



ADMINISTRATION

City Council Meeting: Dec. 21, 2015

Consider approval of the Park Site Gift Agreement for Meadowbrook Park.

RECOMMENDATION:

Approval of Resolution 2015-06 – Meadowbrook Park Site Gift Agreement

BACKGROUND:

The City of Prairie Village, Johnson County, Johnson County Park & Recreation District (JCPRD), JoCo Wastewater and VanTrust Real Estate LLC, have been working together to redevelop the former Meadowbrook Country Club. As currently proposed, the Meadowbrook redevelopment project would establish an approximately 80 acre public park and a mixed-use development. The Meadowbrook redevelopment project will use TIF funds from within the Park and Village project area to finance the park acquisition, park improvements and other public infrastructure items.

As part of the park development process, a park site gift agreement is being presented to outline the details of the proposed park development and future additions or changes in the park. The Johnson County Park & Recreation District Board approved the agreement at their December 16, 2015 meeting.

Below is an outline of the major points of the Meadowbrook Park Site Gift Agreement between the City of Prairie Village and the Johnson County Park & Recreation District:

- JCPRD accepts title to the park site, subject to the Park Use Restrictions (as outlined in the Kansas Special Warranty Deed between JCPRD and VanTrust Real Estate), Permitted Exceptions, Project Easements, and City Park Approvals (as outlined further in the Park Site Gift Agreement).
- “Meadowbrook Park” shall be the official name of the park to be operated on the Park Site.
- JCPRD agrees that its operation of the Park Site and the Park Master Plan will be subject to the following regulations, permits and requirements for joint approval of certain matters by both the Board of Commissioners of JCPRD and the Governing Body of the City of Prairie Village:
 - The use and operation of the Park Site as a public park, and the improvement of the Park Site, are subject to zoning, building codes, public safety and other laws and regulations of the City as may be in effect from time to time, including, but not limited to, current City requirements for special use permits for fireworks, racing events which affect public rights of way, alcohol permits, parade permits, and neighborhood special event permits.
 - Permits for the construction and upkeep of structures shown on the Park Master Plan shall be subject to and comply with standard City approval requirements in place from time to time.
 - Any changes to the Park Site not contemplated in the original Park Master Plan which are subject to City building permits, right of way

permits, or drainage permits shall require, in addition to staff approval, approval by the Governing Body of the City.

- Upon the termination of the Park Use Restrictions after 25 years, changes to the Park Site which would incorporate those uses prohibited by the Park Use Restrictions (skate parks; permanent areas for off-leash dogs, cats, or other domesticated animals; and permanent athletic fields, goals, bleachers, sports lighting or other actions or indications of programmed organized sports or facilities except within the Community Center Activity Zone), and at all times after Closing any other major deviation from the original Parks Master Plan approved by the City, shall require joint approval of the Board of Commissioners of JCPRD and the Governing Body of the City, after public hearing, review by and recommendation of the Prairie Village Planning Commission.
- It is proposed that expenses related to completion of the Park Master Plan incurred by JCPRD before Closing are eligible for payment or reimbursement from the proceeds of the TIF Bonds.
- JCPRD will implement the Park Master Plan and, subject to the availability of TIF funds, complete or cause to be completed the Pond Work and the Initial Trail Work by a date which is not later than eighteen (18) months after completion of the Public Infrastructure Improvements, and will operate, maintain, repair, improve and provide services at the Park Site in accordance with the Park Master Plans.
- JCPRD will open the Park Site to the public for use as a public park on a date which is not later than two (2) years after completion of the Public Infrastructure Improvements, regardless of whether all of the Pond Work and Initial Trail Work have been completed
- The parties have established the “Funding Priority Waterfall”, in which line item priorities are established as follows:
 - First Priority Line Items – Park Purchase Price and Costs Associated with Park Site Acquisition
 - Second Priority Line Items – Public Infrastructure Improvements, Pond Work, and Initial Trail Work
 - Third Priority Line Items – All other Park Project Costs
- All TIF moneys available to JCPRD for Third Priority Line Items must be spent within 2 years following the completion of Public Infrastructure Improvements.

ATTACHMENTS:

- Resolution 2015-06
- Meadowbrook Park Site Gift Agreement with attachments

PREPARED BY:

Nolan Sunderman & Quinn Bennion

Date: Dec. 17th, 2015

RESOLUTION NO. R 2015-06

A RESOLUTION AUTHORIZING THE CITY OF PRAIRIE VILLAGE, KANSAS TO ENTER INTO A PARK SITE GIFT AGREEMENT RELATING TO THE PARK AND VILLAGE PROJECT AREA PROJECT PLAN FOR THE MEADOWBROOK REDEVELOPMENT DISTRICT; PRESCRIBING THE FORM OF AND AUTHORIZING THE EXECUTION AND DELIVERY OF SUCH AGREEMENT.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF PRAIRIE VILLAGE, KANSAS, AS FOLLOWS:

Section 1. Authorization of Agreement. The Governing Body of the City hereby approves and authorizes the execution of the Park Site Gift Agreement dated December 21, 2015 between the City of Prairie Village, Kansas and the Johnson County Parks and Recreation District relating to the Park and Village Project Area Project Plan for the Meadowbrook Redevelopment District (the "Park Site Gift Agreement") in the form presented for review prior to adoption of this Resolution (a copy of which shall be filed in the records of the City).

