eastern City limit to Lamar Avenue -- 30 miles per hour.
- ~~(8)~~(8) State Line Road from 71st Street south to 75h Street -- 30 miles per hour.
- ~~(9)~~(9) State Line Road from 75th Street south to the southern city limits -- 35 miles per hour.
- ~~(10)~~(10) Cambridge from State Line Road to Somerset Drive -- 30 miles per hour.
- ~~(11)~~(11) Somerset Drive from State Line Road to Nall Avenue -- 30 miles per hour
- ~~(12)~~(12) 79th Street from state Line Road to Mission Road -- 25 miles per hour
- ~~(13)~~(13) 79th Street from Mission Road to Lamar Avenue -- 30 miles per hour
- ~~(14)~~(14) Tomahawk Road between Mission Road and Nall Avenue -- 30 miles per hour.
- ~~(15)~~(15) Tomahawk Road between Nall Avenue and 79th Street -- 25 miles per hour
- ~~(16)~~(16) 71st Street between State Line Road and Reeds Drive -- 30 miles per hour
- ~~(17)~~(17) 63rd Street between Mission Road and Nall Avenue, within the City -- 30 miles per hour.
- ~~(18)~~(18) All other residential streets not herein otherwise designated -- 25 miles per hour.

B. Except as provided in subsection (c) hereof, the maximum speed limit upon streets or portions of streets abutting school property or adjacent to school crosswalks in those areas designated as school zones shall be the speed limit posted on the appropriately erected signs giving notice of the speed limit in said school zones. The maximum speed to be posted within each school zone shall be determined by the traffic engineer retained by the City to consult on traffic matters, provided the speed limit shall not be less than 20 miles per hour. Maximum speed limits within school zones shall be effective and subject to enforcement by law enforcement officers during those time periods set forth on appropriately erected signs giving notice of the effective hours of enforcement or during those times a flashing yellow beacon is in operation with appropriately erected signs indicating the school zone speed limits are enforced during the times the flashing yellow beacon is in operation. Said traffic engineer shall determine the times of enforcement for school zones within the City, provided such speed limits shall apply only during

the hours in which students are normally en route to or from school.

- C. Notwithstanding subsection (b), it having been determined upon the basis of an engineering and traffic investigation that the speed limits currently posted for certain school zones along Mission Road are greater or less than is reasonable or safe under the conditions found to exist therein, a speed limit of 25 miles per hour shall apply at the following streets and/or parts of streets as shall be posted in accordance with subsection (b) hereof and during those time periods set forth on appropriately erected signs giving notice of the effective hours of enforcement or during those times a flashing yellow beacon is in operation;
- a. 94th Street & Mission Road (Cure of Ars School)
 - b. 83rd Street & Mission Road (Corinth Elementary School)
 - c. 73rd Street & Mission Road (St. Ann's School)
 - d. 67th Street & Mission Road (Prairie Elementary School)
 - e. ~~e.~~ 63rd Street & Mission Road (Indian Hills Middle School)

~~11-707. SAME; REPEALED.~~

44-70911-705. SAME; ACCESSIBLE PARKING. Section 87, entitled "Accessible Parking—" of the "current Standard Traffic Ordinance for Kansas Cities, Edition of 2003 adopted by the city from time to time pursuant to Article 6 of this chapter", is hereby amended to provide for a mandatory fine of \$100 in subsection (e)(2), which is amended to read as follows:

(e)(2) Violation of subsection (e)(1) is punishable by a mandatory fine of \$100.

44-71011-706. TRUCK TRAFFIC; REGULATION. No truck as defined in section ~~44-244-11-701~~ of this article (except ~~as is those owned and/or operated by the City, emergency vehicles, or those operated by public utilities and~~ engaged in ~~the repair, maintenance~~ or construction of ~~streets within the city~~ utilities, and buses picking up and dropping off passengers in residential areas) shall be allowed to enter upon any of the streets of the city except the following named streets:

- ~~(a)(a)~~ 75th Street;
- ~~(b)(b)~~ 95th Street;
- ~~(c)(c)~~ Nall Avenue;
- ~~(d)(d)~~ State Line, from 75th Street to 79th Street;
- ~~(e)(e)~~ Mission Road from Tomahawk to 95th Street;

provided, that at the time of any alleged violation of these restrictions, there shall be posted upon the streets of the city, signs indicating streets which allow truck traffic. Trucks ~~and other motor vehicles~~ delivering or receiving goods or merchandise to or from any house or premises within the city shall be permitted to enter thereon while delivering the goods or merchandise, provided that the trucks ~~and other motor vehicles~~ travel as close to their destination point as is reasonably possible on the closest designated truck route, then from that truck route using the most direct route to the point of pick up or delivery and shall return to the nearest designated truck route after the delivery as is reasonably possible.

- ~~11-711. TRUCK; DEFINED. As used herein, truck means any self-propelled motor vehicle designed for or used for the transportation or delivery of freight and merchandise with a gross weight in excess of three-quarter ton.~~
- ~~11-712~~11-707. **PARKING; TWO-HOUR LIMIT.** No vehicle of any type other than ~~an automobile designed primarily to carry 10 or fewer passengers and which is not used as a truck~~ a passenger vehicle, shall be parked on any street of the city for more than two hours between 12:01 a.m. and 6:00 a.m. of the day; ~~provided, however, nothing contained in this section shall limit the right to park certain vehicles upon a public street or roadway within a residential area of the city as provided in the "Zoning Regulations of the City of Prairie Village," which are incorporated by reference at section 16-201.~~
- ~~11-713~~11-708. **STOPPING, STANDING AND PARKING; WHERE PROHIBITED.** No driver of a vehicle shall stop, stand or park or cause to be placed, left or stopped such vehicle in any of the following places, except when necessary to avoid conflict with other traffic or in compliance with the direction of a police officer or traffic-control sign or signal, on private property or upon any area developed as an off-street parking facility, without the consent of the owner, lessee or person in charge of any such private property or facility.
- ~~11-714~~11-709. **DRIVING, STOPPING, STANDING AND PARKING OF MOTOR VEHICLES IN BICYCLE LANE; PROHIBITED.** No driver of any motor vehicle shall drive, stop, park or allow the vehicle to stand in any path or roadway area set aside, designated and marked for the exclusive use of bicycles. For purposes of this article, motorized bicycles shall not be considered as motor vehicles.
- ~~11-715~~11-710. **PARTIES TO VIOLATION.** Every person who commits, attempts to commit, conspires to commit or aids or abets in the commission of any act declared herein to be unlawful, whether individually or in connection with one or more other persons, or as a principal, agent or accessory is guilty of such offense and every person who falsely, fraudulently, forcibly or willfully induces, causes, coerces, requires, permits or directs another to violate any provisions of sections ~~11-208:218~~ 11-208:218 is likewise guilty of such offense. Every person who knowingly and willfully gives to a police officer false information is guilty of a misdemeanor.
- ~~11-717. DRIVING EMERGENCY. When snow, sleet or freezing rain is causing slippery or hazardous conditions which might lead to serious traffic congestion, the mayor of the city may declare a traffic emergency. Until such is terminated, no vehicle shall be operated on any emergency route, as defined in section 11-219 without first having equipped such vehicle with effective skid chains or snow tires, excepting that vehicles with dual wheels need not be equipped with skid chains or snow tires.~~
- ~~11-720~~11-711. **SLEDDING ON STREETS.** It is unlawful for any person upon a sled or riding on or by means of any sled or coaster, or similar device, to go upon any street or roadway within the city except while crossing a street on a crosswalk, or upon a street specifically authorized for such purpose by order of the chief of police during the times designated by him or her for that purpose.

~~11-721. VEHICLES PROHIBITED WITHIN CERTAIN AREAS IN RESIDENTIAL ZONES. No vehicle or part of such vehicle shall be parked or stored in the front setback area of any lot in a residential zone or the side setback area without first obtaining a permit.~~

~~11-722. DRIVING UPON IMPROVED CREEKBEDS. No person shall operate or~~
11-712. DRIVING UPON IMPROVED CREEKBEDS. No person shall operate or cause to be operated any licensed or unlicensed motor vehicle or motorized bicycle (as defined by the current Standard Traffic Ordinance for Kansas Cities adopted by the city from time to time pursuant to Article 6 of this chapter), or other motorized conveyance within or upon any improved creek bed or unimproved watercourse within the city, except at the direction of the city and as necessary to maintain the improved creek beds. As used in this section, an “improved creek bed—” shall be defined as any watercourse, waterway or drainage ditch which has been temporarily or permanently improved by the placement or construction of cement sides, walls, bed or other enclosure within or upon the watercourse, waterway or drainage ditch. “Unimproved watercourse—” means any watercourse, waterway or drainage ditch upon which no improvements or structured modifications have been made.

~~44-723~~11-713. REGULATION OF THE USE OF PUBLIC STREETS BY INDIVIDUALS WHILE JOGGING AND RUNNING. For purposes of public safety and welfare, any person using the public streets of the city during the period from a half-hour after sunset to a half-hour before sunrise and at any other time when there is not sufficient light to render clearly discernible persons and vehicles on the highway at a distance of 500 feet ahead, shall be required to wear on his or her person some type of reflective apparel or materials of sufficient size and placement so as to be visible to vehicular traffic from a distance of 200 feet, in addition to comply with the provisions of the current Standard Traffic Ordinance for Kansas Cities, ~~which apply to pedestrians, as incorporated by reference in section 11-601.~~ adopted by the city from time to time pursuant to Article 6 of this chapter.

~~44-724.~~11-714. PARKING OF TRUCKS AND BUSES IN R-1 DISTRICTS. ~~A. In District R-4~~In all residential zoning districts, the parking of trucks and buses as defined in this article is expressly prohibited in residential driveways except such vehicles may temporarily be parked in residential driveways if such parking does not create a safety hazard; and

(A)(1) Such vehicle is in the process of delivering goods or merchandise;
or

(B)(2) Such vehicle is being used for construction purposes for construction work in progress on the property.

~~B. For purposes of this article, the following definitions apply:~~

~~(1) Truck shall mean any self-propelled motor vehicle designed or used for the transportation or delivery or carriage of freight, equipment or merchandise with a gross weight in excess of three-quarter ton.~~

~~(2) Bus shall mean a self-propelled motor vehicle designed or used to carry 10 or more passengers.~~

~~11-725. CHEMICAL TEST. Any person who operates a motor vehicle upon a public~~

| [11-715.](#)

CHEMICAL TEST. Any person who operates a motor vehicle upon a public highway in this state shall be deemed to have given his or her consent to submit to a chemical test of his or her breath, blood, urine or saliva for the purpose of determining the alcoholic content of his or her blood whenever he or she is arrested or otherwise taken into custody for any offense involving operating a motor vehicle under the influence of intoxicating liquor in violation of a state statute or a city ordinance and the arresting officer has reasonable grounds to believe that prior to his or her arrest the person was driving under the influence of intoxicating liquor. The test shall be administered at the direction of the arresting officer. If the person so arrested refuses a request to submit to the test, it shall not be given and the arresting officer shall mail to the vehicle department of the Kansas Department of Revenue a sworn report of the refusal, stating that prior to the arrest he or she had reasonable grounds to believe that the person was driving under the influence [of intoxicating liquor.](#)

| [of intoxicating liquor.](#)

ARTICLE 15 - RECREATIONAL VEHICLES AND EQUIPMENT- - PARKING AND STORAGE

~~11-1501~~ ~~Declaration of Purpose and Intent.~~

~~The City Council, in order to preserve the residential character of its neighborhoods, declares that it is necessary and desirable to adopt and impose reasonable regulations and restrictions on the storage and parking of recreational vehicles, and storage of commercial goods and equipment. The City Council finds that this is consistent with existing zoning ordinances and necessary to implement such existing zoning ordinances, which establish areas to be used exclusively for residential purposes. This chapter is adopted to promote the public safety, health and welfare of the city for the following reasons: improper storage of vehicles containing propane gas receptacles or permanent connections of electrical power to recreational vehicles provide potential fire hazards; parking of large recreational vehicles or recreational equipment on or near a public street can greatly reduce visibility for drivers proceeding on a public roadway; recreational vehicles frequently contains sanitary facilities which present substantial health problems if wastes are improperly disposed of. Recreational vehicles stored and potentially used on a permanent basis conflict with the principles of residential zoning, particularly with reference to the desired density, lot size and setback provided for in these zoning ordinances. Uncontrolled and unrestricted parking of the recreational vehicles may adversely affect the salability of adjoining lots and the property value of the residence.~~

11-1502 Definitions.

~~A. The definitions set forth in this section shall be applicable to this chapter exclusively and shall not supersede, amend or alter other regulatory or zoning ordinances or enactments of the city.~~

A. ~~1.~~ "Converted vehicles" ~~Any means any~~ combination of the vehicles described in this section, which although not originally designed and not suitable for occupancy, have been converted or modified to provide temporary, movable living quarters containing facilities for cooking, sleeping, or sanitation.

B. ~~3.~~ "House trailer" ~~A means a~~ trailer or semi-trailer which is designed, constructed and equipped as a dwelling place, living abode, or sleeping place, either permanently or temporarily, and is equipped as a conveyance on streets or highways; ~~a trailer or semi-trailer whose chassis and exterior shell is designed and constructed for use as a house trailer as defined above, but which is used instead permanently or temporarily, for advertising, sales, display, or promotion of merchandise or services, or for any other commercial purpose except the transportation of property for hire and the transportation for distribution by a private carrier.~~

~~4. "Light truck" For purposes of this chapter, a "light truck" is a motor vehicle designed, used and maintained primarily for the transportation of property and materials, but which has a manufacturer's gross weight of three fourths ton or less and does not at any point exceed seven (7) feet in height or eighteen (18) feet in length.~~

~~5. "Light van" A vehicle otherwise meeting the definition of a van, but which has a manufacturer's gross vehicle weight rate of three fourths ton or less and does not at any point exceed seven (7) feet in height or eighteen (18) feet in length.~~

C. ~~6.~~ "Permanent parking" ~~The means the~~ parking on the permanent driveway of a residence or on a pad, or in the yard of any of vehicles or equipment for a period greater than seven (7) days in a thirty (30-2) day period.

- D. 7. "Person" ~~Any means any~~ individual, partnership, joint venture, corporation, or other business or legal entity.
- ~~8. "Pickup truck" For purposes of this chapter, is a motor vehicle with open cargo area designed, used and maintained primarily for the transportation of property which has a manufacturer's gross weight of greater than three fourths ton and which, at any point, exceeds seven (7) feet in height or which, at any given point, exceeds eighteen (18) feet in length.~~
- E. 9. "Recreational conveyance" ~~A means a~~ vehicular type unit built on or for use on a chassis and designed primarily as living quarters for recreational, camping, vacation or travel use, and which has its own ~~motive motor~~ power or is mounted on or drawn by another vehicle.
- F. 10. "Recreational equipment" ~~That means that~~ which an occupant or owner may desire for convenience to store on his lot, but which item is normally and principally transported for use off the lot on a trailer or other vehicle and which is not used by the very nature and utility of the item in connection with customary accessory residential uses on the lot. Included in the meaning of equipment are such large items of equipment as slide-in campers, folding tent trailers, boats, hang gliders, snow mobiles, floats, rafts and jet skis. However, it is provided that in the case of those items which are transported on trailers designed to carry more than one item, such as jet skis and snowmobiles, such trailer shall be considered as the unit of recreational equipment and the item transported shall not be so considered.
- G. 11. "Recreational vehicle" ~~Includes means any recreational conveyances conveyance,~~ house ~~trailer trailer, trucks trailer, trailers, pickup trucks, vans and converted vehicles vehicle.~~ However, it is further provided that ~~the~~ The term "recreational vehicle" shall not include ~~the following defined vehicles: light trucks; light vans; light trucks having a slide in camper buses or commercial vehicles as those terms are defined in Section 11-701 of Article 7 of this Chapter.~~
- H. 12. "Slide-in campers, shells and truck caps" ~~Those mean those~~ items structured and designed to be mounted temporarily or permanently in the bed of a pickup or light truck, to provide enclosed storage space for transportation or property or quarters for recreational, camping, vacation or travel use. When mounted, the entire unit, consisting of the pickup or light truck, and the slide-in camper, shell or truck cap constitutes a recreational vehicle. When dismounted, the slide-in camper, shell, or truck cap becomes an item of recreational equipment.
- I. 13. "Storage" ~~The means the~~ placing of any of vehicles or equipment within an enclosed structure which obscures such vehicles from view.
- J. 13. "Temporary parking" ~~The means the~~ parking on the permanent portion of a resident's driveway of any of the above described recreational vehicles or recreational equipment for the purpose of loading, unloading, cleaning and minor emergency type repairs, and for a period not to exceed seven (7) days within any

thirty(30) day period.

K. ~~15.~~ "Trailer" ~~—Any means any~~ vehicle without motor power designed to carry property or passengers wholly on its own structure and to be drawn by a motor vehicle.

~~16.~~ "Truck" ~~—A motor vehicle which is designed, used and maintained primarily for the transportation of property or materials.~~

~~17.~~ "Van" ~~—Includes panel trucks and those vehicles commonly known as auto vans which provide an enclosed cargo area for the transportation of property, or have been designed to carry passengers or provide quarters for recreational camping, vacation, or travel use; and designed to allow direct access from the driver's cab to the cargo and passenger area.~~

11-1503 Parking and Storage.

Recreational vehicles and recreational equipment may be stored or parked only within any district of the City which is zoned for residential use and only in accordance with the following:

A. Recreational vehicles and recreational equipment as defined in this ~~chapter~~ Article may be stored within an enclosed structure (which structure otherwise conforms to the zoning requirements of the City), or may be permanently parked upon the premises of the owner of such recreational vehicle or recreational equipment; provided, however, that, except as otherwise provided in this section, said recreational vehicles or recreational equipment shall not be permanently parked on or within any required front yard or on or within fifteen (15) feet of any street. Recreational vehicles and recreational equipment shall not be permanently parked within five (5) feet of a rear or side property line. Recreational vehicles and recreational equipment shall not be permanently parked in front of the front building line of the property in which the recreational vehicle or recreational equipment resides, or in front of the front building line of properties directly adjacent.

B. ~~B.~~ Recreational vehicles and recreational equipment shall be fully screened, provided that if such recreational vehicle or recreational equipment is taller than six (6) feet, screening above six (6) feet is not required. For the purpose of this Article, full screening may be the use of evergreen plantings or fencing otherwise permitted by the City Code, to substantially screen the recreational vehicle or recreational equipment from public and ground level view from a neighboring property.

C. ~~C.~~ The total number of recreational vehicles and recreational equipment, excluding those which are parked in an enclosed structure, which may be permanently parked at a residence, shall not exceed one.

D. ~~D.~~ Recreational vehicles and recreational equipment may be permanently parked or stored ~~in at~~ the approved locations; provided that such vehicles and equipment are operable and carry a current license where required; that any point of such vehicle or equipment which touches the ground shall only be set on a hard non permeable surface; provided further that such vehicles or equipment have been safely secured for said storage or parking by disconnecting all utilities and life support systems, including liquefied petroleum gas containers, sewer drainage lines and repair of any valve defects all to be in accordance with the storage guidelines recommended by the manufacturer of such recreational vehicle or recreational equipment ~~or vehicle~~.

E. Recreational equipment or recreational vehicles may be temporarily parked on the permanent driveway portion of the residence for the purpose of loading, unloading,

cleaning and minor emergency type-repair for a period not to exceed seven (7) days within any thirty (30) day period.

- F. All covers for any item (if present) must be custom fit to the contours of the recreational vehicle or recreational equipment. No tarps or other non-custom fit covers, or ready-fit or semi-custom covers may be used. A custom fit cover is designed, manufactured or tailored to closely fit the body style and size group of the specific make, model and year of the item to be covered.

~~G. The Planning Commission as a conditional use may permit a recreational vehicle that is used on a regular basis as a second car to be exempt from paragraphs A, B, C & D.~~

11-1504 Inhabitation.

At no time shall a permanently or temporarily parked or stored recreational vehicle or item of recreational equipment be occupied or used for living, sleeping, or housekeeping purposes except as provided in [Section 11-1505 of this chapter](#)~~Article~~.

11-1505 Visitors.

Visitors to the city may be permitted to park a recreational vehicle or item of recreational equipment on the permanent driveway portion of a residence and occupy said vehicle or equipment for sleeping purposes only, or occupy for sleeping purposes a [recreational](#) vehicle or [recreational](#) equipment already stored or permanently parked upon the premises, by making application to the department of public works for a visitors permit. The Director of Public Works is authorized to annually grant three (3) visitors permits for each residence within a twelve (12) month period. Each permit shall be valid for a period of seven (7) days. Visitors may also park such vehicles or equipment on the street for a period of forty-eight (48) hours by permit.

11-1506 Utilities.

A recreational vehicle or recreational equipment may be connected only to the residential electrical utility system and only when said vehicle is temporarily parked as defined in this ~~chapter~~ [Article](#) or when a ~~visitors~~ [visitor's](#) permit has been issued. Such connection must be in accordance with the city electrical code, and said connection be made available for inspection during regular business hours by a city inspector.

11-1507 Storage of Commercial Items.

Commercial items, including inventory, equipment or goods used, transported or consumed in the course of a trade or business, shall only be stored within a recreational vehicle or item of recreational equipment if completely enclosed within such vehicle or equipment and not visible from adjacent property.

11-1508. Buses and Commercial Vehicles.

Nothing contained in this Article shall be deemed to permit the storage or parking of commercial vehicles or buses (as each are defined in Section 11-701 of Article 7 of this Chapter) within any district of the city which is zoned as a residential district except as permitted in Article 7 of this Chapter.

11-1509. Penalty for Violations and Civil Remedies.

A. The violation of any provision of this Article is hereby declared to be a public offense and, pursuant to the authority of K.S.A. 12-761, a misdemeanor, and any person, firm, association, partnership or corporation convicted thereof shall be punished by a fine not to exceed \$500 or by imprisonment for not more than six months for each offense or both such fine and imprisonment. Each day's violation of this Article shall constitute a separate offense.

B. The City shall have the authority to maintain civil suits or actions in any court of competent jurisdiction for the purpose of enforcing the provisions of this Article and to abate nuisances maintained in violation thereof. In the event any recreational vehicle is or is proposed to be used in violation of this Article, the City may, in addition to other remedies, institute injunction, mandamus or other appropriate action or proceeding to prevent unlawful activities, or to correct or abate such violation.

ORDINANCE NO.

AN ORDINANCE AMENDING CHAPTER XI, ENTITLED “PUBLIC OFFENSES AND TRAFFIC” OF THE CODE OF THE CITY OF PRAIRIE VILLAGE, KANSAS, BY REPEALING AND REPLACING THE EXISTING ARTICLE 7, ENTITLED “RECREATIONAL VEHICLES AND EQUIPMENT- PARKING AND STORAGE”

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

SECTION 1. A Article 7 “LOCAL TRAFFIC REGULATIONS” OF Chapter XI “Public Offenses and Traffic”, of the Code of the City of Prairie Village, is hereby repealed and replaced with a new Article 7, to read as follows:

ARTICLE 7. LOCAL TRAFFIC REGULATIONS

ARTICLE 7. LOCAL TRAFFIC REGULATIONS

11-701. DEFINITIONS.

- A. “Bus” shall mean a motor vehicle, other than vehicles commonly referred to as passenger vans, full size vans or minivans, designed or used to carry 10 or more passengers.
- B. “Commercial vehicle” shall mean any motor vehicle other than bus or a passenger vehicle (as each is defined in this article) or a recreational vehicle (as defined in Section 11-1501 of Article 15 of this Chapter).
- C. “Passenger vehicle” means a motor vehicle designed primarily for the transportation of people as opposed to equipment, freight or other vehicles, and sold primarily to individuals for personal use, and includes cars, except as excluded below, vehicles commonly referred to as passenger vans, full size vans or minivans (whether or not seats have been removed to allow the carrying of cargo), and, except as excluded below, vehicles commonly referred to as pickup trucks.

A motor vehicle shall not be excluded from the definition of “passenger vehicle” (a) because such vehicle is carrying items commonly found in residential areas, such as ladders, saw horses, or building materials, or (b) because accessories, such as racks, storage boxes or shells have been added to the vehicle, provided that the original exterior walls of the vehicle remain intact.

The following vehicles are excluded from the term “passenger vehicle”:

- (a) Pickup trucks that do not have the traditional pickup bed and side walls;
- (b) Vans that have extended height or width and are primarily designed to carry cargo instead of passengers;
- (c) Vehicles with aerial buckets or platforms (e.g. "cherry pickers"), welding equipment, mechanical lifts or arms designed to assist in loading and unloading freight; and
- (d) Vehicles commonly referred to as step vans, box vans, flatbed trucks, buses as defined in this article, semi-tractors and trailers, former military vehicles, cement mixers, construction equipment, and any vehicle with dual rear axles.

- D. “Traffic signs” means any sign, marking or device placed or erected by authority of a public body or official having jurisdiction for the purpose of regulating, warning or guiding traffic.
- E. “Traffic signal” means any device whether manually, electrically or mechanically operated by which traffic is alternatively directed to stop and permitted to proceed.
- F. “Truck” means any bus or commercial vehicle as defined in this article.

11-702. TRAFFIC CONTROL DEVICES AND MARKINGS. The current Standard Traffic Ordinance for Kansas Cities adopted by the city from time to time pursuant to Article 6 of this chapter is hereby modified by adding thereto the following:

The governing body may, by resolution, establish and fix the location of such traffic control devices as may be deemed necessary to guide and warn traffic under the provisions of this article, other traffic ordinances and the state laws. The city shall place and maintain such traffic control signs, signals and devices when and as may be required by the authority of the governing body to make effective the provisions of this article and other ordinances for the regulation of traffic. Any official traffic control device placed pursuant to this section shall be marked and labeled on a map of the City of Prairie Village for the purpose of displaying all such traffic control devices and shall be filed with the city clerk to be open to inspection and available to the public at all reasonable hours of business.

11-703. TRAFFIC CONTROL LOCATIONS. There is incorporated by reference for the purpose of regulating traffic within the city limits, that certain traffic control locations adopted by the governing body and on file in the office of the city clerk

and all additions and/or elections made by council hereinafter be adopted traffic control locations in the city.

11-704. SAME; SPEED LIMIT CHANGES.

- A. It having been determined upon the basis of an engineering and traffic investigation that the speed limits permitted by state law and by Section 33 of the current Standard Traffic Ordinance for Kansas Cities adopted by the city from time to time pursuant to Article 6 of this chapter, are greater or less than is reasonable or safe under the conditions found to exist upon the following streets and/or parts of streets, the following speed limits shall apply where indicated, except as provided in subsections (b) and (c) hereof:
- (1) 75th Street from State Line Road to Walmer Street -- 35 miles per hour.
 - (2) Mission Road, from 75th Street south to 95th Street, within the city -- 35 miles per hour.
 - (3) Mission Road, from northern City limit south to 75th Street -- 30 miles per hour.
 - (4) Nall Avenue from 63rd Street to 95th Street -- 35 miles per hour.
 - (5) Roe Avenue from northern City limit to 95th Street -- 35 miles per hour.
 - (6) 95th Street from Mission Road to Nall Avenue -- 35 miles per hour.
 - (7) 83rd Street from eastern City limit to Lamar Avenue -- 30 miles per hour.
 - (8) State Line Road from 71st Street south to 75h Street -- 30 miles per hour.
 - (9) State Line Road from 75th Street south to the southern city limits -- 35 miles per hour.
 - (10) Cambridge from State Line Road to Somerset Drive -- 30 miles per hour.
 - (11) Somerset Drive from State Line Road to Nall Avenue -- 30 miles per hour
 - (12) 79th Street from state Line Road to Mission Road -- 25 miles per hour
 - (13) 79th Street from Mission Road to Lamar Avenue -- 30 miles per hour
 - (14) Tomahawk Road between Mission Road and Nall Avenue -- 30 miles per hour.
 - (15) Tomahawk Road between Nall Avenue and 79th Street -- 25 miles per hour
 - (16) 71st Street between State Line Road and Reeds Drive -- 30 miles per hour
 - (17) 63rd Street between Mission Road and Nall Avenue, within the City -- 30 miles per hour.
 - (18) All other residential streets not herein otherwise designated -- 25 miles per hour.
- B. Except as provided in subsection (c) hereof, the maximum speed limit upon streets or portions of streets abutting school property or adjacent to school crosswalks in those areas designated as school zones shall be the speed limit posted on the appropriately erected signs giving notice of the speed limit in said school zones. The maximum speed to be posted within each school zone shall be determined by the traffic engineer retained by the City to consult on

traffic matters, provided the speed limit shall not be less than 20 miles per hour. Maximum speed limits within school zones shall be effective and subject to enforcement by law enforcement officers during those time periods set forth on appropriately erected signs giving notice of the effective hours of enforcement or during those times a flashing yellow beacon is in operation with appropriately erected signs indicating the school zone speed limits are enforced during the times the flashing yellow beacon is in operation. Said traffic engineer shall determine the times of enforcement for school zones within the City, provided such speed limits shall apply only during the hours in which students are normally en route to or from school.

- C. Notwithstanding subsection (b), it having been determined upon the basis of an engineering and traffic investigation that the speed limits currently posted for certain school zones along Mission Road are greater or less than is reasonable or safe under the conditions found to exist therein, a speed limit of 25 miles per hour shall apply at the following streets and/or parts of streets as shall be posted in accordance with subsection (b) hereof and during those time periods set forth on appropriately erected signs giving notice of the effective hours of enforcement or during those times a flashing yellow beacon is in operation;
- a. 94th Street & Mission Road (Cure of Ars School)
 - b. 83rd Street & Mission Road (Corinth Elementary School)
 - c. 73rd Street & Mission Road (St. Ann's School)
 - d. 67th Street & Mission Road (Prairie Elementary School)
 - e. 63rd Street & Mission Road (Indian Hills Middle School)

11-705. SAME; ACCESSIBLE PARKING. Section 87, entitled "Accessible Parking" of the current Standard Traffic Ordinance for Kansas Cities adopted by the city from time to time pursuant to Article 6 of this chapter, is hereby amended to provide for a mandatory fine of \$100 in subsection (e)(2), which is amended to read as follows:
(e)(2) Violation of subsection (e)(1) is punishable by a mandatory fine of \$100.

11-706. TRUCK TRAFFIC; REGULATION. No truck as defined in section 11-701 of this article (except those owned and/or operated by the City, emergency vehicles, or those operated by public utilities and engaged in repair, maintenance or construction of utilities, and buses picking up and dropping off passengers in residential areas) shall be allowed to enter upon any of the streets of the city except the following named streets:
(a) 75th Street;
(b) 95th Street;
(c) Nall Avenue;
(d) State Line, from 75th Street to 79th Street;
(e) Mission Road from Tomahawk to 95th Street;

provided, that at the time of any alleged violation of these restrictions, there shall be posted upon the streets of the city, signs indicating streets which allow truck traffic. Trucks delivering or receiving goods or merchandise to or from any house or premises within the city shall be permitted to enter thereon while delivering the goods or merchandise, provided that the trucks travel as close to their destination point as is reasonably possible on the closest designated truck route, then from that truck route using the most direct route to the point of pick up or delivery and shall return to the nearest designated truck route after the delivery as is reasonably possible.

11-707. PARKING; TWO-HOUR LIMIT. No vehicle of any type other than a passenger vehicle, shall be parked on any street of the city for more than two hours between 12:01 a.m. and 6:00 a.m. of the day.

11-708. STOPPING, STANDING AND PARKING; WHERE PROHIBITED. No driver of a vehicle shall stop, stand or park or cause to be placed, left or stopped such vehicle in any of the following places, except when necessary to avoid conflict with other traffic or in compliance with the direction of a police officer or traffic-control sign or signal, on private property or upon any area developed as an off-street parking facility, without the consent of the owner, lessee or person in charge of any such private property or facility.

11-709. DRIVING, STOPPING, STANDING AND PARKING OF MOTOR VEHICLES IN BICYCLE LANE; PROHIBITED. No driver of any motor vehicle shall drive, stop, park or allow the vehicle to stand in any path or roadway area set aside, designated and marked for the exclusive use of bicycles. For purposes of this article, motorized bicycles shall not be considered as motor vehicles.

11-710. PARTIES TO VIOLATION. Every person who commits, attempts to commit, conspires to commit or aids or abets in the commission of any act declared herein to be unlawful, whether individually or in connection with one or more other persons, or as a principal, agent or accessory is guilty of such offense and every person who falsely, fraudulently, forcibly or willfully induces, causes, coerces, requires, permits or directs another to violate any provisions of sections 11-208:218 is likewise guilty of such offense. Every person who knowingly and willfully gives to a police officer false information is guilty of a misdemeanor.

11-711. SLEDDING ON STREETS. It is unlawful for any person upon a sled or riding on or by means of any sled or coaster, or similar device, to go upon any street or roadway within the city except while crossing a street on a crosswalk, or upon a street specifically authorized for such purpose by order of the chief of police during the times designated by him or her for that purpose

11-712. DRIVING UPON IMPROVED CREEKBEDS. No person shall operate or cause to be operated any licensed or unlicensed motor vehicle or motorized bicycle

(as defined by the current Standard Traffic Ordinance for Kansas Cities adopted by the city from time to time pursuant to Article 6 of this chapter), or other motorized conveyance within or upon any improved creek bed or unimproved watercourse within the city, except at the direction of the city and as necessary to maintain the improved creek beds. As used in this section, an “improved creek bed” shall be defined as any watercourse, waterway or drainage ditch which has been temporarily or permanently improved by the placement or construction of cement sides, walls, bed or other enclosure within or upon the watercourse, waterway or drainage ditch. “Unimproved watercourse” means any watercourse, waterway or drainage ditch upon which no improvements or structured modifications have been made.

11-713. **REGULATION OF THE USE OF PUBLIC STREETS BY INDIVIDUALS WHILE JOGGING AND RUNNING.** For purposes of public safety and welfare, any person using the public streets of the city during the period from a half-hour after sunset to a half-hour before sunrise and at any other time when there is not sufficient light to render clearly discernible persons and vehicles on the highway at a distance of 500 feet ahead, shall be required to wear on his or her person some type of reflective apparel or materials of sufficient size and placement so as to be visible to vehicular traffic from a distance of 200 feet, in addition to comply with the provisions of the current Standard Traffic Ordinance for Kansas Cities adopted by the city from time to time pursuant to Article 6 of this chapter.

11-714. **PARKING OF TRUCKS AND BUSES IN R-1 DISTRICTS.** In all residential zoning districts, the parking of trucks and buses as defined in this article is expressly prohibited in residential driveways except such vehicles may temporarily be parked in residential driveways if such parking does not create a safety hazard; and

- (A) Such vehicle is in the process of delivering goods or merchandise; or
- (B) Such vehicle is being used for construction purposes for construction work in progress on the property.

11-715. **CHEMICAL TEST.** Any person who operates a motor vehicle upon a public highway in this state shall be deemed to have given his or her consent to submit to a chemical test of his or her breath, blood, urine or saliva for the purpose of determining the alcoholic content of his or her blood whenever he or she is arrested or otherwise taken into custody for any offense involving operating a motor vehicle under the influence of intoxicating liquor in violation of a state statute or a city ordinance and the arresting officer has reasonable grounds to believe that prior to his or her arrest the person was driving under the influence of intoxicating liquor. The test shall be administered at the direction of the arresting officer. If the person so arrested refuses a request to submit to the test, it shall not be given and the arresting officer shall mail to the vehicle department of the Kansas Department of Revenue a sworn report of the refusal, stating that prior to the arrest he or she had reasonable grounds to believe that the person was driving under the influence of intoxicating liquor.

SECTION 2. This ordinance shall take effect and be enforced from and after its passage, approval, and publication as provided by law.

PASSED AND APPROVED THIS ___ DAY OF _____, 2014.

Ronald L. Shaffer, Mayor

ATTEST:

APPROVED AS TO FORM:

Joyce Hagen Mundy, City Clerk

Catherine P. Logan, City Attorney

ORDINANCE NO.

AN ORDINANCE AMENDING CHAPTER XI, ENTITLED "PUBLIC OFFENSES AND TRAFFIC" OF THE CODE OF THE CITY OF PRAIRIE VILLAGE, KANSAS, BY ADDING A NEW ARTICLE 15, ENTITLED "RECREATIONAL VEHICLES AND EQUIPMENT-PARKING AND STORAGE"

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

SECTION 1. A new Article 15 "RECREATIONAL VEHICLES AND EQUIPMENT-PARKING AND STORAGE" is hereby added to Chapter XI "Public Offenses and Traffic", of the Code of the City of Prairie Village to read as follows:

ARTICLE 15 - RECREATIONAL VEHICLES AND EQUIPMENT - PARKING AND STORAGE

11-1502 Definitions.

- A. "Converted vehicles" means any combination of the vehicles described in this section, which although not originally designed and not suitable for occupancy, have been converted or modified to provide temporary, movable living quarters containing facilities for cooking, sleeping, or sanitation.
- B. "House trailer" means a trailer or semi-trailer which is designed, constructed and equipped as a dwelling place, living abode, or sleeping place, either permanently or temporarily, and is equipped as a conveyance on streets or highways.
- C. "Permanent parking" means the parking on the permanent driveway of a residence or on a pad, or in the yard of any of vehicles or equipment for a period greater than seven (7) days in a thirty (30) day period.
- D. "Person" means any individual, partnership, joint venture, corporation, or other business or legal entity.
- E. "Recreational conveyance" means a vehicular type unit built on or for use on a chassis and designed primarily as living quarters for recreational, camping, vacation or travel use, and which has its own motor power or is mounted on or drawn by another vehicle.
- F. "Recreational equipment" means that which an occupant or owner may desire for convenience to store on his lot, but which item is normally and principally transported for use off the lot on a trailer or other vehicle and which is not used by the very nature and utility of the item in connection with customary accessory

residential uses on the lot. Included in the meaning of equipment are such large items of equipment as slide-in campers, folding tent trailers, boats, hang gliders, snow mobiles, floats, rafts and jet skis. However, it is provided that in the case of those items which are transported on trailers designed to carry more than one item, such as jet skis and snowmobiles, such trailer shall be considered as the unit of recreational equipment and the item transported shall not be so considered.

- G. "Recreational vehicle" means any recreational conveyance, house trailer, trailer, and converted vehicle. The term "recreational vehicle" shall not include buses or commercial vehicles as those terms are defined in Section 11-701 of Article 7 of this Chapter.
- H. "Slide-in campers, shells and truck caps" mean those items structured and designed to be mounted temporarily or permanently in the bed of a pickup or light truck, to provide enclosed storage space for transportation or property or quarters for recreational, camping, vacation or travel use. When mounted, the entire unit, consisting of the pickup or light truck, and the slide-in camper, shell or truck cap constitutes a recreational vehicle. When dismounted, the slide-in camper, shell, or truck cap becomes an item of recreational equipment.
- I. "Storage" means the placing of any of vehicles or equipment within an enclosed structure which obscures such vehicles from view.
- J. "Temporary parking" means the parking on the permanent portion of a resident's driveway of any of the above described recreational vehicles or recreational equipment for the purpose of loading, unloading, cleaning and minor emergency type repairs, and for a period not to exceed seven (7) days within any thirty(30) day period.
- K. "Trailer" means any vehicle without motor power designed to carry property or passengers wholly on its own structure and to be drawn by a motor vehicle.

11-1503 Parking and Storage.

Recreational vehicles and recreational equipment may be stored or parked only within any district of the City which is zoned for residential use and only in accordance with the following:

- A. Recreational vehicles and recreational equipment as defined in this Article may be stored within an enclosed structure (which structure otherwise conforms to the zoning requirements of the City), or may be permanently parked upon the premises of the owner of such recreational vehicle or recreational equipment; provided, however, that, except as otherwise provided in this section, said recreational vehicles or recreational equipment shall not be permanently parked on or within any required front yard or on or within fifteen (15) feet of any street. Recreational vehicles and recreational equipment shall not be permanently parked within five (5) feet of a rear or side property line.

Recreational vehicles and recreational equipment shall not be permanently parked in front of the front building line of the property in which the recreational vehicle or recreational equipment resides, or in front of the front building line of properties directly adjacent.

- B. Recreational vehicles and recreational equipment shall be fully screened, provided that if such recreational vehicle or recreational equipment is taller than six (6) feet, screening above six (6) feet is not required. For the purpose of this Article, full screening may be the use of evergreen plantings or fencing otherwise permitted by the City Code, to substantially screen the recreational vehicle or recreational equipment from public and ground level view from a neighboring property.
- C. The total number of recreational vehicles and recreational equipment, excluding those which are parked in an enclosed structure, which may be permanently parked at a residence, shall not exceed one.
- D. Recreational vehicles and recreational equipment may be permanently parked or stored at the approved locations; provided that such vehicles and equipment are operable and carry a current license where required; that any point of such vehicle or equipment which touches the ground shall only be set on a hard non permeable surface; provided further that such vehicles or equipment have been safely secured for said storage or parking by disconnecting all utilities and life support systems, including liquefied petroleum gas containers, sewer drainage lines and repair of any valve defects all to be in accordance with the storage guidelines recommended by the manufacturer of such recreational vehicle or recreational equipment.
- E. Recreational equipment or recreational vehicles may be temporarily parked on the permanent driveway portion of the residence for the purpose of loading, unloading, cleaning and minor emergency type-repair for a period not to exceed seven (7) days within any thirty (30) day period.
- F. All covers for any item (if present) must be custom fit to the contours of the recreational vehicle or recreational equipment. No tarps or other non-custom fit covers, or ready-fit or semi-custom covers may be used. A custom fit cover is designed, manufactured or tailored to closely fit the body style and size group of the specific make, model and year of the item to be covered.

11-1504 Inhabitation.

At no time shall a permanently or temporarily parked or stored recreational vehicle or item of recreational equipment be occupied or used for living, sleeping, or housekeeping purposes except as provided in Section 11-1505 of this Article.

11-1505 Visitors.

Visitors to the city may be permitted to park a recreational vehicle or item of recreational equipment on the permanent driveway portion of a residence and occupy said vehicle or equipment for sleeping purposes only, or occupy for sleeping purposes a recreational vehicle or recreational equipment already stored or permanently parked upon the premises, by making application to the department of public works for a visitors permit. The Director of Public Works is authorized to annually grant three (3) visitors permits for each residence within a twelve (12) month period. Each permit shall be valid for a period of seven (7) days. Visitors

may also park such vehicles or equipment on the street for a period of forty-eight (48) hours by permit.

11-1506 Utilities.

A recreational vehicle or recreational equipment may be connected only to the residential electrical utility system and only when said vehicle is temporarily parked as defined in this Article or when a visitor's permit has been issued. Such connection must be in accordance with the city electrical code, and said connection be made available for inspection during regular business hours by a city inspector.

11-1507 Storage of Commercial Items.

Commercial items, including inventory, equipment or goods used, transported or consumed in the course of a trade or business, shall only be stored within a recreational vehicle or item of recreational equipment if completely enclosed within such vehicle or equipment and not visible from adjacent property.

11-1508. Buses and Commercial Vehicles.

Nothing contained in this Article shall be deemed to permit the storage or parking of commercial vehicles or buses (as each are defined in Section 11-701 of Article 7 of this Chapter) within any district of the city which is zoned as a residential district except as permitted in Article 7 of this Chapter.

11-1509. Penalty for Violations and Civil Remedies.

- A. The violation of any provision of this Article is hereby declared to be a public offense and, pursuant to the authority of K.S.A. 12-761, a misdemeanor, and any person, firm, association, partnership or corporation convicted thereof shall be punished by a fine not to exceed \$500 or by imprisonment for not more than six months for each offense or both such fine and imprisonment. Each day's violation of this Article shall constitute a separate offense.

- B. The City shall have the authority to maintain civil suits or actions in any court of competent jurisdiction for the purpose of enforcing the provisions of this Article and to abate nuisances maintained in violation thereof. In the event any recreational vehicle is or is proposed to be used in violation of this Article, the City may, in addition to other remedies, institute injunction, mandamus or other appropriate action or proceeding to prevent unlawful activities, or to correct or abate such violation.

SECTION 2. This ordinance shall take effect and be enforced from and after its passage, approval, and publication as provided by law.

PASSED AND APPROVED THIS ____ DAY OF _____, 2014.