Section 2. Execution of Agreement. The Mayor of the City is hereby authorized and directed to execute the Park Site Gift Agreement with any technical corrections thereto as the Mayor may approve, which approval shall be evidenced by her execution thereof. The City Clerk of the City is hereby authorized and directed to attest the execution of the Park Site Gift Agreement under the City's official seal.

Section 3. Effective Date. This Resolution shall take effect and be in force from and after its adoption.

THIS RESOLUTION IS PASSED AND APPROVED BY THE GOVERNING BODY OF THE CITY OF PRAIRIE VILLAGE, this 21st day of December, 2015.

Laura Wassmer, Mayor

ATTEST:

By _____
Joyce Hagen Mundy, City Clerk

PARK SITE GIFT AGREEMENT
BETWEEN
JOHNSON COUNTY PARK AND RECREATION DISTRICT,
AND
CITY OF PRAIRIE VILLAGE, KANSAS,
RELATING TO THE
PROJECT PLAN
PARK AND VILLAGE PROJECT AREA
MEADOWBROOK DEVELOPMENT DISTRICT

LIST OF EXHIBITS

- Exhibit A Park and Village Project Area Legal Description
- Exhibit B Park and Village Project Area Map
- Exhibit C Preliminary Park Project Budget
- Exhibit D Preliminary Plat
- Exhibit E Special Warranty Deed

PARK SITE GIFT AGREEMENT

THIS PARK SITE GIFT AGREEMENT (this “**Agreement**”) is dated as of December 21, 2015 (as herein defined) by and among **JOHNSON COUNTY PARK AND RECREATION DISTRICT**, a body corporate and political subdivision organized and existing pursuant to the laws of the State of Kansas (“**JCPRD**”), and the **CITY OF PRAIRIE VILLAGE, KANSAS**, a municipal corporation organized and existing pursuant to the laws of the State of Kansas (the “**City**”). JCPRD and the City are referred to herein each as a “**Party**”, and collectively as the “**Parties**”.

RECITALS

A. On September 8, 2015, the governing body of the City (“**Governing Body**”) approved Ordinance No. 2337, which established a redevelopment district pursuant to K.S.A. § 12-1770 et seq., as amended, known as the Meadowbrook Redevelopment District (the “**District**”), which is located within the City and Johnson County, Kansas, generally bounded on the north by Somerset, on the east by Roe Avenue, on the south by 95th Street and on the west by Nall Avenue, as more specifically described therein.

B. The City has prepared a redevelopment project plan for the area within the District which is the location of the former Meadowbrook Country Club (the “**Park and Village Project Area**”), dated as of October 9, 2015 (the “**Project Plan**”), which includes, but is not limited to, the gift by the City to JCPRD of 80 to 90 acres of the Park and Village Project Area legally described on the attached Exhibit A and depicted on the attached Exhibit B (the “**Park Site**”) exclusively for a public park (the “**Park Acquisition**”), and the making of certain public improvements related to the Park Site, all in conjunction with development of a senior living facility, a luxury apartment complex, a hotel facility, townhomes and single family residences by MB-18, LLC, a Kansas limited liability company (the “**Developer**”) and its permitted assigns within privately owned areas of the Park and Village Project Area (collectively, the “**Project**”).

C. On December 16, 2015 the Board of Commissioners of JCPRD adopted a Resolution approving this Agreement.

D. On or after December 21, 2015 the Governing Body of the City will consider Ordinance No. 2343 approving the Project Plan, and a Resolution approving this Agreement and a Development Agreement between the City and Developer (“**Development Agreement**”), whereby, among other things, the City conditionally agrees to issue TIF Bonds (as defined herein) to finance certain costs of the Project, including the acquisition by JCPRD from Developer of the Park Site and certain other public improvements related to the Park Site, conditioned, in part, upon the approval by JCPRD of this Agreement.

E. Pursuant to K.S.A. §§ 19-2862 and 19-2867, JCPRD is authorized to acquire by gift, own, lease and hold real estate for and to establish, improve, finance, operate and maintain parks and playgrounds within Johnson County, Kansas.

F. With input from the City and the Developer, and concurrent with or after the approval of this Agreement, JCPRD has adopted or will adopt a master plan in accordance with its policies and procedures for the design, improvement, use and operation of the Park Site as a public park.

G. Upon the payment in escrow from proceeds of the TIF Bonds to the Developer of the Park Purchase Price (as herein defined), City is willing to direct the Developer to convey the Park Site directly to JCPRD, in escrow, and JCPRD is willing to accept title to the Park Site, subject to the

Permitted Exceptions (as defined herein), to operate and maintain the Park Site in accordance with the Park Master Plan, and to make certain improvements to the Park Site as more fully described herein, to be paid or reimbursed by a portion of the proceeds of the TIF Bonds.

H. The Parties desire to enter into this Agreement to determine the Parties' respective rights and obligations regarding the matters set forth in the above recitals.

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

ARTICLE I
DEFINITIONS AND RULES OF CONSTRUCTION

Section 1.01 **Definitions of Words and Terms**. Capitalized words used in this Agreement shall have the meanings as specifically defined herein or they shall have the following meanings:

"City Park Approvals" means the regulations, permits and requirements for joint approval with the Board of Commissioners of JCPRD of certain matters by the Governing Body of the City as set forth in **Section 2.02(B)** hereof which survive the Closing.

"Closing Conditions" shall have the meaning set forth in **Section 4.01(B)** hereof.

"Escrow Agreement" means an escrow agreement relating to the Special Warranty Deed and the Park Purchase Price to be in form and content approved by JCPRD, the City and the Developer.

"Effective Date" shall have the meaning set forth in **Section 5.03** hereof.

"Final Plat" means the final plat of the Park and Village Project Area approved by the City.

"GO TIF Bonds" means full faith and credit tax increment bonds to be issued by the City pursuant to the TIF Act and the Project Plan in the approximate amount of \$11,365,000.

"Initial Trail Work" means the initial priority construction of certain trails to be located on the Park Site described as initial priority trails in the Preliminary Park Project Budget, the final scope of which will be approved prior to Closing in accordance with **Section 4.01(B)**.

"JCW" means Johnson County Wastewater, a department of Johnson County, Kansas.

"JCW Agreement" means an agreement between the Developer and JCW pursuant to which the Developer will agree to construct at no cost to JCW all on-site sewer improvements, in accordance with design and specifications approved by JCW, necessary to provide sewer service to Park and Village Project Area and, in addition, will pay to JCW the total amount of \$3,038,869 (or such other amount as is finally determined by JCW and the Developer), which payment may be made in the following: (a) a cash payment of \$248,573 by the Developer, or, if acceptable to JCW, the principal sum of \$248,573, together with interest and costs, financed by Special Benefit District Bonds for Single Family, which shall have no repayment or credit risk to the City or JCPRD; (b) a cash payment of \$1,123,982; (c) a cash payment for the Developer Sewer Buy In Cash Contribution in the amount of \$764,914; (d) Connection Fees paid for development on the Park and Village Project Area as and when due, which are estimated to be \$901,400, based on the fee schedule currently in place.

“**JCW Expansion**” means the creation of a sewer district and enlargement of the Consolidated Main Sewer District to include Park and Village Project Area and sizing all facilities (onsite and off-site) in a manner which will support the Project.

“**Memorandum of Agreement**” means the instrument to be recorded in the land records of Johnson County, Kansas immediately after the recording of the Special Warranty Deed from the Developer to JCPRD, describing this Agreement.

“**Park and Village Project Area**” shall have the meaning set forth in **Recital B**.

“**Park Lakes Agreement**” means an agreement, if any, between Developer and JCPRD pursuant to which Developer, on behalf of JCPRD, in accordance with JCPRD specifications and requirements, contracts with the Developer for portions of the Park Project consisting of dredging and improvements to existing ponds, as more fully set forth therein.

“**Park Master Plan**” means the master plan adopted by JCPRD in accordance with its policies and procedures for the design, improvement, use and operation of the Park Site as a public park, and approved by the City and, with respect to the original Park Master Plan only, approved by the Developer.

“**Park Project**” means the acquisition from the Developer of the Park Site, the construction of the Public Infrastructure Improvements on the Park Site, and the construction of certain park improvements and amenities on the Park Site, including the Pond Work, the Initial Trail Work, and other improvements to the Park Site as more fully described on the “Preliminary Park Project Budget”.

“**Park Project Budget**” means the final budget for the Park Project approved in writing by the City, JCPRD and the Developer prior to Closing as required by **Section 4.01(B)**.

“**Park Project Costs**” means the costs of the Park Project set forth in the Park Project Budget.

“**Park Purchase Price**” means the purchase price paid by the City to the Developer for the Park Site.

“**Park Site**” means approximately 82 acres depicted on the Preliminary Plat, the Preliminary Development Plan and the Final Plat approved by the Governing Body prior to Closing as the site of the public park to be purchased by the City from the Developer.

“**Park Use Restrictions**” shall have the meaning set forth in the Special Warranty Deed.

“**Permitted Exceptions**” shall have the meaning set forth in **Section 2.04(H)**.

“**Pond Work**” means the dredging and improvements to existing ponds on the Park Site described in the Preliminary Park Project Budget, the final scope of which will be approved prior to Closing in accordance with **Section 4.01(B)**.

“**Preliminary Development Plan**” means the Preliminary Development Plan conditionally approved by City Ordinance No. 2342.

“**Preliminary Park Project Budget**” means the preliminary budget for the Park Project attached hereto as Exhibit C.

“Preliminary Plat” means the Preliminary Plat of the Park and Village Project Area attached hereto as Exhibit D.

“Private Development Site Improvement Work” means horizontal infrastructure work in the District on property other than the Park Site necessary for completion of all vertical aspects of the Private Improvements.

“Private Improvements” means certain improvements, including townhomes, single family homes, an apartment facility, a hotel facility and a senior living facility, to be constructed within the District on property other than the Park Site.

“Project Easements” means the temporary and permanent easements and grants of right of way affecting the Park Site (i) in favor of the City necessary for construction of the Public Infrastructure Improvements; (ii) in favor of the Developer necessary for construction of the Private Development Site Improvement Work; and (iii) in favor of JCW necessary for the JCW Expansion.