Ronald L. Shaffer, Mayor

ATTEST:

APPROVED AS TO FORM:

Joyce Hagen Mundy, City Clerk

Catherine P. Logan, City Attorney

**COUNCIL MEETING AGENDA
CITY OF PRAIRIE VILLAGE
Council Chambers
December 15, 2014
7:30 PM**

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

Citizens Police Academy Graduation

- V. **PUBLIC PARTICIPATION**
- VI. **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 City Council minutes - December 1, 2014
- 2. Approve Claims Ordinance 2924
- 3. Approve renewal of City Prosecutor contract
- 4. Approve renewal of Public Defender contract
- 5. Approve renewal of Spanish-speaking Public Defender contract
- 6. Approve an agreement with Iron Mountain to provide records disposal services
- 7. Approve the contract for HVAC services with O'Dell Service Co.
- 8. Approve the contract for pest control services with Pete's Pest Control
- 9. Ratify the Mayor's appointment of Serena Schermoly to the Arts Council
- 10. Ratify the Mayor's appointment of Robert Roberge Jr. to the Environment/Recycle Committee
- 11. Ratify Mayor's reappointment of Lori Sitek & Thomas Brill to the Civil Service Commission
- 12. Adopt resolution 2013-05 establishing 2015 compensation ranges for the City of Prairie Village, subject to the review and approval of the City Attorney.

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

Planning Commission

PC2014-122 Consider final plat for Mission Chateau
PC2013-11 Consider request for extension to SUP for Mission Chateau

Council Committee of the Whole

COU2014-49 Consider approval of Council Policy #29 regarding remote participation
COU2014-50 Consider approval of Committee on Committee's recommendations and associated Council policies
COU2014-56 Consider approval of the use of forfeiture funds to purchase a van to transport the CIRT Team during operations and training
COU2014-51 Consider approval of purchase and installation of Public Works software
COU2014-54 Consider approval of request for Contingency Funds for Legal Contract Services
COU2014-55 Consider approval of request for Contingency Funds for October KCPL street light and traffic signal billings

IX. STAFF REPORTS

X. OLD BUSINESS

XI. NEW BUSINESS

XII. ANNOUNCEMENTS

XIII. 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**

CONSENT AGENDA
CITY OF PRAIRIE VILLAGE

December 15, 2014

**CITY COUNCIL
CITY OF PRAIRIE VILLAGE
December 1, 2014**

The City Council of Prairie Village, Kansas, met in regular session on Monday, December 1, 2014 at 7:30 p.m. in the Council Chambers at the Municipal Building, 7700 Mission Road, Prairie Village, Kansas.

ROLL CALL

Mayor Ron Shaffer called the meeting to order and roll call was taken with the following Council members present: Ashley Weaver, Jori Nelson, Ruth Hopkins, Steve Noll, Eric Mikkelson, Andrew Wang, Laura Wassmer, Brooke Morehead, Dan Runion, David Morrison, Ted Odell and Terrence Gallagher.

Staff present were: Wes Jordan, Chief of Police; Keith Bredehoeft, Director of Public Works; Katie Logan, City Attorney; Quinn Bennion, City Administrator; Kate Gunja, Assistant City Administrator; Nolan Sunderman, Assistant to the City Administrator; Lisa Santa Maria, Finance Director; and Joyce Hagen Mundy, City Clerk. Also present were Teen Council members Kyle Baker, Bailey Riecker and Max Keeter.

Mayor Shaffer led those present in the Pledge of Allegiance.

PUBLIC PARTICIPATION

No one was present to address the City Council.

CONSENT AGENDA

Ted Odell asked for the removal of item #1. Ashley Weaver moved the approval of the Consent Agenda for Monday, December 1, 2014 except item #1.

1. Removed
2. Approve Resolution 2014-02 Adopting the Region L Multi-Hazard Mitigation Plan
3. Approve the issuance of 2015 Cereal Malt Beverages to the following businesses:
 - Four B Corp - Hen House 22 located at 4050 West 83rd Street
 - Four B Corp - Hen House 28 located at 6950 Mission Road
 - Hy-Vee, Inc. - located at 7620 State Line Road
 - Walgreen Co - Store #13032 located at 4016 West 95th Street
 - Rimann Liquors of Prairie Village located at 3917 Prairie Lane
4. Adopt Ordinance 2319 regulating Traffic within the City of Prairie Village, Kansas adding a new Section 11-608 to Article 6 of Chapter XI.
5. Approve the agreement with Berberich, Trahan and Company, P.A. to audit the City's 2014 financial statements at a cost of \$23,310

A roll call vote was taken with the following members voting "aye": Weaver, Nelson, Hopkins, Noll, Mikkelson, Wang, Wassmer, Morehead, Runion, Morrison, Odell and Gallagher.

Mayor Shaffer called upon Councilman Ted Odell. Ted Odell noted in the discussion of the contract with K & W, he asked Mr. Bredehoeft to please verify the bid covers all costs associated with this work. He also noted in the Council Committee of the Whole minutes on page 12, he did not vote against calling the question. Mr. Gallagher stated he was one of the three votes in opposition, not Mr. Odell. The City Clerk stated the requested changes would be made to both minutes.

Ted Odell moved for the approval of the Regular Council Meeting Minutes of November 17, 2014 as amended. The motion was seconded by Laura Wassmer and passed unanimously.

MAYOR'S REPORT

Mayor Shaffer reported on his activities representing the City over the past two weeks including meetings of the Urban Core, Northeast Johnson County Mayors, Greater Kansas City Chamber Board, Mid-America Regional Council Board as well as

the holiday events for the Northeast Johnson County Chamber and the Greater Kansas City Chamber. The period ended with the successful SME Rally on Friday and noted that SME Football Coach Delaney will be present at the Mayor's Holiday Tree Lighting.

COMMITTEE REPORTS

Council Committee of the Whole

COU2014-45 Consider Approval of a Resolution Approving the Assignment & Assumption Agreements for the Corinth Square and Prairie Village Shopping Centers Community Improvement Districts

In August, 2014, City Staff was provided with initial information indicating that the owners of Corinth Square and the Village Shops were in discussions with First Washington Realty, Inc. regarding a possible sale of the shopping centers.

On November 5, 2014, the City of Prairie Village received official notification from Curtis Petersen representing PV Retail Partners, LLC, CSN Retail Partners, LLC and CSS Retail Partners, LLC, of the plans to sell Corinth Square and the Village Shops to First Washington Realty, Inc. and requesting a transfer of assignment of the Development Agreements.

Quinn Bennion stated that presentations were made by the applicant at the November 17th Council Committee of the Whole meeting. During the discussion, there were three specific requests made of First Washington:

- 1) Summary or proof of proposed insurance required by the CID agreements
- 2) Review of audited financial statements of Global Retail Investors (GRI)
- 3) A guaranty of the performance of the special purpose entities (LLC's)

The requested insurance information was distributed as part of the Council packet. To facilitate the second item, First Washington arranged for Councilmembers to review/inspect Global Retail Investors (GRI) audited financial statements. For Item 3,

GRI has offered to guaranty the obligations of the single purpose entities under the CID Development Agreements, subject to a \$10 million limit for each CID Development Agreement. These guaranties are attached as Exhibit B to each Assignment and Assumption Agreement.

Mr. Bennion stated there would be no formal presentations; however, the current and future ownership representatives are present as well as Mr. Murray of Colliers International to answer any questions from the Council.

Dan Runion asked for specific financial information on the two Special Purpose Entities to which the CID is being assigned. Joshua Brown responded these were just recently formed to accept the ownership of the centers. The centers will be purchased with cash and will have no debt. The assignment agreement contains a commitment from GRI to guarantee up to \$10 million dollars for the obligations of the single purpose entities. The SPE is wholly owned by GRI which also owns another 93 commercial/retail centers as SPE's. Mr. Runion stated the letter received by the Council indicates that First Washington would be the owner. Mr. Brown stated all the documents present Global Retail Investors, LLC as the new owners.

Mr. Runion noted at the November 17th meeting, the comment was made that Foos in Brookside "looked good" and asked what was meant by that. Mr. Brown stated that he didn't remember making that statement. Alex Nyhan responded he addressed that question and stated that a recent tour of the new capital improvements underway at Foos looked good and were a positive improvement to the store.

Eric Mikkelson stated the assignment covers a long list of remaining financial obligations. He noted that his request for additional information two weeks ago has been more than met by the actions of GRI in opening up their audited financial

statements for review, providing the insurance coverage and the financial guarantee for each of the centers. He is appreciative of both the quick response to providing the additional information and hope that it sets the tone for future cooperation between GRI and the City. He noted the desire for additional green space in the northern part of Prairie Village and encouraged the developer create meeting and gathering sites on the property with open space.

Josh Brown responded this acquisition is being made in the spirit of cooperation. Through their broad experiences with their other 93 centers, they recognize the importance of becoming part of the community and reaffirmed their intention for this to be a long-term commitment.

Ted Odell expressed his appreciation for providing the requested information so quickly, noting he travelled to their offices to review the financial documents. He also would like to this as the beginning of a mutually beneficial partnership.

Brooke Morehead read a statement. In summary, she stated that the Council vote to pass the CID in September of 2010 sealed the fate of an additional \$1,000,000 of sales tax revenue for each of 22 years. The full text of Mrs. Morehead's statement is attached to the minutes.

Joshua Brown stated that GRI gladly accepts the responsibility and reaffirmed their financial partnership with CalPERS who has entrusted them with the stewardship and investment of their funds and welcomed a partnership with the City of Prairie Village.

Jori Nelson read a statement. In summary, Ms. Nelson stated she did not believe that the City Council of 2010 should have ever approved the CID for Corinth or

the Prairie Village shops and stated her reasons. The full text of Ms. Nelson's statement is attached to the minutes.

Terrence Gallagher stated that he opposed the initial CID in 2010 and feels it was a bad decision made by that Council. He appreciates what GRI has done to respond to the Council and prepare for the purchase.

Eric Mikkelson confirmed the versions of the guaranty included in the Council Packet are the same as the ones that will be signed.

Erick Mikkelson moved the City Council approve a resolution approving the Assignment and Assumption Agreements for the Corinth Square and Village Shops Community Improvement Districts. The motion was seconded by Andrew Wang.

David Morrison stated he still has serious concerns with the long-term viability of CalPERS and disagrees with Mr. Brown's response to his concerns at the November 17th meeting.

Mayor Shaffer opened the floor for public comment.

John Anderson, 4402 West 67th Terrace, commented that CID's are critical to commercial development and noted that most of the major shopping centers in Johnson County have received some financial benefits to make the proposed changes. This is not the rich taking from the poor. Tax incentives are designed to support improvements to commercial and residential properties. Tax payers receive benefits through increased property values and improved community businesses and restaurants. He asked Council members to think back to Prairie Village in 1964 and now - see the progress that has been made. The centers are now at 100% occupancy and they will continue to improve and draw people into the community.

A roll call vote was taken on the motion with the following votes cast: "Aye" Weaver, Nelson, Hopkins, Noll, Mikkelson, Wang, Wassmer, Morehead, Odell and Gallagher; "Nay" Runion and Morrison. The Resolution was approved 10 to 2.

Mayor Shaffer thanked the representatives of Global Retail Investors, LLC for their spirit of cooperation and stated the City looks forward to a long and fruitful partnership with them as they operate the Corinth Square and Prairie Village Shopping Centers.

Statutory Committee

Laura Wassmer reported residents had built a fire pit and seating area in the center of the island at Prairie Lane & Oxford. She noted that although some homes associations have taken over planting and caring for the islands, the homes associations will be sent a letter reminding them that the islands are the property of the City and any changes to them need City approval. This will be discussed at the next committee meeting. She encouraged council members to visit the site prior to that meeting.

STAFF REPORTS

Public Safety

- Chief Jordan announced that December 11th will be the annual Shop with a Cop event and invited council members to participate.
- The 2014 graduates of the Citizen's Police Academy will be recognized at the December 15th meeting.
- The employees involved in the capture of the Bank of America robbery will be recognized by the bank at a January meeting.

Public Works

- Keith Bredehoeft provided an update on the 75th Street rebid and reported that alternates would not be included due to the time needed to create the revised bid documents. He noted the retaining wall may be done at a later time.
- The tennis court renovation is nearing completion. The west courts were open for use this past weekend.

- Concrete work remains to be done at McCrum Park - other improvements have been completed.

Administration

- Nolan Sunderman reported the Joint Legislative Agenda will be presented at the December 15th meeting for Council consideration
- Kate Gunja reported that the Planning Commission has a full agenda for its December meeting. The Council will be considering the requested extension for the Mission Chateau SUP and the Final Plat for Mission Chateau on December 15th; an amended SUP for Highlawn Montessori will be on the January 5th agenda.
- 2015 Large Item Pickup Dates have been set - April 11th for properties north of 75th Street and April 18th for properties south of 75th Street
- Lisa Santa Maria reported that pre-audit work has begun for the 2014 audit
- The City received the GFOA Award for Excellence on its popular budget for the second year.
- Quinn Bennion noted the Mayor's Tree Lighting Ceremony would be Thursday evening.
- Mr. Bennion stated he would be out of town Thursday and Friday at the Kansas City Manager's Association Meetings in Manhattan.

OLD BUSINESS

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

NEW BUSINESS

Ted Odell reported on his recent trip to the National League of Cities conference also attended by Council Members Morrison, Weaver and Hopkins. At the conference significant attention was given to organizational technology trends for greater city engagement. He also attended workshops on reaching common ground on divisive issues and working with other cities. Ruth Hopkins added that the City of Merriam invited them to participate in a meeting with other city officials in Austin to discuss Google implementations that provided valuable insights and future contact information for potential issues in Prairie Village.

David Morrison stated he had tickets available for the December 6th presentation of "KU Vespers on the Road" at Johnson County Community College.

Terrence Gallagher reported on the recent community service project performed by the K Life students who cleaned up the yards of 12 homes in the area of the K Life House.

ANNOUNCEMENTS

Committee meetings scheduled for the next two weeks include:

Board of Zoning Appeals	12/02/2014	6:30 p.m.
Planning Commission	12/02/2014	7:00 p.m.
Insurance Committee	12/03/2014	4:30 p.m.
Environment/Recycle Committee	12/03/2014	7:00 p.m.
Sister City Committee	12/06/2014	1:00 p.m.
Park & Recreation Committee	12/10/2014	7:00 p.m.
Council Committee of the Whole	12/15/2014	6:00 p.m.
City Council	12/15/2014	7:30 p.m.

=====

The Prairie Village Arts Council is pleased to present a photography exhibit by Kathleen Manning in the R. G. Endres Gallery during the month of December. The artist reception will be Friday, December 12, from 6:00 - 7:30 p.m.

Save the date for the Mayor's Holiday Tree Lighting on Thursday, December 4, 2014 from 6 p.m. to 7 p.m.

Save the date for the annual Gingerbread House decorating parties on Sunday, December 7, 2014 at 1:30 p.m. OR 3:00 p.m.

ADJOURNMENT

With no further business to come before the City Council the meeting was adjourned at 8:20 p.m.

Joyce Hagen Mundy
City Clerk

Dec 1, 2014

The Council vote to pass the CID in September of 2010 sealed the fate of an additional \$1,000,000 of sales tax revenue for each of 22 years. Instead of buying new park land, seed funding a community center, or paving a new 75th Street corridor, these funds, a full 1% sales tax, went to the private company CFS. Cosentino's Food Store bought Corinth and Prairie Village Shops less than five years ago, but will reap a significant profit using public funds to improve private retail properties. This sale will not go through without our vote tonight to transfer the CID. Unfortunately we will vote to transfer it to the buyers and can only hope they, instead of the present owner, will be more generous to the City of Prairie Village.

Brooke Morehead

I do not believe that the City Council of 2010 should have never approved the CID for Corinth or the Prairie Village shops. The terms for the CID were clearly written to benefit the owners and developers of the centers...not the residents of Prairie Village.

I see this as corporate welfare. I do not believe it's the responsibility of the residents to improve the property of a corporation's portfolio. I believe it is the owner's responsibility to maintain and improve their property. I know the Cosentino's paid \$50M for these properties five years ago. I look forward to hearing publicly, Mr. Peterson, how many millions of dollars they are making on our millions of tax dollars.

There are many projects in the Village Vision that we could have addressed with that \$22 million dollars that we are simply giving to the private corporation...until the year 2032! It is unfortunate that they stated that they are unwilling to relinquish or renegotiate the CID. After all, they are a multi-billion dollar corporation...we however, are struggling to fund our 75th Street corridor with a shortfall of \$1.2M.

First Washington Realty, stated that they sought these properties out because of our location, our demographics, and our quality of life offered here. They sought us out. These properties were not for sale.

First Washington Realty is a \$3.5 billion dollar company. I do not believe they need our CID money that is "dribbling in" as Mr. Brown so eloquently put it...to be successful.

Unfortunately, I've been told the way the CID was written there is only one sentence in the entire contract which we are allowed to consider as we cast our vote for this transfer. I am adamantly opposed to this CID. The Council of 2010 left us with this long-term obligation that we must address until the year 2032. With that said, it is with regret, I vote yes.

CITY TREASURER'S WARRANT REGISTER

DATE WARRANTS ISSUED:

Warrant Register Page No. 1

December 15, 2014

Copy of Ordinance
2924

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
EXPENDITURES:			
Accounts Payable			
8633-8715	11/7/2014	643,930.40	
8716-8731	11/14/2014	143,378.02	
8732-8840	11/21/2014	757,364.92	
Payroll Expenditures			
11/14/2014		252,732.70	
11/28/2014		253,435.72	
Electronic Payments			
Electronic Pmnts	11/3/2014	7,971.37	
Electronic Pmnts	11/4/2014	345.14	
Electronic Pmnts	11/5/2014	16,376.96	
Electronic Pmnts	11/11/2014	525.51	
Electronic Pmnts	11/12/2014	4,767.91	
Electronic Pmnts	11/13/2014	871.22	
Electronic Pmnts	11/18/2014	1,999.42	
Electronic Pmnts	11/19/2014	2,696.95	
Electronic Pmnts	11/25/2014	1,326.80	
Electronic Pmnts	11/28/2014	16,470.58	
TOTAL EXPENDITURES:			2,104,193.62
Voided Checks			
Rachel Mlndrup	Check # 8687	(Amount) (100.00)	
	8750	(110.00)	
Pitney Bowes	8805	(215.58)	
TOTAL VOIDED CHECKS:			(425.58)
GRAND TOTAL CLAIMS ORDINANCE			2,103,768.04

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

Passed this 15th day of December 2014.

Signed or Approved this 15th day of December 2014.

(SEAL)

ATTEST: _____
City Treasurer
Mayor

ATTEST: _____
Finance Director



COURT ADMINISTRATION

City Council Meeting: December 15, 2014

Renewal of City Prosecutor Contract – Debra A. Vermillion, J.D.

BACKGROUND

The Prairie Village Municipal Court Prosecutor is responsible for the prosecution of all misdemeanor crimes and traffic offenses that occur within the City.

It is the prosecutor's responsibility to prepare and attend all hearings to represent the City of Prairie Village and any cases appealed to Johnson County District Court. Debra A. Vermillion, J.D. has been City Prosecutor since 2011 and continues to perform satisfactorily.

FUNDING SOURCE

The Municipal Court budgets annually for prosecutor services. The proposed contract is \$1,764 per month and the proposed rate is flat from the current contract. Any appellant appearances would be charged at \$130 per hour which is also flat from the current contract.

RECOMMENDATION

The City Prosecutor is an appointed position by the Mayor. Staff recommends that the contract be renewed for a period of 6 months to allow for new Mayoral appointments. Should Debra Vermillion be appointed by the incoming Mayor, a renewal will be drafted to run concurrent with her appointment.

ATTACHMENTS

Renewal of the City Prosecutors Contract, January 1, 2015-June 31, 2015. The contract has been reviewed and approved by the City Attorney.

PREPARED BY:

Rebecca Story

Interim Court Administrator

DATE: December 11, 2014

RENEWAL OF PROFESSIONAL SERVICES AGREEMENT
CITY PROSECUTOR CONTRACT

The Professional Services Agreement (“Contract”) between the City of Prairie Village, Kansas (“CITY”) and Debra A. Vermillion (the “Contractor”), entered into March 12, 2011, a copy of which is attached hereto, renewed as of January 1, 2012 through December 31, 2014, and is hereby renewed as of January 1, 2015 as follows:

1. The Contract is renewed for an additional 6 period and shall terminate on June 31, 2015, subject to further renewal.
2. The CITY agrees to compensate the CONTRACTOR for the services described in the Contract the monthly sum of \$1,764.00 for the renewal period.
3. Upon recommendation of the Court Administrator the Governing Body will review and consider any change to compensation based on cost of living, merit increase, or changes in caseload or workload.
4. Section 6. Insurance, is amended to provide as follows: The Contractor shall purchase and maintain professional liability insurance in minimum amounts of five hundred thousand (\$500,000) per specific claim and one million dollars (\$1,000,000) per aggregate claim per occurrence. Certificates of Insurance evidencing the above coverage and acceptable to the City shall be filed with the City at all times while this Contract is in effect.
5. The remaining provisions of the Contract shall remain in full force and effect.

IN WITNESS WHEREOF the parties hereto have caused this Renewal of City Prosecutor Contract to be executed, the day and year first herein written.

CITY OF PRAIRIE VILLAGE, KANSAS

By: _____
Ronald L. Shaffer, Mayor

Attest:

Joyce Hagen Mundy, City Clerk

Approved as to form:

CONTRACTOR

Catherine P. Logan, City Attorney

RENEWAL OF PROFESSIONAL SERVICES AGREEMENT
CITY PROSECUTOR CONTRACT

The Professional Services Agreement ("Contract") between the City of Prairie Village, Kansas ("City") and Debra A. Vermillion (the "Contractor"), entered into March 12, 2011, a copy of which is attached hereto, is hereby renewed, as of January 1, 2012, as follows:

1. The Contract is renewed for an additional three year period and shall terminate on December 31, 2014, subject to further renewal.
2. The CITY agrees to compensate the CONTRACTOR for the services described in the Contract the monthly sum of \$1,764.00 for the calendar year commencing January 1, 2012 through December 31, 2014.
3. Upon recommendation of the Court Administrator the CITY will review and consider any change to compensation based on cost of living, merit increase, or changes in caseload or workload.
4. The remaining provisions of the Contract shall remain in full force and effect.

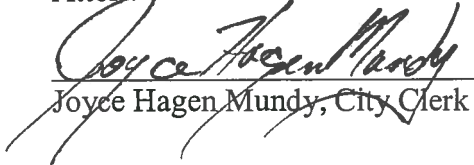
IN WITNESS WHEREOF the parties hereto have caused this Renewal of City Prosecutor Contract to be executed, the day and year first herein written.

CITY OF PRAIRIE VILLAGE, KANSAS

By: _____

Ronald L. Shaffer, Mayor

Attest:



Joyce Hagen Mundy, City Clerk

Approved as to form:



Catherine P. Logan, City Attorney

CONTRACTOR



Debra A. Vermillion

PROFESSIONAL SERVICES AGREEMENT
CITY PROSECUTOR CONTRACT

This CITY PROSECUTOR CONTRACT ("Contract"), made and entered into this 12th day of March, 2011, by and between Debra A. Vermillion (the "Contractor") and the City of Prairie Village, a Kansas municipal corporation (the "City").

The Contractor and the City, for the mutual promises and consideration hereinafter set forth, agree as follows:

1. Scope of Work.

a. The Contractor shall provide the services as described in Exhibit A (the "Work"), all as attached and incorporated herein.

b. The Contractor shall be solely responsible for all means, methods, techniques and sequences for coordinating all portions of the Work. The Contractor shall be responsible to the City for the acts and omissions of her agents and employees, and other persons performing any of the Work.

c. The Contractor is free to establish and control her times of performance of the Work and the City shall not dictate time of performance except as stated required by hearings and trials set by the court, and as noted in Exhibit A.

d. The Contractor is not required to perform work exclusively for the City during the term of this Contract.

2. Independent Contractor. This Contract does not create an employer/employee relationship between the parties. It is the parties' intention that the Contractor will be an independent contractor and not the City's employee for all purposes, including, but not limited to, the application of the Fair Labor Standards Act minimum wage and overtime payments, Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the provisions of the Internal Revenue Code, Kansas revenue and taxation laws, Kansas workers' compensation law, and Kansas unemployment insurance law. The Contractor will retain sole and absolute discretion and judgment in the manner and means of carrying out the Contractor's activities and responsibilities hereunder. The Contractor agrees that it is a separate and independent enterprise from the City, that it has a full opportunity to find other business, that it has made its own investment in its business, and that it will utilize a high level of skill necessary to perform the Work. This Contract shall not be construed as creating any joint employment relationship between the Contractor and the City, and the City will not be liable for any obligation incurred by the Contractor, including, but not limited to, unpaid minimum wages and/or overtime premiums.

3. License. The Contractor shall at all times hold an unrestricted license to practice law in the State of Kansas. The Contractor shall give all notices and comply

with all laws, ordinances, rules, regulations and lawful orders of any public authority bearing on the performance of the Work.

4. Indemnification. The Contractor shall appear, defend, indemnify and hold harmless the City, members of the City's governing body, its officers, agents, representatives, successors and assigns from and against all claims of any character or nature, demands, suits, actions and costs arising out of the Work performed under the terms of this Contract, or on account of any act or omission by the Contractor or its agents, employees or representatives, or from any claims or amounts arising or recovered under workers' compensation laws or any other law, bylaw or ordinance, order, decree or any failure on the part of the Contractor to fulfill the Contractor's obligations under this Contract. Without limiting the generality of the preceding sentence, it is the intent of the parties to this Contract that the City shall, in all instances, be indemnified against all liability losses and damages of any nature whatsoever for or on account of any injuries to or death of persons or damages to or destruction of property belonging to any person arising out of or in any way connected with the performance of this Contract. The provisions of this paragraph shall survive termination of this Contract.

5. Governing Law. This Contract shall be governed by the laws of the State of Kansas.

6. Insurance. The Contractor shall purchase and maintain professional liability insurance in minimum amounts of five hundred thousand dollars (\$250,000.00) per specific claim and one million dollars (\$500,000.00) per aggregate claim per occurrence. If required by the City, Certificates of Insurance acceptable to the City shall be filed with the City prior to commencement of the Work. The Certificates shall contain a provision stating that coverage is supported and that the policies will not expire, be canceled or changed until all Work has been completed and accepted by the City.

7. Contract Fee. The Contractor shall be compensated for the Work as set forth in Exhibit A. The Contractor shall provide a monthly statement for services. The City shall promptly pay amounts due to the Contractor.

8. Contract Term. The term of this Contract will commence on March 12, 2011, and continue through December 31, 2011.

9. Termination. Either party may terminate this Contract by providing sixty (60) days' prior written notice.

10. Rights and Remedies. The duties and obligations imposed by this Contract and the rights and remedies available hereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the City or the Contractor shall constitute a waiver of any right or duty afforded the parties under the Contract, nor shall any action or failure to act constitute an approval of or acquiescence to any briefs hereunder, except as may be specifically agreed to in writing.

11. Litigation. Should litigation be necessary to enforce any term or provision under this Contract, or to collect any damages claimed or portion of the amount payable under this Contract, then all litigation and collection expenses, witness fees, court costs and attorney's fees shall be paid to the prevailing party. Nothing herein shall preclude non-binding arbitration if the parties so elect in the event of a dispute hereunder.

12. Entire Agreement. This Contract constitutes the entire agreement between the parties relative to the subject matter.

13. Amendment. No amendment or modification of this Contract shall be valid or effective, unless in writing and signed by the parties to this Contract.

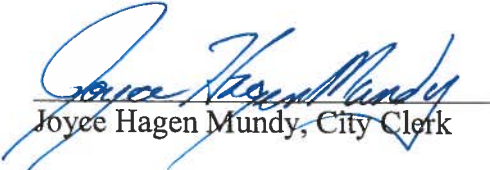
IN WITNESS WHEREOF the parties hereto have caused this Contract to be executed, the day and year first herein written.

CITY OF PRAIRIE VILLAGE, KANSAS

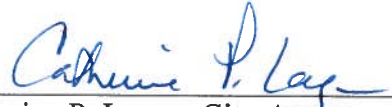
By: 

Ronald L. Shaffer, Mayor

Attest:


Joyce Hagen Mundy, City Clerk

Approved as to form:


Catherine P. Logan, City Attorney

CONTRACTOR


Debra A. Vermillion

EXHIBIT A

SCOPE OF WORK & CONTRACT RATE

1. The Contractor shall serve as the City Prosecutor for the City of Prairie Village, Kansas. The Contractor's primary responsibilities shall include, but are not limited to, prosecution of misdemeanors, traffic violations that occur within the City and violations of Prairie Village City Ordinances.
2. The Contractor shall render to the best of its abilities, in accordance with applicable professional standards, the services, legal representation and advice described herein during the continuance of this Contract.
3. The Contractor agrees to faithfully represent the interests of the City in carrying out her duties as City Prosecutor and in accordance with established prosecution standards and policies.
4. The Contractor's services shall include attendance at hearings to represent the City of Prairie Village as City Prosecutor in the Municipal Court and preparation for such hearings. Hearings are normally held on the first three Tuesdays of every month on an arraignment and minor traffic plea docket calendar from 7:45 a.m. until the calendar is finished. In addition, an attorney plea docket is set every Thursday at 4:00 p.m., followed by a pro se plea docket. Arraignments, sentencings and motions are set for 6:00 p.m. upon the Judge's arrival. The Contractor is responsible for prosecution of trials that are before the trial judge alone. Bench trials are set for the second, third and fourth Thursdays of each month, commencing at 6:30 p.m. or after completion of the plea docket.
5. The Contractor will be compensated \$1,680.00 per month for prosecution services described in paragraph 4 above.
6. The Contractor shall also be required to continue its representation of the City when a case is appealed to the Johnson County District Court. The Contractor may also be requested from time to time to provide legal advice to the police department not involving the prosecution of individual cases. The Contractor shall be compensated at an hourly rate of \$130.00 for such appeal work and legal advice to the police department.
7. The Contractor shall be responsible for arranging for substitute counsel when unable, for any reason, to appear in Court. Substitute counsel shall not be used routinely. Generally, substitute counsel shall be used only when the Contractor cannot serve as City Prosecutor because of illness or prior legal commitment in another Court. The Contractor shall provide the City and the City Attorney with a list of the name(s), address(es), telephone number(s), Kansas Bar number(s), and professional resumes of substitute counsel who

will be responsible for providing City Prosecutor services. All substitute counsel on such list must be approved by the City in advance. All services performed by substitute counsel shall be the sole responsibility of the Contractor, including matters of compensation due and payable to substitute counsel for work performed.



COURT ADMINISTRATION

City Council Meeting: December 15, 2014

Renewal of Public Defender Contract – Robin A. Lewis, J.D.

BACKGROUND

The Prairie Village Municipal Court Public Defender is responsible for representing defendants who have been found indigent by the court and have been charged with criminal actions where a jail sentence may be imposed.

Robin Lewis, J.D. has been the Prairie Village Municipal Court Public Defender since 2011 and continues to perform satisfactorily. It is the recommendation of Court staff that a two year contract be renewed between the City of Prairie Village, KS and public defender, Robin Lewis until December 31, 2016.

FUNDING SOURCE

The Municipal Court budgets annually public defender services. The proposed contract amount is \$1,127.20 per month. The rate is flat from the current contract.

RECOMMENDATION

Staff recommends that the City Council approve the renewal of the contract with Attorney Robin Lewis to provide Public Defender services for the City.

ATTACHMENTS

Renewal of the Public Defender Contract, January 1, 2015-December 31, 2016. The contract has been reviewed and approved by the City Attorney.

PREPARED BY:

Rebecca Story

Interim Court Administrator

DATE: December 11, 2014

RENEWAL OF PUBLIC DEFENDER CONTRACT

The Public Defender Contract (“Contract”) between the City of Prairie Village, Kansas (“CITY”) and Robin A. Lewis (“ATTORNEY”), for the period of January 1, 2008 through December 31, 2008, a copy of which is attached hereto, and was renewed on January 1, 2014 through December 31, 2014, and is hereby renewed, as follows:

1. The Contract is renewed for an additional two year period and shall terminate on December 31, 2016, subject to further renewal.
2. The CITY agrees to compensate ATTORNEY for the services described in the Contract the monthly sum of \$1,127.20 for the period commencing January 1, 2015 through December 31, 2016.
3. The remaining provisions of the Contract shall remain in full force and effect.

IN WITNESS WHEREOF the parties hereto have caused this Renewal to Public Defender Contract to be executed, the day and year first herein written.

CITY OF PRAIRIE VILLAGE, KANSAS

By: _____
Ronald L. Shaffer, Mayor

Attest:

Joyce Hagen Mundy, City Clerk

Approved as to form:

Catherine P. Logan, City Attorney

ATTORNEY:

Robin A. Lewis

RENEWAL OF PUBLIC DEFENDER CONTRACT

The Public Defender Contract ("Contract") between the City of Prairie Village, Kansas ("CITY") and Robin A. Lewis ("ATTORNEY"), for the period of January 1, 2008 through December 31, 2008, a copy of which is attached hereto, is hereby renewed, as of January 1, 2014, as follows:

1. The Contract is renewed for an additional one year period and shall terminate on December 31, 2014, subject to further renewal."
2. The CITY agrees to compensate ATTORNEY for the services described in the Contract the monthly sum of \$1,127.20 for the calendar year commencing January 1, 2014 through December 31, 2014.
3. The remaining provisions of the Contract shall remain in full force and effect.

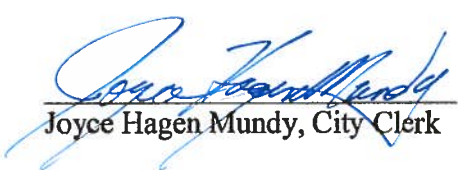
IN WITNESS WHEREOF the parties hereto have caused this Renewal to Public Defender Contract to be executed, the day and year first herein written.

CITY OF PRAIRIE VILLAGE, KANSAS

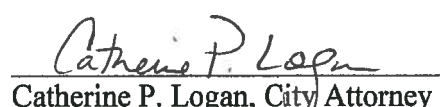
By: 

Ronald L. Shaffer, Mayor

Attest:


Joyce Hagen Mundy, City Clerk

Approved as to form:


Catherine P. Logan, City Attorney

ATTORNEY


Robin A. Lewis

**PUBLIC DEFENDER CONTRACT
THE CITY OF PRAIRIE VILLAGE, KANSAS**

COMES NOW, the City of Prairie Village, Kansas, a Municipal Corporation, and Robin A. Lewis, hereinafter referred to as "ATTORNEY", to enter into this Contract based upon the following terms, conditions, and considerations.

WITNESSETH:

WHEREAS, the CITY desires to retain ATTORNEY for Municipal Court Public Defender Services and ATTORNEY desires to provide those services.

NOW, THEREFORE, it is agreed between the CITY and by ATTORNEY as follows:

1. ATTORNEY'S job responsibilities shall include the following, which ATTORNEY agrees to perform for the consideration herein set out:

- a. Prepare, try and otherwise handle representation of indigent Defendants (who are hereinafter referred to as clients) in the Municipal Court at the regularly scheduled dockets as may be assigned by the Municipal Court Judge. In this regard it is understood ATTORNEY need not be present at each docket, but only those upon which his client's matter is scheduled. ATTORNEY will not be found in breach of this Agreement where circumstances such as illness, Court conflicts, etc., prohibit an appearance, provided ATTORNEY has made a good faith effort to do so and has notified the Court in advance.
- b. ATTORNEY agrees to represent the referred defendants from referral to final disposition, even if such representation continues past the date of this Agreement. If final disposition includes an appeal, such representation shall include preparation and litigation of appeals de novo in the Johnson County District Court, either to the Court or to a jury, as deemed necessary by the ATTORNEY in representation of her clients.
- c. Represent, prepare and submit Diversions for clients at both the Municipal Court level and the Johnson County District Court, if applicable.
- d. Represent assigned clients in termination actions on diversions and prepare for and handle hearings thereon.
- e. Represent assigned clients in parole or probation revocation proceedings of the Municipal Court and the Johnson County District Court, and prepare for and handle hearings thereon as deemed necessary by the ATTORNEY.

- f. Represent assigned clients in contempt and suspended sentence matters, and prepare for and handle hearings thereon as deemed necessary by the ATTORNEY.
- g. Prepare all documents, motions, briefs, letters, etc., with his own staff support and materials. It is understood between the parties that the CITY will attempt to provide a place for ATTORNEY and assigned clients to meet at City Hall and use of a phone during normal business hours.

2. CITY agrees to compensate ATTORNEY for these services the monthly sum of (\$1,041.66) for the calendar year commencing January 1, 2008 through December 31, 2008

3. ATTORNEY'S status shall at all times remain as a Contractee of the CITY. ATTORNEY is not an employee or agent of the CITY. This Contract shall terminate on December 31, 2008, subject to renewal. ATTORNEY represents that she is self-employed and that she individually has responsibilities to correctly report her income/expenses on her tax returns and that the Court has no obligation or right to withhold any FICA income or other taxes from the agreed monthly payment.

4. ATTORNEY represents that she is duly authorized to practice law in the State Courts of Kansas and that she will remain so qualified throughout the Agreement.

5. ATTORNEY shall hold harmless the City of Prairie Village, its employees, officers, and agents and defend and indemnify it against all claims and causes of action in which misconduct or negligence is alleged against ATTORNEY while performing services pursuant to this Contract. This provision shall not apply if the claim is based upon the misconduct or negligence of the CITY, its officers, employees, or agents.

6. During the performance of this contract, the ATTORNEY agrees to maintain for the duration of the contract insurance coverage of the type and minimum liability as set forth below. The ATTORNEY shall furnish to the CITY a Certificate of Insurance verifying such coverage. All general liability insurance shall be written on an occurrence basis unless otherwise agreed to in writing by the CITY.

Professional Liability	\$1,000,000 each claim/aggregate
------------------------	----------------------------------

7. As a contractor, ATTORNEY understands this is an Agreement to provide the services and perform the tasks herein before set forth, and not an agreement to provide services for a preset number of hours per week. ATTORNEY will remain under contract with the CITY for the period of the Contract, unless otherwise terminated by the CITY, and ATTORNEY understands that the CITY is not creating in her an expectation of continued contract with the CITY beyond the term of this Contract. This Contract may only be amended with the written approval of both of the parties. This Contract may be terminated at any time by either party, with or without cause by providing thirty (30) days written notice and payment by CITY of the pro rata fees earned to the date of termination.


8. Robin A. Lewis understands she is obligated by this agreement and further understands and authorizes the CITY to issue its check in payment for services to Robin A. Lewis, whose tax identification number is 48-1222403.

9. TERMINATION – The CITY reserves the right, in its sole discretion and for its convenience and without cause or default on the part of the ATTORNEY, to terminate this Agreement by providing thirty (30) days prior written notice of such termination to the ATTORNEY. Upon receipt of such notice from the City, the ATTORNEY shall:

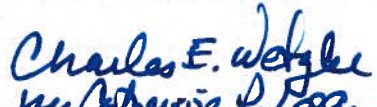
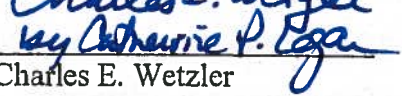
- a. Immediately cease all work or
- b. Meet with the City and, subject to the City's approval, determine what work shall be required of the ATTORNEY in order to bring the services described in this agreement to a reasonable termination.

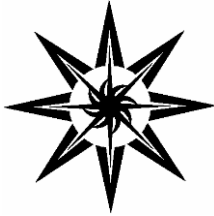
If the City shall terminate for its convenience as herein provided, the CITY shall compensate the ATTORNEY for all work completed to date of termination.


Robin A. Lewis


Ronald L. Shaffer
Mayor

APPROVED AS TO FORM



Charles E. Wetzler
City Attorney



COURT ADMINISTRATION

City Council Meeting: December 15, 2014

Renewal of Public Defender Contract – Lenin Guerra, J.D.

BACKGROUND

The Prairie Village Municipal Court Public Defender is responsible for representing Spanish speaking defendants who have been found indigent by the court and have been charged with criminal actions where a jail sentence may be imposed.

Lenin Guerra has been the Prairie Village Municipal Court Spanish speaking Public Defender since 2011 and continues to perform satisfactorily. It is the recommendation of Court staff that a two year contract be renewed between the City of Prairie Village, KS and public defender, Lenin Guerra, J.D. until December 31, 2016.

FUNDING SOURCE

The Municipal Court budgets annually for Spanish speaking public defender services. The proposed contract amount is \$90 per hour. The rate is flat from the current contract. Services from Mr. Guerra are accessed on a limited basis and have not been accessed to date in 2014.

RECOMMENDATION

Staff recommends that the City Council approve the renewal of the contract with Attorney Lenin Guerra to provide Spanish speaking Public Defender services for the City.

ATTACHMENTS

Renewal of the Public Defender Contract, January 1, 2015-December 31, 2016. The contract has been reviewed and approved by the City Attorney.

PREPARED BY:

Rebecca Story

Interim Court Administrator

DATE: December 11, 2014

RENEWAL OF PUBLIC DEFENDER CONTRACT

The Public Defender Contract (“Contract”) between the City of Prairie Village, Kansas (“CITY”) and Lenin Guerra (“ATTORNEY”), for the period of January 1, 2011 through December 31, 2012, a copy of which is attached hereto, and was renewed on July 15, 2013 through December 31, 2014, a copy of which is attached hereto, is hereby renewed as of January 1, 2015, as follows:

1. The Contract is renewed for an additional two year period and shall terminate on December 31, 2016, subject to further renewal.
2. The CITY agrees to compensate ATTORNEY for the services described in the Contract the hourly rate of \$90.00 for the period commencing January 1, 2015 through December 31, 2016.
3. The remaining provisions of the Contract shall remain in full force and effect.

IN WITNESS WHEREOF the parties hereto have caused this Renewal to Public Defender Contract to be executed, the day and year first herein written.

CITY OF PRAIRIE VILLAGE, KANSAS

By: _____
Ronald L. Shaffer, Mayor

Attest:

Joyce Hagen Mundy, City Clerk

Approved as to form:

Catherine P. Logan, City Attorney

ATTORNEY:

Lenin Guerra

**PUBLIC DEFENDER CONTRACT
THE CITY OF PRAIRIE VILLAGE, KANSAS**

COMES NOW, the City of Prairie Village, Kansas, a Municipal Corporation, and Lenin Guerra, hereinafter referred to as "ATTORNEY", to enter into this Contract based upon the following terms, conditions, and considerations.

WITNESSETH:

WHEREAS, the CITY desires to retain ATTORNEY for Municipal Court Public Defender Services for Spanish speaking defendants and ATTORNEY desires to provide the services of Public Defender and Spanish Interpreter.

NOW, THEREFORE, it is agreed between the CITY and by ATTORNEY as follows:

1. ATTORNEY'S job responsibilities shall include the following, which ATTORNEY agrees to perform for the consideration herein set out:
 - a. Prepare, try and otherwise handle representation of indigent Spanish speaking Defendants (who are hereinafter referred to as clients) in the Municipal Court at the regularly scheduled dockets as may be assigned by the Municipal Court Judge. In this regard it is understood ATTORNEY need not be present at each docket, but only those upon which his client's matter is scheduled. Attorney plea dockets are held on Thursdays beginning at 4:00 p.m. ATTORNEY will not be found in breach of this Agreement where circumstances such as illness, Court conflicts, etc., prohibit an appearance, provided ATTORNEY has made a good faith effort to do so and has notified the Court in advance.
 - b. ATTORNEY agrees to represent the referred defendants from referral to final disposition, even if such representation continues past the date of this Agreement. If final disposition includes an appeal, such representation shall include preparation and litigation of appeals de novo in the Johnson County District Court, either to the Court or to a jury, as deemed necessary by the ATTORNEY in representation of his clients.
 - c. Represent, prepare and submit Diversions for clients at both the Municipal Court level and the Johnson County District Court, if applicable.
 - d. Represent assigned clients in termination actions on diversions and prepare for and handle hearings thereon.

- e. Represent assigned clients in parole or probation revocation proceedings of the Municipal Court and the Johnson County District Court, and prepare for and handle hearings thereon as deemed necessary by the ATTORNEY.
- f. Represent assigned clients in contempt and suspended sentence matters, and prepare for and handle hearings thereon as deemed necessary by the ATTORNEY.
- g. Prepare all documents, motions, briefs, letters, etc., with his own staff support and materials. It is understood between the parties that the CITY will attempt to provide a place for ATTORNEY and assigned clients to meet at City Hall and use of a phone during normal business hours.

2. CITY agrees to compensate ATTORNEY for these services the hourly rate of \$90.00 for the calendar years commencing January 1, 2011 through December 31, 2012.

3. CITY agrees to provide ATTORNEY with copies of citations, police reports and in-car videos in regards to assigned clients at no charge.

4. ATTORNEY'S status shall at all times remain as a Contractee of the CITY. ATTORNEY is not an employee or agent of the CITY. This Contract shall terminate on December 31, 2012, subject to renewal. ATTORNEY represents that he is self-employed and that he individually has responsibilities to correctly report his income/expenses on his tax returns and that the Court has no obligation or right to withhold any FICA income or other taxes from the agreed hourly payment.

5. ATTORNEY represents that he is duly authorized to practice law in the State Courts of Kansas and that he will remain so qualified throughout the Agreement.

6. ATTORNEY shall hold harmless the City of Prairie Village, its employees, officers, and agents and defend and indemnify it against all claims and causes of action in which misconduct or negligence is alleged against ATTORNEY while performing services pursuant to this Contract. This provision shall not apply if the claim is based upon the misconduct or negligence of the CITY, its officers, employees, or agents.

7. During the performance of this contract, the ATTORNEY agrees to maintain for the duration of the contract insurance coverage of the type and minimum liability as set forth below.

The ATTORNEY shall furnish to the CITY a Certificate of Insurance verifying such coverage. All general liability insurance shall be written on an occurrence basis unless otherwise agreed to in writing by the CITY.

Professional Liability \$500,000/ \$1,500,000 each claim/aggregate

8. As a contractor, ATTORNEY understands this is an Agreement to provide the services and perform the tasks herein before set forth, and not an agreement to provide services for a preset number of hours per week. ATTORNEY will remain under contract with the CITY for the period of the Contract, unless otherwise terminated by the CITY, and ATTORNEY understands that the CITY is not creating in him an expectation of continued contract with the CITY beyond the term of this Contract. This Contract may only be amended with the written approval of both of the parties. This Contract may be terminated at any time by either party, with or without cause by providing thirty (30) days written notice and payment by CITY of the pro rata fees earned to the date of termination.

9. Lenin Guerra understands he is obligated by this agreement and further understands and authorizes the CITY to issue its check in payment for services to Lenin Guerra whose tax identification number is 80-0099731.

10. TERMINATION – The CITY reserves the right, in its sole discretion and for its convenience and without cause or default on the part of the ATTORNEY, to terminate this Agreement by providing thirty (30) days prior written notice of such termination to the ATTORNEY. Upon receipt of such notice from the City, the ATTORNEY shall:

- a. Immediately cease all work or
- b. Meet with the City and, subject to the City's approval, determine what work shall be required of the ATTORNEY in order to bring the services described in this agreement to a reasonable termination.

If the City shall terminate for its convenience as herein provided, the CITY shall compensate the ATTORNEY for all work completed to date of termination.

Lenin Guerra

APPROVED AS TO FORM

Ronald L. Shaffer
Mayor

Catherine Logan
City Attorney

RENEWAL OF PUBLIC DEFENDER CONTRACT

The Public Defender Contract ("Contract") between the City of Prairie Village, Kansas ("CITY") and Lenin Guerra ("ATTORNEY"), for the period of January 1, 2011 through December 31, 2012, a copy of which is attached hereto, is hereby renewed as of July 15, 2013, as follows:

1. The Contract is renewed for the remainder of the current calendar year and shall terminate on December 31, 2014, subject to further renewal.
2. The CITY agrees to compensate ATTORNEY for the services described in the Contract the hourly rate of \$90.00 for the calendar year commencing July 15, 2013 through December 31, 2014.
3. The remaining provisions of the Contract shall remain in full force and effect.

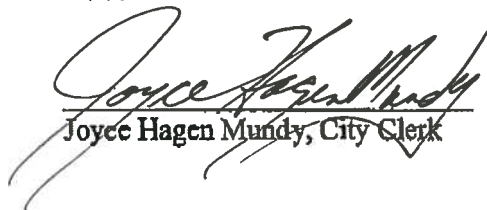
IN WITNESS WHEREOF the parties hereto have caused this Renewal to Public Defender Contract to be executed, the day and year first herein written.

CITY OF PRAIRIE VILLAGE, KANSAS

By: 

Ronald L. Shaffer, Mayor

Attest:


Joyce Hagen Mundy, City Clerk

Approved as to form:


Catherine P. Logan, City Attorney

ATTORNEY


Lenin Guerra



CITY CLERK DEPARTMENT

Council Meeting Date: December 15, 2014
CONSENT AGENDA

Consider Records Disposal Services

RECOMMENDATION

RECOMMEND THE CITY COUNCIL APPROVE AN AGREEMENT WITH IRON MOUNTAIN TO PROVIDE RECORDS DISPOSAL SERVICES FOR THE CITY OF PRAIRIE VILLAGE SUBJECT TO REVIEW OF THE AGREEMENT BY THE CITY ATTORNEY.

BACKGROUND

The City of Prairie Village currently contracts for month records disposal services. Secure disposal boxes are located in the City Clerk's Office, Municipal Court and two in the Police Department. Materials are picked up monthly and shred. Our previous supplier, Media Services, was sold. The new owner's fees are significantly higher and their service is unsatisfactory. I contacted other cities for names of other providers and telephone bids were taken for this service. The following bids were received:

Iron Mountain	\$40 per month
Pro-Shred	\$55 per month
Shred It	\$76.50 per month
Recall (current provider)	\$80.00 per month

Iron Mountain received the top rating in the 2014 Paper Shredding Services Review. The City Attorney has been sent the agreement for review.

FINANCIAL IMPACT

Funding is available for this service in the appropriate city budgets.

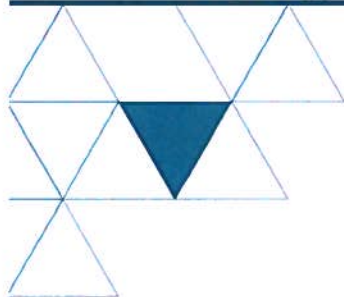
ATTACHMENTS

Agreement

PREPARED BY

Joyce Hagen Mundy
City Clerk

Date: November 24, 2014



City of Prairie Village
December 1, 2014

Dear Joyce,

Great news - your proposal for Iron Mountain services is ready!

Within this proposal, you will find the following:

Page 2 - Solution Overview: Learn what your new solution can do for your business

Page 3 - Your Custom Program: Know exactly what to expect once you're signed up

Page 4 - Why Iron Mountain: Who is Iron Mountain, and why choose them as your new business partner?

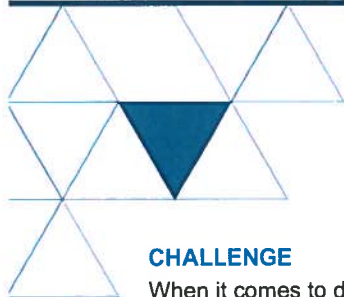
Page 5 - How It Works: A quick overview of how your Iron Mountain solution works

With over 60 years of serving the SMB community, Iron Mountain has built the trust of over 75,000 small and medium businesses. Our customers benefit from the proven workflows, infrastructure, and solutions that can address the issues you face today while preparing you to overcome the challenges of tomorrow.

Once you have reviewed the proposal, you'll be asked to complete a few simple fields, provide an electronic signature, and you're done!

I am excited to be part of this discussion with you and look forward to creating a lasting working partnership. I can be reached via my contact information, below.

Thank you very much,
Joseph Haines
joseph.haines@ironmountain.com
(610) 495-3506



CHALLENGE

When it comes to destroying your documents, you have multiple options. The first question is do you even need to destroy them? The answer is yes. And you need to have it done the right way. Many documents contain personal, confidential, and sensitive information. You need those documents destroyed to ensure your information is protected.

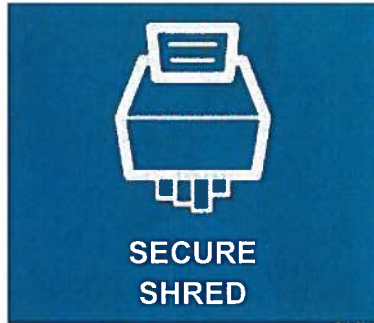
So you've made the decision to destroy documents, but what is next? The volume of your information is growing and you aren't sure what to keep and what you need to eliminate. You also need to be sure your business is compliant with industry regulations and safe from data breaches. All of this can be a large undertaking. You need to maximize your time and resources to manage your business. Your valuable resources could be better utilized by outsourcing time consuming tasks—such as secure shredding. What if you could...

1. Protect your reputation by protecting your confidential information?
2. Reduce the cost of managing information that your business no longer needs?
3. Get the tools you need to know your documents were effectively shredded, with a certificate to prove it?
4. Have online account management, local support, and 24/7 customer service?

SOLUTION

With Iron Mountain® Secure Shredding services, you'll be able to safely and cost-effectively destroy unnecessary paper-based documents. Onsite or offsite, one-time or recurring, our solutions are tailored to meet the needs of your business.





Live 24/7 Customer Service
✓ Included

Breach Reporting Services
✓ Included

Iron Mountain Connect™
✓ Included

Certificate of Destruction
✓ Included

Local Support Team
✓ Included

InControl™ Security System
✓ Included

Locked Shred Containers
✓ Included

Easy Online Billing
✓ Included

Green Impact Report
✓ Unlimited



As the leading provider of small and mid-sized business storage solutions, Iron Mountain works with thousands of businesses — just like yours — to provide Records Management, Data Management, and Secure Shredding to help lower storage costs, comply with regulations, mitigate risks, and recover from disasters. We make it easy to store, manage or destroy your records through leveraging our national network of locally-managed facilities to deliver solutions that are secure, affordable, and simple to use.

For the past 60 years, Iron Mountain has served the small and mid-sized business communities in knowing what to do with their records, data, and files, both paper and electronic, to make their business more streamlined and efficient. **With Iron Mountain services, your business can succeed.**

LOCAL:

- Local facilities with full access to the resources of a national company
- Responsive and flexible services tailored to your needs
- Close proximity to your location allows for quick pick-up and delivery turnaround times
- Next-day, half-day and emergency retrieval services are available

AFFORDABLE AND COST-EFFECTIVE:

- Cost-effective solutions
- Free up valuable office space
- Store and destroy what you need, when you need to
- Pricing and service models tailored for SMB

ONLINE INVENTORY MANAGEMENT:

- Manage your account through our Web portal
- Search and locate your documents or request service with the click of a mouse
- Easy-to-use products and services

QUALITY SERVICE:

- Locked containers
- Chain of custody transportation
- State-of-the-art, secure transport vehicles
- Secure facilities
- 24/7 dedicated Customer Support
- Responsive team and operations for all of your needs



SECURE SHRED: HOW IT WORKS

Iron Mountain makes secure shredding easy. You just drop your documents in a locked bin, and Iron Mountain will arrive at a scheduled date and time. You get professional-grade shredding, we do all the work:



Iron Mountain delivers locked shred containers to your office, free of cost.



We shred offsite OR witnessed at your location



You manage future shred pickups, online, with Iron Mountain Connect™

With Iron Mountain® Secure Shredding services, you'll be able to safely and cost-effectively destroy unnecessary paper-based documents. Onsite or offsite, one-time or recurring, our solutions are tailored to meet the needs of your business.



Shredding Container Options



Secure Shredding Bin

- Confidential documents are easily contained and transported inside.
- Clasp is firmly affixed to allow for secure locking of lid to base.
- Size: 43”H x 26”W x 27”D (65 Gallon)
- Capacity: Approximately 200 lbs or 5-6 copy paper boxes



Security Consoles

- Blends with office furnishings
- Tamper evident locking system
- Includes drawstring nylon bag for ease of securing and removing contents
- Size: 36”H x 20”W x 20”D
- Capacity: Approximately 100 lbs or 2-3 copy paper boxes



This Secure Shredding Services Agreement ("Agreement") between Iron Mountain Secure Shredding, Inc. ("IM") and City of Prairie Village ("Customer") is effective as of 12/1/2014

Customer: Address 7700 Mission Rd
 City Prairie Village State KS Zip 66208
 Contact Name Joyce Mundy Phone 913-385-4616
 Contact email jhmundy@pvkansas.com Fax _____ Sales Rep/ ID J4H
IM: District Name _____ Customer ID _____ Name Joseph Haines

SERVICE DESCRIPTION AND PRICING

RECURRING PAPER SHREDDING SERVICES

On-site (Mobile) Off-site

Every 4 Weeks

Unit Type	#	Price Per	Total
Secure Console	4	x \$ 10.00	= \$ 40.00
65-Gallon Bin	0	x \$ 20.00	= \$ 0.00
Total Per Service Visit¹			\$ 40.00
Container Drop-off Fee, per container =			\$ 0.00
Implementation & Education Package =			\$ 0.00
Employee Awareness Posters =			\$ 0.00

¹Minimum charge per service visit: (On-site) \$ 45

(Off-site) \$ 40

ONE-TIME PAPER SHREDDING SERVICES (PURGE)

On-site (Mobile) Off-site

Unit Type	#	Price Per	Total
1.2 cu ft boxes		x \$	= \$
65-Gallon Bin		x \$	= \$
		x \$	= \$
Total Shredding =			\$ 0.00
Additional Labor =			\$
Container Drop-off Fee, per container =			\$
Estimated Total²			\$ 0.00

²Total is subject to actual service billings.

Minimum charge per service visit is \$

ADDITIONAL SERVICES (All other services, not specifically listed, will be charged at IM's then current rates.)

- Additional charge for Unscheduled Service Visit: \$25 / visit³
- Additional Compliance & Education Packages: \$50 / package

- Shredding of Standard 1.2 Cubic Foot Carton: \$5 / Carton
- Additional Employee Awareness Posters: \$5 / poster

³Additional charge for remote locations may apply.

TERMS AND CONDITIONS

- Compliance with Contracts, Laws and Regulations.** Customer shall be responsible for, and warrants compliance with, all contractual restrictions and all applicable laws, rules and regulations, including but not limited to environmental laws and laws governing the confidentiality, retention and disposition of information contained in any materials delivered to IM. Customer is the owner or legal custodian of the materials. Customer shall reimburse IM for any reasonable costs, fees or expenses (including reasonable attorneys' fees) incurred by IM in litigation which IM becomes involved solely because it is shredding materials for Customer.
- Term and Payment.** The Agreement shall continue in effect for 30 days, with automatic renewal for successive 30 day terms, unless written notice of non-renewal is delivered by either party to the other. In the event the parties are engaged in a One Time Shredding Services Purge, then the term of this Agreement is specified above and shall automatically extend to cover the period while IM is providing Services. Prices are set forth above. After the first year, the prices shall be set forth in a separate schedule. Services are invoiced monthly and payment is due net 30 days. Late payment fee: 1.00% per month. Transportation surcharges may be applied and changed monthly without notice in accordance with the fuel surcharge policy located at www.ironmountain.com/fuelsurcharge.
- Limitation of Liability.** IM shall not be responsible or liable in any manner whatsoever for the contents of any item delivered to it for shredding, and shall have no liability for the shredding of materials pursuant to Customer's direction. IM's maximum liability for any and all claims arising with respect to any particular services performed hereunder shall not exceed the aggregate amount Customer paid for the particular service during the one (1) month preceding the event which gives rise to the claim. In the event the parties are engaged in a One Time Shredding Services Purge, for any and all claims arising with respect to the services, IM's maximum liability shall not exceed the total amount of fees paid for the particular service. **IM'S LIABILITY SHALL BE LIMITED TO DIRECT DAMAGES, AND IN NO EVENT AND UNDER NO LEGAL THEORY, INCLUDING TORT, CONTRACT, OR OTHERWISE, SHALL IM BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES (INCLUDING LOST PROFITS) EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.**
- Force Majeure.** Each party shall be excused from any delay or failure in performance under this Agreement for any period if and to the extent that such delay or failure is caused by acts of God, governmental actions, labor unrest, riots, unusual traffic delays or other causes beyond its control.
- Additional Services.** This Agreement sets forth the complete terms and conditions for paper secure shredding services only. In the event that any other services are provided under this Customer ID, such services shall be governed by the terms and conditions of IM's standard Customer Agreement for such services.
- Hazardous Substances.** Customer shall not deposit in containers or deliver to IM any material considered toxic, hazardous, dangerous or which is regulated under any federal or state law. Customer shall indemnify IM for damage to equipment or injury to personnel resulting from Customer's breach of this Section 2.

CUSTOMER: City of Prairie Village

Sign and date:

Print Name and Title: Joyce Mundy

IRON MOUNTAIN SECURE SHREDDING, INC.

Sign and date:

Print Name and Title:

SERVICE NOTES (Describe container location, number of Packages and Posters, & any special instructions.)



**Access Authorization Form
Records Management**

X New
Update

Customer Number/ID _____

Customer Name City of Prairie Village

Division ID _____ All Divisions

Department ID _____ All Departments

*****Strict Authorization will apply*** = *Only the names listed will have access to the account information***

Authorized Users *****Minimum of two authorized users required*****
If the account is Department Restricted, a minimum of two authorized users is required for each Department ID

Access #1:

Authorized Contact Name:	
Phone Number:	
Email Address:	
*Password (optional):	
Department (if department specific/restricted):	
Authorized Destruction:	

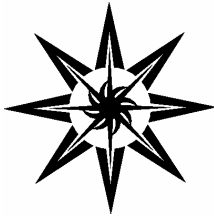
Access #2:

Authorized Contact Name:	
Phone Number:	
Email Address:	
*Password (optional):	
Department (if department specific/restricted):	
Authorized Destruction:	

*Password security is optional. Passwords can be any alphanumeric combination up to 10 characters.

Authorized by: _____

Phone Number/Ext: _____



PUBLIC WORKS DEPARTMENT

Council Meeting Date: 12/15/2014

Consider Bid Award for HVAC Services

RECOMMENDATION

Staff recommends the City Council approve the contract for HVAC Services to O'Dell Service Co. Inc for 2015 and renewal in 2016 and 2017.

BACKGROUND

On Friday, November 21, 2014, the City Clerk received a bid for a three year contract to provide HVAC Services. The contract is to provide HVAC service for cooling systems, heating systems, Geothermal and repair services for the City buildings. Three bids were received and a comparison is attached showing that the current contractor O'Dell Service Co. is the lowest bid.

FUNDING SOURCE

Funding is available in the 2015 Public Works Operating Budget.

ATTACHMENTS

1. Comparison spreadsheet
2. Contract for HVAC Services with O'Dell Service Co.

PREPARED BY

Keith Bredehoeft, Public Works Director

December 3, 2014

Bid Tab: HVAC

Opened on November 21, 2014

	2015 Rate	2016 Rate	2017 Rate	2015 Rate	2016 Rate	2017 Rate	2015 Rate	2016 Rate	2017 Rate
Bidder: Cates			Bidder: US Eng			Bidder: O'Dell			
Location	Cost	Cost	Cost	Cost	Cost	Cost	Cost	Cost	Cost
Public Safety - Spring	\$ 1,265.00	\$ 1,390.00	\$ 1,530.00	\$ 1,795.00	\$ 1,849.00	\$ 1,904.50	\$ 570.00	\$ 570.00	\$ 576.00
Public Safety - Fall	\$ 1,265.00	\$ 1,390.00	\$ 1,503.00	\$ 1,795.00	\$ 1,849.00	\$ 1,904.50	\$ 570.00	\$ 570.00	\$ 576.00
Municipal Building - Spring	\$ 770.00	\$ 850.00	\$ 940.00	\$ 1,382.00	\$ 1,424.00	\$ 1,467.00	\$ 570.00	\$ 570.00	\$ 576.00
Municipal Building - Fall	\$ 770.00	\$ 850.00	\$ 940.00	\$ 1,382.00	\$ 1,424.00	\$ 1,467.00	\$ 570.00	\$ 570.00	\$ 576.00
Community Center - Spring	\$ 110.00	\$ 120.00	\$ 130.00	\$ 167.50	\$ 172.50	\$ 178.00	\$ 95.00	\$ 95.00	\$ 96.00
Community Center - Fall	\$ 110.00	\$ 120.00	\$ 130.00	\$ 167.50	\$ 172.50	\$ 178.00	\$ 95.00	\$ 95.00	\$ 96.00
Public Works - Spring	\$ 770.00	\$ 850.00	\$ 935.00	\$ 1,843.00	\$ 1,898.50	\$ 1,955.50	\$ 381.00	\$ 381.00	\$ 385.00
Public Works - Fall	\$ 770.00	\$ 850.00	\$ 935.00	\$ 1,843.00	\$ 1,898.50	\$ 1,955.50	\$ 760.00	\$ 760.00	\$ 768.00
Swimming Pool - Spring	\$ 110.00	\$ 120.00	\$ 130.00	\$ 341.00	\$ 351.50	\$ 362.50	\$ 142.50	\$ 142.50	\$ 144.00
Swimming Pool - Fall	\$ 110.00	\$ 120.00	\$ 130.00	\$ 341.00	\$ 351.50	\$ 362.50	\$ 142.50	\$ 142.50	\$ 144.00
Harmon Park - Spring	\$ 55.00	\$ 60.00	\$ 65.00	\$ 73.50	\$ 76.00	\$ 78.50	\$ 95.00	\$ 95.00	\$ 96.00
Harmon Park - Fall	\$ 55.00	\$ 60.00	\$ 65.00	\$ 73.50	\$ 76.00	\$ 78.50	\$ 95.00	\$ 95.00	\$ 96.00
Franklin Park - Spring	\$ 165.00	\$ 180.00	\$ 200.00	\$ 183.50	\$ 189.00	\$ 195.00	\$ 142.50	\$ 142.50	\$ 144.00
Franklin Park - Fall	\$ 165.00	\$ 180.00	\$ 200.00	\$ 183.50	\$ 189.00	\$ 195.00	\$ 142.50	\$ 142.50	\$ 144.00
Geothermal Quartely Testing	\$ 440.00	\$ 485.00	\$ 530.00	\$ 900.00	\$ 927.00	\$ 955.00	\$ 200.00	\$ 200.00	\$ 200.00
Additional Fees									
Labor Cost per Hour	\$ 88.00	\$ 94.00	\$ 98.00	\$ 98.75	\$ 101.75	\$ 104.85	\$ 95.00	\$ 95.00	\$ 96.00
Labor Cost per Overtime Hour	\$ 132.00	\$ 141.00	\$ 147.00	\$ 132.50	\$ 136.50	\$ 140.60	\$ 142.50	\$ 142.50	\$ 144.00
Materials - Actual Cost Plus Mark Up %	35%	35%	35%	33%	33%	33%	30%	30%	30%
Freon - Cost per Pound Refrigerant	35%	35%	35%	TBD	TBD	TBD	\$ 8.40	Market	Market
Freon - Cost per Pound Refrigerant							\$ 32.00	Market	Market
Service Cost	\$ 19,910.00	\$ 21,905.00	\$ 24,029.00	\$ 24,042.00	\$ 24,769.00	\$ 25,519.00	\$ 13,313.00	\$ 13,313.00	\$ 13,451.00
Hourly 50 hours Reg - 5 hours OT	\$ 5,060.00	\$ 5,405.00	\$ 5,635.00	\$ 5,600.00	\$ 5,770.00	\$ 5,945.50	\$ 5,462.50	\$ 5,462.50	\$ 5,520.00
Materials \$250	\$ 337.50	\$ 337.50	\$ 337.50	\$ 332.50	\$ 332.50	\$ 332.50	\$ 325.00	\$ 325.00	\$ 325.00
Annual Total	\$25,307.50	\$ 27,647.50	\$ 30,001.50	\$ 29,974.50	\$ 30,871.50	\$ 31,797.00	\$ 19,100.50	\$ 19,100.50	\$ 19,296.00
3 Year Total	\$		82,956.50	\$		92,643.00	\$		57,497.00

AGREEMENT FOR HVAC SERVICE

This Agreement, made this _____ day of _____, _____, by and between O'Dell Service Co Inc, 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 2015 through 2017 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 City HVAC service for cooling system, heating system, special preventative maintenance and repair service for the following locations:
- Police Department –7710 Mission Road
 - Municipal Building –7700 Mission Road
 - Community Center –7720 Mission Road
 - Public Works –3535 Somerset Drive
 - Swimming Pool Facility –7711 Delmar Street
 - Harmon Park - 77th Place & Delmar
 - Franklin Park - 8700 Roe Avenue
- 1.2 Geothermal system annual testing and inspection of the fluid in the entire system. The system is located at the Municipal Campus located at 7700 Mission Road and runs throughout the Municipal Building, Police Department and Community Center. System testing and inspection to be provided in September.
- a. Sample and test glycol coolant levels and clean fluid strainers. Complete maintenance in accordance to manufacturers recommendations.
- 1.3 Spring Cooling Systems Service will be provided quarterly in March, June and September. Check and start up all air conditioning systems in March. Notify the City of any deficiencies or parts which need to be replaced. The following preventive maintenance will be performed on all cooling units during the months of March, June and September:
- a. Lubricate blower & motor bearings
 - b. Check belt condition and tension
 - c. Check condenser coils and clean
 - d. Check evaporator cooling coil and clean
 - e. Check operating pressures
 - f. Check Freon charge and leak test units with low charge (excluding geothermal units)
 - g. Check thermostat and control
 - h. Check condenser efficiency and clean contacts
 - i. Set dampers and check fan speed for summer operation
 - j. Check safety controls for correct operation and setting
 - k. Check superheat setting and adjust
 - l. Check for proper oil level and add oil, if required
 - m. Check voltage and amp draw
 - n. Check for correct rotation
 - o. Check expansion valve and refrigerant flow through drier (excluding geothermal units)
 - p. Check contactors and starters
 - q. Check 'start and run' capacitors
 - r. Check compressor efficiency

- s. Clean condensate drain
- t. Check thermostat and controls (Automated Logic)
- u. Check fluid cooler
- v. Check water flow and strainers annually
- w. Check pumps
- x. Check inlet and outlet water temps for wells
- y. Check diverting valves for proper operation

1.4 Fall Heating Systems Service will be provided quarterly in September, December and March. Check and start up all heating systems in September. Notify the City of any deficiencies or parts which need to be replaced. The following preventive maintenance will be performed on all heating units during the months of September, December and March:

- a. Lubricate blower and motor bearings
- b. Check belt condition and tension
- c. Check operation of controls and clean contact points
- d. Check to insure that all furnace and heater flues are drawing properly
- e. Check condition of pilot and clean
- f. Check condition of burner for proper flame and adjust
- g. Check gas line pressure
- h. Check manifold pressure
- i. Check combustion
- j. Check fan and limit control
- k. Check pilot safety
- l. Check heat anticipator
- m. Check gas pressure regulator
- n. Check burner operation
- o. Check heat relay
- p. Check safety controls
- q. Check thermocouple output
- r. Check temperature rise through heat exchanger
- s. Set dampers and check fan speed for winter operation
- t. Check for CO₂ to supply ducts and around flues
- u. Check damper actuation
- v. Heat Pumps
 - i. Check condenser coils
 - ii. Check evaporator cooling coil and clean
 - iii. Check operating pressures
 - iv. Check Freon charge and leak test units with low charge (excluding geothermal units)
 - v. Check thermostat and control
 - vi. Check condenser efficiency and clean contacts
 - vii. Set dampers and check fan speed for summer operation
 - viii. Check safety controls for correct operation and setting
 - ix. Check superheat setting and adjust
 - x. Check for proper oil level and add oil, if required
 - xi. Check voltage and amp draw
 - xii. Check for correct rotation
 - xiii. Check expansion valve and refrigerant flow through drier (excluding geothermal units)
 - xiv. Check contactors and starters
 - xv. Check "start and run" capacitors
 - xvi. Check compressor efficiency
 - xvii. Clean condensate drain

- xviii. Check thermostat and controls (Automated Logic)
 - xix. Change air filter
 - xx. Check belt condition and tension
 - xxi. Check and clean water flow and strainers annually
 - xxii. Check pumps
 - xxiii. Check inlet and outlet water temps from wells
 - xxiv. Check diverting valves for proper operation
 - xxv. Lubricate blower and motor bearings
- 1.5 Provide emergency service within four (4) hours of request at specified hourly or over-time rate plus materials.
- 1.6 Furnish the City with a repair order detailing all work performed by location including labor hours and parts replaced along with Invoice for work performed by location to be delivered to Public Works at 3535 Somerset, Prairie Village, KS 66208 when work is completed.
- 1.7 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.
- 1.8 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 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.
- 1.10 The Contractor will supply a direct contact name, phone number and email address and will notify the City if this contact information changes during the Contract period.
- 1.11 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 Bill Billings, Field Superintendent, at phone-(913)385-4644, fax-(913)642-0117 Email-bbillings@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 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 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.
- 2.10 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.

- 2.11 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.
- 2.12 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 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.
- 2.14 This Contract shall not be assigned by Contractor to any other party without first obtaining the written consent of the City.
- 2.15 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.
- 2.16 This Agreement is for the period of January 1, 2015 through December 31, 2017. Either party may terminate this agreement by giving sixty (60) days prior written notice to the other party.
- 2.17 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.

3.0 Fees

3.1 The fees for the completion of this service are:

LOCATION	2015 Quarterly Fee	2016 Quarterly Fee	2017 Quarterly Fee
Public Safety –7710 Mission Road			
Spring Maintenance Service	570	570	576
Fall Maintenance Service	570	570	576
Municipal Building –7700 Mission Road			
Spring Maintenance Service	570	570	576
Fall Maintenance Service	570	570	576
Community Center –7720 Mission Road			
Spring Maintenance Service	95	95	96
Fall Maintenance Service	95	95	96
Public Works –3535 Somerset Drive			
Spring Maintenance Service	381	381	385
Fall Maintenance Service	760	760	768
Swimming Pool Facility –7711 Delmar Street			
Spring Maintenance Service	142.50	142.50	144
Fall Maintenance Service	142.50	142.50	144
Harmon Park - 77th Pl & Delmar			
Spring Maintenance Service	95	95	96
Fall Maintenance Service	95	95	96
Franklin Park - 8700 Roe Avenue			
Spring Maintenance Service	142.50	142.50	144
Fall Maintenance Service	142.50	142.50	144
Geothermal Quarterly Testing	200	200	200

3.2 Additional Fees

DESCRIPTION	2015 PRICING	2016 PRICING	2017 PRICING
Labor Cost per Hour:	95	95	96
Labor Cost per Overtime Hour:	142.50	142.50	144
Materials - Actual Cost Plus Mark Up %:	30%	30%	30%
Freon - Cost Per Pound for Refrigerant			
R410A	8.40#	Market	Market
R22	32.00#	Market	Market

4.0 Units covered by this agreement

4.1 Municipal Building (City Hall), 7700 Mission Road

MFG	MODEL #	SERIAL #	LOCATION
CH1-Florida HP	EC036 - Horizontal		Basement Ceiling
CH2-Florida HP	EC060 -Horizontal		Basement Ceiling
CH3-Florida HP	EC060 -Vertical		Basement
CH4-Florida HP	EC036 -Vertical		Basement
CH5-Florida HP	EC042 -Vertical		Basement
CH6-Florida HP	EC036 -Horizontal		Upstairs Ceiling
CH7-Florida HP	EC036 -Horizontal		Upstairs Ceiling
CH8-Florida HP	EC036 -Vertical		Mechanical Room
CH9-Florida HP	EC120 -Vertical		Mechanical Room
CH10-Florida HP	EC036 -Vertical		Mechanical Room
CH11-Florida HP	EC042 -Vertical		Mechanical Room
CH12-Florida HP	EC120 -Vertical		Mechanical Room
CH13-Florida HP	EC036 -Horizontal		Attic
CH14-Florida HP	EC036 -Horizontal		Attic

4.2 Community Center, 7720 Mission Road

Florida HP	EC060		Mechanical Room
Florida HP	EC060		Mechanical Room

4.3 Swimming Pool Facility, 7711 Delmar

YORK	N4AHD14A06A	EGFS192429	INSIDE
YORK	H1DB036S06B	EHFM303588	GROUND
YORK	F1SA030R06A	ELCS347675	INSIDE
YORK	H2DH030506A	EFDM239221	ROOF

4.4 Public Works Facilities, 3535 Somerset

TRANE	GPA125A	0G-06327	SHOP
JANITROL	WH100	89GH3810R	SHOP
JANITROL	WH100	89GH3983R	PARTS
LENNOX	LF3E-165-2	8-92020ES	HIGH LIFT
SHENANDOAH	AM-862526	2026	SHOP
TRANE	TUE060A936KO	L305K4RIG	SHOP, CEILING
TRANE	TUE120A960KO	L323T8G1G	SHOP, CEILING
TRANE	TTR025C100A2	L322LCHAF	GROUND
TRANE	TTB060C100AD	L273RBGHF	GROUND
YORK	P4UGD20N12001A	ENXM249132	FURNACE ROOM
YORK	HICF060S06B	MBYM131772	GROUND
REZNOR	F50	AQ131KSN44235	SIGN GARAGE
CARRIER	38CKC030340	1105E08979	GROUND

MFG.	MODEL #	SERIAL #	LOCATION
NORTH - G BUILDING			
BRYANT	565BJ018	5286A26256	GROUND
BRYANT	519DXX024000MAAA	R786441	SHOP -MECH RM
REZNOR	XL60-3	ALL31G8N77873	SHOP -WALL
REZNOR	F250	AQA31K6NO3925	SHOP -WALL
SCHWACK	36C01	NONE	BAY 1 -CEILING
SCHWACK	36C01	NONE	BAY 2 -CEILING
SOUTH -G BUILDING			
BRYANT	565B	5286A25594	GROUND
BRYANT	519XX024000MAAA	R794438	SHOP -MECH RM
SCHWACK	36C01	NONE	BAY 1 -CEILING
SCHWACK	36C01	NONE	BAY 2 -CEILING
REZNOR	XL60-3	ALL31G8N77872	SHOP

4.5 Police Building, 7710 Mission Road

PS1-Florida HP	EC060 -Horizontal		Ceiling
PS2-Florida HP	EC024 -Horizontal		Ceiling
PS3-Florida HP	EC036 -Horizontal		Ceiling
PS4-Florida HP	EC036 -Horizontal		Ceiling
PS5-Florida HP	EC048 -Horizontal		Ceiling
PS6-Florida HP	EC060 -Horizontal		Ceiling
PS7-Florida HP	EC048 -Horizontal		Ceiling
PS8-Florida HP	EC072 -Horizontal		Ceiling
PS9-Florida HP	EC042 -Horizontal		Ceiling
PS10-Florida HP	EC042 -Horizontal		Ceiling
PS11-Florida HP	EC048 -Horizontal		Ceiling
PS12-Florida HP	EC036 -Horizontal		Ceiling
PS13-Florida HP	EC036 -Horizontal		Ceiling
PS14-Florida HP	EC042 -Horizontal		Ceiling
PS15-Florida HP	EC024 -Horizontal		Ceiling
PS16-Florida HP	EC018 -Horizontal		Ceiling
PS17-Florida HP	EC030 -Horizontal		Ceiling
PS18-Florida HP	EC018 -Horizontal		Ceiling
PS19-Florida HP	EC024 -Horizontal		Ceiling
FC-1 AAP Fluid Cooler	AAPFC-358-S Tower		Roof
P1-Pump	ITT 1510-3BC		Mechanical Room
P2-Pump	ITT1510-3BC		Mechanical Room

4.6 Harmon Park, 77th Place & Delmar

Microban	FCME301245002-S	7114H17485	Mechanical Room
----------	-----------------	------------	-----------------

4.7 Franklin Park, 8700 Roe Avenue

Berko Heater	HUHAA324		Mechanical
Berko Heater	HUHAA324		Women's Restroom
Berko Heater	HUHAA324		Men's Restroom

5.0 References

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

5.2

Company: Clay County Admin Contact: Donna Koontz

Phone #: 816-792-7727 Email: dkoontz@claycogov.com

Brief Description on Work: Preventive Maintenance, Repair, and Replacement of all HVAC Equipment at multiple locations.

Company: Olathe Medical Services Contact: Darren Lawrenz

Phone #: 913-393-5342 Email: darren.lawrenz@olathehealth.or

Brief Description on Work: Preventive Maintenance, Repair and Replacement of all HVAC equipment at multiple locations.

Company: Bank Midwest Contact: Jeff Green

Phone #: 816-471-9800 Email: jgreen@nbhbank.com

Brief Description of Work: Preventive Maintenance, Repair, and Replacement of all HVAC equipment at multiple locations.

Contractor Contact: Danny McIntyre

Company Name: O'Dell Service Co.

Address: 2605 NE Industrial Dr

N. Kansas City, Mo 64117

Telephone Number: 816-842-3414

Fax Number: 816-842-9506

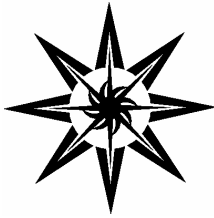
Email: mcintyredanny@gmail.com

/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: 12/15/2014

Consider Bid Award for Pest Control Services

RECOMMENDATION

Staff recommends the City Council approve the contract for Pest Control Services to Pete's Pest Control for 2015 and renewal in 2016 and 2017.

BACKGROUND

On Friday, November 21, 2014, the City Clerk received a bid for a three year contract to provide Pest Control Services. The contract is to provide pest control services for the City buildings. Pete's Pest Control is a new vendor and contact with their references were positive. Three bids were received and a comparison is attached showing that Pete's Pest Control is the lowest bid and with positive references staff recommends moving forward with this contractor.

FUNDING SOURCE

Funding is available in the 2015 Public Works Operating Budget.

ATTACHMENTS

1. Comparison spreadsheet
2. Contract for Pest Control Services with Pete's Pest Control

PREPARED BY

Keith Bredehoeft, Public Works Director

December 3, 2014

Bid Tab: Pest Control Services

Opened on November 21, 2014

	2015 Rate	2016 Rate	2017 Rate		2015 Rate	2016 Rate	2017 Rate		2015 Rate	2016 Rate	2017 Rate
	Bidder: Smithereen				Bidder: Pete's				Bidder: Lawrence Pest		
Location	Cost	Cost	Cost		Cost	Cost	Cost		Cost	Cost	Cost
Municipal Building	\$ 45.00	\$ 45.00	\$ 45.00		\$ 45.00	\$ 45.00	\$ 50.00		\$ 45.00	\$ 50.00	\$ 50.00
Municipal Building Outside	\$ 30.00	\$ 30.00	\$ 30.00		\$ -	\$ -	\$ -		\$ -	\$ -	\$ -
Public Safety Center	\$ 45.00	\$ 45.00	\$ 45.00		\$ 45.00	\$ 45.00	\$ 50.00		\$ 45.00	\$ 50.00	\$ 50.00
Public Safety Center Outside	\$ 30.00	\$ 30.00	\$ 30.00		\$ -	\$ -	\$ -		\$ -	\$ -	\$ -
Community Center	\$ 45.00	\$ 45.00	\$ 45.00		\$ 40.00	\$ 40.00	\$ 40.00		\$ 45.00	\$ 50.00	\$ 50.00
Community Center Outside	\$ 30.00	\$ 30.00	\$ 30.00		\$ -	\$ -	\$ -		\$ -	\$ -	\$ -
Public Works Facility - A Bldg	\$ 45.00	\$ 45.00	\$ 45.00		\$ 40.00	\$ 40.00	\$ 45.00		\$ 45.00	\$ 50.00	\$ 50.00
Public Works Facility - A Bldg Outside	\$ 30.00	\$ 30.00	\$ 30.00		\$ -	\$ -	\$ -		\$ -	\$ -	\$ -
Public Works Facility - B Bldg	\$ 45.00	\$ 45.00	\$ 45.00		\$ 40.00	\$ 40.00	\$ 45.00		\$ 45.00	\$ 50.00	\$ 50.00
Public Works Facility - B Bldg Outside	\$ 30.00	\$ 30.00	\$ 30.00		\$ -	\$ -	\$ -		\$ -	\$ -	\$ -
Public Works Facility - G Bldg	\$ 45.00	\$ 45.00	\$ 45.00		\$ 40.00	\$ 40.00	\$ 45.00		\$ 45.00	\$ 50.00	\$ 50.00
Public Works Facility - G Bldg Outside	\$ 30.00	\$ 30.00	\$ 30.00		\$ -	\$ -	\$ -		\$ -	\$ -	\$ -
Swimming Pool Bathhouse	\$ 35.00	\$ 35.00	\$ 35.00		\$ 30.00	\$ 30.00	\$ 35.00		\$ 40.00	\$ 45.00	\$ 45.00
Swimming Pool Concession Area (Bi-Weekly)	\$ 70.00	\$ 70.00	\$ 70.00		\$ 60.00	\$ 60.00	\$ 70.00		\$ 80.00	\$ 90.00	\$ 90.00
Swimming Pool South Filter House	\$ 35.00	\$ 35.00	\$ 35.00		\$ 30.00	\$ 30.00	\$ 35.00		\$ 40.00	\$ 45.00	\$ 45.00
Harmon Park Pavilion Restrooms	\$ 25.00	\$ 25.00	\$ 25.00		\$ 30.00	\$ 30.00	\$ 35.00		\$ 40.00	\$ 45.00	\$ 45.00
Franklin Park Restrooms	\$ 25.00	\$ 25.00	\$ 25.00		\$ 40.00	\$ 40.00	\$ 40.00		\$ 45.00	\$ 45.00	\$ 45.00
Day of Service	-	-	-		-				1st Tues	1st Tues	1st Tues
2015 Fee	2016 Fee	2017 Fee		2015 Fee	2016 Fee	2017 Fee		2015 Fee	2016 Fee	2017 Fee	
Annual Termite Inspection	\$ 550.00	\$ 550.00	\$ 550.00		\$ 400.00	\$ 400.00	\$ 400.00		\$ 300.00	\$ 300.00	\$ 300.00
Date of Termite Inspection	-	-	-		5/5/2015	5/3/2016	5/2/2017		June (4th Tues)	June (4th Tues)	June (4th Tues)
Service Cost 3 Year Total	\$ 5,990.00	\$ 5,990.00	\$ 5,990.00	\$ -	\$ 4,840.00	\$ 4,840.00	\$ 5,300.00	\$ -	\$ 5,360.00	\$ 5,880.00	\$ 5,880.00
	\$		17,970.00		\$		14,980.00		\$		17,120.00

AGREEMENT FOR PEST CONTROL SERVICES

This Agreement, made this _____ day of _____, _____, by and between PESTE'S
PEST CONTROL, LLC, 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 2015
through 2017 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 total building monthly pest control at these locations on the specified
day every month:
Municipal Building, 7700 Mission Road
Public Safety Center, 7710 Mission Road
Community Center, 7720 Mission Road
Public Works Facility - A building, 3535 Somerset Drive
Public Works Facility - B building, 3535 Somerset Drive
Public Works Facility - G building, 3535 Somerset Drive
Harmon Park Pavilion Restrooms, 7721 Delmar SI.
Franklin Park Restroom, 8700 Roe Avenue
- 1.2 The Contractor will provide total building monthly pest control only during May, June, July,
August, September at these locations on the specified day every month:
Swimming Pool Bathhouse, 7711 Delmar
Swimming Pool South Filter House, 7711 Delmar
Swimming Pool Concession Area, 7711 Delmar (bi-weekly service)
- 1.3 The Contractor will provide outside monthly pest control only during May, June, July, August,
September at these locations on the specified day every month:
Municipal Building, 7700 Mission Road
Public Safety Center, 7710 Mission Road
Community Center, 7720 Mission Road
Public Works Facility - A building, 3535 Somerset Drive
Public Works Facility - B building, 3535 Somerset Drive
Public Works Facility - G building, 3535 Somerset Drive
- 1.4 The Contractor will provide an annual termite inspection at these locations on the specified date:
Municipal Building, 7700 Mission Road
Public Safety Center, 7710 Mission Road
Community Center, 7720 Mission Road
Public Works Facility - A building, 3535 Somerset Drive
Public Works Facility - B building, 3535 Somerset Drive
Public Works Facility - G building, 3535 Somerset Drive
Swimming Pool Bathhouse, 7711 Delmar
Swimming Pool South Filter House, 7711 Delmar
Swimming Pool Concession Area, 7711 Delmar
Harmon Park Pavilion Restrooms, 7721 Delmar
Franklin Park Restroom, 8700 Roe Avenue

- 1.5 The Contractor will use an odorless chemical to provide for the control of spiders, flies, roaches, waterbus, silverfish, ants, crickets, and mice. The Contractor will also provide sticky-traps at all potential entry points which shall be replaced monthly.
- 1.6 The Contractor will identify the chemicals and amounts used in a semi-annual service report for each location.
- 1.7 If it is necessary for the Contractor to repeat a treatment between scheduled services, the Contractor will do so at no cost.
- 1.8 The Contractor will provide a Material Safety Data Sheet for all chemicals used on an annual basis or if products are changed.
- 1.9 The Contractor will supply a direct contact name, phone number and email address and will notify the City if this contact information changes during the Contract period.
- 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 Bill Billings, Field Superintendent, at phone-(913)385-4644, fax-(913)642-0117 Email-bbillings@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 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.
- 2.10 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.