“Public Infrastructure Improvements” means the public infrastructure improvements to be constructed on the Park Site consisting generally of public streets and related infrastructure, as more fully described in the Preliminary Park Project Budget.

“Public Infrastructure Improvement Agreement” means an agreement between the City and Developer pursuant to which Developer, on behalf of the City, and in accordance with City specifications and requirements, contracts for the construction of the Public Infrastructure Improvements on the Park Site to be performed concurrently with the Private Development Site Improvement Work and in a manner consistent with the Project Plan and this Agreement.

“Special Warranty Deed” means a special warranty deed from the Developer to JCPRD in substantially the form attached hereto as Exhibit E.

“SO TIF Bonds” means special obligation tax increment bonds to be issued by the City pursuant to the TIF Act in the approximate amount of \$7,940,000.

“TIF Bonds” means collectively the GO TIF Bonds and the SO TIF Bonds.

“TIF Bonds Proceeds” means the proceeds from the TIF Bonds.

“TIF Bonds Trustee” means the trustee designated in the Bond Documents governing the issuance of the TIF Bonds.

“1954 Agreement” means that certain agreement relating to exclusion of the Park and Village Project Area from the Johnson County Wastewater District.

ARTICLE II
PARK SITE ACQUISITION

Section 2.01 Title Subject to Certain Agreements.

A. Subject to the satisfaction of the Closing Conditions, JCPRD agrees to accept title to the Park Site subject to the Park Use Restrictions, the Permitted Exceptions, the Project Easements, and the City Park Approvals.

Section 2.02 Park Master Plan.

A. JCPRD agrees that the Park Master Plan shall designate "Meadowbrook Park" as the official name of the public park to be operated on the Park Site.

B. JCPRD agrees that its operation of the Park Site and the Park Master Plan will be subject to the following regulations, permits and requirements for joint approval of certain matters by both the Board of Commissioners of JCPRD and the Governing Body of the City:

1. JCPRD acknowledges and agrees that the use and operation of the Park Site as a public park, and the improvement of the Park Site, are subject to zoning, building codes, public safety and other laws and regulations of the City as may be in effect from time to time, including, but not limited to, current City requirements for special use permits for fireworks, racing events which affect public rights of way, alcohol permits, parade permits, and neighborhood special event permits.

2. Permits for the construction and upkeep of structures shown on the Park Master Plan shall be subject to and comply with standard City approval requirements in place from time to time. Examples include the erection or replacement of structures (conversion or replacement of former clubhouse to a JCPRD activity center, shelters, restrooms, parking lots, signs) as well as ongoing roof, plumbing, and structural repairs and/or upgrades.

3. Any changes to the Park Site not contemplated in the original Park Master Plan which are subject to City building permits, right of way permits, or drainage permits shall require, in addition to staff approval, approval by the Governing Body of the City. Examples include the construction of new buildings, parking lots, lighting structures, or roadways not shown on the original Park Master Plan.

4. Upon the termination of the Park Use Restrictions, changes to the Park Site which would incorporate those uses prohibited by the Park Use Restrictions (skate parks; permanent areas for off-leash dogs, cats, or other domesticated animals; and permanent athletic fields, goals, bleachers, sports lighting or other actions or indications of programmed organized sports or facilities except within the Community Center Activity Zone), and at all times after Closing any other major deviation from the original Parks Master Plan approved by the City, shall require joint approval of the Board of Commissioners of JCPRD and the Governing Body of the City of Prairie Village, after public hearing, review by and recommendation of the City of Prairie Village Planning Commission. The Planning Commission review procedure shall be the same as the procedure followed by the City for rezoning applications but shall not be subject to a protest petition. For purposes of this paragraph, "major deviation" shall mean any change in use or design that, on its own or cumulatively over time, results in a change in use or design (or both) of more than five percent (5%) of the total acreage of the Park Site, as compared to the uses and design described in the original Park Master Plan approved by the City.

C. City agrees that expenses related to completion of the Park Master Plan incurred by JCPRD before Closing are eligible for payment or reimbursement from the proceeds of the TIF Bonds.

Section 2.03 Improvement and Operation of Park Site

A. JCPRD will utilize the Park Master Plan to guide park improvements and, subject to the availability of funds under Section 3.03, complete or cause to be completed the Pond Work and the Initial Trail Work by a date which is not later than eighteen (18) months after completion of the Public Infrastructure Improvements, and will operate, maintain, repair, improve and provide services at the Park Site in accordance with the Park Master Plan.

B. JCPRD will open the Park Site to the public for use as a public park on a date which is not later than two (2) years after completion of the Public Infrastructure Improvements, regardless of whether all of the Pond Work and Initial Trail Work have been completed.

C. JCPRD's failure to comply with subsections (A) and (B) of this section shall constitute a failure to operate the Park Site as a public park and, at City's option, shall trigger the vesting of title in the Park Site in City as provided in the Special Warranty Deed.

D. Subject to prior reservation and availability, the City will have the right to use facilities at the Park Site for City events without charge six (6) times per year, provided that such events shall not include the exclusive use of the entire Park Site.

E. 2020, LLC is a neighboring property which owns property adjacent to the Park Site. JCPRD agrees to use good faith efforts to work with 2020, LLC to mutually approve a landscaping easement on that portion of the Park Site that abuts the 2020, LLC property.