- 2.11 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.
- 2.12 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 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.
- 2.14 This Contract shall not be assigned by Contractor to any other party without first obtaining the written consent of the City.
- 2.15 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.
- 2.16 This Agreement is for the period of January 1, 2015 through December 31, 2017. Either party may terminate this agreement by giving sixty (60) days prior written notice to the other party.
- 2.17 The Contractor will commence work within ten (10) calendar days from and after receiving instructions from the City.

3.0 Fees

3.1 That the monthly fees for the completion of these services are:

LOCATION	2015 MONTHLY FEE	2016 MONTHLY FEE	2017 MONTHLY FEE
Municipal Building	45.00/	45.00/	50.00/
Municipal Building Outside (May - September)	INCLUDED	INCLUDED	INCLUDED
Public Safety Center	45.00/	45.00/	50.00/
Public Safety Center Outside (May - September)	INCLUDED	INCLUDED	INCLUDED
Community Center	40.00/	40.00/	40.00/
Community Center Outside (May - September)	INCLUDED	INCLUDED	INCLUDED
Public Works Facility - A Building	40.00/	40.00/	45.00/
Public Works Facility - A Bldg Outside (May - September)	INCLUDED	INCLUDED	INCLUDED
Public Works Facility - B Building	40.00/	40.00/	45.00/
Public Works Facility - B Bldg Outside (May - September)	INCLUDED	INCLUDED	INCLUDED
Public Works Facility - G Building	40.00/	40.00/	45.00/
Public Works Facility - G Bldg Outside (May - September)	INCLUDED	INCLUDED	INCLUDED
Swimming Pool Bathhouse (May - September)	30.00/	30.00/	35.00/
Swimming Pool Concession Area (Bi-Weekly) (May - September)	60.00/	60.00/	70.00/
Swimming Pool South Filter House (May - September)	30.00/	30.00/	35.00/
Harmon Park Pavilion Restrooms	30.00/	30.00/	35.00/
Franklin Park Restrooms	40.00/	40.00/	40.00/
Monthly Day of Service: (ie. 1 st Tuesday of every month)			
	2015 ANNUAL FEE	2016 ANNUAL FEE	2017 ANNUAL FEE
Annual Termite Inspection	400.00/	400.00/	400.00/
Scheduled Date of Termite Inspection:	Tue 5/5/15	Tue 5/3/16	Tue 5/2/17

4.0 References

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

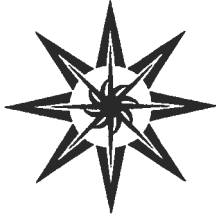
4.2

Company: H&R BLOCK Contact: MARGIE EVANS, MGMT ^{FACILITY}
 Phone #: 816-914-2552 Email: margie.evans@hr.block.com
 Brief Description on Work: INTEGRATED PEST MANAGEMENT FOR CORPORATE HQ (ONE H&R BLOCK WAY, KCMO) AND H&R BLOCK'S BLUE PARKWAY FACILITY.

Company: TREVOR RENTALS Contact: LISA LUDVICKER
 Phone #: 913-424-5226 Email: trevorrentals@gmail.com
 Brief Description on Work: INTEGRATED PEST MANAGEMENT AND TERMITE CONTROL

Company: 33RD COMPANY, INC. Contact: HEATHER SEKULICH
 Phone #: 913-220-2200 Email: invoices@33rdcompany.com
 Brief Description of Work: INTEGRATED PEST MANAGEMENT AND TERMITE CONTROL

Contractor Contact: CAT HEISLER, GENERAL MANAGER ATTEST:
 Company Name: PETE'S PEST CONTROL, LLC /s/ Joyce Hagen Mundy, City Clerk Date _____
 Address: 11944 W 95TH ST, SUITE 321
LENEXA, KS 66215-3801
 Telephone Number: 913-232-8016 OFFICE /s/ Catherine P. Logan, City Attorney Date _____
816-810-6544 CAT
 Fax Number: NONE
 Email: PETE@THEBUGGUY@LIVE.COM
 /s/ Cat Heisler 11/21/2014 /s/ Ronald L. Shaffer, Mayor Date _____
 Contractor Agent Date



MAYOR

Council Meeting Date: December 15, 2014
CONSENT AGENDA

Consider Appointment to the Prairie Village Arts Council

RECOMMENDATION

Mayor Shaffer requests Council ratification of the appointment of Serena Schermoly to the Prairie Village Arts Council completing the unexpired term of Lindsey Rosemann expiring April, 2017.

BACKGROUND

Serena has attended meetings and assisted with the 2014 State of the Arts and wants to become more involved in the committee.

ATTACHMENTS

Volunteer Application

PREPARED BY

Joyce Hagen Mundy
City Clerk

Date: December 9, 2014



**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 Seena Scheemoly Spouse's Name Michael Scheemoly
Address 3819 W. 77th Ter Zip 66208 Ward _____
Telephone: Home [REDACTED] Cell [REDACTED] Work [REDACTED] Fax _____
E-mail [REDACTED] Other Number(s): _____
Business Affiliation 3Cups Media
Business Address Home
What Committee(s) interests you? Arts / Jazz fest

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.

Marketing, Sales, Fund Raising, Websites, Logo,
Design, Safety, Transportation

Thank you for your interest in serving our community.



MAYOR

**Council Meeting Date: December 15, 2014
CONSENT AGENDA**

Consider Appointment to the Environment/Recycle Committee

RECOMMENDATION

Mayor Shaffer requests Council ratification of the appointment of Robert Roberge Jr. to the Prairie Village Environment/Recycle Committee filling an unexpired term ending April, 2017.

BACKGROUND

Robert has a background in the chemical and paint business and is interested in environmental sustainability initiatives in the City.

ATTACHMENTS

Volunteer Application

PREPARED BY

Joyce Hagen Mundy
City Clerk

Date: December 9, 2014

Joyce Hagen Mundy

From: Kate Gunja
Sent: Wednesday, December 03, 2014 8:01 PM
To: Joyce Hagen Mundy
Subject: Fwd: Volunteer Application

This appointment to the PVERC should be placed on the December 15 agenda.

Thanks.
Kate

Begin forwarded message:

From: Meghan Boom <mbuum@pvkansas.com>
Date: November 7, 2014 at 8:49:40 AM CST
To: Kate Gunja <kgunja@pvkansas.com>
Subject: FW: Volunteer Application

Here is the volunteer application I received last night. Joyce told me to forward it along to you. If there is something else you'd like me to do with it, let me know!

Meghan Boom
City of Prairie Village
Public Information Officer / Deputy City Clerk
7700 Mission Road | Prairie Village, KS 66208
mbuum@pvkansas.com | 913-385-4662

-----Original Message-----

From: Nolan Sunderman
Sent: Thursday, November 06, 2014 5:25 PM
To: Meghan Boom
Subject: Volunteer Application

Submission information

Submitter DB ID : 3080
Submitter's language : Default language
IP address : 204.17.20.193
Time to take the survey : 10 min. , 21 sec.
Submission recorded on : 11/6/2014 3:24:39 PM

Survey answers

Volunteer Information

Name Robert Roberge Jr.
Address 7508 Briar Drive
Zip 66208
Email [REDACTED]
Home Phone [REDACTED]

Work Phone [REDACTED]
Other Phone n/a
Business Affiliation Apollo Education Group
Business Address 8345 Lenexa Drive | Suite 200 | Lenexa, KS 66214

Select Ward Click for map

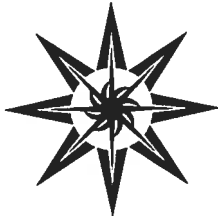
- 1
- 2
- 3
- 4
- 5
- 6

Which committee(s) would you like to serve on? (check all that apply)

- Animal Control Board
- Arts Council
- ADA Advisory
- Board of Code Appeals
- Civil Service Commission
- Communications
- Environment/Recycle
- Insurance
- JazzFest
- Park and Recreation
- Planning Commission/Board of Zoning Appeals
- Sister City
- Tree Board
- VillageFest

Background

Please tell us about yourself, listing any special skills or experiences you have. Graduated from Shawnee Mission East 1979, moved back to Prairie Village in 2012. Previous experience in committees on the Oak Park Homes Association as Director of Communications and interim Treasurer. Currently Re-Entry Representative for University of Phoenix. Previously OJT Coordinator with Eastern Jackson County, MO Workforce Investment Board. BS in Professional Studies with concentration in Organizational Leadership from Rockhurst University. I grew up in the chemical and paint business and I am interested in environmental sustainability initiatives in the city.



MAYOR

**Council Meeting Date: December 15, 2014
CONSENT AGENDA**

Consider Reappointment to the Prairie Village Civil Service Commission

RECOMMENDATION

Mayor Shaffer requests Council ratification of the reappointment of Lori Sitek and Thomas Brill to the Civil Service Commission with their terms expiring in January 2018.

BACKGROUND

Lori Sitek was first appointed to the Commission by Mayor Roe Taliaferro in 1996 bringing a strong background in Human Resources. Thomas Brill was appointed in 2005 and brings a strong legal background with emphasis in mediation training. Both are willing to continue their service on the Civil Service Commission and have Chief Jordan's support.

ATTACHMENTS

Volunteer Applications

PREPARED BY

Joyce Hagen Mundy
City Clerk

Date: December 9, 2014

City of Prairie Village
APPLICATION TO VOLUNTEER

Vinit
9:30 AM
Thursday
Jan 25

Please complete this form and return it to the City Clerk's Office, 7700 Mission Road, Prairie Village, Kansas 66208.

Name Lori Sitek

Address 4424 W. 71ST Terr Ward 2

Telephone: Home [REDACTED] Work N/A

Business Affiliation N/A

Business Address N/A

What Committee interests you? Civil Service Commission

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

I am new to the Prairie Village and Kansas City area and am in a position to be of help to the city. I have 5 years experience as a Human Resource professional in the areas of recruiting, employee relations and employee benefits. These skills and experience will benefit the Civil Service Committee.

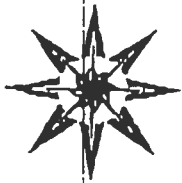
Thank you.

Added to Director's interview
Recruitment

interview done

APPOINTED 2/23/96

Thank you for your interest in serving our community.



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 Tom Brill Spouse's Name Bridget

Address 6552 Sagamore Road Mission Hills, KS Zip 66208 Ward _____

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

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

Business Affiliation Law Office of Thomas H. Brill

Business Address 6552 Sagamore Road, Mission Hills, Kansas 66208

What Committee(s) interests you? _____

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.

P.V. Police Academy; City Council, Mission Hills (1999-2002) (2005-Present)

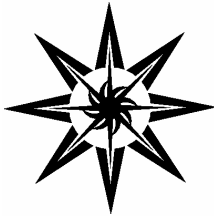
The Children's Therapeutic Learning Center, Kansas City, Mo (Board of Directors, 1995-2001)
(Chairman, 2000-2001)

KCPT Public Television 19 (Board of Directors, 1998-2001)

Centurions Leadership Program, Greater Kansas City Chamber of Commerce (Chairman, 1989)
(Bernard Powell Award, 1995)

Mediation training (Pepperdine University School of Law, July, 1998) (Harvard Law School
1997, 1998) (Neutral on The American Arbitration Association's National Roster of
Arbitrators and Mediators, 1998-2004)

Thank you for your interest in serving our community.



COUNCIL COMMITTEE

Council Meeting Date: December 15, 2014
Consent Agenda

Consider adoption of 2015 Salary Ranges by resolution.

SUGGESTED MOTION

Move that the Governing Body adopt a resolution establishing 2015 compensation ranges for the City of Prairie Village, subject to the review and approval of the City Attorney.

BACKGROUND

The City annually adopts a resolution establishing salary ranges for all employment positions within the City. The proposed ranges continue the process of salary administration begun in 2006 with a comprehensive compensation study. The study resulted in the establishment of market-based ranges for all employment classifications. Each employment classification is assigned a market reference point and minimum and maximum ranges are established as a percentage of the market reference point.

Staff recommends a range adjustment of 1.00% for 2015. This adjustment would apply to all employment classifications, with the exception of part-time and seasonal positions. As a result, minimum and maximum for each classification would be adjusted accordingly.

As with the 2014 salary ranges, staff used the following metrics in determining a recommended salary range adjustment for 2015:

Social Security Cost of Living Adjustment	1.70%
Employment Cost Index - State and Local Government	1.60%
Consumer Price Index - Kansas City All Consumers	0.40%
Consumer Price Index - Kansas City Wage Earners	0.30%

Adoption of the 2015 salary resolution will not increase an employee's salary unless that employee's pay would fall below the new minimum established for the range.

There are five classifications that have both an A and B range. The "A" range applies to employees who were employed with the City at the time the 2006 ranges were put into place. These employees are in "grandfathered" ranges, which will be adjusted annually in the same manner as other ranges. New

employees hired into these positions will be administered against the “B” salary range.

Due to the needs in Public Works, the position of Project Inspector has been implemented. This position has a range spread of 80/140 of the Market Reference Point (MRP). We also have included the part-time Code Enforcement position in the listing of positions.

ATTACHMENTS

Proposed Resolution.

Prepared By:

Amy Hunt

Human Resources Manager

Date: December 11, 2014

RESOLUTION 2013-05

WHEREAS, the Governing Body of the City of Prairie Village is authorized to establish salary ranges for city positions; and

WHEREAS, it is the desire of the Governing Body that these salary ranges be reviewed annually to ensure appropriate funds are budgeted and the salary ranges remain competitive;

NOW, THEREFORE, be it resolved the Governing Body of the City of Prairie Village, Kansas, hereby adopts the following compensation ranges for 2015:

Compensation generally.

The elected officers, appointive officers and employees of the city shall be compensated within the salary ranges provided in this section. The amount of compensation shall be fixed by the Governing Body in accordance with personnel procedures as adopted by the Governing Body from time to time, provided, however, that the salaries and compensation during calendar year 2014 shall be within and determined by the following ranges:

	2015	
	<u>Minimum</u>	<u>Maximum</u>
ADMINISTRATIVE SUPPORT		
Receptionist A	32,457	48,631
Receptionist B	24,501	36,600
Administrative Support Specialist	30,608	45,721
Assistant to the City Administrator	43,825	72,182
Codes Support Specialist	41,350	61,770
Executive Assistant	41,350	61,770
Court Clerk A	32,753	48,927
Court Clerk B	29,576	44,180
Accounting Clerk A	32,757	48,931
Accounting Clerk B	28,369	42,378
Office Manager	42,982	64,209
Code Enforcement Officer	39,716	59,329
Building Inspector	43,068	64,337
Human Resources Manager	44,531	66,521
Court Administrator	48,313	72,171
Building Official	61,638	92,076
City Clerk	57,168	85,399
Finance Director	84,161	125,722
Assistant City Administrator	76,080	113,650
City Administrator	113,304	169,256
PUBLIC WORKS		
Laborer	25,877	36,532
Maintenance Worker	33,166	46,822
Senior Maintenance Worker	40,000	56,470
Crew Leader	45,830	64,702
Mechanic	35,246	52,652
Construction Inspector	43,068	64,337
Field Superintendent	55,621	83,087

Project Inspector	47,415	70,771
Senior Project Manager	65,328	96,071
Public Works Director	89,061	133,041

PUBLIC SAFETY

Records Clerk A	32,753	48,927
Records Clerk B	31,980	47,772
Property Clerk	33,956	50,725
Community Service Officer A	33,785	50,468
Community Service Officer B	32,066	47,900
Dispatcher	36,263	55,462
Communications Supervisor	49,345	73,713
Police Officer	41,248	64,450
Police Corporal	55,376	73,835
Police Sergeant	65,506	87,341
Police Captain	76,596	114,421
Police Chief	87,944	131,373

Seasonal/Part-time Employees

Seasonal/Part-time employees shall be compensated as follows:

	<u>Minimum</u>	<u>Maximum</u>
Seasonal Worker (hourly)	8.61	12.84
Part-Time Code Enforcement (hourly)	18.49	27.73
Part-Time Intern (hourly)	10.30	18.03
Lifeguard (hourly)	8.46	12.62
Tennis Assistant (hourly)	8.61	18.27
Concession Stand Worker (hourly)	7.25	9.06
Clerical Assistant (hourly)	9.35	13.72
Assistant Pool Manager (hourly)	9.71	16.16
Bailiff (hourly)	10.95	13.14
Swim/Dive Coaches (season)	2,157	5,930
Synchronized Coaches (season)	1,081	1,942
Assistant Synchro Coaches (season)	701	1,186
Assistant Coaches (season)	1,260	1,574
Pool Manager (season)	9,709	19,942

Employee/Consultant

A person may be compensated in a category defined as "independent contractor consultant". The rate of pay and other terms of employment for an individual in this category will be established and approved by the City Council.

Part-time Appointed Officials

Part-time appointed officials shall be compensated as follows in 2015:

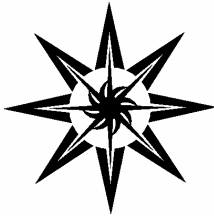
	<u>Minimum</u>	<u>Maximum</u>
Municipal Judge (monthly)	1,130	1,130
Treasurer (monthly)	361	453

Adopted this ____ Day of _____.

Ronald L. Shaffer, Mayor

ATTEST:

Joyce Hagen Mundy
City Clerk



PLANNING COMMISSION

Council Meeting Date: December 15, 2014

PC2014-122 Consider Final Plat for Mission Chateau

PLANNING CONDITION RECOMMENDATION

That the Governing Body accept the dedications of land for public purposes and authorize the Mayor and City Clerk to execute the Final Plat for "Mission Chateau" for recording upon satisfaction of the requirements of Chapter 18.14 of the Subdivision Regulations and the conditions of approval of the Final Plat imposed by the Planning Commission.

BACKGROUND

The Preliminary Plat for Mission Chateau was approved by the Planning Commission on February 10, 2014 subject to 14 conditions which have all been addressed in the presentation of the Final Plat. Conditions 1, 2, 3 and 5 of the preliminary plat have been addressed as a part of Condition 13. Conditions 6, 8 and 11 are shown on the Final Plat. The applicant has submitted covenants as required in Condition 7. Conditions 9, 10 and 12 will be attached to the Final Plat.

The Subdivision Regulations require the following additional information to be submitted with the Final Plat:

- A. Covenants - submitted condition 7
- B. Proof of Ownership - submitted
- C. Review by County Surveyor - submitted for information (The County Engineer will not review the Final Plat until it is approved by the City.)
- D. A Certificate showing all taxes and assessments have been paid - submitted
- E. Construction Documents for streets, sidewalks and storm drainage - submitted

The Final Plat has the Certificate of Property Owner, Certification of Surveyor, Planning Commission approval and Governing Body acceptance of easements and rights-of-way.

The City does not want the liability or responsibility for maintaining the storm drains within pipes, the detention pond and the Dykes Branch drainage way across the north end of Lot 10. However, it is critical that this storm drainage system not be impaired. Therefore, the following text has been added to the Final Plat:

*Property Owner Maintenance of Drainage Easements and Improvements
The Owner of Lot 10 shall construct, install and maintain all drainage improvements (pipes, conduit, open drainage and detention areas) located in*

easements on Lot 10 and shall keep said improvements in good repair and fully functional.

If the City reasonably determines that the drainage improvements require repair or maintenance, including the removal of debris, the City shall provide written notice to such owner indicating the repair or maintenance needed. If said owner does not repair or perform such maintenance within a reasonable period of time, the City may perform the required maintenance or repair and said owner shall reimburse the City for the cost of such work. The City shall have no liability associated with the repair and maintenance.

In accordance with Chapter 18.14 "Improvement Procedures" of the Subdivision Regulations, the applicant is required to complete all public improvements prior to the City signing and releasing the Final Plat for recording.

Alternatively, Chapter 18.14 authorizes the Governing Body to waive that requirement at its discretion, and as an alternative permit the applicant to record the Final Plat and enter into a Subdivision Improvement Agreement with the City.

The applicant is not requesting a waiver and agrees to the standard procedures of Chapter 18.14 that all public improvements to be dedicated on the Final Plat will be completed by applicant prior to the City signing and releasing the Final Plat for recording.

The Planning Commission approved the Final Plat for Mission Chateau on December 2, 2014 (including the dedications of land for public purposes) subject to the following conditions - (the satisfaction of which prior to recording are indicated below by Ron Williamson per City procedures):

1. That the applicant protect and preserve as much existing vegetation as possible along the property lines. - **This determination made after the public improvements are completed, and also in connection with the issuance of building permits.**
2. That all existing improvements be removed from the 85th Circle right-of-way and the nine single-family lots prior to recording the Final Plat. - **This determination is made after the public improvements are completed.**
3. That the west driveway connection and the loop drive to Mission Road from the Senior Housing Community to 85th Circle be constructed at the same time as 85th Circle. - **This determination is made after the public improvements are completed.**
4. That the applicant submit the Final Plat to the County Engineer after approval by the City. **To be completed as soon as Governing Body accepts the dedications, and prior to recording.**

5. Add Property Owner Maintenance of Drainage Easements and Improvements to text of Plat prior to submission to the Governing Body. - **completed**
6. That the applicant make revisions to the proposed covenants as requested by Staff prior to submitting the Final Plat to the Governing Body. - **completed**

Timing: The Governing Body shall accept or refuse the dedication of land for public purposes within 30 days after the first meeting of the Governing Body following the date of the submission of the plat to the governing body from the Planning Commission, i.e. December 15, 2014. The Governing Body may defer action for an additional 30 days for the purpose of allowing for modifications to comply with the requirements established by the Governing Body. No additional filing fees shall be assessed during that period. If the Governing Body defers or refuses such dedication, it shall advise the Planning Commission of the reasons therefor. K.S.A. 12-752 and Chapter 18.12 of the Subdivision Regulations

The Governing Body (which includes the Mayor and City Council), by simple majority vote, has the following options, pursuant to KSA 12-752 and Chapter 18.12 of the Subdivision Regulations:

Accept (either Dec 15 or after deferral per below):

The Governing Body may accept the dedications of land for public purposes shown on the final plat, and authorize the Mayor and City Clerk to sign the Final Plat for recording, all conditioned upon and subject to the following conditions:

(1) that all required public improvements shall have been installed to the satisfaction of the Public Works Director as required by Chapter 18.14, and

(2) satisfaction of Planning Commission conditions 1 through 6 prior to the Mayor and City Clerk signing of the final plat for recording.

Defer:

The Governing Body may defer action for an additional 30 days (unless a special meeting, January 5 meeting is next regular meeting within 30 day period) for the purpose of allowing for modifications to comply with the requirements established by the Governing Body. If the Governing Body defers such dedication, it shall notify the owner or owners of the land and the planning commission of such fact. Such notice shall be in writing and if the deferral of the dedication of land is based upon noncompliance with the requirements established by the Governing Body, the notice shall specify in detail the nature of such noncompliance.

Refuse (either December 15 or after deferral per above):

If the Governing Body refuses such dedication, it shall notify the owner or owners of the land and the planning commission of such fact. Such notice shall be in writing and if the refusal of the dedication of land is based upon noncompliance with the requirements established by the Governing Body, the notice shall specify in detail the nature of such noncompliance.

ATTACHMENTS

Related Planning Commission Minutes December 2, 2014 (Draft)
Proposed Plat

PREPARED BY

Ron Williamson
Katie Logan, and
Joyce Hagen Mundy,
City Clerk

DATE: December 11, 2014

DRAFT
PLANNING COMMISSION MINUTES
December 2, 2014

PC2014-122 Final Plat Approval - Mission Chateau
8500 Mission Road

Sterling Cramer, with Olsson Associates, stated the final plat has addressed the 14 conditions for approval of the preliminary plat by the Planning Commission on February 10, 2014. They have reviewed the staff comments and recommended conditions for approval for the final plat and accept them.

Ron Williamson noted Conditions 1, 2, 3 and 5 of the preliminary plat will be addressed as a part of Condition 13. Conditions 6, 8 and 11 are shown on the Final Plat. The applicant has submitted covenants as required in Condition 7. Conditions 9, 10 and 12 will be attached to the Final Plat.

The Subdivision Regulations require the following additional information to be submitted with the Final Plat:

- A. Covenants - submitted condition 7, some minor revisions are needed.
- B. Proof of Ownership - submitted
- C. Review by County Surveyor - submitted for information (The County Engineer will not review the Final Plat until it is approved by the City.)
- D. A Certificate showing all taxes and assessments have been paid - submitted
- E. Construction Documents for streets, sidewalks and storm drainage - submitted

The Final Plat has the Certificate of Property Owner, Certification of Surveyor, Planning Commission approval and Governing Body acceptance of easements and rights-of-way.

Mr. Williamson stated the City does not want the liability or responsibility for maintaining the storm drains within pipes, the detention pond and the Dykes Branch drainage way across the north end of Lot 10. However, it is critical that this storm drainage system not be impaired. Therefore, the following text needs to be added to the Final Plat:

Property Owner Maintenance of Drainage Easements and Improvements

The Owner of Lot 10 shall construct, install and maintain all drainage improvements (pipes, conduit, open drainage and detention areas) located in easements on Lot 10 and shall keep said improvements in good repair and fully functional.

If the City reasonably determines that the drainage improvements require repair or maintenance, including the removal of debris, the City shall provide written notice to such owner indicating the repair or maintenance needed. If said owner does not repair or perform such maintenance within a reasonable period of time, the City may perform the required maintenance or repair and said owner shall reimburse the City for the cost of such work. In undertaking any such repairs or maintenance, the City shall not disturb any improvements or Lot 10 unless necessary to perform such work. The City shall have no liability associated with the repair and maintenance.

Mr. Williamson responded to several questions called in by a resident. The curb radius and the length of the cul-de-sac have been reviewed and approved by the Fire District. The width of the proposed road meets city criteria and is adequate to accommodate emergency vehicles. The cul-de-sac is approximately 1025 feet long and was approved because the loop driveway from Mission Chateau Senior Homes provides an alternate access.

Andrew Spitsnogle, attorney speaking on behalf of the Mission Valley Neighborhood Association, stated that they felt the final plat should not be approved until the city receives assurances that the applicant will complete the entire project. Mr. Spitsnogle noted that if only the nine single family homes were constructed with only the road and cul-de-sac and not the loop road it would create a fire and safety risk as without the loop fire and emergency vehicles would not be able to turn around.

They do not feel the plat should be approved until the applicant has provided sufficient sureties that they are ready to go forth with the construction of the entire 18.4 acres. In addition urge the city to require the entire loop road to be publicly dedicated as it is essential for the safety of the entire development.

MVNA would like at a minimum that the city condition approval of the final plat on the applicant providing a sufficient surety to assure that the entire project will be constructed.

David Waters responded he is not aware of any requirement in the code that a surety be provided.

Ron Williamson suggested rewording item 3 adding that the loop drive to Mission Road be constructed at the same time as 85th Circle. He noted that was the intent, but the rewording would clarify it. Ron Williamson stated the drive has to be built to city standards to accommodate fire and safety vehicles.

Sterling Cramer responded that they understand the intent of the condition that the construction of the loop road and the driveway be completed together. There is no intention to build the nine single family homes without the rest of the development at this time.

Chairman Bob Lindeblad confirmed that condition #3 would read: That the west driveway connection and the loop drive to Mission Road from the Senior Housing Community to 85th Circle be constructed at the same time as 85th Circle.

Larry Levy questioned the maintenance of the street. Ron Williamson responded that 85th Circle is a public street that will be maintained by the City, the loop road. The islands and sidewalk will be maintained by the Homes Association and the drainage improvements maintained by the owners of Lot 10. This wording will be added to the final plat.

Larry Levy moved the Planning Commission approve the Final Plat for Mission Chateau subject to the following conditions:

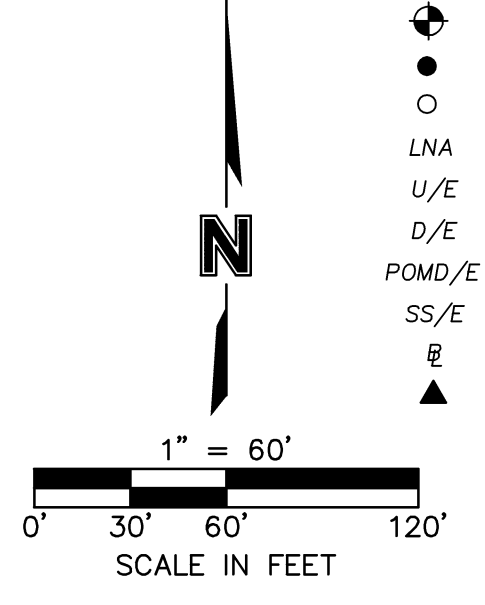
1. That the applicant protect and preserve as much existing vegetation as possible along the property lines.
 2. That all existing improvements be removed from the 85th Circle right-of-way and the nine single-family lots prior to recording the Final Plat.
 3. That the west driveway connection and the loop drive to Mission Road from the Senior Housing Community to 85th Circle be constructed at the same time as 85th Circle.
 4. That the applicant submit the Final Plat to the County Engineer after approval by the City.
 5. Add Property Owner Maintenance of Drainage Easements and Improvements to text of Plat prior to submission to the Governing Body.
 6. That the applicant make revisions to the proposed covenants as requested by Staff prior to submitting the Final Plat to the Governing Body.
- The motion was seconded by Nancy Vennard and passed unanimously.

Final Plat
of
Mission Chateau

a Replat of Part of Block 1, Meadowbrook Junior High School, a subdivision in the Southeast Quarter of Section 28, Township 12 South, Range 25 East, Prairie Village, Johnson County, Kansas

NW Cor. SE 1/4, Sec. 28, Twp. 12S, Rng. 25E.
Found 1" Rebar in Monument Box at
Intersection of 83rd and Roe Avenue

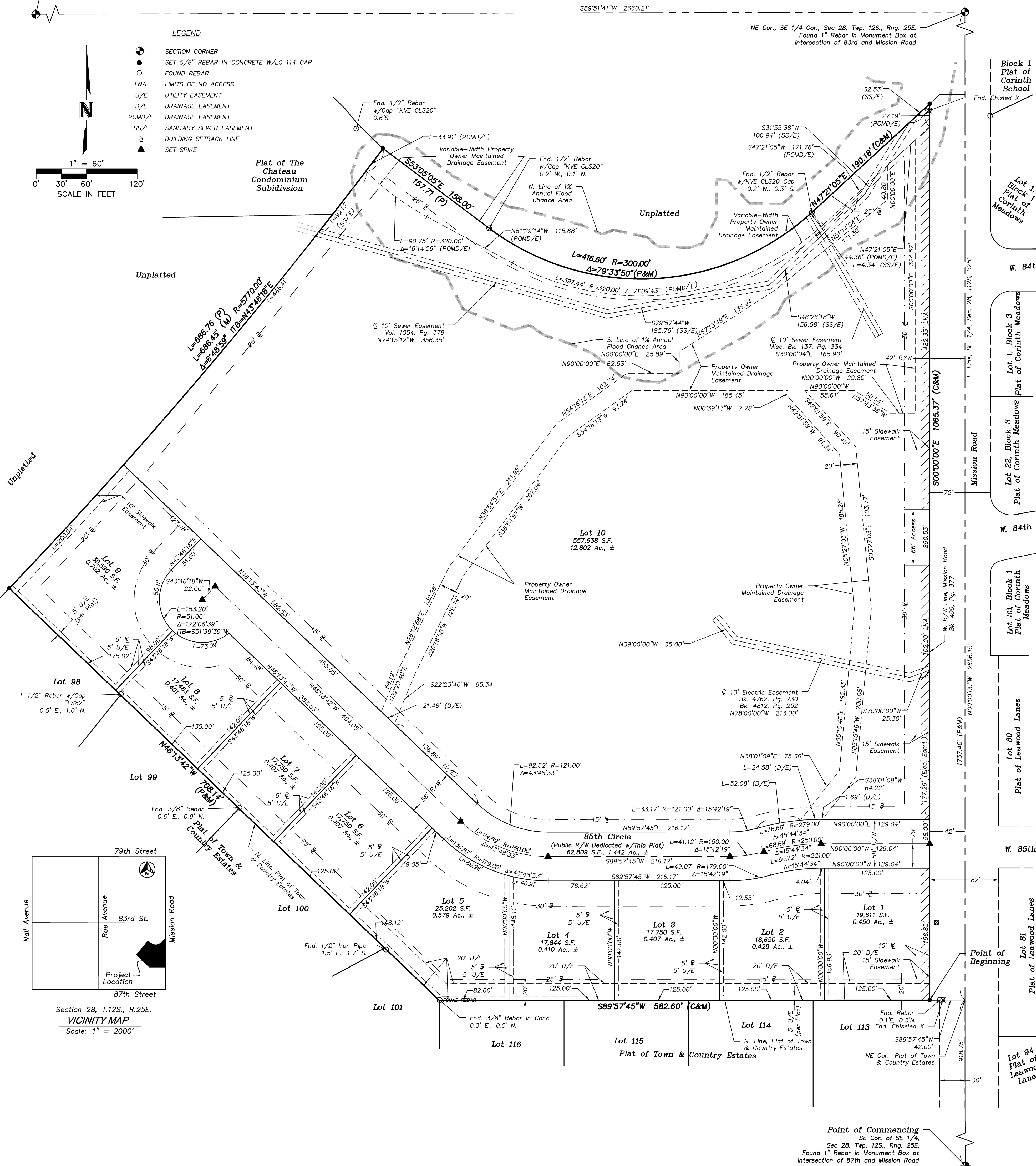
- LEGEND**
- SECTION CORNER
 - SET 5/8" REBAR IN CONCRETE W/LC 114 CAP
 - FOUND REBAR
 - LNA LIMITS OF NO ACCESS
 - U/E UTILITY EASEMENT
 - D/E DRAINAGE EASEMENT
 - POMD/E DRAINAGE EASEMENT
 - SS/E SANITARY SEWER EASEMENT
 - BUILDING SETBACK LINE
 - SET SPIKE



Plat of The Chateau Condominium Subdivision

Unplatted

Unplatted



Property Description:

All that part of Block 1, Meadowbrook Junior High School, a subdivision in the Southeast Quarter of Section 28, Township 12 South, Range 25 East, in the City of Prairie Village, Johnson County, Kansas, described as follows:

COMMENCING at the Southeast corner of the Southeast Quarter of Section 28, Township 12 South, Range 25 East; thence North 0 degrees 00 minutes 00 seconds East along the East line of the Southeast Quarter of said Section 28 a distance of 918.75 feet to a point on the Easterly extension of the Northern line of the Plat of Town & Country Estates, a subdivision in the City of Prairie Village, Johnson County, Kansas; thence South 89 degrees 57 minutes 45 seconds West along the Easterly extension of the North line of said Plat of Town & Country Estates a distance of 42.00 feet to a point on the West right of way line of Mission Road, the POINT OF BEGINNING; thence continuing South 89 degrees 57 minutes 45 seconds West along the Northern line of said Plat of Town & Country Estates a distance of 582.60 feet to a point; thence North 46 degrees 13 minutes 42 seconds West along the Northern line of said Plat of Town & Country Estates a distance of 708.14 feet to a point on a non-tangent curve, said point also being the Northernmost corner of Lot 98 of said Plat of Town & Country Estates; thence in a Northeasterly direction along a curve to the left, whose initial tangent bears North 43 degrees 46 minutes 18 seconds East, having a radius of 5,770.00 feet, through a central angle of 06 degrees 48 minutes 59 seconds, an arc distance of 686.45 feet to a point of non-tangency; thence South 53 degrees 05 minutes 05 seconds East a distance of 158.00 feet to a point of curvature; thence in a Southeasterly, Easterly and Northeasterly direction along a curve to the left, having a radius of 300.00 feet, through a central angle of 79 degrees 33 minutes 50 seconds, an arc distance of 416.60 feet to a point of tangency; thence North 47 degrees 21 minutes 05 seconds East a distance of 190.18 feet to a point on the West right of way line of Mission Road; thence South 00 degrees 00 minutes 00 seconds East along the West right of way line of Mission Road a distance of 1,065.37 feet to the POINT OF BEGINNING, and containing 803,077 Square Feet or 18.436 Acres, more or less.

Dedication

The undersigned proprietor of the above described tract of land has caused the same to be subdivided in the manner shown on the accompanying plat which hereafter shall be known as "Mission Chateau".

That portion reserved for public use as roads, designated as "85th Circle," the extent and direction of which are shown hereon, are hereby dedicated to public use.

W. 84th Street Direct Access to Mission Road is hereby restricted as shown.

An easement or license to enter upon, locate, construct, use and maintain or authorize the location, construction, maintenance or use of conduits, water, gas, sewer pipes, poles, wires, drainage facilities, irrigation systems, ducts and cables, and similar facilities, upon, over and under these areas outlined and designated on this plat as "Drainage Easement" or "D/E" is hereby granted to the City of Prairie Village, Johnson County, Kansas, with subordinate use of the same by other governmental entities and public utilities as may be authorized by state law to use such easement for said purposes. Utility Easements shall be kept clear of obstructions that impair the strength or interfere with the use and/or maintenance of public utilities located within the easement.

An easement or license to enter upon, locate, construct, use and maintain or authorize the location, construction or maintenance and use of conduits, water, gas, sewer pipes, poles, wires, drainage facilities, irrigation systems, ducts and cables, and similar facilities, upon, over and under these areas outlined and designated on this plat as "Utility Easement" or "U/E" is hereby granted to the City of Prairie Village, Johnson County, Kansas, with subordinate use of the same by other governmental entities and public utilities as may be authorized by state law to use such easement for said purposes. Utility Easements shall be kept clear of obstructions that impair the strength or interfere with the use and/or maintenance of public utilities located within the easement.

An easement or license to lay, construct, alter, repair, replace and operate one or more sewer lines and all appurtenances convenient for the collection of sanitary sewage, together with the right of ingress and egress, over and through those areas designated as "Sanitary Sewer Easement" or "SS/E" on this plat is hereby dedicated to the Consolidated Main Sewer District of Johnson County, Kansas, or their assigns.

Building Setback Lines (denoted hereon as "B") are hereby established as shown on the accompanying plat, and no buildings shall be constructed between this line and the street right-of-way lines or lot lines to which said Building Setback Lines are adjacent.

An easement for the purpose of constructing, using, replacing, and maintaining a public sidewalk and appurtenant work, including the right to repair, maintain and replace the sidewalk, and for any reconstruction and future expansion of such facility, together with the right of ingress and egress, over and through the area designated as "Sidewalk Easement" on this plat is hereby granted to the City of Prairie Village, Johnson County, Kansas.

Property Owner Maintained Drainage Easement

A storm water drainage easement (the "Property Owner Maintained Drainage Easement" or "POMD/E") is depicted on this plat and is hereby granted to the City of Prairie Village for the purpose of storm water drainage; provided that the owner of Lot 10 shall maintain the Property Owner Maintained Drainage Easement in good repair and in a fully functional condition. On or before May 1 on a biennial basis, such owner shall submit a certification from a professional engineer licensed in the State of Kansas to the Director of Public Works indicating that the Property Owner Maintained Drainage Easement is in good repair and fully functional.

If the City reasonably determines that the Property Owner Maintained Drainage Area requires repair or maintenance, including removal of debris, the City shall provide written notice to such owner indicating the necessary repair or maintenance. If such owner does not repair or perform such maintenance within a reasonable period of time, the City may perform the required maintenance or repair and such owner shall reimburse the City for the reasonable cost of such work. The City shall have no liability associated with the Property Owner Maintained Drainage Easement.

Consent to Levy

The undersigned proprietor of the above described tract of land hereby agrees and consents that the Board of County Commissioners of Johnson County, Kansas, and the City of Prairie Village, Johnson County, Kansas, shall have the power to release such land proposed to be dedicated for public ways and thoroughfares, or parts thereof, for public use, from the lien and effect of any special assessment, and that the amount of unpaid special assessments on such land so dedicated shall become and remain a lien on the remainder of the land fronting or abutting on such dedicated public way or thoroughfare.

Execution

IN TESTIMONY WHEREOF, the undersigned proprietor has hereunto subscribed their name.

OWNER of Lots 1-10 and 85th Circle - MVS, LLC, a Missouri limited liability company

Joseph C. Tutera, Manager

STATE OF _____)
COUNTY OF _____) SS

Be it remembered, that on this _____ day of _____, 2014, before me, a notary public in and for said county and state, came Joseph C. Tutera, Manager of MVS, LLC, a Missouri limited liability company, duly organized and existing under and by virtue of the laws of the State of Missouri, who is personally known to me to be the same person who executed as such officer the foregoing instrument of writing on behalf of said owner, and such persons duly acknowledged the execution of the same to be the free act and deed of said owner.

In witness hereof, I have hereunto subscribed my name and affixed my notarial seal this day and year last above written.

Notary: _____ My appointment expires: _____

Approvals

This plat has been submitted to and approved by the Planning Commission for the City of Prairie Village, Johnson County, Kansas on this _____ day of _____, 2014.

Planning Commission,
Prairie Village, Johnson County, Kansas

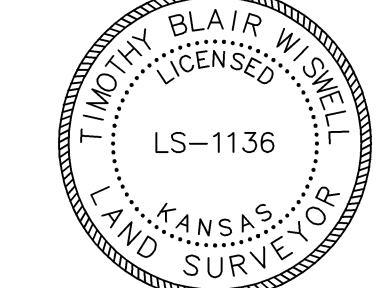
Bob Lindeblad
Planning Commission Chairman

Joyce Hagen Mundy
Secretary

Lands dedicated for easements and street rights-of-way are hereby accepted by the Governing Body of the City of Prairie Village, on this _____ day of _____, 2014.

ATTEST: _____
Ronald L. Shaffer, Mayor Joyce Hagen Mundy - City Clerk

This is to certify that this plat represents a survey completed on October 31, 2014 by me or under my direct supervision and furthermore meets or exceeds the minimum standards for Boundary Surveys Standard of Practice No. 1 to the best of my professional knowledge and belief.



Timothy Blair Wiswell, LS-1136
Olsson Associates, LC-114

Surveyor's Notes:

- Basis of Bearings - Held East Line of SE 1/4 of Section 28, Township 12 South, Range 25 East as S00°00'00"E (Matches plat of Meadowbrook Junior High School).
- The area of the subject property is 803,077 square feet, or 18.436 acres, more or less. There are 1.442 acres of right-of-way being dedicated with this plat.
- This property lies partially within "Zone X (Future Base Flood) - Areas of 1% annual chance flood based on future conditions hydrology. No Base Flood Elevations determined," and "Zone X - Areas determined to be outside the 0.2% annual chance floodplain," according to the FEMA Flood Insurance Rate Map Number 20091C0039G, Revised August 3, 2009.

Owner/Subdivider:
MVS, LLC
Attn: Joe Tutera
7611 State Line Road, Suite 301
Kansas City, MO 64114

Prepared By:
Olsson Associates
7301 West 133rd Street, Suite 200
Overland Park, Kansas 66213
Telephone (913) 381-1170

DWG: F:\PROJECTS\012-2388\SYNO\Final_Plat_122388_FP_Main.dwg
DATE: Dec 11, 2014 10:50am
USER: mbogina
AREAS: 012-2388_FP_FBASE



REV. NO.	DATE	REVISION DESCRIPTION
1	11/13/14	Revised Easement Labels, Planning Commission Chairman, and City Acceptance Language
2	11/17/14	Rev. Drainage Easement, Address, Sanitary Sewer Easement, Rev. Building Line Submittals All Per City Comments
3	12/01/14	Added Property Owner Maintained Drainage Easement Labels and Dedication
4	12/11/14	Added Property Owner Maintained Drainage Easement Labels

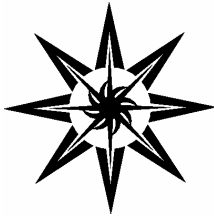
2014

Final Plat
of
Mission Chateau

Prairie Village, Kansas

drawn by:	MBB
checked by:	TBW
approved by:	TBW
QA/QC by:	TBW
project no.:	012-2388
drawing no.:	122388_F2_DWG
date:	10/31/14

SHEET
1 of 1



PLANNING COMMISSION

Council Meeting Date: December 15, 2014

PC2013-11 Request for extension to SUP for Mission Chateau

RECOMMENDATION OF PLANNING COMMISSION

The Governing Body accept the recommendation of the Planning Commission that the 24 month deadline in the SUP shall be extended to 14 months after the termination of the pending litigation involving Mission Valley Chateau project. Termination means dismissal with prejudice or the issuance of a final judgment and all appeal and/or motion to reconsider deadlines/rights expire. Applicant shall notify the City of PV within three business days of the termination as defined herein that the termination has occurred and the 14 months have commenced.