Section 2.04 Park Site Due Diligence and Title Matters.

A. The Parties each acknowledge that Developer has agreed that either may request, at Developer's sole cost and expense, in order to evaluate the Park Site, copies of any agreements and/or contracts, plats, covenants, plans, surveys, engineering drawings and estimates, soil and/or other property condition reports, appraisals, environmental reports and assessments, studies, notices, correspondence from governmental or regulatory agencies or bodies, title abstracts, title commitments and policies, surveys, and all other documents in Developer's possession or control which pertain to the Park Site and requested by City or JCPRD (collectively "**Due Diligence Materials**"). Developer, in its sole and absolute discretion, may determine what Due Diligence Materials Developer chooses to obtain, and the City and JCPRD do not have the right to require that Developer obtain any new Due Diligence Materials that Developer would not otherwise obtain. The Parties acknowledge and agree that the Developer makes no representation or warranty as to the accuracy of the Due Diligence Materials and reliance on said matters. If City or JCPRD takes title to the Park Site it shall do so "AS IS" "WHERE IS" based on its own independent evaluation of the Park Site in all respects.

B. The Parties each acknowledge that Developer has agreed that each may (i) at its respective cost, which costs may be reimbursed to the extent permitted by the TIF Act and the Funding Priority Waterfall, perform such appraisals, inspections, surveys, soil tests, environmental inspections and assessments (including an ASTM E1527-13 Phase I Environmental Site Assessment), engineering studies and other inspections relating to the Park Site desired by such Parties, in their sole and absolute discretion, including matters relating to any activities by the Developer on the Park Site prior to Closing (collectively the "**Inspections**"), (ii) evaluate the Due Diligence Materials and the information obtained pursuant to the Inspections (the "**Site Evaluation**"), (iii) complete and approve the Park Master Plan, and (iv) obtain all applicable governmental authorizations, approvals, permits required for the operation of the Park Site as a public park.

C. Developer has agreed that prior to Closing, Developer will not do or permit to be done anything which will materially modify the present condition of the Park Site, including, without limitation, perform any pond dredging and improvement work and placement of dredged materials on the Park Site, without the prior written consent and approval of the City Administrator and the Director of JCPRD.

D. If JCPRD or City notifies the other that it is not satisfied that the Park Site is suitable for a public park in accordance with the Park Master Plan or otherwise decides not to proceed with the acquisition of the Park Site from the Developer, such party shall give the other and the Developer written notice of termination (the "**Termination Notice**") on or before Closing. If a Termination Notice is given, this Agreement shall terminate and have no further force or effect.

E. City will require Developer to deliver to City and JCPRD a current commitment for an Owner's Policy of Title Insurance with respect to the Park Site (the "**Title Commitment**") issued by First American Title Company or such other title company licensed in the State of Kansas as designated by JCPRD (the "**Title Company**") and (b) complete copies of all exception documents listed in the Title Commitment (the "**Exception Documents**"). The Title Commitment shall (a) describe the Park Site, (b) name JCPRD as the party to be insured thereunder, and (c) commit to insure marketable, fee simple title to the Park Site in JCPRD in the amount of the Park Purchase Price upon recording of the Special Warranty Deed, subject to the Permitted Exceptions, Park Use Restrictions and City Park Approvals, from the Developer to JCPRD on ALTA Owners Form (6/17/06) policy (the "**JCPRD Owner's Policy**").

F. City will require Developer to deliver to City and JCPRD a survey of the Park and Village Project Area ("**Survey**"), prepared in accordance with the current Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys, including the Surveyor's certificate as necessary for the issuance of the Title Commitment, prepared by PEI, and otherwise sufficient to allow the Title Company to provide survey coverage.

G. Developer has agreed that JCPRD shall have the right, at any time prior to Closing, to cause the Title Company to issue such endorsements ("**Endorsements**") to the JCPRD Owner's Policy as it deems necessary (including, without limitation, comprehensive, survey accuracy (if applicable), zoning, access and contiguity (if applicable), at such party's sole cost and expense and without obligation on the part of Developer to obtain such Endorsements; and that Developer has agreed to use commercially reasonable efforts to cooperate with City and JCPRD in obtaining such City or JCPRD Endorsements.

H. Within (30) days after the receipt by the City and Developer of the Title Commitment and Survey (the "**Objection Deadline**"), City or JCPRD may give written notice to Developer and the Title Company ("**Objection Notice**") of any matters contained in the Title Commitment or the Survey to which either objects ("**Title Objections**"). Any matters in the Title Commitment or Survey to which City or JCPRD does not timely object shall constitute "**Permitted Exceptions**" in the special warranty deeds and applicable title policies. Any matters affecting marketability of the title to the Park Site which first arise after the effective date of the Title Commitment and before the Closing shall be deemed Title Objections, unless City and JCPRD otherwise waives the same in writing or proceeds without written objection (which action shall constitute a waiver of any such objection). Notwithstanding the foregoing, any delinquent real property taxes, mortgages, deeds of trust, judgments and mechanics liens arising out of the acts or omissions of Developer (collectively, the "**Monetary Liens**") disclosed on the Title Commitment shall be automatically deemed Title Objections by City and JCPRD without any further notice thereof to Developer, and Developer has agreed to cause all such Monetary Liens to be satisfied and removed from the Title Commitment on or before the Closing Date. If, on or prior to Closing, Developer has not cured such Title Objections, City or JCPRD may, at City or JCPRD's option (i) waive such Title Objections and proceed to Closing (at which point such Title Objections shall be deemed to be

Permitted Exceptions), or (ii) terminate this Agreement, and this Agreement shall otherwise have no further force and effect. In the event City or JCPRD waives any of the Title Objections by proceeding to Closing, Developer shall have no liability to City or JCPRD for the existence of any such waived Title Objections or for Developer's election to not cure or failure to cure any such waived Title Objections.