BACKGROUND

On January 6, 2014 the City granted a Special Use Permit for Mission Chateau subject to 14 conditions. Condition #4 provides that "if construction has not begun within twenty-four (24) months of the approval of the Special Use Permit by the Governing Body, the permit shall expire unless the applicant shall reappear to the Planning Commission and Governing Body to receive an extension of time prior to expiration."

On November 14, 2014, the City Clerk received a letter from MVS, LLC requesting the Planning Commission consider an Extension of the Special Use Permit granted by Ordinance 2301 for the operation of a Senior Living Community at 8500 Mission Road.

The Planning Commission considered this request at their December 2, 2014 meeting recommending the Governing Body extend the 24 month deadline to commence construction found in condition #4 of the Special Use Permit to 14 months after the termination of the pending litigation involving the Special Use Permit for Mission Chateau (see recommendation). The minutes of the December 2nd meeting relative to this item are attached.

To assist the Commission in their consideration, they received a memorandum from the City Attorney dated November 26, 2014 applicant's request for an extension. This memo is also attached.

The Governing Body (which includes the Mayor and City Council) has the following options:

- A. Adopt the recommendation of the Planning Commission and approve the extension;
- B. Deny the requested extension;
- C. Change the recommendation of the Planning Commission

Any of these actions require a simple majority vote.

ATTACHMENTS

Letter Requesting Extension

Memo from the City Attorney on the request for an extension

Related Planning Commission Minutes December 2, 2014 (Draft)

Letter dated December 10, 2014 in response to Memo from City Attorney

PREPARED BY

Joyce Hagen Mundy

City Clerk

DATE: December 11, 2014



6201 College Boulevard, Suite 500, Overland Park, KS 66211-2435 • 913.451.8788

November 14, 2014

Timothy J. Sear
(913) 234-7402
(913) 451-6205 Fax
tsear@polsinelli.com

BY HAND DELIVERY AND E-MAIL TO jhmundy@pvkansas.com

Joyce Hagen Mundy
City Clerk
City of Prairie Village, Kansas
7700 Mission Road
Prairie Village, KS 66208

**Re: MVS LLC Special Use Permit/Prairie Village Ordinance 2301
Request to City Planning Commission for Extension of Special Use Permit**

Dear Madam Clerk:

As you are aware, on January 6, 2014, a Special Use Permit was approved by enactment of Prairie Village Ordinance 2301, pursuant to which MVS LLC ("MVS") intends to build an approximate \$55 million senior living facility to be known as Mission Chateau in compliance with the Special Use Permit.

However, within 30 days of enactment of Ordinance 2301, a group of Plaintiffs filed suit in the District Court of Johnson County, Kansas challenging the legality of the grant of the Special Use Permit (Marsh, et al v. City of Prairie Village, Kansas and MVS LLC, Case No. 13CV-08544). Although the District Court on October 30, 2014 affirmed the legality of the grant of the Special Use Permit, the Plaintiffs have appealed that decision to the Kansas Court of Appeals.

Ordinance 2301 states, in part:

4. That the Special Use Permit not have a termination or expiration time established for it; however, if construction has not begun within twenty-four (24) months from the approval of the Special Use Permit by the Governing Body, the permit shall expire unless the applicant shall reappear to the Planning Commission and Governing Body to receive an extension of time prior to the expiration.

There is no reasonable likelihood that the appeal of the District Court judgment will be fully and finally resolved (i.e. a ruling by the Kansas Court of Appeals, which will likely be followed by the filing of a Petition for Transfer to Kansas Supreme Court) prior to January 6, 2016, which is the twenty-four (24) month anniversary of the approval of the Special Use Permit.

polsinelli.com

Chattanooga Chicago Dallas Denver Edwardsville Jefferson City Kansas City Los Angeles New York Overland Park
Phoenix St. Joseph St. Louis Springfield Topeka Washington, D.C. Wilmington

Polsinelli PC, Polsinelli LLP in California

072868/449966-TJSEA-49157833.4

When faced with similar circumstances, numerous state courts have unanimously held that where the validity of a permit for construction was the subject of pending litigation, the local ordinance providing for the expiration of such permit was stayed or tolled by operation of law until the pending litigation had been fully and finally resolved.

For example, in *Belfer v. Building Commissioner of Boston*, 294 N.E.2d 857, 363 Mass. 439 (1973), there was an appeal from the grant of zoning variances to allow the building of a 33-story building. The ordinance required construction to begin within two years or the variances would expire. The Massachusetts Supreme Court stayed the expiration of the variances pending the conclusion of the appeal, stating: **“We conclude that the relief from time limitations... where a legal impediment exists to the use of a benefit, should also be given where an appeal from the granting of the variance creates equally real practical impediments to the use of a benefit. Otherwise a variance which was lawfully awarded can be frustrated by the delay inherent in an appeal. Unless an appeal tolls the time period, many variances would be meaningless.”** 294 N.E.2d at 859 (emphasis added).

In *Tantimonaco v. Zoning Board of Review of Town of Johnston*, 232 A.2d 385, 102 R.I. 594 (R.I. 1967), there was an appeal challenging the legality of the grant of a building permit for a gasoline service station. The ordinance required that construction start within six months or the permit would expire. The Supreme Court of Rhode Island stayed the expiration of the permit pending the conclusion of the appeal, stating: **“As heretofore noted, petitioners challenged the validity of that permit by seeking a review of the board’s decision . . . Although the filing of such a petition does not act as a stay . . . common prudence understandably acts as a brake against incurring obligations, the benefits of which would be cancelled by an adverse decision of this court. Apart from the question as it may be affected by a change in the zoning regulations, we think it clear that the requirement of activating a permit set forth in an ordinance does not apply during such time as the legality of a permit is open to question by reason of litigation amounting to an appeal from the issuance thereof.”** 232 A.2d at 388 (emphasis added).

In *Gala Homes v. Board of Adjustment of City of Killeen*, 405 S.W.2d 165 (Tex.Civ.App. 1966), there was an appeal challenging the legality of building permits to construct apartments. The ordinance required construction to start within 90 days or the permits would expire. The Texas Court of Civil Appeals stayed the expiration of the permits pending the conclusion of the appeal, stating: **“Further, we hold that the two year period within which the city ordinance requires that construction be completed should be tolled, commencing with the filing of intervenor’s appeal with the Board and continuing until final judgment herein.”** 405 S.W.2d at 167.

In *Homeowners Organized to Protect the Environment v. First National Bank of Barrington*, 521 N.E.2d 1202 (Ill.App. 2 Dist. 1988) there was an appeal challenging the validity of the grant of a special use permit. The ordinance required commencement of substantial

construction within one year or the permit would lapse. The Illinois Court of Appeals stayed the expiration of the permit pending the conclusion of the appeal, stating: **“However, to allow plaintiffs here or in any other case to exhaust an ordinance’s time limitation by simply litigating the ordinance would be, as the trial court observed, inequitable. We believe judicial review should be afforded parties to resolve legitimate legal questions and not as a bar to the full enjoyment of the zoning relief granted.”** 521 N.E.2d at 1207.

In *National Waste Managers, Inc. v. Anne Arundel County*, 763 A.2d 264 (Ct. Special Appeals Md. 2000) there was a claim that the special exception and variance to operate a rubble landfill had expired while various legal challenges to the landfill proceeded. The ordinance required that action to implement the use must begin within two years of the grant of the special exception. The Maryland Court of Special Appeals rejected a claim that the special exception and variance had expired, stating: **“To be sure, we do not fault the parties for exercising their legal rights. At the same time, we cannot disregard that delay is an inherent consequence of litigation, and the County’s repeated attempt to litigate National’s right to proceed with the Landfill ultimately made it impossible for National to comply with [the regulation]. If the County were correct in its analysis as to tolling, it would mean that a developer facing a time-related condition could almost always be thwarted in its efforts by the inevitable delay resulting from litigation, regardless of the merits; the right to proceed would necessarily expire before a court could rule otherwise. We cannot accept that logic, which elevates legal gamesmanship to new heights. Here, National did not comply with [the regulation] because the County’s exercise of its rights made it impossible for National to do so. We have not uncovered any Maryland cases discussing the concept of tolling in the context of this case. Nor have we been referred to any applicable Maryland cases. Nevertheless, other authorities suggest, by analogy, that the tolling principle ought to apply to the circumstances of this case.”** 763 A.2d at 276-277 (emphasis added).

In *Fromer v. Two Hundred Post Associates*, 631 A.2d 347 (Conn.App. 1993), there was a claim that a wetlands permit expired when the developer did not commence significant activity within one year of issuance of the permit. Litigation challenging the permit went on for six years. The Appellate Court of Connecticut rejected claims that the permit expired, stating: **“The regulatory process is not designed to be a spider’s web, snaring one who follows all the regulations and statutes, obtains all the necessary permits, and successfully defends a series of appeals, but then loses his right to proceed because the passage of time has caused the permits to expire.”** 631 A.2d at 353.

Because we find no reported court decisions that are in conflict with this line of cases, we are confident that Kansas courts would follow this line of cases and determine that the twenty-four (24) month time period in which MVS was given to commence construction in accordance with Ordinance 2301 is currently stayed or tolled by operation of law pending the full and final resolution of the pending appeal consistent with the cases discussed above.

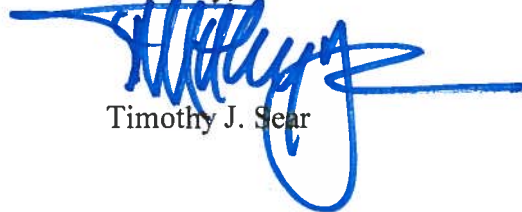
Joyce Hagen Mundy
November 14, 2014
Page 4

However, in lieu of filing yet another lawsuit dealing with Mission Chateau which would request the District Court to enter a judgment confirming that the twenty-four (24) month time period in which MVS was given to commence construction in accordance with Ordinance 2301 is currently stayed or tolled by operation of law pending the full and final resolution of the pending appeal, MVS respectfully requests the City extend the current expiration date of January 6, 2016 contained in Ordinance 2301 to provide that MVS shall have twenty-four (24) months to commence construction beginning from the date upon which a final non-appealable judgment is entered in connection with the Marsh litigation.

Granting such an extension is not only warranted under the circumstances, but also supported by applicable case law, and will put to rest any issues with respect to the date by which MVS has or must commence construction on the project while affording all of the interested parties the opportunity for a judicial review to resolve the legal questions surrounding the issuance of the Special Use Permit.

MVS asks that this Application for Extension of Special Use Permit be placed on the December 2, 2014 Planning Commission Agenda.

Sincerely,



Timothy J. Sear

TJS:mgs
Enclosure

cc: Joseph Tutera
Michael F. Flanagan, Esq.
John D. Petersen, Esq.
Catherine P. Logan, Esq., (by e-mail to Logan@Lathropgage.com)
Ron Williamson (by e-mail to rwilliamson@hwlochner.com)

MEMORANDUM

To: Governing Body and Planning Commission
City of Prairie Village, Kansas

From: Catherine P. Logan, City Attorney

Date: November 26, 2014

Subject: **Mission Chateau Special Use Permit
Ordinance No. 2301
MVS LLC Request for Extension**

Ordinance No. 2301, adopted January 6, 2014, grants a Special Use Permit (“Mission Chateau SUP”) subject to fourteen conditions, including condition #4 which provides, in pertinent part, that “if construction has not begun within twenty-four (24) months from the approval of the Special Use Permit by the Governing Body, the permit shall expire unless the applicant shall reappear to the Planning Commission and Governing Body to receive an extension of time prior to expiration.” By its terms, the Mission Chateau SUP will expire on January 6, 2016, unless construction begins prior to that date, or the time period is extended by the Governing Body.

Prior to the adoption of Ordinance No. 2301, and on December 11, 2013, a number of neighboring property owners filed an action in the District Court of Johnson County, Kansas styled *Gary W. Marsh et al. v. City of Prairie Village, Kansas*, Case No. 13CV08544, seeking to enjoin the City from considering the Mission Chateau SUP at the January 6, 2014 meeting of the Governing Body. For reasons unknown, the plaintiffs changed their minds, and did not pursue a temporary injunction. Thus, the Governing Body approved the Mission Chateau SUP at that meeting.

On February 3, 2014, the original plaintiffs, joined by additional plaintiffs, filed a First Amended Verified Petition against the City challenging the lawfulness of Ordinance No. 2301. MVS LLC (“MVS”) intervened as a party defendant. Subsequently, the parties filed extensive and lengthy cross-motions for summary judgment, seeking a comprehensive ruling and determination of all legal questions that gave rise to this lawsuit. These issues included numerous challenges to the actions of the City, from both the plaintiffs and MVS. On September 12, 2014, the District Court issued an order finding that the Governing Body acted lawfully in passing Ordinance No. 2301, thus fully satisfying, and fully complying with, all aspects of Kansas law in its actions leading up to, and throughout, its passage of Ordinance No. 2301.

On October 20, 2014, MVS filed a motion to stay expiration of the Mission Chateau SUP during the pendency of the lawsuit and any appeal therefrom. On October 30, 2014, the District Court denied MVS's motion, while simultaneously denying the plaintiffs' request to alter or amend its original order regarding the cross-motions for summary judgment.

Subsequently, on October 30, 2014, the plaintiffs filed an appeal of the District Court's summary judgment rulings in the Kansas Court of Appeals, which is presently pending and in its early stages. This appeal is styled Case No. 112706. On November 6, 2014, MVS filed a cross-appeal, seeking review of the District Court's decision which overruled MVS's motion for a stay of the expiration of the Mission Chateau SUP during the pendency of the action, once again including all proceedings in the trial and appellate courts. Lastly, just earlier today, MVS filed a motion with the Kansas Court of Appeals to transfer the appeal to the Supreme Court for review.

An appeal of this type typically takes approximately eight to twelve months before a decision is issued. If a party seeks further review in the Kansas Supreme Court, the Court of Appeals decision does not become final until the Supreme Court either accepts or denies review. This can take an additional twelve months or more. If the Supreme Court denies review, the Court of Appeals decision becomes final essentially immediately. If the Kansas Supreme Court accepts review, the appeal does not become final until the Kansas Supreme Court rules. Based upon these timelines, it is highly unlikely that the *Marsh* case will be finally decided prior to January 6, 2016. However, if the Supreme Court were to grant MVS's motion for transfer, and thus accept review, the appeal would then bypass any consideration or ruling from the Court of Appeals, thus expediting the appeal process substantially. If this were to occur, it is quite possible that a final decision would be rendered in advance of January 6, 2016. As MVS's motion to transfer was just filed earlier today, it is presently unknown what position, if any, the plaintiffs will take in response to the motion. At this time, the City has also yet to take a position on MVS's motion to transfer, if any.

Turning to MVS's request for "staying" or "tolling" the expiration of the Mission Chateau SUP, counsel for MVS, in its letter to the City Clerk dated November 16, 2014, cites case law in which courts in other states have applied an equitable doctrine that time periods similar to the time period in condition No. 4 are automatically "stayed" or "tolled" in certain situations involving litigation. Counsel for MVS admits that there is no controlling case law in Kansas.

Counsel for MVS states that based on this case law in other states, the Planning Commission and Governing Body should grant an extension of the 24 month period to begin construction, and that if the extension is not granted, MVS will file a lawsuit against the City requesting that the District Court enter a judgment that the 24 month period is stayed or tolled pending the final resolution of the *Marsh* case.

The purpose of this Memorandum is to briefly respond to the legal issue raised in the letter from MVS's legal counsel in order to assist the Planning Commission and the Governing Body in considering the request for extension. Nothing contained herein will constitute a waiver of matters not addressed in this Memorandum.

1. I agree with counsel for MVS that there are no reported Kansas cases which have considered whether equity requires that conditions similar to condition #4 are automatically tolled or stayed if opponents to a special use permit appeal to the District Court. Kansas courts are not bound by case law from other states, and in any event the determination of whether such an equitable remedy should apply depends on the facts and circumstances in each case.

2. There are no Kansas statutes or provisions in the Prairie Village City Code which impose an automatic stay when zoning matters are appealed, by either automatically staying the right of the successful applicant to build, or automatically staying any time period in which the successful applicant is required to build.

3. MVS wants the right, but not the obligation, to build within the 24 month period. This is contrary to what was approved in Ordinance 2301 and for the following reasons I believe that it would not be unreasonable for the Planning Commission or Governing Body to deny an extension under the circumstances.

When Ordinance No. 2301 was considered by the Governing Body on January 6, 2014, MVS stated that it accepted all the conditions. It did not ask for the period to begin construction to exceed 24 months. It also did not suggest or ask that the condition state that the period be tolled until completion of any appeal, even though some of the opposing neighboring property owners had already filed a lawsuit against the City to challenge the Mission Chateau SUP. Although Ordinance No. 2301 gives MVS the right to *request* an extension, there is no right to *obtain* an extension.

The *Marsh* plaintiffs asked the District Court to enjoin the right of MVS to begin construction. MVS successfully opposed the injunction request in the District Court. In doing so, MVS argued that the construction of senior living structures approved by the Mission Chateau SUP should not be enjoined because it should be up to MVS to take the risk that such structures must be removed if the case is ultimately decided in favor of the *Marsh* plaintiffs.¹

¹ "That is, we need the SUP only to build those structures and use it as a senior living community. So should MVS decide that they want to take the risk while this litigation is pending of going ahead and beginning construction, whether they ultimately would use the construction as a senior living community under an SUP, or as another allowed use without a permit under R-1A zoning, is completely up to MVS." Transcript of Hearing on TRO 4-18-14. Pp 14-15, Mr. Sear.

"They say that if we build and lose the lawsuit, we have to tear it down and that we are at risk. Well, let us take the risk if we choose to do that." Transcript of Hearing on TRO 4-18-14. Pp 123, Mr. Sear.

Belatedly in the *Marsh* case², MVS asked the District Court for the relief its counsel now states that it may seek in a new lawsuit. The District Court ruled that it was not certain that the matter was properly before the Court, but even if it was, it was not ripe as the period of time had not yet expired, nor had MVS sought and been denied an extension.

In a decision not mentioned by MVS's legal counsel, a Maine court took a view that an applicant also assumed the risk that a construction deadline would expire. The applicant, which had been granted a conditional use permit, had not commenced construction within a required time period, and argued that the time to commence construction was automatically tolled while two appeals that questioned the legality of the conditional use permit were pending. A Maine statute provided that an appeal of the zoning decision did not automatically stay the grant of the conditional use permit, and that a stay could be requested from the court. Although Kansas does not have a similar statute, the law in Kansas is the same. Stays in zoning appeals are not automatic but may be requested by a party, as was done by the *Marsh* plaintiffs in the pending case.

The Maine court found that because construction was not commenced within the required time period, the conditional use permit expired. The Maine court ruled that appeals by opponents to the grant of a conditional use permit did not result an automatic stay of the construction period, noting that the applicant did not ask for a stay at the local town level, or in either of two appeals challenging the conditional use permit. *Cobbossee Development Group v. Town of Winthrop*, 585 A.2d 190, 194 (Me. 1991).

Similarly, although MVS is now asking for an extension, it accepted a 24-month construction period when the Mission Chateau SUP was granted, even though a lawsuit was already pending challenging the City's authority to grant the Mission Chateau SUP. It further opposed a motion to enjoin construction sought by the *Marsh* plaintiffs, expressly assuming the "risk" that it might begin construction of the assisted living facility and then be required to remove improvements if the *Marsh* plaintiffs were ultimately successful in their challenge. Since Ordinance No. 2301 does not grant a right to an extension, only the right to seek an extension, MVS also assumed the risk that the Planning Commission and Governing Body might not grant an extension, causing the Mission Chateau SUP to expire if MVS choses not to begin construction.

One of the primary reasons for condition #4 is that the use approved by the Mission Chateau SUP is dissimilar to the normal uses found in R-1A districts. The bodies considering the Mission Chateau SUP took into consideration numerous factors, including then-existing conditions and surrounding uses. Those conditions and surrounding uses change over time. If the special use is not required to commence within a reasonable time after approval, the factors relied upon may become less relevant, and

² MVS LLC filed a motion with the District Court seeking this relief after the entry of Judgment on September 12, 2014, and prior to the hearing on the *Marsh* Plaintiffs' motion to reconsider.

new relevant factors may arise. The use proposed by the Mission Chateau SUP involves a complex project and therefore a majority of the Planning Commission and Governing Body considered a period of 24 months to commence construction to be a reasonable period. MVS agreed to the condition which included the right to return and request an extension of time.

Finally, it should be noted that MVS is not without a remedy. The zoning regulations do not prohibit a reapplication for a special use permit, other than Section 19.28.075, which imposes a reapplication waiting period of 6 months if an application is denied. If the Mission Chateau SUP expires, MVS may reapply for a special use permit, at which point the current factors and conditions could be weighed by the Planning Commission and Governing Body.

In conclusion, under the above circumstances, a Kansas court could very well refuse to apply the equitable doctrine that an appeal “stays” a mandatory construction period followed by courts in some other states because: (a) in opposing the injunctive relief in the *Marsh* case, MVS willingly assumed the risks that an extension may not be granted, and that it would have to begin construction prior to a final decision in the *Marsh* case; (b) MVS can prevent the SUP from expiring by beginning construction before January 6, 2016; and (c) if the Mission Chateau SUP expires because MVS elects not to begin construction, then it may reapply for a special use permit.

DRAFT
PLANNING COMMISSION MINUTES
December 2, 2014

**PC2013-11 Request for extension to SUP for Mission Chateau
8500 Mission Road**

David Waters, representing the City Attorney, stated on January 6, 2014 the City granted a Special Use Permit for Mission Chateau subject to 14 conditions. Condition #4 provides that “if construction has not begun within twenty-four (24) months of the approval of the Special Use Permit by the Governing Body, the permit shall expire unless the applicant shall reappear to the Planning Commission and Governing Body to receive an extension of time prior to expiration.” This is the request before the Planning Commission.

Mr. Waters reviewed the following history of litigation that has taken place on this project:

- December 11, 2013 - neighboring property owners filed an action in the District Court of Johnson County against the City seeking to enjoin the City from considering the Mission Chateau SUP at the January 6, 2014 meeting. The plaintiffs did not pursue the temporary injunction and the application was considered.
- February 3, 2014 - neighboring property owners filed a First Amended Verified Petition against the City challenging the lawfulness of the adopting Ordinance on a number of issues.
- On September 12, 2014, the District Court issued an order finding that the Governing Body acted lawfully in passing Ordinance #2301 fully satisfying and fully complying with all aspects of Kansas law in its actions leading up to and throughout the passage of Ordinance 2301.
- On October 20, 2014 - MVS filed a motion to stay the expiration of the Mission Chateau SUP during the dependency of the lawsuit and any appeal therefrom.
- On October 30, 2014, the District Court denied MVS’s motion, while simultaneously denying the plaintiffs’ request to alter or amend its original order regarding the cross-motions for summary judgment.
- On October 30, 2014 - the plaintiffs filed an appeal of the District Court’s summary judgment rulings in the Kansas Court of Appeals, which is presently pending and in its early stages.
- On November 6, 2014 - MVS filed a cross-appeal, seeking review of the District Court’s decision which overruled MVS’s motion for a stay of the expiration during the pendency of action.
- On November 26, 2014 - MVS filed a motion with the Kansas Court of Appeals to transfer the appeal to the Supreme Court for review.

Mr. Waters noted the potential timeframe for these actions to move through the court system causing the applicant to be concerned that final action will not be taken until after the expiration of the SUP per condition #4. Therefore, they are requesting an extension.

In the applicant's request to the City they contend that as a matter of law the City should rule that the 24 month period of construction be stayed pending the resolution of the appeals. However, they have formally requested an extension of the 24 month time period listed in condition four from the date that all appeals are final. In support of the request several case law references were presented.

The City Attorney has advised that there are no Kansas cases which have considered whether equity requires that conditions similar to condition #4 are automatically tolled or stayed if opponents to a special use permit appeal to the District Court. Kansas courts are not bound by case law from other states, and in any event the determination of whether such an equitable remedy should apply depends on the facts and circumstances of each case.

There are no Kansas statutes or provisions in the Prairie Village City Code which impose an automatic stay when zoning matters are appealed, by either automatically staying the right of the successful applicant to build, or automatically staying any time period in which the successful applicant is required to build.

Mr. Waters noted there is case law from other jurisdictions ruling in support of stays during litigation as well as some opposing it. It is not the Planning Commission decision to determine what the case law should be, but simply to consider a request for an extension.

In her memo to the Planning Commission the City Attorney stated that she believed it would not be unreasonable for the Planning Commission or Governing Body to deny an extension based on the following circumstances:

- MVS accepted the conditions of approval for the SUP including condition #4
- MVS opposed the injunction request in the District Court stating it should be up to MVS to take the risk that such structures must be removed if the case is ultimately decided in favor of the Marsh plaintiffs.
- Stays in zoning appeals in Kansas are not automatic, but may be requested by a party.
- The applicant could prevent the expiration of the SUP by beginning construction
- MVS is not without a remedy. The zoning regulations do not prohibit a reapplication for a special use permit should the permit expire.

Mr. Waters noted this is not a public hearing, although the Commission can chose to take comment, there are no criteria, standards or Golden Factors that must be met. The Commission should make a good faith consideration of the request. The Commission serves as a recommending body. The final decision will be made by the Governing Body. There is no protest petition or required vote to override the Commission's recommendation. The Planning Commission may recommend granting the request, recommend denying the request, recommend granting the request for a shorter time frame or send it forward with no recommendation.

Gregory Wolf asked if the requested extension was for a specific period of time. Mr. Waters stated the request was for a 24 month period beginning after the final judgment of any appeals.

Bob Lindeblad asked what would constitute commencement of construction. Mr. Waters stated there is no definition for "commencement of construction" in the SUP. He feels it would be a determination of the Governing Body.

Timothy Sear, with Polsinelli representing MVS, LLC, reviewed again with the Commission the series of legal challenges that have been filed against this SUP noting the amount of time it has taken for resolution, although positive, of these challenges. Now an appeal of the ruling has been filed which will further delay final judgment until quite possibly beyond the established termination or expiration of the time period given in the Special Use Permit for Mission Chateau approved by the City on January 6, 2014 for the commencement of construction of the project. Mr. Sear reviewed the possible timetable for possible court appeals that will take well beyond the January 6, 2016 deadline.

MVS filed a motion to stay the expiration of the Mission Chateau SUP during the dependency of the lawsuit and any appeal therefrom to prevent the MVNA appeal of the court's judgment in support of the SUP from essentially keeping the SUP in pending litigation until the expiration of the SUP per condition #4. On October 30, 2014, the District Court did deny MVS's motion; however, not because there was no merit to the motion, but because there had not been an application made to the City for an extension and the judge felt he did not have jurisdiction to decide.

MVS is committed to this project and it is their sincere intention to proceed with it; however, as pointed out if the Courts determine there was a mistake made in the granting of the SUP any improvements made pursuant to the SUP would have to be removed and destroyed.

Mr. Sear stated that land use appeals in the state of Kansas are relatively rare, resulting in not a lot of case law rulings. However, numerous state courts have unanimously held that where the validity of a permit for construction was the subject of pending litigation, the local ordinance providing for the expiration of such permit was stayed or tolled by operation of law until the pending litigation had been fully and finally resolved.

They have found that courts that have dealt with this issue when there is not a statute that deals with this situation, with neither Kansas nor Prairie Village has, they have determined that it would be unreasonable to allow a permit to be lost simply by the delay of litigation as to the legality of the permit. No one has cited any contrary case law. Although it is all from outside Kansas, all courts that they have found that have dealt with this issue have determined that if there is not a statute dealing with the issue already to provide for a tolling of the expiration during the pendency of the legal challenge to the permit that equitably the expiration of the permit is to be tolled during the pendency of it.

Mr. Sear noted the memo from your city attorney regarding a case in Maine that opposed the extension, the judge's ruling found that because there was already a Maine statute that provided for the permit to be saved that tolling was not necessary.

All of the cases cited in their request unanimously stated that the mere specter of litigation regarding the legality of the permit makes it unreasonable to proceed with construction, especially when the stance of the City is that any improvements made would be required to be removed and destroyed if the legality of the permit was upheld. Mr. Sear asked if it would be responsible for the City would undertake a \$55M project under such terms.

Mr. Sear stated that MVS is doing everything possible to expedite this appeal process requesting the Kansas Supreme Court take an immediate transfer of this case from the Appeals Court to shorten the timetable for this process. However, he noted those motions are very seldom granted.

Mr. Sear stated in reference to the City Attorney's memo to the Planning Commission stating reasons why she feels it would not be unreasonable to deny this extension, they believe under the facts of this situation it would be unreasonable for the city to require what all these other states have refused to require - that is to go forward and expend this kind of money while there is litigation pending. The City Attorney points out in opposing the MVNA attempt to enjoin this project in the past that MVS has opposed those requests for injunction. He does not feel that should weigh against MVS getting the full right to exercise it right under the SUP permit. When the lawsuit was first filed and the plaintiff asked that the City and MVS be enjoined by the court from any activities related to the entire 18 acre tract, both the City and MVS opposed that injunction. No one contended that if the injunction was granted that additional time would be given to MVS at the tail end to cover the period of time for the injunction. The mere fact that MVS like the city opposed this effort to shut down this project through an injunction that that we told the court that risk if we started construction was on MVS is not an unusual position to take and should not weigh against the approval of an extension of time relative to the SUP permit.

They contend that although there is no Kansas case law on the tolling argument that if the Kansas Court were given this issue, that the Kansas court would likely follow these other states. However, that would only be determined if MVS is denied an extension and has to file a declaratory judgment against the City. They are not interested in more litigation and more delays, although they feel the Kansas Court would find the permit should be tolled, that is why they are requesting grant an extension beyond the date when all of the appeals end. There would be no harm to anyone in extending this permit for a period of time beyond the time period appeals process ends. The City has already determined that this project should be built in the City of Prairie Village. He stated the SUP should not be defeated by the mere filing of continuous legal appeals regardless of the outcome of the appeal. The SUP should only be defeated by the Court deciding the legality of the SUP based on the process followed by the City which has already been found to be valid.

In summing up the City Attorney presents in her memo of last week three statements a) In opposing the injunctive relief in the *Marsh* case, MVS willingly assumed the risks that an extension may not be granted.; b) MVS can prevent the SUP from expiring by beginning construction before January 6, 2016 and c) if the Mission Chateau SUP expires because MVS elects not to begin construction, then it may reapply for a special use permit.

Mr. Sear responded to (a) that MVS is at risk to construct before the appeal is over; however, that does not weigh against the City granting the extension. In fact it weighs in favor of the extension as it would be unreasonable to put at risk that kind of money when the City is saying if you build it and the City loses, as it is the City that is being challenged on the legality of the SUP, that it must be removed.

Mr. Sear responded to (b) it is the same argument worded differently. If the City would require us to remove improvements, if the City loses the appeal, it is unreasonable to require MVS to expend that kind of money during dependency of the appeal.

Finally (c) seems nonsensical in that this process has already gone on for two years. Why would anyone want to let the SUP expire due to pending litigation and require a new application to be filed to begin the entire process again.

MVS wants to proceed, they want the litigation to end; however, there is only so much they can do under the situation where the city is going to insist that improvements be torn out if the City loses the appeal by the MVNA.

Gregory Wolf asked if all the appeals were to end tomorrow, how long would it take to commence construction. Mr. Sear replied 10 to 14 months to get the contracts let and the demolition done, noting the abatement work that has been completed at the school. He noted it is in their benefit to begin as quickly as possible. Current interest rates are at their lowest and in financing \$40M even a change of 1% in the interest rate impacts the financing by \$400,000 per year. It is in their best interest to proceed as quickly as possible after appeals are completed.

Mr. Wolf asked for clarification on what is being requested. Mr. Sear responded they are seeking an extension in time. He noted "tolling" is court language. They are asking that pursuant to condition #4 of the SUP that it be extended for a period of two years beyond the end of the appeal process. He noted that is beyond the time that is needed. Mr. Wolf asked why they were then asking for two years. Mr. Sear replied the court decisions on tolling have determined in those states that if you have 24 months in the permit that you get 24 months after the legal challenge is over. So they are simply mirroring what has been done. He is quite certain that 12 or 14 months beyond the end of the appeals process would be acceptable to them.

Mr. Wolf asked why the issue was not addressed when the initial litigation was filed. Mr. Sear noted that any SUP application can result in litigation, however they rarely do and with filed rarely goes on the extent that the litigation has in this case.

He does not feel it was the City's intent by Condition #4 which is standard language in Special Use Permits issued by the City was meant to kill a project just by legal delay and not by delay of the developer. That is what the cases that they have cited stand for - developers are not going to forward in all likelihood in this situation and that is why even in the absence of a regulation or statute or a condition, the state courts that have heard this issue have said that it must be "tolled" otherwise the permit becomes meaningless even by a losing lawsuit being filed.

Mr. Wolf stated he is trying to understand why 24 months. Mr. Sear responded that as soon as the appeal was filed it became clear that the request for extension would need to be filed as the process would not end prior to January 6, 2016. Mr. Sear noted the similar situation faced by the City of Prairie Village in the length of time taken for the appeal of Councilman David Morrison and now subsequent appeal by the County to the Kansas Supreme Court.

Nancy Vennard stated the City has had to spend an enormous amount of money with meetings at offsite locations and now ongoing legal fees. She would not want to see the City go through this process again if the extension is not granted.

Gregory Wolf does not see the need for a 24 month extension. He feels they should be ready to begin once the litigation ends. Based on their comments, he could support a 14 month extension. Nancy Vennard noted she understand the rationale behind the 24 month request. Bob Lindeblad reminded the Commission that their action is only a recommendation to the Governing Body.

Nancy Wallerstein asked if the extension was not granted by the Governing Body, they could still start construction under the current SUP. What would constitute commencement of construction. Mr. Lindeblad responded that would be the decision of the Governing Body.

Nancy Wallerstein noted there is not a precedence either for or against extending an SUP. She stated they owned the land regardless of the outcome of the litigation.

Nancy Vennard acknowledged the extensive and costly preparation work that needed to be done prior to commencing construction in design, construction documents, etc. She also added that if they had to refile for the SUP there is no guarantee the current plans would be accepted by the Planning Commission and/or Governing Body at that time, noting the several changes that have taken place for the Mission Mall property.

Gregory Wolf stated in reality, if the extension is not granted, a lawsuit will be filed against the City for declarative judgment on the failure to grant the extension.

Mike Flanagan, General Counsel for the Tutera Group, stated that last week they met with Prairie Village staff to discuss the issue of what is "commencement of construction" which staff believed would be a decision of the Governing Body, but were checking with the City Attorney. The building permit process was discussed and expectations for and timetable for plan reviews. The possibility of a phased building permit was discussed.

They would need to seek a full building permit. He would expect the cost of full construction documents to be as Mrs. Vennard indicated several thousands of dollars. The lead time needed by public works, the building official and fire department for review of plans of this size is significant. He does believe the 14 month period of time would work for MVS to get the building permit approved. If the definition of commencement of construction was less, they could begin sooner. This needs to be determined. Mr. Flanagan noted that in regard to "tolling" you generally are either granted 24 months or nothing.

They feel it is appropriate to grant the extension as it is of no harm to anyone, it does not cost anything of the city and it allows the court, who is the appropriate party, to make its determination on whether the Special Use Permit is valid or if it should be revoked.

Chairman Bob Lindeblad opened the floor for comments from the public.

Andrew Spitsnogle, attorney speaking on behalf of the Mission Valley Neighborhood Association, noted that Mr. Sear made several comments regarding legal interpretations; however, Mr. Waters direction to the Commission was that it was not your job to make a legal determination. It is the job of your city attorney and her analysis is clear. "MVS wants the right, but not the obligation, to build within the 24 month period. This is contrary to what was approved in Ordinance 2301 and that she feels it would not be unreasonable for the Governing Body to deny an extension under the circumstances". They concur with her assessment.

Mr. Spitsnogle made the following additional comments:

- MVS request for an extension is premature - noting that the deadline does not expire until January 6, 2016 and that this was one of the reasons for the denial of their motion on October 30th.
- If the Governing Body intended for the SUP to be "stayed or tolled" it is their view that they would have included that language in the SUP
- The Ordinance was approved with full knowledge that a lawsuit would be filed challenging the validity of the Special Use Permit
- Concur that it would not be unreasonable to deny the two year extension as factors for approval change over time.

They do not feel the applicant should have another two years after the final judgment in which to begin construction on one of the most valuable pieces of land in the City.

Gregory Wolf asked Mr. Spitsnogle that their position was that it was reasonable to force the applicant to spend hundreds if not millions of dollars to begin construction that if you win will have to be removed and destroyed. This is what he is struggling with.

Mr. Spitsnogle responded that that point has not been reached yet and this request is premature. Mr. Wolf asked when would it be appropriate. Mr. Spitsnogle responded it is currently in the court of appeals and MVS has filed for an immediate transfer to the Supreme Court and they do not intend to oppose that filing. It is their intention to get

this resolved as quickly as possible. It is more than a year to the deadline and things change. He cannot say when it would be appropriate to make the request.

Nancy Wallerstein asked Mr. Sear to confirm that he stated it would be 12 months before the case was even heard before the Supreme Court. Mr. Sear replied there is no timetable and the motions are rarely granted. For example in the Morrison case, there was a motion to transfer that case to the Supreme Court and it was denied. If denied, then the Kansas Court of Appeals will continue to proceed until the Kansas Supreme Court says it is not theirs to decide. They believe they are looking at a period of time of at least a year to get a decision on whether to even hear the case.

Mr. Wolf asked Mr. Spitsnogle for his prediction as to how it will take for the appeal. He responded that he has no idea, but doesn't feel that is the issue before the Commission. The issue is whether it would be unreasonable to deny the request.

Mr. Wolf noted the legal costs the city has already incurred thousands of dollars of legal expense on this application and asked Mr. Spitsnogle if he felt that was in the best interest of the city to put itself in the position for yet another lawsuit with the filing a declaratory judgment if the extension is denied.

Mr. Spitsnogle stated he does not feel zoning decisions should be made on the basis of fear of legal costs and secondly he does not know that a separate law suit would be filed.

Bob Lindeblad closed the public comment at 10:00 p.m.

James Breneman believes the request for the extension is justified. He would not want to commit the amount of money that will need to be committed to commence construction with the potential that it may need to be eventually torn down. January 6, 2016 is 13 months away, they would have to begin preparation of construction documents now to meet that deadline. It would be unreasonable for the city not to approve the extension.

Larry Levy stated more harm is being done to the landowners in going through the court system to determine the validity prior to construction in the increased costs that they will occur. He does not see the request for the extension as unreasonable.

Greg Wolf moved the Planning Commission recommend that the 24 month deadline in the SUP shall be extended to 14 months after the termination of the pending litigation involving Mission Valley Chateau project. Termination means dismissal with prejudice or the issuance of a final judgment and all appeal and/or motion to reconsider deadlines/rights expire. Applicant shall notify the City of PV within three business days of the termination as defined herein that the termination has occurred and the 14 months have commenced. The motion was seconded by Larry Levy.

Nancy Wallerstein questioned if 14 months was sufficient time when under normal conditions they would have been given 24 months.

Bob Lindeblad stated he would support 14 months as the applicant has stated they can work within that timeframe. He feels it would be reasonable to grant the extension.

Larry Levy noted this could take 3 years. Mr. Wolf states the applicant knows the risk.

The motion was voted on and passed unanimously.

Next Meeting

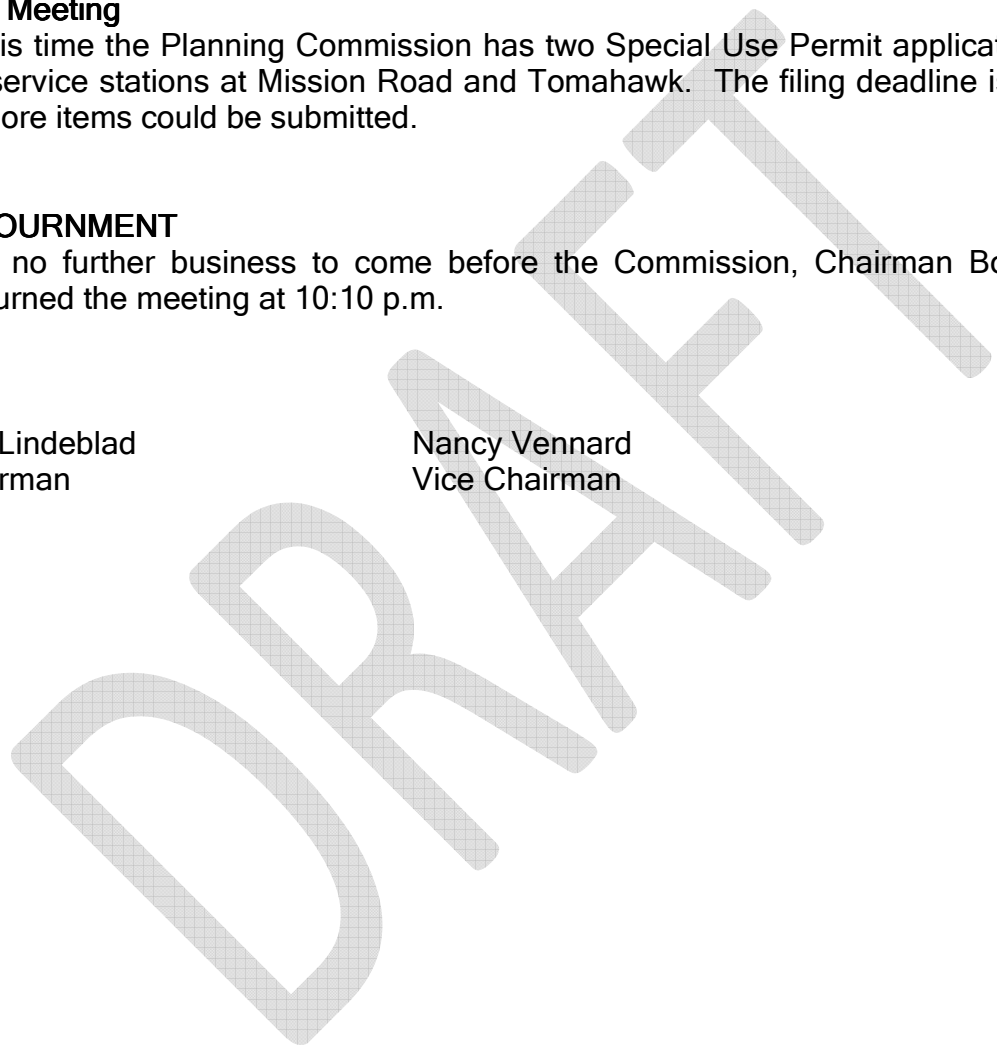
At this time the Planning Commission has two Special Use Permit applications filed for the service stations at Mission Road and Tomahawk. The filing deadline is this Friday, so more items could be submitted.

ADJOURNMENT

With no further business to come before the Commission, Chairman Bob Lindeblad adjourned the meeting at 10:10 p.m.

Bob Lindeblad
Chairman

Nancy Vennard
Vice Chairman





6201 College Boulevard, Suite 500, Overland Park, KS 66211-2435 • 913.451.8788

December 10, 2014

Timothy J. Sear
(913) 234-7402
(913) 451-6205 Fax
tsear@polsinelli.com

BY U.S. MAIL AND E-MAIL to CLogan@Lathropage.com

Catherine P. Logan, Esq.
Lathrop & Gage LLP
10851 Mastin Boulevard
Building 82, Suite 1000
Overland Park, KS 66210-1669

Re: MVS LLC Application for Extension of Special Use Permit

Dear Ms. Logan:

This letter is a response to your Memorandum of November 26, 2014 to the Governing Body and Planning Commission of Prairie Village setting forth your analysis as to why it would not be “unreasonable” to deny MVS’s Request for an extension of the Special Use Permit (the “Extension”).

As you are aware, on December 2, 2014, the Planning Commission unanimously recommended that the Extension be granted for a period of 14 months from the conclusion of the litigation/appeal challenging the legality of the SUP. To a member, the Planning Commission agreed that it would be “unreasonable” for the City to deny the Extension because it would be “unreasonable” for the City to require MVS to spend hundreds of thousands of dollars to prepare construction plans, and millions of dollars more in construction costs should the City lose the pending appeal and the SUP be set aside by the Kansas Appellate Courts, the City would require any improvements previously constructed by MVS to be immediately removed.