Section 2.05 "As-Is" Nature of Transfer

A. JCPRD acknowledges and agrees that neither City nor Developer has made, and that each City and Developer does not make and that each specifically negates and disclaims any representations, warranties, promises, covenants, agreements or guaranties of any kind or character whatsoever, whether express or implied, oral or written, past, present or future, of, as to, concerning or with respect to the Park Site. JCPRD further acknowledges and agrees that having been given the opportunity to inspect the Park Site and the public records relating to the Park Site, JCPRD is relying solely on its own investigation of the Park Site and not on any information provided or to be provided by Developer or City. Developer and City are not liable or bound in any manner by any oral or written statements, representations or information pertaining to the Park Site, or the operation thereof, furnished by any real estate broker, agent, employee, servant or other person. JCPRD further acknowledges and agrees that to the maximum extent permitted by law, the sale of the Park Site as provided for herein is made on an "AS IS" condition and basis with all faults.

B. JCPRD acknowledges and agrees that each Developer and City shall have no liability for, and that JCPRD releases and has no recourse against each Developer and City for any defect or deficiency of any kind whatsoever in the Park Site without regard to whether such defect or deficiency was known or discoverable by the Developer or the City.

ARTICLE III FUNDING OF PARK ACQUISITION AND PARK IMPROVEMENTS

Section 3.01 Funding Sources.

A. The City contemplates the issuance of TIF Bonds which, if issued, the TIF Bonds Proceeds shall be used *in part* to fund the Park Purchase Price, the planning of the Park Master Plan and the construction of improvements called for in the Park Project Budget and the Park Master Plan.

B. The City may also issue industrial revenue bonds for purposes of obtaining a sales tax exemption on construction materials for an apartment facility and hotel facility, the value of such sales tax exemption to be rebated by the Developer or others each month as earned for the benefit of the Project, all as described in the Project Plan ("**IRB Sales Tax Exemption**").

C. The City represents that it has applied for a matching grant from the Johnson County Stormwater Management Advisory Council related to stormwater management activities within the Park Site (the "**SMAC Grant**"). To the extent permitted by the SMAC Grant, the City hereby agrees to deposit the proceeds of such SMAC Grant with the TIF Bonds Trustee for deposit in the SMAC Grant Construction Account of the Construction Fund, from time to time, within 30 days of receipt. The Parties hereby agree that the intent of this paragraph is to increase moneys available for the Park Project by the amount of the SMAC Grant receipts, if any.

Section 3.02 Construction Fund; Use of TIF Bonds Proceeds.

A. The TIF Bonds Trustee shall maintain a fund to be known as the "**Construction Fund**" which shall have four accounts:

- (i) the GO Construction Account,
- (ii) the SO Construction Account,
- (iii) the IRB Sales Tax Construction Account, and
- (iv) the SMAC Grant Construction Account.

B. At closing on the TIF Bonds, the TIF Bonds Trustee shall deposit the net proceeds of each the GO TIF Bonds and the SO TIF Bonds, after provision for costs of issuance and capitalized interest, into the applicable account of the Construction Fund.

C. From time to time, as the TIF Bonds Trustee receives proceeds of the IRB Sales Tax Exemption from the Developer, it shall deposit such sums in the IRB Sales Tax Construction Account on the Construction Fund.

D. From time to time, as the TIF Bonds Trustee receives proceeds of the SMAC Grant from the City, it shall deposit such sums in the SMAC Grant Construction Account of the Construction Fund.

E. Periodically, but not more frequently than monthly, the City and JCPRD may submit requisitions for payment of Park Project Costs from the Construction Fund. Park Project Costs shall be paid in accordance with the Funding Priority Waterfall set forth in **Section 3.03**.

Section 3.03 Funding Priority Waterfall.

A. Given that the amounts of TIF Bonds Proceeds, IRB Sales Tax Exemption and SMAC Grant, as well as the actual costs of improvements which are set forth in the Park Project Budget, are estimates and subject to change, the parties agree that certain budget line items shall have priority over others to insure that higher priority items essential to the success of the Project are fully funded. Therefore the parties have established the “**Funding Priority Waterfall**” set forth below, which establishes the order in which Park Project Costs will be funded. Items at the top of the order have priority over items that are lower in the order. Such ordering may result in lower priority items receiving reduced funding (including potentially a reduction to \$0). The City and JCPRD agree that once all items in the Funding Priority Waterfall have been fully funded, cost savings and unused contingency dollars shall be utilized by JCPRD in accordance with the Park Master Plan. JCPRD shall only be entitled to, and in fact shall utilize, amounts in the Construction Fund in strict accordance with the Funding Priority Waterfall. Subject to its budget requirements and availability of funds, JCPRD shall be responsible for funding any costs it incurs and/or any costs required by the Park Master Plan which cannot be funded by available TIF Bonds Proceeds, IRB Sales Tax Exemption, and, if applicable, SMAC Grant. JCPRD acknowledges that some portion of the sources of funds described in this section may not be available until the Private Improvements within the District are substantially constructed.

B. The following line item priorities are established:

First Priority Line Items	Park Purchase Price and Costs Associated with the Park Site Acquisition
Second Priority Line Items	Public Infrastructure Improvements

	Pond Work and Initial Trail Work
Third Priority Line Items	All other Park Project Costs

C. The parties agree that the proceeds of the Construction Fund shall be utilized according to the following Funding Priority Waterfall.

1. First, from the proceeds of the SMAC Grant Construction Account (to the extent such Line Item may be paid with SMAC Grant proceeds), and

2. Second, from the proceeds of the TIF Bonds as follows:

(a) the proceeds from the GO Construction Account shall:

First be utilized in proportion to the initial par amount of GO TIF Bonds against the initial par amount of the TIF Bonds for payment toward each First Priority Line Item until each such Line Item is fully funded as necessary for completion even if the amount necessary for completion exceeds the estimated amount for such Line Item set forth in the Park Project Budget; thereafter available proceeds from the GO Construction Account shall

Second be utilized in proportion to the initial par amount of GO TIF Bonds against the initial par amount of the TIF Bonds for payment toward each Second Priority Line Item until each such Line Item is fully funded as necessary for completion even if the amount necessary for completion exceeds the estimated amount for such Line Item set forth in the Park Project Budget; thereafter available proceeds from the GO Construction Account shall

Third, and only to the extent that First Priority Line Items and Second Priority Line Items have been completed and paid in full, be utilized in proportion to the initial par amount of GO TIF Bonds against the initial par amount of the TIF Bonds for payment toward each Third Priority Line Item until each such Line Item is fully funded as necessary for completion.

(b) the proceeds from the SO Construction Account shall:

First be utilized in proportion to the initial par amount of SO TIF Bonds against the initial par amount of the TIF Bonds for payment toward each First Priority Line Item until each such Line Item is fully funded as necessary for completion even if the amount necessary for completion exceeds the estimated amount for such Line Item set forth in the Park Project Budget; thereafter available proceeds from the GO Construction Account shall

Second be utilized in proportion to the initial par amount of SO TIF Bonds against the initial par amount of the TIF Bonds for payment toward each Second Priority Line Item until each such Line Item is fully funded as necessary for completion even if the amount necessary for completion exceeds the estimated amount for such Line Item set forth in the Park Project Budget; thereafter available proceeds from the GO Construction Account shall

Third, and only to the extent that First Priority Line Items and Second Priority Line Items have been completed and paid in full, be utilized in proportion to the initial par amount of SO TIF Bonds against the initial par amount of the TIF Bonds for payment toward each Third Priority Line Item until each such Line Item is fully funded as necessary for completion.

3. Third, from the proceeds of the IRB Sales Tax Construction Account.

D. Moneys available in the GO Construction Account and the SO Construction Account of the Construction Fund for Third Priority Line Items identified pursuant to this paragraph shall be deposited in the Revenue Fund by the Trustee two (2) years following the completion of the Public Infrastructure Improvements upon the Trustee's receipt of written direction by the City of such amount.

Section 3.04 Certificates of Expenditure for Payment or Reimbursement of Park Project Costs. The parties agree as follows:

A. The City and JCPRD shall submit or cause to be submitted to the City and, as long as the Developer, or an entity Related to the Developer, is the owner of the SO TIF Bonds, the Developer, no more frequently than monthly, a Certificate of Expenditure setting forth the amount for which certification is sought and identification of the relevant Park Project Costs.

B. The Certificate of Expenditure shall be accompanied by such bills, contracts, invoices, and such other evidence as the City and, if applicable, the Developer shall reasonably require documenting appropriate payment.

C. Upon approval of Certificates of Expenditure by the City and, if applicable, the Developer, the TIF Bonds Trustees shall be directed to disburse TIF Bonds Proceeds to pay third party invoices as directed by the City or JCPRD, or to reimburse the City or JCPRD, as applicable, for Park Project Costs as set forth in **Section 3.02**.

Section 3.05 Line Items. The parties acknowledge that the line items in the Park Project Budget may deviate from the estimates stated therein based on actual costs incurred.

ARTICLE IV CLOSING

Section 4.01 Closing.

A. Date of Closing. The term "**Closing**" as used in this Agreement shall mean the date on which all of the following have occurred or are effective, or are to occur or to be effective:

1. The TIF Bonds shall have been issued;

2. The City shall have directed the TIF Bonds Trustee, to pay the Park Purchase Price in escrow to Developer and shall have gifted the Park Site to JCPRD by directing the Developer to, and Developer shall, transfer the Park Site to JCPRD in escrow by Special Warranty Deed, in accordance with the Escrow Agreement; and

3. JCPRD shall have accepted the gift of the Park Site subject to the Permitted Exceptions, the Project Easements, the City Option and Approval Agreement and the Park Use Restrictions.