The statements made by the Planning Commission members were remarkably similar to the analysis contained in the line of cases cited by MVS from non-Kansas courts unanimously holding that the expiration of a permit is stayed by operation of law during the pendency of legal proceedings challenging the legality of the grant of such permit. We explained that even the *Cobbossee Development Group* case cited in your Memorandum is not contrary to the holdings in the other cases cited by MVS, as the Maine court noted that it did not have to undertake the “tolling” analysis because there was a Maine court rule expressly providing for such the granting of a stay upon application to the court, and the applicant in *Cobbossee Development Group* had failed to make a timely request for such stay in accordance with that Maine court rule. Obviously, Kansas has no such court rule and the analysis undertaken by the Maine court in *Cobbossee Development Group* as to why there was no tolling therefore has no application to this matter.

polsinelli.com

Chattanooga Chicago Dallas Denver Edwardsville Jefferson City Kansas City Los Angeles New York Overland Park
Phoenix St. Joseph St. Louis Springfield Topeka Washington, D.C. Wilmington

Polsinelli PC, Polsinelli LLP in California

072868/449966-TJSEA-49330457.4

The language contained in Condition 4 of the MVS SUP (relating to expiration of the SUP if construction is not commenced within two years of the date of the SUP) is consistently and routinely required by the City of Prairie Village as a condition of granting Special Use Permits and was not carefully tailored solely for the MVS SUP. By way of illustration, on December 2, 2014, the Planning Commission recommended approval of a Special Use Permit for Highlawn Montessori to add a second story to one of its buildings with that identical condition. Yet, no one could ever seriously expect that Highlawn Montessori should have to commence adding a new second story to its existing building if an opponent to the Special Use Permit were to file a legal challenge to the issuance of that Special Use Permit. If that were indeed the case, a single disgruntled neighbor could simply file appeals that would cause that Special Use Permit to expire by its own terms in 2 years.

We also pointed out to the Planning Commission that it would be unfair to deny MVS the Extension based on the fact that MVS previously opposed the injunction sought by the Plaintiffs in the District Court. As you will recall, both MVS and the City jointly opposed the injunction sought by the Plaintiffs, which sought to not only enjoin any construction pursuant to the SUP, but also any activities on the entire 18-acre parcel owned by MVS, and to enjoin the construction of single family homes on the 6-acre portion not the subject of the SUP and/or the demolition of the existing middle school. Entry of such a broad injunction was simply unacceptable to MVS for a variety of legitimate business reasons, not the least of which is that demolishing the Mission Valley Middle School will substantially reduce the real property taxes which are currently being assessed against the property.

The Planning Commission also rejected the suggestion that if MVS is unwilling to risk hundreds of thousands of dollars preparing for construction, or risk millions of dollars constructing improvements during the pendency of the appeal, MVS can choose to simply allow the SUP to expire and thereafter file an application for a new SUP. Members of the Planning Commission recognized that this would make no business sense whatsoever as this purported remedy would only likely result in the City facing new litigation over the issuance or non-issuance of a new SUP a year or two from now and that any benefit of having gotten the existing dispute before the Kansas Court of Appeals would be lost. Given that the City has incurred in excess of \$333,000 during 2013-14 in legal fees alone for services that relate to the issuance and appeal of the existing SUP, it is not "reasonable" or practical to suggest that the entire SUP process be started anew when the Kansas Court of Appeals is now in a position to resolve all issues pertaining to the existing SUP.

As you are now likely aware, counsel for Plaintiffs appeared at the Planning Commission to oppose the Extension. Counsel for Plaintiffs argued that it was "premature" for MVS to seek the Extension, although counsel for Plaintiffs stated that he could not dispute that the appeal would likely continue past the January 6, 2016 expiration date. The Planning Commission asked counsel for Plaintiffs when would be the appropriate time for MVS to ask for the Extension if not now—to which counsel for Plaintiffs had no meaningful response.

Based on all of the foregoing, the Planning Commission unanimously agreed that it was in the best interests of the City to approve the Extension rather than force MVS to file a Declaratory Judgment action to determine whether Kansas courts would follow the unanimous line of case law mentioned above. At the request of the Planning Commission, MVS voluntarily agreed to reduce the time period in which to commence construction to 14 months after the SUP is determined to be a final and non-appealable SUP.

No party is more interested in commencing the immediate construction of Mission Chateau once all pending legal issues have been resolved than MVS. In fact, as stated in our presentation to the Planning Commission, MVS is most anxious to complete construction and obtain permanent financing during the current low-interest environment, for even a one percent increase in interest rates would equate to \$400,000 per year in additional interest expense on a \$40,000,000 permanent loan. However, it would be “unreasonable” to require MVS to proceed forward until the legal validity of the SUP has been fully and finally resolved.

The issue of whether to grant MVS a Special Use Permit is no longer before the City. The issue of whether the City followed the proper procedure in granting the Special Use Permit is currently pending before the Kansas Court of Appeals. The sole issue now before the City is whether the Special Use Permit should be extended to allow all parties to find out whether the prior grant of the Special Use Permit was indeed valid, and then allow MVS with a reasonable period of time in which to proceed with construction if the SUP is upheld.

Your Memorandum focused only on factors and arguments as to why a court might determine why it was not “unreasonable” for the Planning Commission and Governing Body to deny the request for the Extension. However, your Memorandum failed to discuss any of the numerous and compelling factors and arguments as to why it would not only be “reasonable” to grant the Extension, and perhaps more importantly, why a court might determine why it would be “unreasonable” for the Governing Body to deny the Extension. Those factors and arguments include the following:

- The Planning Commission unanimously recommended that MVS be granted a 14 month extension and the Governing Body cannot ignore the various reasons stated on the record which supported that recommendation.
- Granting the Extension does not prejudice any party. The validity of the SUP will be determined by a Kansas appellate court in due course and none of the parties to that litigation have any control over when that decision will be rendered.
- Granting the Extension allows the City to avoid the legal fees that will be required to defend a Declaratory Judgment action with respect to the tolling issue. All of the relevant case law which has examined the tolling issue has unanimously held that tolling occurs by operation of law upon the filing of an appeal with regard to a permit that has a

Catherine P. Logan Esq.
December 10, 2014
Page 4

performance deadline. There can and should be little doubt that a Kansas court would issue a ruling consistent with the cases we have cited. The City has spent more than \$333,000 on Mission Chateau related legal issues, and there is absolutely no tangible benefit to be obtained by the City in engaging in unnecessary and expensive litigation over the tolling issue.

- A vote to grant the Extension is not an endorsement of the SUP, but rather a recognition that the Kansas appellate courts are in the process of determining the validity of the SUP.

- The last thing that any opponent of Mission Chateau really wants is for MVS to actually proceed with demolishing the school. One additional benefit to granting the Extension is that Mission Valley Middle School can remain in place and available for a possible future user in the event that the pending appeal overturns the SUP.

MVS looks forward to appearing before the Governing Body on December 15 to seek the Extension.

Sincerely,



Timothy J. Sear

TJS:mgs

cc: Joyce Hagen Mundy, City Clerk
Joseph Tutera
Michael F. Flanagan, Esq.
John D. Petersen, Esq.

COUNCIL COMMITTEE OF THE WHOLE
December 1, 2014

The Council Committee of the Whole met on Monday, December 1, 2014 at 6:00 p.m. in the Council Chambers. The meeting was called to order by Council President Ashley Weaver with the following members present: Mayor Ron Shaffer, Jori Nelson, Ruth Hopkins, Steve Noll, Eric Mikkelson, Andrew Wang, Laura Wassmer, Brooke Morehead, Dan Runion, David Morrison, Ted Odell and Terrence Gallagher.

Staff Members present: Wes Jordan, Chief of Police; Keith Bredehoeft, Director of Public Works; Katie Logan, City Attorney; Quinn Bennion, City Administrator; Kate Gunja, Assistant City Administrator; Nolan Sunderman, Assistant to the City Administrator; Lisa Santa Maria, Finance Director and Joyce Hagen Mundy, City Clerk. Also present were Community Service Officer Cindy Gaunt and Captain Wes Lovett

COU2014-32 Consider approval of revisions to the animal control ordinance and additional information on beekeeping

Chief Wes Jordan noted that staff had continued to research the possibility of allowing beekeeping as a hobby in Prairie Village. He introduced Dennis Patton, a K-State Research and Extension Horticulture Agent for Johnson County, who presented an overview of beekeeping listing the pros and cons. The primary concern with bees is the fear of being stung, although Mr. Patton stated that honeybees are docile and do not attack, but only defend; unlike the more aggressive stinging insects such as hornets and yellow jackets. Another concern is the swarming of bees as they move their colonies.

Beekeeping has seen a recurrence in recent years as a hobbyist venture. They provide a source of food which can grow into a small business with the sale of honey at local markets. Bees provide much desired pollination for fruits and vegetables. Beekeeping is educating the public as to the role of bees in our society and the benefits of the honey they produce.

Laura Wassmer noted she attended two beekeeping classes through Johnson County Community College and is a strong proponent of allowing beekeeping. She has planted bee attracting flowers and fruits and has several bees in her backyard. They are not aggressive and neither she nor her guests have been stung. She asked if beekeeping was allowed how much backyard is needed and if there is a specific distance these hives should be located from adjoining properties. Mr. Patton responded he has reviewed regulations from several cities allowing beekeeping and all have established setbacks from property lines and some also require some kind of barrier surrounding the hives and regulate the number of hives per square foot. Ms Wassmer asked what makes bees become defensive. Mr. Patton suggested that individuals do not swat at them.

Terrence Gallagher asked how often the bees go out in search of a new location and if they move to trees or would look for another established home. Jonathan Callison,

5002 West 70th Terrace responded that bees are not aggressive and stay very close to their hives. He suggested placing a privacy fence around the hives forcing the bees upward. They would maintain that level while flying and would not be buzzing around people's heads. He noted honey bees like mature trees and thus are very attracted to the Prairie Village area. He suggested proposed regulations require hives to place 20' from the property line and enclosed. He added that there should be a water source nearby as bees need water.

Dr. Jay Culver, 4721 West 81st Street, stated the City of Springfield, Missouri has a very well written ordinance addressing beekeeping and suggested that it be used as a model for proposed ordinances in Prairie Village. He noted the Overland Park regulations are somewhat out of date.

Chief Jordan noted the primary concern is for individuals who have bee allergies. He stated staff have reviewed the ordinances of other area cities that allow beekeeping. He noted that enforcement of the ordinance would be shared between the Police Department and Code Enforcement. He would like to keep the ordinance simple and easy to enforce.

Laura Wassmer recommended at this point the city look at creating an ordinance to allow beekeeping with input from a beekeeper. She asked if there were better locations for hives that would impact the setback requirements. She feels this is environmentally the right thing to do.

Dennis Patton stated the beekeepers will need to work around the regulations established.

Mr. Callison noted the bee allergies are seldom life threatening. Prairie Village currently has a large population of feral honey bees because of its mature trees. Mr. Patton noted a study by the Penn State found that more people die being hit from lightning than bee stings.

Terrence Gallagher noted the bee population is on decline and suggested that these regulations continue to be research but moved out of the animal regulations so they could be adopted. Mr. Mikkelson agreed with Mr. Gallagher and Ms. Wassmer that the city should move forward as he saw more pros than cons to allowing beekeeping.

Teen Council member Kyle Baker noted that honey bees are the state insect of Kansas.

Chief Jordan stated he would like to see consistency with Johnson County ordinances and to stay with the basics and move forward from there. Laura Wassmer wanted input from the individuals interested in beekeeping.

Steve Noll advised that there needs to be a clear understanding of enforcement and responsibilities for investigation and mitigation.

Cindy Gaunt noted there are swarms in Prairie Village and Animal Control has a list of individuals they call for assistance.

Animal Control Regulation Changes

Chief Wes Jordan reviewed the proposed changes suggested at the October 20th review of the proposed code as follows:

Section 2-102 (b) the word “governmental” jurisdiction was added as well as the following sentence: “Animal Control will evaluate pending requests to ensure the designation was based on equivalent factors by definition.”

Section 2-107 (a) (4) reads “ Excessively barks, whines, howls or creates any other disturbance which is continuous or untimely (disturbance factors include, but not limited to, time of day, volume, length of time, etc.). If the violation is not witnessed by the Animal Control Officer and/or Law Enforcement Officer, the complainant making such statement must agree to sign a complaint and testify in court if requested”

Section 20115 in the second sentence the code reference should be 2-110, not 2-109.

Section 2-131 Tethering has been revised to follow the guidelines established by the National Animal Control Association and reads as follows:

2-131 TETHERING

- (a) It is unlawful to attach chains or other tethers, restraints or implements directly to a dog without the proper use of a collar, harness or other device designed for that purpose and made from a material that prevents injury to the dog.
- (b) It is unlawful for any person to:
 - (1) Continuously tether a dog for more than one continuous hour. A dog may be tethered 3 hours total within a 24 hour time period providing there is a 3 hour break between each period of tethered time. For the purpose of tethering a dog, a chain, leash, rope or tether must be at least ten feet in length.
 - (2) Use a chain, leash, rope, collaring device, tether, which restricts the free movement of the animal (i.e. the device should not weigh more than one-eighth of the animal’s body weight).
 - (3) Tether a dog in such a manner as to cause injury or strangulation, or entanglement of the dog on fences, trees, posts or other manmade or natural obstacles.
 - (4) Tethered for any length of time anywhere in the City when they are off the owners, keepers or harborer’s property.

Jori Nelson stated she would like to see language added requiring available access to food and water while tethered. Wes Jordan responded that is covered elsewhere in the code. Ms. Nelson stated she would like to see a reference made to that code in this section.

Quinn Bennion noted that draft ordinance will need to be practical for enforcement ability and will generally require having a neighbor document the violation. Chief Jordan confirmed that cooperation will be needed, although he added there are some known homes that animal control frequently visits. He stressed these requirements are those recommended by the NACA.

Section 2-138 (f) is the separation of the language that addresses animal bite procedures into a separate paragraph.

Laura Wassmer suggested adding clarifying language “After being found guilty ...” Chief Jordan responded that he would have the city attorney review the language.

Eric Mikkelson commended Chief Jordan on his approach to these major revisions allowing for multiple reviews. He noted the section references in Section 2-12 and 2-133 need to be cleaned up.

COU2014-50 Consider City Council Policy Revisions

Nolan Sunderman noted that following the budget discussions at the May 6, 2013 City Council meeting, an ad hoc committee was established to review required resources and current structure of all citizen committees in the City of Prairie Village. The ad hoc committee met several times to discuss the roles and responsibilities, dedicated staff time, and financial resources for each of the committees. A survey was distributed to all committee members for their input regarding the possible elimination, consolidation, or reformation of their committee as well as other topics such as term limits, leadership selection, staff time, and funding. Additionally, staff representatives for the committees were consulted in regards to the roles and responsibilities of the committees and their value to the organization. The Committee presented its findings and recommendations to the City Council on July 7, 2014. With the Council’s direction, the on the Committees meeting met again on October 3, 2014. Letters were also sent to the committee members whose committees are being recommended for dissolution inviting them to the December 1 City Council meeting where formal action to change the related policies would be considered.

The Committee on Committees recommends the following proposed revisions in the City Council Policies CP001 entitled Public Committees and the repeal of CP006 entitled “Guidelines for Animal Control Committee” and CP610 entitled “Communications Committee” :

- **CP001**

- Strikethrough and delete Section V.A.1. Communications Committee

- Strikethrough and delete Section V.A.6. ADA Advisory Committee
- Strikethrough and delete Section V.A.7. Homes Association Committee
- **CP006**
 - Strikethrough and delete CP006 – Animal Control Committee
 - Additional changes to the Animal Control Committee will be proposed with the Municipal Code Chapter 2 revisions.
- **CP610**
 - Strikethrough and delete CP610 – Communications Committee

It is recommended these proposed revisions become effective January 2, 2015.

Brooke Morehead stated more than a year was spent in this review to make city committees more efficient and effective.

Eric Mikkelson added these changes are being made for efficiencies, noting that the function covered by these committees is valuable and is merely being moved under another structure for greater efficiency. He stated it is important to reengage the committee members who have served on these committees into other opportunities for engagement and service.

Laura Wassmer stated that she was supportive of the changes and made the following motion, which was seconded by Ruth Hopkins and passed unanimously:

MOVE THE CITY COUNCIL APPROVE THE FOLLOWING REVISIONS TO CITY COUNCIL POLICY CP001 ENTITLED “PUBLIC COMMITTEES”: 1) DELETE SECTION V.A.1 “COMMUNICATIONS COMMITTEE”; 2) DELETE SECTION V.A.6 “ADA COMMITTEE”; 3) DELETE SECTION V.A.7 “HOMES ASSOCIATION COMMITTEE AND REPEAL COUNCIL POLICIES CP006 “GUIDELINES FOR ANIMAL CONTROL COMMITTEE” AND CP610 “COMMUNICATIONS COMMITTEE

**COUNCIL ACTION REQUIRED
CONSENT AGENDA**

Discussion regarding definition of “Trucks” in the Municipal Code

Chief Jordan stated over the past few months the City Council has discussed revisions to the Recreational Vehicles and Equipment Parking and Storage provisions that are currently located in the Zoning Regulations Chapter 19.38. As part of an update to these provisions, Council is considering moving this Chapter into the City Code as a new Article at the end of Chapter XI.

As part of these revisions and the movement of these regulations Police Department and Codes Administration staff have discussed updating the definition of “Truck”. Chief indicated that these codes written in the 70’s are not working in 2014. He stated the Police Department has been enforcing what they believe to be the intent of the

regulations - not as the regulation is written. Currently there is a definition of truck in the definitions for 19.38 as well as a definition in the municipal code 11-711. Staff is recommending changes to the definition to which currently focuses the gross weight of the vehicle to consider all vehicles that are not passenger-type vehicles as commercial vehicles and "Trucks".

Sgt. James Carney stated that the current definition identifies a truck as any vehicle that can carry 1500 pounds or more. The definition further limits where these vehicles can be driven. They are not to be driven on side streets unless travelling to a specific location. They are to travel on identified truck routes moving onto side streets only as required to reach a specific location.

Sgt. Carney reviewed a PowerPoint presentation that depicted several vehicle types with discussion as to whether they should be considered as a "truck". Under the current definition the common pick-up truck (Chevy 1500 or Ford F-150) would be considered trucks. Some of the other areas of confusion involve Cargo Vans that are becoming more popular. These are large enough for commercial use, yet may also be owned and used by families. Buses are identified by state statutes as any vehicle carrying 10 or more people. They would travel truck routes until they were close to their destination and then cross over to side streets.

Chief Jordan added that Mission Hills does not allow buses.

Quinn Bennion noted being defined as a "Truck" prohibits the following: 1) not able to use side streets—must travel on truck routes' 2) not allowed to park on the street overnight and 3) not allowed to park in driveways in residential districts overnight.

Terrence Gallagher noted the increased use of vans for medical reasons adapted to provide for wheelchair or handicapped travelers as well as by churches for youth groups.

Andrew Wang questioned if a van were not a commercial use would it fall under the RV regulations. Chief Jordan responded the proposed ordinances for trucks and Recreational Vehicles will be entirely separate and located in different chapters of the code.

Jori Nelson asked about the "commercial trucks" used and driven home by employees. Chief Jordan replied that there are several residents who are required to drive their work vehicle home as part of their job and this is allowed.

David Morrison asked about medical vans equipped for handicapped travel. Sgt. Carney responded these are allowed.

Eric Mikkelson stated he has received complaints regarding construction vehicles on 71st Street on a regular basis due to the number of on-going construction projects. Sgt. Carney responded if the Police are called, they will go out and talk with foreman regarding the parking of these vehicles.

Mr. Mikkelson asked where the line would be drawn in the proposed ordinance. Sgt. Carney responded there would be a lengthy description of the vehicles. Any vehicles with modified flat beds are considered trucks. The proposed language would be presented to the City Council on December 15th. Mr. Mikkelson asked if the vehicle was not on the list if it would be considered prohibited or allowed. Sgt. Carney replied the list is quite exhaustive.

Terrence Gallagher noted the situation where small vehicles are parked overnight on the street, generally related to seasonal construction.

Laura Wassmer moved to recess the Council Committee of the Whole until after the conclusion of the City Council meeting to consider the remaining items on the agenda. The motion was seconded by Brooke Morehead and passed by a majority vote.

Council President Ashley Weaver recessed the meeting at 7:25 p.m.

Council President Ashley Weaver reconvened the Council Committee of the Whole meeting at 8:25 p.m.

Consider approval of the Concept of a Weekly Textile Recycling Program

Quinn Bennion provided an overview of a Textile Recycling program that has been proposed for the City of Prairie Village. This is a new and innovative approach to diverting waste from the landfill by providing a convenient way for residents to donate used clothing, shoes, linens and small household wares.

Currently, residents have several options for donating/disposing textiles for reuse:

- Drop off at thrift store such as Goodwill, Salvation Army, Savers, Red Racks, or other place.
- Donation bins in parking lots. There are at least 3 locations in Prairie Village to drop in donation bins, but the bins are not specifically addressed within the zoning code and not encouraged as they are not regularly screened.
- Utilize a driveway pickup from charitable organization that use mail marketing or phone solicitation.

Mr. Bennion noted the City has provided curbside service for many years, servicing solid waste collection, compost, mixed recycling, and in a few neighborhoods, food composting. The curbside textile recycling program would provide another convenient option and will benefit the local 501(c)3 organization that supports the City.

Mid-year 2014, representatives of Team Thrift approached city staff to inquire about placing donations bins in parking lots within the City. City staff shared that while the bins are not specifically permitted or prohibited in the zoning code, the bins are not consistent with the character of our commercial areas. Several months later, Team Thrift representatives proposed the idea of launching a weekly curbside pick-up for recyclable textile materials. The materials collected could be used in a local thrift store or bundled

and sold to another end user, potentially outside the country. The revenue from the collected materials would be shared between the provider and the Prairie Village Municipal Foundation, the City's non-profit supporting organization.

As part of the exploration process, staff introduced the concept to the Environmental Committee and Municipal Foundation.

Under an agreement, the City would be responsible for the following items:

- Help promote the program and educate residents using existing communication methods
- Support the program by answering questions or missed pick-up calls. This role is similar to the solid waste/recycling contract
- Process the revenue sharing check from provider for Municipal Foundation

The provider would be responsible for the following items:

- Provide weekly city-wide pickup of textile recycling for all residential houses. The collection would be on the same pick-up day as trash services.
- Provide staff, equipment and a truck with associated insurance and indemnity similar to the solid waste contract.
- Collect the textile donations.
- Measure the weight of donations daily.
- Provide the city with a monthly report of performance and revenue sharing.
- Pay Municipal Foundation based on the weight collected each payment period.
- Determine the best use for the collected product.

The donations would be placed in a distinct colored bag with the Foundation's logo. Pick-up would coincide with the neighborhood trash schedule. The donation bag should be placed in front of the garage doors or on the driveway. Residents will be asked to keep the bags away from the trash at the curb as it will cause confusion for the solid waste hauler. 30-gallon bags will be provided to each household at the start of the program for dispensing of old, unwanted textiles. Additional bags will be provided when recycled textiles are picked up by the provider. The hauler will also leave a 501c3 donation slip from the Municipal Foundation on each house door with donations.

The provider's trucks would be clearly marked, and services would be provided by a uniformed staff member. A customer service phone number would be established and managed by the provider to provide contact for residents.

Team Thrift representatives estimate a 2% participation rate per week with an average of two bags per participating household (70 lbs of donations). If this estimate holds, the revenue sharing would generate \$50,000-\$70,000 annually for the Municipal Foundation.

Mr. Bennion presented two options for consideration by the City Council. With Option 1, the city would set criteria and develop an agreement for potential bidders to review and submit proposals for a competitive bid. With this being a new and rare program, the

interest level in providing the service is unknown. It would be anticipated that the agreement would be for five years, similar to the solid waste contract. Developing a bid packet and process will take several months. The potential start date is late 2015.

With Option 2, an agreement for a 1-year pilot program with Team Thrift would be developed. As this is a new and untested program, the one-year pilot would allow the city and provider to assess the advantages and disadvantages of the program without a multi-year commitment; however, the one-year pilot is a riskier proposition for Team Thrift as they would be committed to staff, vehicle and equipment. The one-year arrangement would reduce implementation time and could start as early as April 2015.

Environmental Committee generated the idea of the one-year pilot program and preferred this option as the new program has risk involved and may not be as successful as anticipated.

The city's direct cost is anticipated to be minimal. Staff time would be associated with program, which includes using City social media accounts, the City website, and local news outlets to promote the program. City hall staff would also receive complaint call (and compliments) that would be coordinated with the provider.

Mr. Bennion stated that Scott Blomquist and Dan Cogan with Team Thrift are present to answer any questions.

Laura Wassmer stated she heard the presentation to the Municipal Foundation and is strongly supportive of the program. She noted over the years she has thrown out several clothing items that were stained or torn and unable to be donated for use by others and this service would have provided an excellent environmentally friendly option for disposal.

Ted Odell stated he felt it was a good idea; however, he expressed concern the impact on other collection and the need to make sure the donations made it to the desired location.

Mr. Bennion responded that being a new program, the city had no way to measure the interest in the program by residents. Ruth Hopkins noted that is one of the reasons the environment/recycle committee suggested a pilot program

Andrew Wang stated he is interested in investigating further and stressed the need to make sure the partnership is with a reputable organization. Mr. Bennion responded the Municipal Foundation would be the charitable partner.

Scott Blomquist with Team Thrift state they work with the Disabled Veterans' collection as well as City Union Mission. They are also involved in selling projects to companies that ship materials outside the US or use the materials for recycled products such as Polyester which is used in recycled plastics.

Laura Wassmer asked if the city decided to go forward with the one-year pilot if Team Thrift would be interested in doing the program. Mr. Blomquist responded they would most definitely based on Prairie Village's reputation as one of the top five cities in the nation for recycling. They feel the response in Prairie Village would be excellent and would operate the program themselves with the funds being given to the Prairie Village Municipal Foundation.

Terrence Gallagher stated he believed the one year pilot is a great option as it provides the opportunity to evaluate its success. He confirmed that Team Thrift would be responsible for the trucks, insurance, employees, etc.

Brooke Morehead made the following motion, which was seconded by Laura Wassmer and passed unanimously:

MOVE THE CITY COUNCIL DIRECT CITY STAFF TO NEGOTIATE AN AGREEMENT WITH TEAM THRIFT FOR A ONE-YEAR TEXTILE RECYCLING PILOT PROGRAM WITH THE MUNICIPAL FOUNDATION AS THE BENEFITTING ORGANIZATION WITH A SIX MONTH REVIEW OF THE PROGRAM

**COUNCIL ACTION REQUIRED
CONSENT AGENDA**

COU2014-49 Consider Approval of Council Policy CP029 entitled "Remote Participation for City Council Meetings

Quinn Bennion stated that at the August 18, 2014 City Council meeting, Councilmember Nelson requested that the City Council consider allowing remote participation for City Council meetings. Currently, the City has no policy to allow for remote participation in the event a councilmember is unable to physically attend, but is otherwise able to take part in deliberations and decision-making. A work group was formed consisting of Councilmembers Jori Nelson, Steve Noll, and Andrew Wang. The work group met on September 30 to discuss components of a proposed policy and research conducted by Councilmember Nelson.

A policy has been drafted for consideration that would allow for remote participation during the City Council meetings by members of the Council. This draft policy also establishes a set of rules for city staff and the Governing Body when pursuing the use of remote participation. The city does have adequate technology in place to allow for one Councilmember at a time to participate remotely. Research is being conducted on a conference bridge feature should more than one councilmember choose to participate remotely during the same meeting.

Mr. Bennion reviewed the following guidelines established by the proposed policy:

- Remote participation is intended for council members who cannot physically attend meetings for reasons of physical illness, injury or disability, personal emergencies, military service, or geographic distance.

- Remote participation will only be used for City Council meetings.
- The Mayor or chair of the meeting is not allowed to participate remotely.
- All council members will be subject to a limit of two City Council meetings per year in which remote participation can be used.

Ted Odell raised the following concerns: how do you know who is on the other phone, how do you keep the dialogue going and what impact will it have on the efficiency of the meetings. He noted dates for meetings are established and he works around meetings in the scheduling of trips and other commitments.

Chief Jordan stated that this has been used by the Mission Hills City Council. It was difficult to hear the individual and the call was dropped several times without the City knowing.

Eric Mikkelson stated this is a good idea and he is confident that any technology issue that arise can be overcome. He wants the opportunity for wards to be represented particularly on critical issues and would hope that it would rarely be used but feels it is in the city's best interest to have it available.

Steve Noll stated that policy allows for it to be used two times during the year.

Jori Nelson noted that Council members are not required to use remote call in process. It is in place for those rare occasions where it is needed.

Laura Wassmer stated she is on the fence on this issue noting that she has been on the council several years without this being a problem. She has been on several conference calls where the kids/dogs and other background noise from the individual on-line has made it very difficult to hear and carry on a conversation. While she understands and appreciates the intent, she is not confident it would be a pleasant or productive experience.

Andrew Wang stated he was supportive of the recommendation. While it appears to have some limitations, he does not feel they are significant enough to not try implementation.

Terrence Gallagher noted it is very difficult when you have substantial dialogue for the caller to participate. Katie Logan stated the individual calling would need to ask to speak and the Council would need to be sensitive to allowing them speak and not speak over them.

Ted Odell asked if this technology could be tested before moving forward on the policy. Eric Mikkelson stated the policy addresses the issue where the communication connection is not working. He feels that Mayor Shaffer and Council President Weaver are very good at asking if there are any questions and that the caller would be able to be recognized.

Youth Council member Kyle Baker mentioned the possibility of using Face Time.

Jori Nelson noted the number of other cities that have a similar policy in place and asked Mr. Bennion how it worked in Merriam. Mr. Bennion responded it added a different dynamic to the meeting, but it is doable and it could be tested in advance. Ms. Nelson asked if staff was aware of anyone doing this via “face time”. Staff responded none to their knowledge.

Laura Wassmer responded that she would like to try it for a trial period with the policy not becoming effective until it has been tested. Jori Nelson questioned the setting of a trial period as the policy is not expected to be used frequently and it may be months before its first use.

Steve Noll suggested that rather than get hung up on technology; he views this as a philosophical question - “is it possible to participate in a City Council meeting without being present?” If the Council feels that is acceptable, the policy should be approved.

David Morrison felt members could and do make every effort to attend meetings; however, he noted the difficulty the staff had in the past scheduling a meeting where everyone would be present for consideration of the Meadowbrook application that needed a supermajority vote.

Eric Mikkelson stated a trial period is fine, but noted the policy could be repealed by the City Council if it is not working at any time.

David Morrison made the following motion, which was seconded by Steve Noll and passed by a vote of 9 to 2 (Hopkins, Odell) with one abstention (Gallagher).

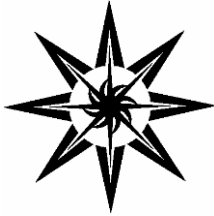
**MOVE THE CITY COUNCIL ADOPT COUNCIL POLICY #029
ENTITLED “REMOTE PARTICIPATION FOR CITY COUNCIL
MEETINGS**

COUNCIL ACTION REQUIRED

ADJOURNMENT

With no further business to come before the Council Committee of the Whole, Council President Ashley Weaver adjourned the meeting at 9:02 p.m.

Ashley Weaver
Council President



Consider Policy Allowing for Remote Attendance at City Council Meetings

Recommended Motion:

Move that City Council approve Council Policy #29 regarding remote participation.

Background:

At the August 18, 2014 City Council meeting, Councilmember Nelson requested that the City Council consider allowing remote participation for City Council meetings. Currently, the City has no policy to allow for remote participation in the event a councilmember is unable to physically attend, but is otherwise able to take part in deliberations and decision-making. A work group was formed consisting of Councilmembers Jori Nelson, Steve Noll, and Andrew Wang. The work group met on September 30 to discuss components of a proposed policy and research conducted by Councilmember Nelson.

The attached policy has been drafted to allow for remote participation during the City Council meetings by members of the Council. This draft policy also seeks to establish a set of rules for city staff and the Governing Body when pursuing the use of remote participation. The city does have adequate technology in place to allow for one Councilmember at a time to participate remotely. Research is being conducted on a conference bridge feature should more than one councilmember choose to participate remotely during the same meeting.

Summary of Policy:

- Remote participation is intended for council members who cannot physically attend meetings for reasons of physical illness, injury or disability, personal emergencies, military service, or geographic distance.
- Remote participation will only be used for City Council meetings.
- The Mayor or chair of the meeting is not allowed to participate remotely.
- All council members will be subject to a limit of two City Council meetings per year in which remote participation can be used.

Attachment:

Council Policy #29 on remote participation

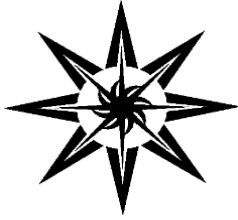
Comparison of area city's remote participation policies compiled by city staff

Prepared By:

Quinn Bennion

City Administrator

Date: November 11, 2014



City Council Policy #29: Remote Participation for City Council Meetings

Effective Date:

Approved By:

I. PURPOSE

To establish a policy allowing for and regulating remote attendance for City Council members who are not physically present at City Council meetings so they may participate in the decision process for matters of high importance to the City. Council members are strongly encouraged to physically attend meetings whenever possible.

II. RESPONSIBILITY

The City Administrator is responsible for administering the policy and making information related to remote participation available.

III. DEFINITIONS

“Remote Participation” is defined as the participation of a council member who is not physically present.

IV. POLICY

- A. To be eligible to participate in a city council meeting remotely, a council member should give 24 hours’ notice to the City Administrator or his or her designee.
- B. Remote participation is intended for council members who cannot physically attend meetings for reasons of physical illness, injury or disability, personal emergencies, military service, or geographic distance.
- C. The remote participation policy is subject to the following restrictions:
 1. Remote participation will only be used for City Council meetings. Remote participation will not be used for executive sessions, training, council retreats, workshops, field demonstrations, committee meetings, or committee of the whole meetings.
 2. A quorum, not including any remote participant(s), must be physically present for remote participation to occur. The Mayor or chair of the meeting is not allowed to participate remotely.
 3. Remote participation will not be used for any meeting that takes place outside of the Council Chamber at Prairie Village City Hall.
 4. All council members will be subject to a limit of two City Council meetings per year in which remote participation is accepted for attendance. Any meeting in which a council member utilizes the remote participation policy, whether attended in whole or in part via remote participation, will count toward the two-meeting-per-year limit specified above.
- D. A council member utilizing remote participation must be capable of fully participating in the meeting, must be able to adequately communicate with all other members of the Governing Body, city staff, or other parties present at the meeting, and should

- make all reasonable effort to be fully aware of all discussions, votes, activities, presentations, and any other conveyances of information occurring at said meeting.
- E. In the event that full participation requires the use of documents, briefs, visual presentation of information, or any information conveyed via physical media, city staff will make reasonable efforts to assist in providing council members utilizing remote participation with the information, via physical or electronic means.

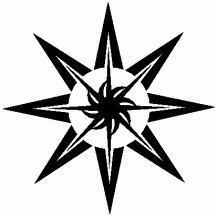
V. PROCEDURES

- A. Upon request for remote attendance by a council member, and if qualifications for remote participation are met, the City Administrator will direct city staff to make accommodations for the possibility of remote attendance.
- B. Remote participants are permitted to use any method that allows them to be heard by those physically present at the meeting, and to hear all activities and discussion of the meeting clearly. Visual methods are permitted but not required.
- C. The names of any remote participant(s) will be stated during roll call and remote participation will be explicitly noted for the record. The entrance, exit, or re-entrance of the meeting by any remote participants will also be noted in the meeting minutes.
- D. The remote participant will verify at the beginning of the meeting his or her identity and confirm that he or she is able to fully participate and is not unduly influenced by others, and that his or her participation will be full and absent distraction.
- E. Should the remote participant experience technical difficulties, discussion will be suspended until the remote participant is again able to be fully present. Should technical difficulties occur, the mayor will retain authority to discontinue any remote participation and continue the meeting.
- F. In general, delays collectively lasting longer than fifteen minutes will result in discontinuation of remote participation and termination of any remote connection, at the Mayor's discretion.

Area Cities Remote Participation Information

City	Contact	Remote Attendance allowed? Yes/No, Notes
Fairway	Abbie Aldridge, Admin Clerk	Yes; Allows phone-ins
Leawood		Yes; Allowed in city code; See link below; Section 1-115 http://www.leawood.org/pdf/code/Chapter%201%20Article%201WEB.pdf
Lenexa	David Bryant, City Clerk	No; Phone link-ups do not constitute attendance
Merriam	Juli Pinnick, City Clerk	Yes; Provision in governing body rules allows for remote attendance; any councilmember using provision is questioned by City Attorney at start
Mission	Glen Cole, Intern	Yes; City recently approved remote participation policy
Mission Hills	Courtney Christensen, City Admin.	Yes; Allows phone-ins; no policy or ordinance
Olathe	Tracy Howell, City Clerk	Yes; Generally yes but no remote attendance for executive session No formal policy adopted. Also used for inclement weather
Overland Park	Elizabeth, City Clerk's Office	No; Has happened at one point under extenuating circumstances
Roeland Park	Joe Blankenship, Admin Asst.	Yes; Allows phone-ins
Shawnee	Katie Killen, Asst. City Manager	No; Has not been allowed in the past

Completed by Eric Schumacher, Management Intern, September 2014



COMMITTEE ON THE COMMITTEES

Council Committee Meeting Date: December 1, 2014

Council Meeting Date: December 15, 2014

COU2014-50: Consider City Council Policy Revisions

RECOMMENDATION

The Committee on the Committees recommends the following proposed revisions in the City Council Policies:

- CP001
 - Strikethrough and delete Section V.A.1. Communications Committee
 - Strikethrough and delete Section V.A.6. ADA Advisory Committee
 - Strikethrough and delete Section V.A.7. Homes Association Committee
- CP006
 - Strikethrough and delete CP006 - Animal Control Committee
 - Additional changes to the Animal Control Committee will be proposed with the Municipal Code Chapter 2 revisions.
- CP610
 - Strikethrough and delete CP610 - Communications Committee

It is recommended these proposed revisions become effective January 2, 2015.

BACKGROUND

Following the budget discussions at the May 6, 2013 City Council meeting, an ad hoc committee was established to review required resources and current structure of all citizen committees in the City of Prairie Village. The ad hoc committee has met nine times to discuss the roles and responsibilities, dedicated staff time, and financial resources for each of the committees. A survey was distributed to all committee members for their input regarding the possible elimination, consolidation, or reformation of their committee as well as other topics such as term limits, leadership selection, staff time, and funding. Additionally, staff representatives for the committees were consulted in regards to the roles and responsibilities of the committees and their value to the organization. The City Council was informed of these recommendations during the July 7, 2014 Committee of the Whole meeting. Another Committee on the Committees meeting was held on October 3, 2014. Letters were also sent to the committee members whose committees are being recommended for dissolution inviting them to the December 1 City Council meeting.

ATTACHMENTS

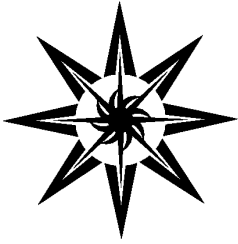
CP001 - Final version

PREPARED BY

Nolan Sunderman

Assistant to the City Administrator

Date: 11/18/14



City Council Policy: CP001 - Public Committees

Effective Date: January 2, 2015

Amends: CP001 - dated February 19, 2008

Approved By: Governing Body

I. SCOPE

II. PURPOSE

A. To establish public committees which will allow citizen involvement and provide recommendations to the Governing Body.

III. RESPONSIBILITY

A. The Mayor and Council shall be responsible for appointing members to serve on the committees established by this policy.

IV. DEFINITIONS

V. POLICY

A. There are established, in the city, public committees with the following requirements for membership, meetings and duties:

1. Insurance Committee

- a. The Mayor shall appoint council members as Chairman and Vice-Chairman. In addition, the Mayor will appoint four other members who have an insurance background.
- b. The Committee will meet as needed to monitor and discuss insurance issues relating to the City, and to recommend insurance bid award, when applicable.

2. Prairie Village Arts Council

- a. The Mayor shall appoint a Councilmember to serve as the reporting member of this committee for a one year term. In addition, the committee will include a Chairman and ten members, preferably representing each Ward in the city, and two youth representatives appointed by the Mayor with a consent of the Council. These eleven members will be appointed to serve a three year term and will serve without compensation. The youth representatives will serve one year terms. Vacancies which occur in these twelve appointments shall be filled by appointment of the Mayor with the consent of Council for the unexpired term.
- b. The Prairie Village Arts Council will meet as needed at a time and place designated by the Governing Body and/or the Chairman.
- c. The Prairie Village Arts Council will recommend to the Governing Body policies and guidelines on matters pertaining to: promotion and development of the arts in Prairie Village, acquisition of art for the city's identification graphics, landscaping of city facilities, and development of cultural activities for the city.

3. Environment/Recycle Committee

- a. The Mayor shall appoint two Council members to serve as reporting members of this committee to serve for a one year term.
- b. The Environment/Recycle Committee will meet from time to time when called by the Chairperson or Vice-Chairperson or three members of the committee.
- c. Committee to serve a three year term without compensation. The committee will include two youth representatives who will serve one year terms. Vacancies shall be filled by the Mayor & Council for the balance of the unexpired term.
- d. Members shall select the officers of the committee including, but not limited to; a Chairperson and Vice-Chairperson to serve for a one year term without compensation.
- e. The Environment/Recycle Committee will recommend to the governing body policies, guidelines or programs including but not limited to maintaining and enhancing air quality, reducing waste disposal in landfills, increasing awareness of the need to conserve natural resources and generally educating the public on methods to protect the environment.

4. Prairie Village Sister City Committee

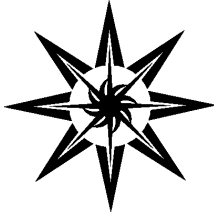
- a. The Mayor shall appoint a council member to serve as the reporting member of this committee for a one year term. The committee will elect a Chairperson and a Vice-Chairperson. These two members will

CP001 - Public Committees

- serve for a two year term and will serve without compensation. There shall be no limit on the number of consecutive terms an officer can serve. The Staff Liaison person will serve as Secretary/Treasurer.
- b. Nine regular members shall be appointed for three year staggered terms with three term expirations occurring in March each year. If a vacancy occurs, a replacement appointed by the Mayor shall fulfill the remainder of the term. Near the expiration of a member's term, the Chairperson shall recommend in writing to the Mayor whether the member should be reappointed for another three year term.
 - c. The committee may include two youth representatives who shall serve one year terms. These representatives will be appointed by the Mayor, at the recommendation of the Chairperson.
 - d. Elections of Chairperson and Vice Chairperson will be held bi-annually at the regular meeting in February. A nominating committee including the Chairperson, the Council Liaison and a member at large agreed upon by the Chairperson and the Council Liaison will propose a slate of officers. Nominations may also be made from the floor at the time of the election. If a vacancy occurs in the office of the Vice Chairperson, those duties will be fulfilled until the next election by the committee member most senior in time of service on the committee.
 - e. The Prairie Village Sister City Committee shall meet from time to time when called by the Chairperson or by the Vice Chairperson. A quorum will consist of a simple majority of the number of currently filled seats.
 - f. The Prairie Village Sister City Committee will recommend to the Governing Body [policies, guidelines or programs including, but not limited to: promotion of cultural ties between the City of Prairie Village and its sister cities; cultural learning opportunities for Prairie Village children and adults; economic and business development opportunities between Prairie Village businesses and its sister cities; and to promote exchanges of students and city leaders as appropriate to promote cultural, educational, economic and social ties wherever possible.

5. Ad Hoc Committee

- a. The Mayor will appoint a Chairman and members to serve on Ad Hoc Committees as needed. One member of the Council will be appointed by the Mayor to serve as the reporting member of the committee.
- b. Meetings of the committee will be held as designated by the Mayor, the Governing Body and/or the Chairman of the committee.
- c. The Committee shall discuss issues as requested by the Mayor and/or the Governing Body.
- d. Ad Hoc Committees will be established by the Mayor to discuss a particular subject and make recommendations related to the subject matter to the Mayor and Council. These committees shall continue to meet as long as necessary, but will not be considered permanent committees.



CONSENT AGENDA

Council Meeting Date: December 15, 2014

COU 2014-56 **Consider expending forfeiture funds to purchase a transport vehicle for the Police Department Critical Incident Response Team (CIRT)**

RECOMMENDATION

The Police Department recommends the Council approve the use of forfeiture funds to purchase a Van to transport the CIRT Team during operations and training.

SUGGESTED MOTION

I move to approve the use of forfeiture funds to not exceed \$25,000 for the purchase of a transport Van for the CIRT Team through normal purchasing policy requirements.

BACKGROUND

The use of forfeiture funds is specified by K.S.A. 60-4117 (d.3), which states, in part, "...shall be used for such special, additional law enforcement purposes as the law enforcement agency head deems appropriate...neither future forfeitures nor the proceeds from such forfeitures shall be used in planning or adopting a law enforcement agency's budget." The State of Kansas has invested the purchase authority in the proverbial hands of the "law enforcement agency head."

Although Council approval is not required, the Chief of Police and City Administrator felt it would be reasonable to route this item through Council to be informative, transparent, and validate the need for the expenditure. Sgt. Roberson, CIRT Team Supervisor, will present information to the Council why this vehicle is necessary based on the operational needs of the CIRT Team.

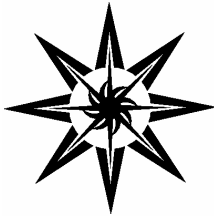
The Department does not plan to increase the size of the authorized fleet. The Command Post (circa 1989) will be retired and we will call upon other public safety agencies to provide this capability if a future incident would dictate the need.

[It should be noted that the Police Department provides the Council with a full accounting of forfeiture fund purchases on an annual basis]

Prepared By:

Wes Jordan
Chief of Police

Date: December 11, 2014



PUBLIC WORKS DEPARTMENT

Committee Meeting Date: 12/15/2014

Council Meeting Date: 12/15/2014

CONSIDER AGREEMENT FOR PUBLIC WORKS WORK MANAGEMENT SOFTWARE

RECOMMENDATION

Staff recommends the City Council approve the agreement with Lucity, Inc. for \$74,500 for Public Works Work Management Software.

BACKGROUND

The Public Works department initiated and managed a request for qualifications (RFQ) process to select a vendor to provide a new Public Works Work Management Software. The current software, VHB, has been utilized for almost 20 years and is no longer supported and prevents upgrade to the GIS software to current versions. Upgrading the system will allow for efficiencies in the operations and will minimize duplication of efforts. City crews will be able to manage work orders and inventories while in the field utilizing tablets eliminating manual or hand written information. The new software will maintain the City's asset inventories (ie. pavement, sidewalks, signs, drainage items, and trees, etc.) as well as provide service request, work order and equipment maintenance modules. The agreement also includes the data conversion for existing data as well as full implementation of the software and training for employees.

The RFQ process consisted of advertising for companies to submit their qualifications to the City for review. Four companies submitted RFQ's. All four companies were asked to provide demonstrations of their products. After demonstrations Public Works staff determined that there were two vendors that best met the department's needs and requirements. After pricing submittals were reviewed Lucity, Inc. was chosen for its product and associated price. Lucity, Inc. is based in Overland Park, KS and is currently used by several local communities including Overland Park, Leawood, Lenexa, and Johnson County. Given that the City's IT services are now provided by Johnson County IT they are already familiar with the software and its requirements.

Lucity, Inc. will allow Public Works to move forward with the current asset inventory processes and it will allow the data to be integrated with GIS making access to the data more map-centric. This system will allow our field crews to input data and manage work orders in the field. Another benefit is that City Hall staff can have access to the system as well and initial discussions have occurred regarding the use of the customer response module.

There will be a few additional items required for this project. It will require two new licenses of ESRI mapping software, a new server license and seven handheld mobile devices. These items will be purchased through the IT fund. The IT Project Fund has

\$105,000 budgeted for the complete project and is adequate for the completion of the project. Full implementation of the software will take about four months.

All similar software typically requires a yearly support fee that covers software updates and customer support. From discussions with the local communities that utilize the Lucity, Inc. software they do provide excellent support and are very responsive. Lucity, Inc. has a yearly fee of \$8,980 which will be invoiced at the end of year one and will increase by about 2.5% per year after that.

FUNDING SOURCE

Funds are budgeted in the IT Project Fund and are sufficient for purchase and installation.

ATTACHMENTS

1. Lucity, Inc. Agreement

PREPARED BY

Keith Bredehoeft, Public Works Director

December 8, 2014

SOFTWARE LICENSE AND PROFESSIONAL SERVICES AGREEMENT

ARTICLES OF AGREEMENT

This Agreement between the **City of Prairie Village, Kansas**, a Kansas municipal corporation, as "CLIENT", and **LUCITY, INC.**, as "CONTRACTOR".

WITNESSETH:

Whereas, the CONTRACTOR (a Kansas Corporation with offices located at 10561 Barkley, Suite 500, Overland Park, KS 66212) owns certain software programs that are licensed as individual program titles which are known collectively as the "*Lucity*®"; and

Whereas, the CLIENT (located at _____) would like to use, and the CONTRACTOR would like to grant the CLIENT the right to use, those software programs accessing databases residing at the CLIENT's site, while protecting the copyrights, trade secrets, confidential information, and other valuable intellectual property they contain; and

Whereas, the CLIENT is authorized and empowered to contract with the CONTRACTOR to provide professional services as hereinafter described; and

Whereas, the CONTRACTOR is registered in accordance with the laws of the State of Kansas, and is qualified to provide the professional services desired by the CLIENT; now, therefore,

IT IS AGREED THAT:

SECTION I – SOFTWARE LICENSE

The CONTRACTOR agrees to furnish various *Lucity* software programs, and grant the CLIENT a license to use these programs, in consideration of the mutual covenants and obligations expressed in the *Lucity*® Software License Agreement attached as Exhibit "A". These programs shall consist of the items listed in the Schedule of Software attached as Exhibit "B".

SECTION II – SCOPE OF SERVICES

The basic Scope of Services for the supply, implementation, support and maintenance of a **PUBLIC WORKS WORK MANAGEMENT SYSTEM**, herein referred to as "PROJECT", is as follows:

1. The CONTRACTOR agrees to furnish and perform various professional services related to on-going software technical support and maintenance items outlined in the Software Support and Maintenance Provisions attached as Exhibit "C".
2. The CONTRACTOR agrees to furnish and perform various professional services related to the items outlined the Schedule of Services attached as Exhibit "D".

Any items beyond the basic Scope of Services shall be considered as Additional Services. If authorized in writing by CLIENT, CONTRACTOR shall furnish, or obtain from others, services resulting from significant changes in the basic Scope of Services.

SOFTWARE LICENSE AND PROFESSIONAL SERVICES AGREEMENT

The cost to perform Additional Services shall be based on the rates outlined in the Schedule of Costs and Payments attached as Exhibit "E".

SECTION III – RESPONSIBILITIES OF THE CLIENT

The CLIENT shall provide information and assistance as follows:

1. Assist CONTRACTOR by placing at their disposal all available information pertinent to the PROJECT including data, standards, specifications, processes, workflows, and reports relative to the CONTRACTOR'S services.
2. Give prompt written notice to CONTRACTOR whenever CLIENT observes or otherwise becomes aware of any development that affects the Scope or timing of CONTRACTOR'S Services.
3. Bear all costs incident to compliance with the requirements of this Section III.

SECTION IV – SCHEDULE OF SERVICES

It is anticipated that the PROJECT as described in Section II will be completed and submitted to the CLIENT in accordance with the estimated schedule for major work items as shown on Exhibit "D".

The work items described shall be carried out as expeditiously as possible. The CONTRACTOR shall not be liable to the CLIENT, if delayed in, or prevented from performing the work as specified herein through any cause beyond the control of the CONTRACTOR, and not caused by his own fault or negligence including acts of nature or the public enemy, inclement weather conditions, acts, regulations, or decisions of the Government or regulatory authorities after the effective date of this Agreement, fires, floods, epidemics, strikes, jurisdictional disputes, lockouts, and freight embargoes.

SECTION V – FEES AND PAYMENTS

The CLIENT shall compensate the CONTRACTOR for the Scope of Services as described in Section II of this Agreement an amount not exceeding the total cost as shown on Exhibit "E". The maximum compensation shall not be exceeded without further authorization of Additional Services.

Labor costs, costs associated with subcontract work, bonding costs, and direct expenses such as shipping, printing, telephone and commercial computer software are included in the maximum compensation.

Payment to the CONTRACTOR shall be made in accordance with the estimated schedule of billings for work items as shown on Exhibit "E". Invoices shall be due and payable to the CONTRACTOR within forty-five (45) days of each billing.

SOFTWARE LICENSE AND PROFESSIONAL SERVICES AGREEMENT

Once this Agreement expires, or final payment has been requested and made, the CONTRACTOR shall have no more than thirty (30) days to present or file claims against the CLIENT concerning this Agreement. After that period, the CLIENT shall consider the CONTRACTOR to have waived any right to claims against the CLIENT concerning this Agreement.

The Fees and Payment provisions for the PROJECT, applicable to the *Lucity* software program licenses, provided in this Section V supersede the License Fee payment provisions provided in Section 6(a) of Exhibit "A".

SECTION VI – TERMINATION

- A. The obligation to provide further services under this Agreement may be terminated by either party upon thirty (30) days' written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party. Client may also terminate upon five (5) days written notice for any reason.
- B. In the event of termination by the CLIENT, the CONTRACTOR shall be paid for all services rendered up to and including the date of termination.
- C. In the event that the CLIENT, for any reason, decides not to proceed with the PROJECT, this Agreement shall then be considered terminated; the CONTRACTOR shall be entitled to payment as described herein for all services actually provided under this Agreement. In such event, the CLIENT shall promptly notify the CONTRACTOR in writing of its decision not to proceed with the PROJECT so that the CONTRACTOR can reassign his personnel and revise work schedules as may be required.

The Termination provisions for the PROJECT provided in this Section VI are applicable to the Scope of Services as described in Section II of this Agreement. The Term and Termination provisions provided in Section 12 of Exhibit "A" are applicable to the *Lucity*® software program licenses.

SECTION VII – INDEMNIFICATION

The CONTRACTOR shall defend, indemnify and hold the CLIENT harmless from any and all costs, liability, loss or damage the CLIENT may suffer as a result of claims, demands, costs or judgments against it arising out of the CONTRACTOR'S negligence in the performance of this Agreement.

The Indemnification provisions for the PROJECT provided in this Section VII are applicable to the Scope of Services referenced in Section II. The Limitations of Liability provisions provided in Section 11 of Exhibit "A" are applicable to the *Lucity* software program licenses.

SECTION VIII – GENERAL CONSIDERATIONS

And, finally it is agreed that:

- A. All services shall be under the direction of qualified personnel.

SOFTWARE LICENSE AND PROFESSIONAL SERVICES AGREEMENT

- B. The Scope of Services covered by this Agreement shall be subject to modification and supplementation upon the written agreement of the duly authorized representatives of the contracting parties. Modification of the terms of this Agreement may be made that would modify the maximum fees stated in the Agreement when mutually agreed by and between the CONTRACTOR and the CLIENT, and shall be incorporated in written amendments to this Agreement. The CONTRACTOR shall have no obligation to perform services in connection with a change in the Scope of Services unless the cost thereof shall be agreed to under this paragraph.
- C. The CONTRACTOR reserves the right to renegotiate this Agreement if this agreement is not signed by the CLIENT within ninety (90) days after submittal.
- D. The following Exhibits are attached to and made a part of this Agreement:
 - Exhibit "A" - *Lucity*® Software License Agreement
 - Exhibit "B" - Schedule of Software
 - Exhibit "C" - Software Support and Maintenance Provisions
 - Exhibit "D" - Schedule of Services
 - Exhibit "E" - Schedule of Costs and Invoicing

IN WITNESS WHEREOF, the CLIENT and CONTRACTOR, by their authorized representatives, have hereunto subscribed their names this _____ day of _____, 2014.

Executed in duplicate with copies to the CLIENT and CONTRACTOR.

LUCITY, INC.

CITY OF _____

By: _____
James C. Graham, P.E.

By: _____

Title: Vice President & Chief Operating Officer

Title: _____

Attest:

Attest:

By: _____

By: _____

Title: _____

Title: _____

Exhibit "A"
Lucity Software License Agreement

IMPORTANT – READ CAREFULLY BEFORE INSTALLATION

This software is subject to acceptance of the Lucity Software License Agreement. Lucity, Inc. (Lucity) is willing to license this software to you only upon the condition that you accept all of the terms and conditions contained in the Lucity Software License Agreement and any stated Special Provisions. If you do not agree with the terms and conditions as stated, please return the unopened media package, the disks, and all accompanying printed materials to Lucity for a full refund of the license fees.

THIS AGREEMENT ("**Agreement**") is between Lucity, Inc., a Kansas corporation with its principal place of business at 10561 Barkley, Suite 100, Overland Park, KS 66212 ("**Lucity**"), and **Licensee** with its software programs accessing databases residing at **Licensed Site**.

RECITALS

WHEREAS, Lucity owns certain software programs that are licensed under individual program titles which are known collectively as the "**Lucity software**";

WHEREAS, Licensee would like to use, and Lucity would like to grant Licensee the right to use, those software programs, while protecting the copyrights, trade secrets, confidential information, and other valuable intellectual property they contain.

NOW, THEREFORE, Lucity and Licensee agree as follows:

1. DEFINITIONS.

"**Program(s)**" means the object code versions of the computer software programs, databases, and related documentation.

"**Seats**" means the number of concurrent users (i.e., the number of persons using a Program at one time) permitted to use a Program.

"**Clients**" means the number of individual database setups that can be accessed by a Program.

"**Licensed Site**" means the location at which the Licensee will be permitted to store the databases used by the Program(s).

2. LICENSE GRANT.

(a) **License.** Subject to the terms and conditions of this Agreement, Lucity grants Licensee a fee-bearing nonexclusive license to use the object code versions of the Program(s) for its internal purposes during the term of this Agreement; provided, however, that (i) the number of concurrent users of each Program, including all users authorized to use any Program(s) pursuant to Section 2(b) below, shall not exceed the number of Seats for each such Program, (ii) the number of individual database setups that can be accessed by each Program shall not exceed the number of Clients for each such Program, and (iii) the location at which the databases accessed by the Program(s) reside shall be the Licensed Site designated herein.

(b) **Sublicense.** For information on granting sublicense rights, please contact Lucity.

(c) **Limited Transfer.** For information on transferring the location of the Licensed Site, please contact Lucity.

(d) **Copying.** Licensee may make only as many copies of each Program as are necessary for Licensee to utilize the total Seats for each such Program.

(e) **Future Licenses.** Lucity and Licensee may, by mutual agreement, include future licenses of the Program(s) under this Agreement by exchanging documents (i.e., a purchase order from Licensee and acknowledgment from Lucity) referencing this Agreement and the Program(s) to be licensed. Such future Program(s) shall be included as Program(s) under this Agreement. The parties agree that such purchase orders and acknowledgments shall have no effect on the terms and conditions of this Agreement, under which such Program(s) are licensed.

(f) **Limited Grant.** Except as expressly provided in this Section 2, Lucity grants and Licensee receives no right, title or interest in or to the Programs or any other deliverables provided by Lucity in connection with this Agreement and Lucity reserves and retains all such right, title, and interest.

(g) **Disaster Recovery and Testing.** The Licensee is permitted to install the Programs at its internal disaster recovery site and to store copies of the databases used by the Programs for the purposes of testing its disaster recovery plan. The Licensee is also permitted to install the Programs in a testing environment at its Licensed Site and to store copies of the databases used by the Programs for the purposes of testing future releases and training users.

3. LICENSE RESTRICTIONS.

(a) **No Reverse Engineering.** Licensee agrees not to disassemble, decompile, reverse analyze, or reverse engineer the Program(s).

(b) **No Modification.** Licensee agrees not to modify the Program(s) without the written consent of Lucity.

(c) **No Copying.** Licensee agrees not to copy the Program(s), in whole or in part, except for a reasonable number of back-up copies and copies for disaster recovery and testing purposes, and as may be necessary to utilize the total Seats for a given Program.

(d) **No Third Party Use.** Licensee will not use the Program(s) in any manner to provide computer services to third parties, except as may be necessary to implement a sublicense.

(e) **Training.** Licensee will not use the Program(s) until its personnel have received sufficient training in the use of the Program(s) to generate accurate data from the operation of the Program(s).

4. PROPRIETARY RIGHTS.

(a) **Lucity's Property.** The Program(s), in whole and in part and all copies thereof, are and will remain the sole and exclusive property of Lucity.

(b) **Licensee's Property.** Any and all information provided by Licensee, as well as any and all information generated by Licensee's use of the Programs (specifically excluding Program code), shall remain the sole and exclusive property of Licensee.

(c) **Proprietary Notices.** Licensee will not delete or alter any copyright, trademark, and other proprietary rights notices of Lucity and its licensors appearing on the Program(s). Licensee agrees to reproduce such notices on all copies it makes of the Program(s).

5. DELIVERY.

Lucity will deliver the Program(s) to Licensee, or Licensee's designated representative, within a reasonable time of execution of this Agreement by both parties.

6. FEES AND TAXES.

(a) **License Fee.** As consideration for the rights granted to Licensee under the Agreement set forth in Section 2 of this Agreement, Licensee shall remit payment to Lucity, or Lucity's designated representative, the License Fee within thirty (30) days of the Shipping Date. Late payments will be subject to a late fee of one and one-half percent (1-1/2%) per month or the maximum rate permitted by applicable law, whichever is less. Lucity may publish revised fee schedules from time to time, and any fees for future licenses for the Program(s) included under this Agreement shall be determined by Lucity's then-current fee schedule.

(b) **Taxes.** Fees due under this Agreement do not include any taxes. Licensee will be responsible for, and will promptly pay, all taxes of whatever nature (including but not limited to sales and use taxes) resulting from or otherwise associated with this Agreement or Licensee's receipt or use of the Program(s), except income taxes based on Lucity's income. In lieu of payment of such taxes, Licensee shall provide Lucity, or Lucity's designated representative, with proof of Licensee's tax exempt status.

7. WARRANTIES.

(a) **Warranty.** Lucity warrants that during the ninety (90) days following the shipping date:

- (i) the Program(s) will be capable of performing in the manner described in all the documentation in all material respects; and
- (ii) the storage media containing the Program(s) will be free from defects in materials and workmanship.

(b) **Exclusive Remedy.** In the event that the Program(s) or storage media fail to conform to such warranty, as Licensee's sole and exclusive remedy for such failure Lucity will, at its option and without charge to Licensee, repair or replace the Program(s) or storage media or refund to Licensee the License Fee paid, provided that the nonconforming item is returned to Lucity within the 90-day warranty period.

(c) **Disclaimer.** The Warranties provided in this Section are in lieu of all other warranties, express and implied, including but not limited to any implied warranties of Merchantability, and Fitness for a Particular Purpose.

(d) **Year 2000 Compliance.** "Year 2000 Compliant" means that the Program(s), when used in accordance with its associated documentation, will (a) initiate and operate, (b) correctly store, represent, and process dates, and (c) not cause or result in abnormal termination or ending, when processing data containing dates in the year 2000 and in any preceding and following years, provided that all third party applications that exchange date data with the program do so properly and accurately in a form and format compatible with the program. The Program(s) provided by Lucity under this agreement process dates only to the extent that the Program(s) use date data provided by the host or target operating system for date representations used in internal processes, such as file modifications. Any Year 2000 Compliance issues resulting from the operation of the Program(s)

Lucity Software License Agreement

are therefore necessarily subject to the Year 2000 Compliance of the relevant host or target operating system. The preceding does not apply, however, and Lucity does not assume any liability for, the performance of any applications that authorized licensees may create through use of the Program(s), nor for any Year 2000 Compliance issues that may arise from the use of the Program(s) with any third party products, including hardware, software or firmware. Except as expressly provided in this Section, Lucity makes no Year 2000 related representations or warranties for the Program(s), and any such warranties, including any implied warranties, are hereby disclaimed.

8. INDEMNITY.

(a) Duty to Indemnify and Defend.

(i) Lucity will defend or settle at Lucity's own expense, any action or other proceeding brought against Licensee to the extent that it is based on a claim that the use of the Program(s) as licensed in this Agreement infringes any U.S. copyright, patent, or that the Program(s) incorporates any misappropriated trade secrets.

(ii) Lucity will pay any and all costs, damages, and expenses (including but not limited to reasonable attorneys' fees) Licensee becomes obligated to pay in any such action or proceeding attributable to any such claim.

(iii) Lucity will have no obligation under this Section as to any action, proceeding, or claim unless: (A) Lucity is notified of it promptly; (B) Lucity has sole control of its defense and settlement; and (C) Licensee provides Lucity with reasonable assistance in its defense and settlement.

(b) Injunctions. If Licensee's use of any Program(s) under the terms of this Agreement is, or in Lucity's opinion is likely to be, enjoined due to the type of infringement or misappropriation specified in Section 8(a)(i), then Lucity may, at its sole option and expense, either:

(i) procure for Licensee the right to continue using such Program(s) under the terms of this Agreement;

(ii) replace or modify such Program(s) so that it is noninfringing and substantially equivalent in function to the enjoined Program(s); or

(iii) if options (i) and (ii) above cannot be accomplished despite the reasonable efforts of Lucity, then Lucity may both:

(A) terminate Licensee's rights and Lucity's obligations under this Agreement with respect to such Program(s); and

(B) refund to Licensee the unamortized portion of the License Fee paid based upon a 5 year straight-line depreciation, such depreciation to be deemed to have commenced on the effective date of this Agreement.

(c) Exclusive Remedy. The foregoing are Lucity's sole and exclusive obligations, and Licensee's sole and exclusive remedies, with respect to infringement or misappropriation of intellectual property rights. Lucity makes no separate warranty of noninfringement under or in connection with this agreement.

(d) Exceptions. Lucity will have no obligations under this Section 8 with respect to infringement or misappropriation arising from: (i) modifications to the Program(s) that were not made by Lucity (whether or not authorized by Lucity); (ii) Program(s) specifications or modifications requested by Licensee; or (iii) the use of Program(s) with products (including but not limited to software) not provided by Lucity.

9. CONFIDENTIAL INFORMATION.

(a) Definition. "**Confidential Information**" refers to: (i) the Program(s), including but not limited to their software source code, and any related documentation or technical or design information related to the Program(s); (ii) the business or technical information of Lucity, including but not limited to any information relating to Lucity's product plans, designs, costs, product prices and names, finances, marketing plans, business opportunities, personnel, research, development or know-how; (iii) any information reasonably and appropriately designated by Lucity as "confidential" or "proprietary" or which, under the circumstances taken as a whole, would reasonably be deemed to be confidential under applicable law; and (iv) the terms and conditions and existence of this Agreement.

(b) "Confidential Information" will not include information that:

(i) is in or enters the public domain without Licensee's breach of this Agreement;

(ii) Licensee receives from a third party without restriction on disclosure and without breach of a nondisclosure obligation; or

(iii) Licensee party develops independently, which it can prove with clear and convincing written evidence.

(c) Confidentiality Obligations. Licensee agrees to take all measures reasonably required in order to maintain the confidentiality of all Confidential Information in its possession or control, which will in no event

be less than the measures Licensee uses to maintain the confidentiality of its own information of equal importance.

(d) Employee Confidentiality Procedures. Licensee agrees to inform its employees of their confidentiality obligations regarding the Program(s) and other Lucity Confidential Information. Licensee further agrees to ensure that contract employees (including temporary employees) of Licensee agree to confidentiality obligations similar to those of this Agreement.

10. MAINTENANCE AND SUPPORT.

Lucity and Licensee may, by mutual agreement, include the maintenance and support services described in the software's online help for the Program(s) under this Agreement by exchanging documents (i.e., a purchase order from Licensee and acknowledgment from Lucity) referencing this Agreement and the Program(s) to be included under such services. The parties agree that such purchase orders and acknowledgments shall have no effect on the terms and conditions of this Agreement, under which such Program(s) are licensed. Maintenance and support services are provided at a rate and for a term as mutually determined by Lucity and Licensee for the scope of services to be provided by Lucity for the Program(s) to be included under such services.

11. LIMITATIONS OF LIABILITY.

Lucity's total liability under this Agreement will be limited to the License Fee. Licensee agrees that, as part of the material consideration for Lucity licensing the Programs to Licensee hereunder, in no event will Lucity be liable to Licensee or any third party under this Agreement for any Special, Incidental, or Consequential Damages, whether based on breach of contract, tort (including negligence), product liability, or otherwise, and whether or not Lucity has been advised of the possibility of such damage. Input and/or edits of data by means other than the Lucity standard Program(s) interface may result in loss of data, and/or improper operation of the Program(s). The Licensee agrees that in no event will Lucity be liable to Licensee or any third party under this Agreement for costs necessary to diagnose, recover data and/or restore proper operation of the Program(s) resulting from said actions.

12. TERM AND TERMINATION.

(a) Term. This Agreement will continue in full force and effect perpetually, except as follows:

(b) Termination. Lucity will have the right to terminate this Agreement if Licensee breaches any material term or condition of this Agreement and fails to cure such breach within thirty (30) days of written notice from Lucity;

(c) Effect of Termination. If this Agreement is terminated, Licensee will immediately terminate any sublicenses then in effect, retrieve from sublicensees all copies of the Program(s) in sublicensees' possession, and then return to Lucity, or Lucity's designated representative, or (at Lucity's request) destroy all copies of the Program(s) in its possession or control, and an officer of Licensee will certify to Lucity in writing that it has done so.

(d) Survival. The provisions of Sections 4 (Proprietary Rights), 6(b) (Taxes), 7(b) and (c) (Warranties Exclusive Remedy and Disclaimer), 8(c) and (d) (Infringement Exclusive Remedy and Exceptions), 9 (Confidential Information), and 11 (Limitations of Liability) will survive termination of this Agreement for any reason.

(e) Nonexclusive Remedy. The exercise by Lucity of any remedies under this Agreement will be without prejudice to its other remedies under this Agreement or otherwise.

13. GENERAL PROVISIONS.

(a) Audit Rights. Licensee agrees to allow Lucity, or Lucity's designated representative, at Lucity's sole expense, upon reasonable written notice, and during Licensee's ordinary business hours, to visit the facilities in which Licensee uses the Program(s) and review Licensee's practices with regard to the Program(s).

(b) Assignment. This Agreement will bind and inure to the benefit of each party's successors and assigns, provided that either party may not assign this Agreement, in whole or in part, without written consent of both parties.

(c) Modifications. This Agreement may only be modified, or any rights under it waived, by a written document executed by both parties.

(d) Conflicting Terms. Purchase orders or similar documents relating to the Program(s) issued by Licensee will have no effect on the terms of this Agreement.

(e) Notices. All notices under this Agreement will be deemed given when delivered personally or upon receipt of by U.S. certified mail, return receipt requested, to the address shown below or as may otherwise be specified by either party to the other in accordance with this Section.

Lucity Software License Agreement

(f) Severability. If any provision of this Agreement is found illegal or unenforceable, it will be enforced to the maximum extent permissible, and the legality and enforceability of the other provisions of this Agreement will not be affected.

(g) Waiver. No failure of either party to exercise or enforce any of its rights under this Agreement will act as a waiver of such rights.

(h) Entire Agreement. This Agreement is the complete and exclusive agreement between the parties with respect to the subject matter hereof, superseding and replacing any and all prior agreements, communications, and understandings (both written and oral) regarding such subject matter. No purchase orders, acknowledgments, invoices, or other documents exchanged in the ordinary course of business shall modify or add to the terms and conditions of this Agreement.

(i) Choice of Law. This Agreement will be governed by and construed in accordance with the laws of the State of Kansas.

Copyright © 2011 Lucity, Inc. All rights reserved.

Exhibit "A"
Lucity Software License Agreement

SPECIAL PROVISIONS – ESRI ELA ADD-ON CMMS SOLUTIONS

The following provisions supersede the preceding standard terms and conditions.

Add the following to "1. DEFINITIONS.":

"Eligible Licensee" means a public-sector agency which meets the requirements of the Esri "Small Utilities" or "Small Municipal and County Government" ELA Programs as set forth by Esri. References to "Licensee" in this Agreement imply Eligible Licensee.

"Included Programs" means those specific Programs included in the ELA Add-on Lucity CMMS Solutions, for which a summary is attached as Attachment B. References to "Program(s)" in this Agreement imply Included Programs.

"Excluded Programs" means all other Lucity Programs not included in the ELA Add-on Lucity CMMS Solutions.

"Enterprise License" means an unlimited number of Seats are provided for a Program.

"Effective Date" means the date of receipt of Licensee's purchase order citing this Agreement.

Revise the following sections of "2. LICENSE GRANT." to read:

(a) License. Subject to the terms and conditions of this Agreement, Lucity grants Licensee a fee-bearing nonexclusive Enterprise License to use the object code versions of each of the Included Programs for its internal purposes during the appropriate term of this Agreement.

(f) Licenses of Excluded Programs. Lucity and Licensee may, by mutual agreement, at any time by exchanging documents (i.e., a purchase order from Licensee and acknowledgment from Lucity) referencing this Agreement and the Excluded Program(s) to be licensed, include fee-bearing nonexclusive licenses to use the object code versions of the Excluded Program(s) for its internal purposes during the appropriate term of this Agreement; provided, however, that (i) the number of concurrent users of each Excluded Program, including all users authorized to use any Excluded Program(s) pursuant to Section 2(b), shall not exceed the number of Seats for each such Excluded Program, (ii) the number of individual database setups that can be accessed by each Excluded Program shall not exceed the number of Clients for each such Excluded Program, and (iii) the location at which the databases accessed by the Excluded Program(s) reside shall be the Licensed Site designated herein. Such Excluded Program(s) shall be included as Program(s) under this Agreement exclusive of the "Special Provisions – Esri ELA Add-on CMMS Solutions". The parties agree that purchase orders and acknowledgments used for licensing Excluded Program(s) shall have no effect on the terms and conditions of this Agreement.

Revise the following section of "6. FEES AND TAXES." to read:

(a) Annual Fee. As consideration for the rights granted to Licensee under the Agreement set forth in Section 2 of this Agreement, Licensee shall remit payment to Lucity, or Lucity's designated representative, (i) the appropriate Annual Fee within thirty (30) days of the Effective Date, and (ii) the appropriate Annual Fee within thirty (30) days of anniversary of the Effective Date for each renewal period. Late payments will be subject to a late fee of one and one-half percent (1-1/2%) per month or the maximum rate permitted by applicable law, whichever is less. The appropriate Annual Fee is based on the Licensee's population or meter count on the Effective Date.

Revise the following section of "7. WARRANTIES" to read:

(a) Warranty. Lucity warrants that during the twelve (12) months following the Program(s) being put into production:

(i) the Program(s) will be capable of performing in the manner described in all the documentation in all material respects; and

(ii) the storage media containing the Program(s) will be free from defects in materials and workmanship.

(b) Exclusive Remedy. In the event that the Program(s) or storage media fail to conform to such warranty, as Licensee's sole and exclusive remedy for such failure Lucity will, at its option and without charge to Licensee, repair or replace the Program(s) or storage media or refund to Licensee the License Fee paid, provided that the nonconforming item is returned to Lucity within the twelve (12) month warranty period.

Lucity Software License Agreement

Revise “**10. MAINTENANCE AND SUPPORT.**” to read as follows:

Maintenance and support services for the Included Programs are included in the Esri ELA Add-on CMMS Solutions offering. For Excluded Programs, Lucity and Licensee may, by mutual agreement, include the maintenance and support services described in the software’s online help for the Excluded Program(s) under this Agreement by exchanging documents (i.e., a purchase order from Licensee and acknowledgment from Lucity) referencing this Agreement and the Excluded Program(s) to be included under such services. The parties agree that such purchase orders and acknowledgments shall have no effect on the terms and conditions of this Agreement, under which such Excluded Program(s) are licensed. Maintenance and support services are provided at a rate and for a term as mutually determined by Lucity and Licensee for the scope of services to be provided by Lucity for the Excluded Program(s) to be included under such services.

Revise the following section of “**12. TERM AND TERMINATION.**” to read:

(b) Termination. Lucity will have the right to terminate this Agreement if Licensee breaches any material term or condition of this Agreement and fails to cure such breach within thirty (30) days of written notice from Lucity; Licensee will have the right to terminate this Agreement for any reason by giving thirty (30) days written notice to Lucity.

(f) Term. Except as follows, this Agreement will continue in full force and effect for:

- (i) one (year) from the Effective Date of this Agreement, with automatic renewal for two (2) additional one (1) year periods, unless Licensee provides written notice of termination thirty (30) days prior to the date of renewal; and/or
- (ii) perpetually for Excluded Program(s).

Revise the following section of “**13. GENERAL PROVISIONS.**” to read:

(i) Choice of Law. This Agreement will be governed by and construed in accordance with the laws of the state in which Licensee is located.

EXHIBIT "B"
Schedule of Software

For the Project Lucity agrees to furnish licenses of the various *Lucity*® software programs listed in the following table, and grant the City such licenses to use these programs for the fees as indicated, in consideration of the mutual covenants and obligations expressed in the *Lucity*® Software License Agreement provided as Exhibit "A".

Solution	Software Licensing			
	Basis		Fees	
	Quantity	Unit	Unit	Extended
Work Orders	5	Seat	\$ 1,200.00	\$ 6,000.00
Requests	3	Seat	\$ 500.00	\$ 1,500.00
Work Administrator	1	Seat	\$ 3,000.00	\$ 3,000.00
Web Citizen	1	Site	\$ 3,000.00	\$ 3,000.00
Inventory Control	2	Seat	\$ 2,000.00	\$ 4,000.00
<u>Asset Bundle</u> Storm Streets Bundle ¹ Traffic ² Tree Facility/Equipment Fleet/Equipment	6	Seat	\$ 2,000.00	\$12,000.00
GIS Web Map	1	Site	\$ 5,000.00	\$ 5,000.00
GIS Desktop	1	Seat	\$ 2,000.00	\$ 2,000.00
Mobile	7	Install	\$ 1,200.00	\$ 8,400.00
TOTAL				\$44,900.00
Notes				
¹ Streets Bundle includes Streets, Pavement and Right-of-way.				
² Traffic Bundle includes Signs & Street Lights				

EXHIBIT "C"
Software Support and Maintenance Provisions

For the various *Lucity* software programs listed in Exhibit "B", *Lucity* agrees to furnish to the City resources and perform various professional services related to on-going software technical support and maintenance as outlined in this Exhibit "C".

ASM PROGRAM RESOURCES AND SERVICES

On-going software technical support and maintenance resources and services provided through the *Lucity* Constant Connection Program are summarized in the attached exhibit titled "TECHNICAL SUPPORT AND SERVICES".

ASM PROGRAM FEES

The annual fee for the Constant Connection Program are based on software licenses detailed in Exhibit "B". The first year annual support and maintenance cost is **\$8,980.00**. A 2.5% increase is applied for each future year. The first year ASM payment is due 12 months following contract execution.

EXHIBIT "C"
Software Support and Maintenance Provisions



Technical Support and Software Maintenance Services

Clients Only Web site

Users have 24/7/365 access to our Help Desk support resources through the "Clients Only" section of our website (www.lucity.com). In addition to serving as a portal by which clients can submit requests and track their resolution status, the Clients Only site provides a knowledge base, software downloads, discussion boards, FAQs, user group information and more.

Toll-free Telephone Support

Lucity support staff is available to respond to inquiries Monday through Friday (i.e., business days) from 7:00 a.m. to 7:00 p.m., Central Standard Time.

Web Support Technology

We are able to provide the highest level of software support via the Web. This technology enables us to "see" your computer, allowing us to troubleshoot the problem in your environment and easily deliver a solution. In addition, this technology provides additional training capabilities for new users, staff refresher courses, etc.

User Conferences

Subscribers to our Annual Support & Maintenance (ASM) Program receive discounted fees to our Annual Conference & Training (ACT) event. The ACT provides you with an ideal place to complete training courses, network with co-users, work with our staff and explore additional resources we may have to offer.

Software Patches

We continually refine our applications - from problem resolution to minor enhancements, we always strive to strengthen the software. As an ASM subscriber, you will be provided with these patches for the supported program(s) as they become available.

Software Upgrades / New Releases

We are constantly improving all of our products. We incorporate new functionality and new tools to help you get the most out of the software. This Program provides you with upgrades (new releases) of the support program(s) as they become available.

Documentation and Self-Help

Electronic Help Manuals

Users can access a database of help through the Electronic Help Manuals within Lucity applications. These how-to guides give users an overview of applications, modules, functions and features. Users can search for information by table of contents, index or search.

Release Notes

With every new software release, Lucity provides a list of new additions. Release notes explain how the software has changed, including added functions and features or corrected software issues.

Lucity, Inc. 800.492.2468 www.lucity.com

EXHIBIT "D"
Schedule of Services

IMPLEMENTATION

Following is an outline of the Implementation Plan

Configuration and Installation

Working together on-site with the City's designated System Administrator, we will download the Lucity software install media from our Client Portal Web site and complete software installation procedures and processes including:

- Establishing multiple environments for testing/development, production, and backup/recovery
- Configuring integration with the City's Windows Active Directory security (if applicable)
- Performing system-level testing (to ensure satisfactory performance) and performance tuning actions (if necessary)

Lucity will facilitate an on-site "Discovery Workshop" to solicit, review and assess input from the City for configuring the work management system. Workshop topics will include:

- Discussion of industry best practices and current ("as-is") and desired ("to be") business processes, end-user workflows, and preventive maintenance (PM) activities/schedules; appropriate legacy data for conversion/migration; and relevant documents/forms/reports and related software applications
- Demonstrations of how the EAMS can support those best practices, desired processes and workflows, activities, data and documents through the capabilities (configuration, functionality, integration, tracking and reporting) of the Lucity products
- Identification of the various end-user types and roles, and discuss system access and privileges of each to be supported through the Lucity Security capabilities
- Discuss audit tracking and reporting (operational, managerial and regulatory) requirements
- Gather the specific data and information needed for subsequent software configuration and integration efforts

Based on the knowledge acquired from the Discovery Workshop, we will align the City's needs for the solution with capabilities of the Lucity products. Results and configuration recommendations will be developed, including:

- Those specific practices, processes and workflows, activities, data and documents to be supported by the solution
- Any alterations to processes and workflows that could be made to take best advantage of the software capabilities
- Details of the initial software configuration for:
 - Formalizing data input, display, query, report and exchange requirements
 - Setting up the architecture and standards of the work management capabilities to effectively and efficiently organize, manage and track service requests, activities (work orders and preventive maintenance), and resources (employees, equipment, contractors, materials and parts)
 - Identifying the infrastructure asset attributes to collect/update, analyze, and track
 - Personalizing user interfaces to support the various workflows of software end-users

EXHIBIT "D"
Schedule of Services

With the City's approval of our recommendations, we will initially configure the software using the applications, parameters and settings available with the Lucity products for "customization". We will next convene an on-site "Review Workshop" to assess the initially configured software, and identify any needed revisions. Several iterations of the configuration may be necessary to fully support the City's needs. If so we will host several follow-up meetings with City staff to exchange information, coordinate necessary efforts, and gain approval of the final software configuration.

GIS Integration

We will work with City staff to configure and test the bi-directional GIS integration, and incorporate GIS asset data into the Lucity solution, using the Lucity GIS solutions as described below. The GIS data incorporated will be data available at the time. To address additional GIS data that may become available later, we will provide appropriate training to the System Administrator.

With the Lucity GIS Desktop solution:

- The CMMS can be configured to link directly to the asset feature classes managed within the City GIS using the Geodatabase Configuration application (extension in ArcCatalog)
 - This configuration allows attribute field mapping from the feature classes to the associated Lucity asset tables. The City can determine which GIS attributes to share with the Lucity software, and which to maintain solely in the GIS.
- GIS data (attribute and spatial information for assets, road names, etc.) can be incorporated into Lucity using the Synchronization application (extension in ArcMap)
 - Synchronization of GIS and Lucity data is made when add/edit processes are saved (in either the GIS or Lucity). Upon saving a GIS edit session, the synchronization automatically (with no user intervention required) updates Lucity with edited, non-spatial data. Upon saving edits in Lucity, non-spatial attribute updates are automatically "pushed" to the GIS.
- Valid and appropriate data from the GIS can be "loaded" into Lucity, map-related query and display functions to be supported by the software configured, and the integration refined as needed.

With the Lucity GIS Web solution:

- ArcServer services (map, geometry and geocode) published using standard Esri tools (primarily ArcMap) can be consumed to display a web-based map for end users. The MetaData Server Object extension is enabled on certain map services or the City can deploy feature services to allow Lucity to query field and table name information. Once the map/feature services are created and configured, the City can author maps in the Lucity UI Administrator application by selecting one or more of these published services.
- The software can push edits to the geodatabase. This functionality requires a map service or feature service to be authored containing the feature classes to be updated. The Geodatabase Update service object extension must be enabled only for map services. The City can use the UI Administrator application to configure the URL to the map service that handles updates to the geodatabase, and configure settings to handle situations when the map/feature service cannot be reached or the update fails.

Data Conversion

EXHIBIT "D"
Schedule of Services

We understand that sources of legacy data from the City's current VHB solution will be converted into the Lucity software. Lucity will be responsible for migrating this information. Based on discussions with the City, a data conversion document will be prepared that will allow the City to map fields from the VHB system to the Lucity database. This includes but is not limited to asset, asset inspection, work orders, service requests, and additional workflow setup tables. In addition, the City may consider additional data for conversion and migration to the Lucity system, including Excel spreadsheets or Microsoft Access databases. A Data Import application is provided with the Lucity software that can be used with these sources of data. We will assist the System Administrator in establishing the mapping between the source and destination data fields, name and save defined imports, and complete the import processes.

Lucity will also configure a fuel import routine to process vehicle fueling records from the City's FuelMaster software. Using the Lucity standard data importer, Luciy will configure an import routine to automatically or periodically import fuel data to the Lucity fuel module.

As for other sources of data (PDF, jpeg, TIFF, Laserfiche scans, CCTV video, paper plats/plans, employee memory), we assume the City will be responsible for incorporating appropriate information into the software:

- The software Document Control feature is available for linking externally managed electronic files (documents, images, video, web pages, etc.) to Lucity records. We will assist the System Administrator in use of this Document Control feature.
- The configured Lucity system will include personalized data input forms that will expedite the City's population of information from paper records and "employee memory".

Acceptance Testing

We will certify in writing to the City when the software is installed and "ready for testing". This readiness for testing can be considered sequential – software installed, software with initial configuration, software with migrated data, and software with final configuration. We understand that unless the City provides written notification within ninety (90) days after installation that the software is not operating in accordance with documented functionality (per Proposal responses and demonstrations), the system will be deemed accepted.

We are assuming the City will be responsible for testing, and we will remedy any discrepancies at no cost to the City. We will assist the City in developing test case scenarios for use during acceptance testing.

Training

Following are outlines of the typical training efforts we provide. We will prepare and submit a Training Plan customized to the City's needs based on the specific system configuration, interfaces and integrations. Training work will proceed with approval of the Plan by the City.

System Administration

The goal of this training is for the System Administrator to be reasonably self-sufficient in refining, expanding and sustaining the Lucity software.

- *System installation and maintenance*

EXHIBIT "D"

Schedule of Services

- Completing procedures as outlined in the Installation Help Guide for the initial Lucy software installation and future software upgrades
- Reviewing the documentation provided as Installation deliverables
- Reviewing the technical support and software maintenance services and resources available we provide through the Lucy Constant Connection Program
- Discussing the current backup and recovery practices for the City's data, and reviewing suggested practices specific to the software
- *Security*
 - Completing procedures as outlined in the Security Help Guide for adding new end-users, and defining end-user group and individual permissions for software access and use
- *Configuration*
 - Using the applications, parameters and settings available with the Lucy products to refine the software configuration
- *Documents*
 - Completing procedures for establishing links between Lucy records and externally managed electronic documents
 - Adding custom content to the on-line Help system via hyperlinks to externally managed information
- *Integration*
 - Using the Lucy solutions for completing processes for configuring and refining the GIS integration and other Lucy interfaces (i.e. Fleet)
- *Reporting*
 - Adding custom reports
- *Data import/export*
 - Importing data using the Data Import application, and exporting data using the Lucy reporting capabilities

We will provide training to the System Administrator through on-site sessions and "hands-on" training included within the joint efforts to complete other implementation tasks.

End-User Production

This hands-on training consists of a series of workshops and breakout sessions completed on-site. The goal of this training is to provide end-users the knowledge, skills and confidence to adhere to business processes and successfully complete their specific operational workflows.

- *General*
 - *Dashboard*: Using "Home" pages with personalized real-time content
 - *Filter*: Creating queries to produce specific record sets
 - *Locate*: Quickly finding a specific record within the current "Filter"
 - *Show in Map*: Opening a GIS map and zooming to assets and locations (customer addresses, work sites, etc.)
 - *Document Control*: Linking electronic documents (images, videos, as-built drawings, O&M manuals, web site links, etc.) to records
 - *Subset Manager*: Loading filtered data from one application into other applications
 - *Browse*: Creating and exporting ad-hoc reports
 - *Reports*: Using standard report templates

EXHIBIT "D"
Schedule of Services

- *Help*: Using the on-line, context-sensitive Help system
- Work management
 - Receiving/creating, routing and completing service requests, and work orders in response to service requests
 - Establishing work order templates for recurring activities and PM schedules for assets
 - Creating, assigning, routing and completing work orders from templates and PM schedules
 - Performing in-house and external billing of work order costs
 - Maintaining inventories of parts and materials used on work orders
 - Viewing linked electronic documents
 - Using GIS to locate customers and work locations
 - Producing operational, management and regulatory reports
- Asset management
 - Collecting and maintaining asset attributes
 - Establishing appropriate relationships between assets
 - Assessing the condition, and tracking the operating status, of assets
 - Interpreting asset lifecycle costs
 - Viewing linked electronic documents
 - Using GIS to locate assets and display condition assessment data
 - Validating and transferring data from external data collection systems
 - Producing operational, management and regulatory reports
- Work planning and budgeting
 - Creating, analyzing, reporting and updating activity Work Plans

We suggest end-users be segregated into groups that share common requirements with regard to access and use of the solution. This segregation will be done on the following basis:

- Major work units
 - Office personnel
 - Field personnel
- User levels
 - Casual user
 - Routine user
 - Heavy user
 - Ad hoc report creator
 - Management
 - System administrator
- Mobile Users

EXHIBIT "D"
Schedule of Services

IMPLEMENTATION COSTS

Task	Efforts			Costs		
	Trips	Hours	Lump Sum	Labor	Expenses	Total
Project Management			\$ 3,810.00	\$ 3,810.00	\$ -	\$ 3,810.00
Configuration and Installation	6	80		\$ 8,000.00	\$ 180.00	\$ 8,180.00
GIS Integration	1	24		\$ 2,400.00	\$ 30.00	\$ 2,430.00
Data Conversion & Fuel Master Import		70		\$ 7,000.00	\$ -	\$ 7,000.00
Training	6	80		\$ 8,000.00	\$ 180.00	\$ 8,180.00
TOTALS	13	254	\$ 3,810.00	\$ 29,210.00	\$ 390.00	\$ 29,600.00

Notes

Standard labor rates (per person) are \$800.00 per on-site day and \$100.00 per remote hour. An additional amount equal to fifteen percent (15%) of labor costs calculated from these rates is included to cover project management and contract administration efforts.

Estimated expenses are \$30.00 per trip. Expenses will be billed at actual cost without mark-up.

EXHIBIT "E"
Schedule of Costs and Invoicing

The following table summarizes costs and invoicing for the software licenses and services to be provided by Lucity to the City for the Project.

Item	Total	Invoicing
Software License Fees (reference Exhibit "B")	\$44,900.00	Fifty percent (50%) will be invoiced upon software installation. The remaining fifty percent (50%) will be invoiced after acceptance testing or prior to the first training session.
ASM Program Fees – First Year (reference Exhibit "C")	Included	Year 1 support & maintenance will expire 12 months after software installation.
Services Costs (reference Exhibit "D")	\$29,600.00	Monthly as incurred
TOTAL – Project Costs	\$74,500.00	
ASM Program Fees – Renewals (reference Exhibit "C")		One hundred percent (100%) will be invoiced sixty (60) days prior to ASM Program expiration date

Additional Services Price List

Training (amounts do not include project management fees)

Onsite or web: \$125 per hour plus direct expenses (amount includes Project Management fee)

* Each application may require different amounts of days of training. Lucity will work with each client to determine specific amount of sessions needed.

Implementation Services (amounts do not include project management fees)

Remote Services \$125 per hour

Custom Report Writing \$100 per hour

Custom Programming \$125-\$150 per hour

Project Management

Administration fee – 15% of total cost of services

* Project Management is a percentage of training and services costs to cover administration fees associated with project management and will fluctuate with changes in the services contracted for.

Note: All prices are in US Dollars and sales tax is not included.



ADMINISTRATION

Council Committee Meeting Date: December 15, 2014

City Council Meeting Date: December 15, 2014

COU2014-54 - Request for Contingency Funds for Legal Contract Services

RECOMMENDATION

Staff recommends the Council authorize the use of \$265,762.79 in contingency funds to be used for Legal Contract Services.

SUGGESTED MOTION

The City Council authorizes the use of \$265,762.79 in contingency funds to be used for Legal Contract Services.

BACKGROUND

The 2014 budget for Legal Contract Services was \$160,000. Actual Legal Contract Services is \$425,762.79. Attached is a summary of legal costs by project area. Of note, if not for the Mission Valley lawsuit challenging the SUP, the legal budget would be within \$10,000 of budgeted funds.

Staff is requesting an additional \$265,762.79 in contingency funds to cover the current overages from the FY2014 budget amount of \$160,000.

The legal invoices were paid as they were received during the year.

ATTACHMENTS

- Summary of 2014 Legal Expenses
- Summary of Legal Costs (2009 to 2014)

FUNDING SOURCE

City Council approved \$500,000 in contingency funds in FY2014 budget. The City Council has previously allocated \$56,000 in contingency funds for the Access Control System (new door lock system).

PREPARED BY

Lisa Santa Maria

Finance Director

Date: December 15, 2014

City of Prairie Village
2014 Legal Expenses Paid (Jan - October) - Lathrop Gage

Project	Amount
Mission Valley SUP, Mission Chateau Zoning Appeal & Marsh et al	\$ 275,771.56
Mayor/Council (attending mtgs, general research)	\$ 51,039.66
Police Department Legal Issues	\$ 9,529.25
General Legal	\$ 38,925.43
Personnel Items	\$ 10,050.00
General Planning Matters	\$ 5,919.25
Police Pension Legal	\$ 5,854.14
Open Carry Issue	\$ 6,192.50
Compensation Benefits (IRS/HRA Research)	\$ 3,903.50
Building Codes	\$ 2,360.00
Records/Contract Management	\$ 467.50
Court	\$ 431.50
Franchise Agreement/Utilities	\$ 354.00
CID General (paid out of CID funds)	\$ 5,201.00
Capital Projects	\$ 236.00
Morrison Ethics Violation	\$ 1,941.50
Park Acquisition - Homestead Site	\$ 5,226.00
Meadowbrook development	\$ 2,271.50
Other	\$ 88.50
<hr/>	
Total: \$ 425,762.79	
<hr/>	

**City of Prairie Village
Legal Expenses
Budget to Actual
(2009 2014)**

Fiscal Year	Budget	Actual	Difference
2009	\$105,500	\$157,535	(\$52,035)
2010	119,500	70,637	48,863
2011	125,000	110,516	14,484
2012	125,000	225,682	(100,682)
2013	115,000	249,735	(134,735)
2014	160,000	425,763	(265,763)
2015	200,000		



ADMINISTRATION

Council Committee Meeting Date: December 15, 2014
City Council Meeting Date: December 15, 2014

COU2014-55 - Request for Contingency Funds for October KCPL Street Light and Traffic Signal Billings

RECOMMENDATION

Staff recommends the Council authorize the use of \$118,530.66 in contingency funds to be used for October KCPL Street Light and Traffic Signal billing.

SUGGESTED MOTION

The City Council authorizes the use of \$118,530.66 in contingency funds to be used for KCPL Street Light and Traffic Signal billing.

BACKGROUND

KCPL moved from semiannual billing to monthly in the fiscal year 2014. In prior years (2013 below) we paid twice a year:

03/31/2013	\$330,248.47 (Sept - Feb)
09/30/2013	\$338,362.98 (March - Aug)

Because 2014 was the transition year from semiannual to monthly billing, the City paid September - December of 2013 in fiscal year 2014. Instead of being billed for twelve months in 2014, the city was actually billed for fourteen (14) months (September 2013 - October 2014). The remaining two months (November - December 2014) will be paid in 2015. The new billing cycle will be from November 2014 to October 2015. The 2015 budget is based on twelve months and the City will pay twelve months.

Staff is requesting an additional \$118,530.66 in contingency funds to cover the current overages from the FY2014 budget.

ATTACHMENTS

N/A

FUNDING SOURCE

City Council approved \$500,000 in contingency funds in FY2014 budget. The City Council has previously allocated \$56,000 in contingency funds for the Access Control System (new door lock system).

PREPARED BY

Lisa Santa Maria
Finance Director

Date: December 15, 2014

MAYOR'S ANNOUNCEMENTS

December 15, 2014

Committee meetings scheduled for the next two weeks:

Arts Council	12/17/2015	7:00 p.m.
Council Committee of the Whole	1/05/2015	6:00 p.m.
City Council	1/05/2015	7:30 p.m.

=====

The Prairie Village Arts Council is pleased to present a photography exhibit by Kathleen Manning in the R. G. Endres Gallery during the month of December.

City offices will be closed on Thursday, December 25, 2014 in observance of the Christmas holiday.

Deffenbaugh will observe the Christmas holiday. Regular trash pickup for Thursday and Friday will be delayed by one day.

City offices will be closed on Thursday, January 1, 2015 in observance of New Year's Day.

Deffenbaugh will observe the New Year's Day holiday. Regular trash pickup for Thursday and Friday will be delayed by one day.

INFORMATIONAL ITEMS
December 15, 2014

1. Board of Zoning Appeals Minutes - November 4, 2014
2. Planning Commission Minutes - November 4, 2014
3. Parks & Recreation Committee Minutes - November 12, 2014
4. Insurance Committee Minutes - December 3, 2014
5. Mark Your Calendar

**BOARD OF ZONING APPEALS
CITY OF PRAIRIE VILLAGE, KANSAS
MINUTES
TUESDAY, NOVEMBER 4, 2014**

ROLL CALL

The meeting of the Board of Zoning Appeals of the City of Prairie Village, Kansas was held on Tuesday, November 4, 2014 in the Council Chambers of the Municipal Building at 7700 Mission Road. Chairman Randy Kronblad called the meeting to order at 6:30 p.m. with the following members present: Bob Lindeblad, Nancy Vennard, Nancy Wallerstein and Larry Levy. Also present in their advisory capacity to the Board of Zoning Appeals were: Ron Williamson, Planning Consultant; Kate Gunja, Assistant City Administrator; Mitch Dringman, Building Official and Joyce Hagen Mundy, Board Secretary.

Kate Gunja introduced the city's new Building Official Mitch Dringman who was in attendance.

APPROVAL OF MINUTES

Bob Lindeblad asked that the minutes reflect the actual vote on the motion to continue BZA2014-04. The correction is as follows: "The motion was voted on and passed by a vote of 4 (Levy, Wolf, Wallerstein, Kronblad) to 3 (Lindeblad, Breneman, Vennard)." Bob Lindeblad moved the minutes of the October 7, 2014 meeting of the Board of Zoning Appeals be approved as corrected. The motion was seconded by Nancy Vennard and passed unanimously.

Chairman Randy Kronblad reviewed the procedures for the public hearings, noting that there are two new applications before the Board and the application continued from the October meeting.

**BZA2014-04 Request for a Variance from P.V.M.C. 19.44.020(C4) "Yard
Exceptions" to increase the projection of the porta cochere
5115 West 81st Street**

Chairman Randy Kronblad noted the public hearing on this application was closed and called upon the applicant to present any new information.

Jerry Mancuso, asked that Board Member Bob Lindeblad recuse himself based upon improprieties. He does not feel Mr. Lindeblad can make an unbiased decision and is misusing his power as a board member. Mr. Mancuso stated he had hired a detective and volunteered to disclose that information to the board members. Mr. Mancuso asked Mr. Lindeblad if he would recuse himself. Mr. Lindeblad responded "no". He then asked the Board to recuse Mr. Lindeblad. Mr. Mancuso noted that two board members were

not in attendance and asked that his application be continued until it could be heard by the full board.

Mr. Mancuso was asked to submit the additional information that was requested by the Board at the October meeting prior to the end of the week in order for it to be considered at the December 2nd meeting as the filing deadline for that meeting has past.

BZA2014-05 Appeal from Section 19.48H of the Zoning Ordinances prohibiting signs from extending above the height of the wall on which it is mounted & Section 19.48.012(I) "Roof sign"

Mike Kress with Generator Studio appeared before the Board to appeal the interpretation of the Building Official that the proposed signage for 2310 West 75th Street was a roof sign and therefore prohibited. The requested sign is proposed to be mounted on top of the canopy over the entrance of the office building. It will not be located on the roof.

Mr. Kress stated he felt the proposed location was both the safest location for the signage and the best location for visibility by the public on the high traffic, high speed 75th Street. The building owner does not want a monument sign, feels that this is the most logical location for the identification signage and the sign fits the integrity of the architecture of the building. He understands the intent of the regulations for signage to not project above a building's roof and feels the proposed sign meets the intent of those regulations.

Ron Williamson explained that although the appeal was made for a sign at a specific location, it needs to be emphasized that if this appeal is approved it affects the Sign Ordinance as a whole, not just this specific location. Therefore, if approved, this type of sign could be located on any business building in the City. The specific location for this appeal is merely an example of the decision being appealed.

The applicant requested a sign permit for a sign that would be mounted on the top of the new entrance canopy as shown on the attached drawing. The Building Official denied the permit on the basis that the sign is a roof sign which is prohibited by the Sign Ordinance. It also violates Section 19.48.25.H. which prohibits signs from extending above the height of the wall on which is it mounted.

Mr. Williamson noted that the city code does not define "roof signs". The Leawood Ordinance defines roof signs as follows:

Roof Sign - Any sign erected and constructed wholly on the roof of a building, supported by the roof structure.

The Leawood Ordinance also prohibits roof signs.

The applicant has suggested that it is a marquee sign and the Prairie Village Ordinance is silent on marquee signs. However, the Leawood Ordinance defines marquee signs as:

Marquee Sign - Any sign attached flat against or under the canopy of a building, but not on the upper surface of a canopy.

Based on that definition the proposed sign would not be permitted.

The Overland Park definitions are virtually the same as Leawood and are as follows:

“Roof sign” means any sign erected, constructed and maintained wholly upon or over the roof of the building and having the roof as a principal means of support.

“Marquee sign” means any sign attached flat against or under the marquee or permanent sidewalk canopy of a building, but not on the upper surface of a marquee or canopy.

Mr. Williamson added that when the Planning Commission approved Sign Standards for 3520 W. 75th Street, it was determined that the sign above the entrance canopy (Continental) was a roof sign and it was required to be removed as a condition of approval of the Sign Standards.

Bob Lindeblad noted he remembers the discussion on the building at 3520 West 75th Street. However, as he views this application the sign does not appear to be a roof sign, but simply a sign located on the roof of a canopy. He feels it is a creative application of signage.

Larry Levy noted similar signs are seen throughout the country.

Randy Kronblad asked if there would be any illumination. Mr. Kress responded a hidden low light, not visible to the public, would light the lettering giving it a silhouette appearance.

Nancy Vennard noted the library on Mission Road has a canopy with lettering on the face of the canopy and asked if a similar application would be possible. Mr. Kress responded the owner did not feel such an application would provide the needed visibility.

Nancy Wallerstein confirmed there will not be a monument sign or other signage on the building. Mr. Williamson noted that this is a single tenant building. Mr. Kress responded the identifying signage for the building is located on a wall sign inside the building.

Larry Levy asked the height of the letters. Mr. Kress stated the capital letters are 12 inches in height and comply with the city’s regulations.

Nancy Wallerstein confirmed if the appeal was approved similar signage could be installed without Planning Commission review. Mr. Williamson noted only in single tenant buildings. Multi-tenant buildings would have to come before the Commission for approval of sign standards and the subject would be addressed then.

Nancy Vennard asked if the zoning regulations needed to be changed to address this. Mr. Williamson stated that the approval of the appeal would actually change the sign regulations and an amendment is not needed.

Bob Lindeblad noted that if the lettering was adjacent to a fascia location it would be called a wall sign, not a roof sign. He asked how far the canopy extended from the building. Mr. Kress replied 11 feet.

Mr. Lindeblad confirmed that in order to approve the proposed signage it would need to be considered a wall sign and meet the sign criteria. Mr. Williamson stated the proposed sign does comply with the limitation on the percentage of building façade coverage. Mr. Lindeblad stated he feels the signage should be approved as long as it is below the eave of the roof.

Larry Levy moved the Board of Zoning Appeals finds the proposed signage to be a wall sign as long as its location is within the plane of the building and below the roof eave. The motion was seconded by Nancy Wallerstein.

Mrs. Wallerstein asked if the motion could include that this signage would be in lieu of a monument sign. Ron Williamson stated conditions cannot be applied to an appeal of an interpretation. The action of the Commission is simply to make the determination that the proposed signage is a wall sign and not a roof sign and therefore in compliance with the city's code.

The motion was voted on and passed unanimously.

BZA2014-06 Request for a Variance from Section 19.14.030 "Rear Yard" for a reduction from the 25' setback of 6'4" for an enclosed deck 7919 Pawnee Street

Chris Lewis, 7919 Pawnee, was present with his wife to present their deck contractor. Mr. Lewis stated he is requesting a variance to screen in an existing deck that was built as part of the original footprint. He noted the unit attached to his screened in his deck a few years ago. It was noted that cedar trees block the view of the deck from the neighbors.

Chairman Randy Kronblad asked if anyone was present to address the Board on this application. With no one wanting to address the Board, the public hearing was closed at 8:05 p.m.

Ron Williamson noted the deck is approximately 12' 4" by 15' 8". The deck extends approximately 6' 4" into the rear yard. An unenclosed deck, which may have a roof, can extend into the rear yard 12 feet. Since the enclosed deck will extend into the rear yard 6' 4", the applicant needs a variance in order to enclose the deck.

This is an RP-4 Planned District which permits common wall single-family residences. This is the north unit of a two-family attached dwelling. The south unit has enclosed its deck. The rear yard requirement is 35 feet in the R-4 District. However, in the RP-4 Planned District the rear yard can be reduced to 60% of the requirement which would be 21 feet. Based on a field measurement of the existing dwelling it appears that it is 25

feet from the property line so the variance would be approximately 6' 4". This dwelling was built in 1983 and unfortunately the Development Plan is not as detailed as required now. Pawnee Street is a private street and there are no standard setback lines. Each building location was approved on the plan and there are several stand-alone single-family dwellings, as well as, two-family attached dwellings in the development.

Mr. Williamson noted the existing deck is set on wood columns with concrete footings. It is critical that the proposed screened-in deck does not become an all-season room. Therefore, if the variance is approved, a condition should be attached limiting the foundation to the existing columns and footings and that it is only a screened porch.

Bob Lindeblad confirmed that the applicant could build a fence around the deck.

Since the variance request was very minor a neighborhood meeting was not required.

Chairman Randy Kronblad led the Board in the following review of the five required conditions:

A. Uniqueness

That the variance requested arises from such condition which is unique to the property in question and which is not ordinarily found in the same zone or district; and is not created by an action or actions of the property owner or the applicant.

In order for the property to meet the condition of uniqueness, it must have some peculiar physical surroundings, shape, or topographical condition that would result in a practical difficulty as distinguished from a mere inconvenience to utilize the property without granting the variance.

This lot is located in a development that is unusual. The development was planned around the commercial transmission tower which has a 420 foot radius from the center point. This has created an unusual layout for this development which is not found in other parts of the City.

Bob Lindeblad noted this is unique planned development without a clear development plan establishing setbacks for the project and therefore, moved the Board find that the variance does arise from a condition unique to this property. The motion was seconded by Nancy Wallerstein and passed by a vote of 5 to 0.

B. Adjacent Property

That the granting of the permit for the variance would not adversely affect the rights of adjacent property owners or residents.

The south unit has already enclosed their deck and the unit to the north will not be affected. A private drive is located to the west. The houses to the east back into this property and the rear wall of those houses is approximately 65' from the property line. Also the property line is heavily landscaped and provides screening. Adjacent property should not be adversely affected.

Nancy Vennard moved the Board find that the variance does not adversely affect the rights of adjacent property owners or residences. The motion was seconded by Bob Lindeblad and passed by a vote of 5 to 0.

C. Hardship

That the strict application of the provisions of these regulations from which a variance is requested will constitute an unnecessary hardship upon the property owner represented in the application.

The deck already exists and there is no other location to build a new one and enclose it. If the enclosure would line up with the existing rear building line it would only be six feet deep, which would not be useful.

Nancy Vennard noted there is not another feasible location for the deck and moved that the Board find the variance would constitute an unnecessary hardship upon the property owner. The motion was seconded by Nancy Wallerstein and passed by a vote of 5 to 0.

D. Public Interest

That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare.

The proposed variance is only for the existing deck which is 15' 8" in length, not the entire building. It is a minor improvement and will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare.

Bob Lindeblad moved the Board find that the variance will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare. The motion was seconded by Nancy Wallerstein and passed by a vote of 5 to 0.

E. Spirit and Intent of the Regulation

That the granting of the variance desired would not be opposed to the general spirit and intent of these regulations.

This is a planned development that was built in 1983 which has non-standard setbacks and building locations. The approval of this variance would accommodate an improvement that was not anticipated in 1983 and would not be opposed to the general spirit and intent of these regulations.

Nancy Vennard moved that the Board find that the variance is not opposed to the general spirit and intent of these regulations. The motion was seconded by Bob Lindeblad and passed by a vote of 5 to 0.

Nancy Wallerstein moved that after reviewing the information submitted and consideration of the testimony during the public hearing, the Board finds that all five conditions can be met as required by state statutes, that the Board grant the requested variance subject to the following conditions:

1. That the variance be approved for only the enclosure of the existing deck as shown on the plans submitted with the application.
2. That no additional foundation or footings be constructed and the enclosure be screened only.

The motion was seconded by Bob Lindeblad and passed by a vote of 5 to 0.

OTHER BUSINESS

It was noted that the Board will meet again on December 2, 2014 to consider the continued application and hear a new application for 3905 Delmar.

ADJOURNMENT

Chairman Randy Kronblad adjourned the meeting of the Board of Zoning Appeals at 8:10 p.m.

Randy Kronblad
Chairman

PLANNING COMMISSION MINUTES
November 4, 2014

ROLL CALL

The Planning Commission of the City of Prairie Village met in regular session on Tuesday, November 4, 2014, in the Municipal Building Council Chambers at 7700 Mission Road. Chairman Bob Lindeblad called the meeting to order at 7:15 p.m. with the following members present: Nancy Vennard, Nancy Wallerstein, Larry Levy and Randy Kronblad.

The following persons were present in their advisory capacity to the Planning Commission: Ron Williamson, City Planning Consultant; Kate Gunja, Assistant City Administrator and Joyce Hagen Mundy, City Clerk/Planning Commission Secretary. Also present was Council Liaison Terrence Gallagher and Building Official Mitch Dringman.

APPROVAL OF MINUTES

Bob Lindeblad noted a typographical error on page for "2-15" should be "2015". Nancy Vennard moved for the approval of the minutes of October 7, 2014 as corrected. The motion was seconded by Randy Kronblad and passed unanimously.

PUBLIC HEARINGS

**PC2014-08 Request for Amendment to Special Use Permit for Private School
3531 Somerset Drive
Zoning: R-1a
Applicant: Kathy Morrison, Highlawn Montessori School**

Chairman Bob Lindeblad noted that this application has been republished for a Public Hearing on December 2, 2014.

NON-PUBLIC HEARINGS

**PC2014-118 Site Plan Amendment for Wireless Antennas
7801 Delmar**

Emily Roseberry with Selective Site Consultants addressed the Commission on behalf of T-Mobile who are seeking an amendment to their site plan. T-Mobile is requesting approval to add three antennas, a coaxial cable and equipment. The new equipment will be placed in an existing equipment box within the existing equipment compound. The three new antennas will be located on the catwalk along with the others. Any new cable to serve the antennas shall be enclosed in a metal shield that is painted the same color as the water tower. The proposed antennas are approximately 12" wide by 96" long and weigh approximately 50 lbs.

Ron Williamson noted the original Special Use Permit was approved for three carriers in 1997 for six years. In 2003 the Special Use Permit was renewed for six more years. In 2009 the Special Use Permit was renewed for ten years for three carriers with the condition that additional carriers could locate on the water tower by Site Plan Approval of the Planning Commission.

Currently the three carriers on the water tower are Sprint (three antennas), Clearwire (six antennas), and T-Mobile (three antennas). The applicant has submitted a Structural Analysis Report which states that the water tower catwalk is adequate to accommodate the proposed improvements.

Since this is a minor improvement, a neighborhood meeting was not required.

Chairman Bob Lindeblad led the Commission in consideration of the following criteria:

A. The site is capable of accommodating the building, parking areas and drives with appropriate open space and landscape.

The parking, access and landscaping were addressed when the Special Use Permit was granted and the addition of three antennas will not affect those items. The tower site is capable of accommodating the proposed improvements.

B. Utilities are available with adequate capacity to serve the proposed development.

Utilities are currently in place, serving the existing installation and are adequate to serve this minor expansion.

C. The plan provides for adequate management of stormwater runoff.

There will be no increase in impervious surface so stormwater is not an issue.

D. The plan provides for safe and easy ingress, egress, and internal traffic circulation.

The proposed site will utilize existing streets and parking lot for circulation which will adequately serve the proposed use.

E. The plan is consistent with good land planning and good site engineering design principles.

This is a minor expansion of an existing installation and land planning and site engineering are not relevant concerns. The proposed installation will be on the existing water tower and will have very little impact.

F. An appropriate degree of compatibility will prevail between the architectural quality of the proposed building and the surrounding neighborhood.

The proposed installation of the three antennas will be compatible with the existing antennas that are currently in place.

G. The plan represents an overall development pattern that is consistent with the comprehensive plan and other adopted planning policies.

Wireless communications are not specifically addressed in Village Vision. However, it falls into two general goal areas; which are maintaining and improving infrastructure and improving communications between the City and its residents.

Randy Kronblad moved the Planning Commission approve the proposed Amended Site Plan at 7801 Delmar for T-Mobile subject to the following conditions:

1. That the proposed improvements be installed as shown on the plans dated 9/4/14.
2. That three proposed antennas are approved to be installed on the catwalk.
3. That all new equipment will be installed within existing equipment boxes within the equipment compound.
4. That all cable required to be installed to serve the antennas be enclosed in a metal shield that is painted the same color as the water tower.

The motion was seconded by Nancy Wallerstein and passed unanimously.

PC2014-119 Request for Amended Site Plan Approval 3921 West 63rd Street

Todd Kerkhoff with Consolidated Fire District #2 at 3921 West 63rd Street stated the Fire District is requesting approval of a sign to provide information about the District on an existing wall. The wall was constructed with the fire station in 2000 originally to screen trash bins; however, the trash bins have been moved to the rear of the building. The wall is a concrete slab approximately 100" (8.3') high by 118" (9.8') wide. The Fire District is proposing to place information about the District on the upper 74" of the wall. The 74" x 118" space equals 60.63 sq. ft. The information panel will not include all that area. The actual information for both panels is approximately 33 sq. ft.

Ron Williamson noted the problem is that the proposed sign is too large to be a monument sign and it is an independent structure that is not attached to the building. It is, however, the best location to display the information. If this would have been proposed when the building was constructed, Staff would have recommended that the wall be attached to the building. That is really not practical at this time. Therefore, Staff is requesting the Planning Commission to approve the proposed sign as an amendment to the original Site Plan. Section 19.32.025.H. provides authority of the Planning Commission to approve signage as part of a Site Plan.

Since this was a minor revision to the Site Plan a neighborhood meeting was not required.

Randy Kronblad asked if the sign would be painted on the wall. Mr. Kerkhoff responded it would be a manufactured aluminum sign. The Fire District will be going out for bids on the proposed design. He understands the sign is to have some three dimensional appearance.

Larry Levy confirmed the sign would not completely cover the wall.

Chairman Bob Lindeblad led the Commission in consideration of the following criteria:

A. The site is capable of accommodating the building, parking areas and drives with appropriate open space and landscape.

The proposed signage will be placed on an existing wall and will have no effect on parking, drives, open spaces or landscaping.

B. Utilities are available with adequate capacity to serve the proposed development.

Utilities are provided for the fire station but no utilities will be required for the sign.

C. The plan provides for adequate management of stormwater runoff.

Stormwater runoff will not be affected.

D. The plan provides for safe and easy ingress, egress, and internal traffic circulation.

Traffic circulation will not be affected.

E. The plan is consistent with good land planning and good site engineering design principles.

The proposed sign will be placed on an existing structure which is good planning.

F. An appropriate degree of compatibility will prevail between the architectural quality of the proposed building and the surrounding neighborhood.

The sign is well designed, unlighted and will be compatible with the existing building.

G. The plan represents an overall development pattern that is consistent with the comprehensive plan and other adopted planning policies.

The proposed sign is consistent with the Comprehensive Plan in providing quality design of improvements that are compatible with the neighborhood.

Larry Levy moved the Planning Commission approve the proposed Amended Site Plan for the Consolidated Fire District #2 at 3921 West 63rd Street subject to the following conditions:

1. That the sign be placed on the existing wall as shown on the accompanying plan.
2. That the face of the sign not exceed 50 square feet.
3. That the sign not be lighted.

The motion was seconded by Nancy Wallerstein and passed unanimously.

**PC2014-120 Site Plan Approval
8101 Mission Road**

Tim McQuaid, 7927 Bond, contractor for the proposed deck presented the application to the Commission. His client is requesting permission to construct an open deck adjacent to their dwelling unit. The unit is located on the east side of the building on the second floor. The proposed deck is approximately 7 feet deep and 15.5 feet wide. It is located in a recessed area of the building which has walls on three sides. The structure will be tied

into the existing building and there will be no columns. The floor will be covered with deck tiles and therefore will be solid. Mr. McQuaid noted there are several multi-story decks on the east, south and north sides of the building.

Ron Williamson noted there were several decks built with the original construction and presented photos of those decks. There is a current trend in apartment houses, whether it be for seniors or others, to provide outdoor space. As this could be the first of many similar applications and Staff felt that the Planning Commission should consider this proposed project.

Since this is a minor improvement to a very large structure a neighborhood meeting was not required. Mr. Williamson noted the proposed deck has been reviewed and approved by Claridge Court.

Larry Levy asked how the deck would be supported. Mr. McQuaid replied a structural engineer has designed a support system from the building internally. Mr. Williamson noted the roof of the parking garage is located below this unit. Mr. Levy confirmed the deck is not covered.

Nancy Wallerstein asked if the resident residing in the apartment below was aware of the proposed deck. Larry Sanderson with Claridge Court responded they have had several conversations with the resident and she is comfortable with the proposed deck. He noted the deck will not be visible from the street.

Bob Lindeblad led the Planning Commission in consideration of the following criteria for site plan approval:

A. The site is capable of accommodating the building, parking areas and drives with appropriate open space and landscape.

The proposed deck will be on the second floor and will not have an effect on any ground level facilities, such as parking and drives or open space and landscape.

B. Utilities are available with adequate capacity to serve the proposed development.
Adequate utilities are available to the facility.

C. The plan provides for adequate management of stormwater runoff.
Additional impervious area will not be created because this is above the roof of the parking garage.

D. The plan provides for safe and easy ingress, egress, and internal traffic circulation.
Ingress, egress and internal traffic circulation will not be affected.

E. The plan is consistent with good land planning and good site engineering design principles.

The proposed deck is located in an area on the east side of the building that will not have an effect on the site.

F. An appropriate degree of compatibility will prevail between the architectural quality of the proposed building and the surrounding neighborhood.

The proposed deck has been designed to fit well into the existing building. All materials used for the deck will match materials used in the existing building.

G. The plan represents an overall development pattern that is consistent with the comprehensive plan and other adopted planning policies.

Village Vision encourages providing amenities to improve the quality of life for residents and maintaining properties so that they are consistent with current and future market trends.

Randy Kronblad moved the Planning Commission approve the Site Plan for the proposed deck as shown on the plan dated 8/12/2014 subject to the following condition:

1. That all materials used on the project match materials currently used on the existing building.

The motion was seconded by Nancy Vennard and passed unanimously.

**PC2014-121 Request for Amended Site Plan Approval for Wireless Antennas
3921 West 63rd Street**

Wayne Medlin, with Black & Veatch, representing AT&T was present to address any questions of the Commission regarding the proposed installation of additional antenna at 3921 West 63rd Street. He stated he had reviewed the staff report and was in agreement with the recommended conditions for approval.

Ron Williamson noted the Governing Body granted a Special Use Permit for a wireless communications facility on June 7, 2010 to the Consolidated Fire District at 3921 West 63rd Street. The wireless communications facility was approved for Verizon and two additional carriers with the condition that each additional carrier would be required to submit a site plan for approval by the Planning Commission. AT&T submitted a site plan approval application and it was approved by the Planning Commission in December 2010.

T-Mobile was approved as the third carrier for the co-location site in June 2011. Verizon uses two center-lines and AT&T uses two center-lines on the monopole while T-Mobile only uses one. T-Mobile is only using G-3 data transmission at this location so only one center-line was needed. The pole was designed for six center-lines and AT&T is proposing to use the third center-line to install three antennas inside the pole for its LTE (Long-Term Evolution) high-speed data service at the 105 foot elevation. In addition, three coaxial cables will be installed inside the monopole and additional equipment will be installed within the walled equipment compound. None of the proposed equipment will exceed the height of the wall surrounding the compound and all equipment will be screened from view. The applicant has submitted a Structural Analysis Evaluation Letter stating that the tower can accommodate the existing and proposed loading configuration.

Since a neighborhood meeting was held as part of the Special Use Permit and all proposed improvements are internal a neighborhood meeting was not required for this application.

Chairman Bob Lindeblad led the Commission in consideration of the following criteria:

A. The site is capable of accommodating the building, parking areas and drives with appropriate open space and landscape.

The capability of the site to accommodate the equipment compound was addressed in the approval of the Special Use Permit.

B. Utilities are available with adequate capacity to serve the proposed development.

Adequate utilities are available to serve this location.

C. The plan provides for adequate management of stormwater runoff.

Public Works has reviewed and approved a storm water management plan for the entire equipment compound as a part of the Special Use Permit Application (PC 2010-03).

D. The plan provides for safe and easy ingress, egress, and internal traffic circulation.

The proposed site will utilize the existing fire station driveway and parking lot for circulation which will adequately serve the proposed use.

E. The plan is consistent with good land planning and good site engineering design principles.

The details of the overall design of the equipment compound were approved as a part of the Special Use Permit Application (PC 2010-03).

F. An appropriate degree of compatibility will prevail between the architectural quality of the proposed building and the surrounding neighborhood.

A 10-foot tall brick screening has been constructed around the perimeter of the equipment compound using the same materials that match the existing fire station. No equipment will be visible above the wall.

G. The plan represents an overall development pattern that is consistent with the comprehensive plan and other adopted planning policies.

Wireless communications are not specifically addressed in Village Vision. Generally it falls into maintaining and improving infrastructure.

Nancy Wallerstein moved the Planning Commission approve the Amended Site Plan for the wireless communications facility at 3921 West 63rd Street for the co-location of AT&T subject to the following conditions:

1. That all antennas and wiring be contained within the monopole.
2. That all equipment and supporting structures shall be screened by the 10' wall.
3. That AT&T and any subsequent entity maintain compliance with all the conditions of approval of the Special Use Permit (2010-03).

The motion was seconded by Randy Kronblad and passed unanimously.

OTHER BUSINESS

Nancy Wallerstein asked if the Commission needed to take further action in response to the signage appeal granted at the earlier Board of Zoning Appeals Meeting with a possible ordinance revision.

Ron Williamson noted that a business can have both a wall and monument sign and that with multi-tenant buildings most issues can be addressed through the sign standards.

Bob Lindeblad stated he felt the Commission needed to be flexible to address business needs in signage on an individual basis rather than to attempt to regulate all possibilities.

Next Meeting

The Planning Commission will have a full agenda for the December 2nd meeting with the amendment to the Special Use Permit for Highlawn Montessori at 3531 Somerset for an addition of a second floor on the West building to accommodate two additional classrooms and a multi-purpose room. An application has also been filed for a Special Use Permit for Homestead Country Club as well as Preliminary Plat approval for "Homestead Estates", the proposed homes on the former country club property along Mission Road. The Final Plat for Mission Chateau at 8500 Mission Road has also been submitted for approval in December.

ADJOURNMENT

With no further business to come before the Commission, Chairman Bob Lindeblad adjourned the meeting at 7:40 p.m.

Bob Lindeblad
Chairman

PARKS AND RECREATION COMMITTEE

November 12, 2014

7:00 PM

Community Center

Minutes

The Parks and Recreation Committee met at 7:00 PM in the Community Center. In attendance: Eric Mikkelson, Vice Chair, Kevin Letourneau, Bill Sanderson, Peggy Couch, Kellie O'Toole, Matt Geary, Diane Mares, Dan Searles, Lauren Wolfe, and Teen Council Representative Gabe Altenbernd. Staff: Nolan Sunderman and Bill Billings.

Mr. Mikkelson called the meeting to order at 7:00 PM and asked the Committee members to introduce themselves.

Public Participation

- There were no public participation comments.

Consent Agenda

1. Minutes from October 8, 2014

It was moved and seconded to approve the minutes from the October 8, 2014 meeting. The motion passed unanimously.

Reports

1. Public Works Report

Mr. Billings reviewed a list of the many park improvements and maintenance related accomplishments over the last month. These included sealing the trails at three parks, turf maintenance at all parks, Harmon Park bathroom heater, stonework at Santa Fe, bench installation at Windsor, painting of the lap pool and adult wading pool, as well as a report on the renovations at McCrum Park. Ms. Mares had a question regarding the work at the tennis courts and the overall cost. Mr. Searles commented on the feedback regarding the skate park. The bowl feature is attractive to skaters and is what sets our skate park above the other skate parks in the area.

2. Recreation Report

Mr. Sunderman updated the Committee on the 2014 Annual Recreation Report. He provided an overview of the highlights from 2014 and distributed a copy of the report. Mr. Sunderman provided an update on the 2015 Johnson County Track & Field Day scheduled for May 2, 2015. Mr. Sunderman then discussed the disc golf course and the number of positive comments received. An update regarding the potential for a Pickleball League was provided. Additional discussions will take place and an update will be provided at the next meeting.

The Synchronized Swim Team plans for 2015 were discussed. Mr. Sunderman is working to schedule an information session in early January to determine the level of interest in the community for participants. After the information session, a decision can be made if this program should continue to be offered. An update was provided on the MARC Bike/Ped Grant application. The project scored low in comparison with the other competing projects. A final funding decision will be made by the MARC Committee in December. Mr. Mikkelson requested we continue to pursue funding as this was a good plan to further these amenities in the community.

3. Chairperson's Report

Mr. Mikkelson provided an update on the 75th Street Project. The bids were much higher than projected and the City Council will have a tough decision to make on how to proceed. Mr. Mikkelson expressed his desire to have the sidewalk on the south side of the road if the project continues. Mr. Mikkelson asked if the Committee members have an opinion on the project to contact their City Councilmember.

New Business

- Mr. Billings and Mr. Sunderman provided an update on slacklining. A discussion of proposed guidelines was discussed. The Committee felt like there were not enough participants at this time to warrant a policy or set of guidelines.

Old Business

- There was no old business discussed.

Information Items

- Mr. Sanderson requested that at the next meeting we discuss potential partnerships between the Shawnee Mission School District and the City for open gym hours and family swim nights.
- Next Meeting – December 10, 2014 at 7:00 p.m. in the Council Chambers.

Adjournment

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

**City of Prairie Village
Insurance Committee
Minutes**

December 3, 2014
4:30PM, Multipurpose Room

Committee members present: Steve Noll (Chair), Tom Cannon and Frank Young. Also present: Bob Frankovic of Cretcher Heartland, insurance consultant and broker, Steve Sopinski of Cretcher Heartland. City staff members attending: Lisa Santa Maria.

Committee members not present: Dan Runion, Brett Lane and Quinn Bennion.

Steve Noll chaired the meeting and called the meeting to order at 4:32pm. Chairman Noll referred to the meeting agenda:

Agenda

1. Discussion of 2015 – 2016 Insurance Renewals

Adopted Budgets:

	<u>2013 Budget</u>	<u>2014 Budget</u>	<u>2015 Budget</u>
Worker's Comp	\$163,271	\$155,290	\$138,333
Property & Casualty	<u>\$186,248</u>	<u>\$205,775</u>	<u>\$202,456</u>
Total	\$349,519	\$361,065	\$340,789

Note: Insurance renewals are May 1st.

2015 budget consists of:

4 months in 2015 at the 2014-2015 premium

8 months in 2015 at the 2015-2016 premium

2015 – 2016 Insurance Renewals

Steve Sopinski distributed a binder to the committee members that served as a guide for discussion.

Premium & Loss Summary

At the ½ year point the City has a Loss Ratio of 11%. The City’s 9 year Loss Ratio is 57%. The **loss ratio** is the ratio of total losses incurred (paid and reserved) in claims plus adjustment expenses divided by the total premiums earned.

For Prairie Village (2006 – 2014):

Total Paid Losses / Total Premiums = Loss Ratio

\$1,495,005 / \$2,613,603 = .57

Claims Review

Bob Frankovic and Steve Sopinski went over the claims and noted that the City does not have a deductible this year. The city’s Experience Modifier rating continues to increase. Experience Mod compares our worker’s compensation claims experience to other employers of similar size operating in the same type of business.

<u>Year</u>	<u>Exp Modifier Rate</u>
2014	.95
2013	.85
2012	.80
2011	.77
2010	.74
2009	.78

Based on this information they are predicting low single digit rate increases and don’t feel that market trends will be much of an issue.

Market Strategy

Last year Cretcher Heartland did a marketing campaign for our current policy since Trident/Argonaut was not available in the State of Kansas anymore. Bob Frankovic and Steve Sopinski do not see the need to enter the market place again this year. They are suggesting that the City renew all line of coverage with Travelers unless they determine otherwise after they see the renewal quotes.

Timeline for coverage renewal:

1/15/2015 Applications to Travelers
2/15/2015 Firm indications from Travelers on their renewal intentions
3/15/2015 Renewal quotes into Cretcher Heartland
4/1/2015 Cretcher to present to Insurance Committee

New Coverage

Bob Frankovic brought up Cyber Coverage again and suggested the City consider signing up for this. This coverage primarily covers hacking exposure.

The Committee also discussed additional Fiduciary coverage for the 457 plan. The 457 plan was under the State, but will now be administered by the City. The Council requested that the Police Pension Plan Trustee Committee assume the additional oversight role. Fiduciary liability coverage is provided to the committee relative to the Police Pension Plan. The outstanding question is whether additional Fiduciary coverage is needed in light of the additional responsibility for the 457 plan. Cretcher Heartland is waiting to hear back from Travelers on the cost of this coverage.

Timeline

The Committee agreed to meet again on Wednesday, April 1st to go over coverage options. The election for the new mayor will be on April 7th and a new mayor will be seated on April 20th. Since our renewal is May 1st, we will need to present the insurance committee's recommendation to Council either the first or second meeting of April.

Items for Follow-up

The following items need to be followed up on:

1. Lisa will begin reviewing and updating the information in the Renewal Workbook tab of the binder. Accurate information is necessary to make sure the City gets the correct coverage at the optimal cost.
2. Lisa will work with Steve to fill out the paperwork needed for the renewal process
3. Lisa will check into the payment of Worker's Comp deductibles

Meeting adjourned 5:45PM

Minutes submitted by
Lisa Santa Maria, Finance Director

**Council Members
Mark Your Calendars
December 15, 2014**

December 2014	Kathleen Manning photography exhibit in the R. G. Endres Gallery
December 15	City Council Meeting
December 18	Employee Holiday Luncheon - 11:00 am - 1:30 pm
December 25	City offices closed in observance of Christmas
January 2015	Greater Kansas City Art Association exhibit in the R.G. Endres Gallery
January 1	City offices closed in observance of New Year's Day
January 3	City Council Meeting
January 8	NEJC State of the Cities Address, 11:00 a.m.
January 9	Artist reception in the R. G. Endres Gallery 6:30 - 8:00 p.m.
January 17	City offices closed in observance of Martin Luther King, Jr. Holiday
January 18	City Council Meeting
February 2015	Kermit Dyer & Ed Harper exhibit in the R.G. Endres Gallery
February 2	City Council Meeting
February 4	LKM City Hall Day in Topeka
February 13	Artist reception in the R. G. Endres Gallery 6:30 - 7:30 p.m.
February 17	City Council Meeting