B. Conditions to Closing. It is hereby recognized, stipulated and agreed by the parties that no party, nor Developer, shall have any duty to proceed with Closing or to do or perform any of the duties or obligations to be performed by such party at Closing unless and until each and all of the following conditions have either been satisfied or waived by the parties or Developer (collectively the "**Closing Conditions**" and each a "**Closing Condition**"):

1. No Termination Notice shall have been given.
2. The Developer shall have obtained zoning and approval of the Preliminary Development Plan.
3. The TIF Bonds shall have been issued, sold and delivered and the proceeds thereof, after provision for costs of issuance and capitalized interest, shall have been deposited in the Construction Fund, in an amount sufficient to fund the estimated Parks Project Costs; provided that the amount of proceeds shall have been approved by the City and the Developer in their sole discretion prior to issuance of the TIF Bonds.
4. The Governing Body of the City, JCPRD and Developer shall have approved in writing the scope of the Pond Work and the Initial Trails Work and the Park Project Budget.
5. The JCW Agreement shall have been approved and executed by the Developer and JCW and shall be in full force and effect without any defaults, and all conditions set forth therein shall have been satisfied.
6. The JCW Expansion shall have been approved and executed by JCW and the Johnson County Commission, the 1954 Agreement shall have been rescinded and terminated, the Building Permit Protocol (as defined in the JCW Agreement) shall be approved and the Sewer Benefit District (as defined in the JCW Agreement) shall have been formed.
7. The Development Agreement shall have been approved by the Governing Body of the City and the Developer and executed and shall be in full force and effect without any defaults.
8. The Governing Body of the City, JCPRD and the Developer shall have approved and the City, JCPRD and the Developer shall have executed the Memorandum of Agreement.
9. This Agreement shall be in full force and effect without any defaults.
10. The Public Infrastructure Improvements Agreement shall have been approved and executed by the Developer and the City and shall be in full force and effect without any defaults.
11. If JCPRD elects to contract with the Developer to perform the Pond Work, the Park Lakes Agreement shall have been approved and executed by JCPRD and the Developer and shall be in full force and effect without any default. Nothing contained herein shall obligate JCPRD to contract with the Developer to perform the Pond Work.
12. The Governing Body of the City, JCPRD, JCW and Developer shall have approved the Final Plat and the Project Easements.
13. JCPRD shall have completed and approved the Park Master Plan.
14. The Governing Body of the City and Developer shall have approved the original Park Master Plan.
15. The Governing Body of the City, JCPRD and the Developer shall have approved and executed the Escrow Agreement and the Special Warranty Deed.

16. The Governing Body of the City and JCPRD shall have approved any changes to the condition of the Park Site, including pond dredging and improvement work performed in accordance with **Section 2.04(B)**.

17. JCPRD shall have irrevocably committed to the City to accept the City's gift of the Park Site subject to the City Park Approvals, and the City shall be satisfied that the City Park Approvals are enforceable and are subject only to subject to the Permitted Exceptions, the Project Easements, and the Park Use Restrictions.

18. JCPRD and City shall be satisfied that the JCPRD Owner's Policy shall be issued upon Closing, and JCPRD and City shall have entered into a separate assignment agreement in form and content satisfactory to each, providing for the assignment to the City by JCPRD of insurance proceeds paid to JCPRD under the JCPRD Owner's Policy if (a) there is a failure of title, and (b) there is a shortfall of incremental tax revenues, transient guest tax revenues, IRB Sales Tax Exemption and SMAC Grant, required to pay all or any portion of the debt service on the GO TIF Bonds.

Notwithstanding anything herein to the contrary, the Closing must occur on or before December 31, 2016 (the "**Closing Termination Date**"), or any party shall have the right to terminate this Agreement.

C. Failure to Close. Each of the Closing Conditions is conditioned on the complete satisfaction of all other Closing Conditions. If any of the Closing Conditions fail to occur or be waived by the parties on or before the Closing Termination Date, and any other Closing Condition has already occurred, then after the Closing Termination Date the parties shall take all respective actions required so that the subject matter of each Closing Condition is restored to its condition as of the date of the establishment of the District, and in the case of all zoning approvals, zoning classifications shall be restored to the zoning classifications as of the date of the establishment of the District. default and remedies

Section 4.02 Default. A Party (the "**Defaulting Party**") shall be in default under this Agreement if the Defaulting Party or its tenants or assigns fails to keep or perform any covenant or obligation herein contained on such the Defaulting Party's part to be kept or performed, and the Defaulting Party fails to remedy the same within thirty (30) days after another Party (the "**Complaining Party**") has given the Defaulting Party written notice specifying such failure and requesting that it be remedied; provided, however, that if any event of default shall be such that it cannot be corrected within such period, it shall not constitute an event of default if corrective action is instituted by the Defaulting Party within such period and diligently pursued until the default is corrected.

Section 4.03 Rights and Remedies. If a default occurs under this Agreement and is continuing, the Complaining Party may take whatever action at law or in equity as may appear necessary or desirable to enforce performance and observance by the Defaulting Party of any provision of this Agreement. The Complaining Party shall be entitled to specific performance and injunctive or other equitable relief for any breach or threatened breach of any of the provisions of this Agreement, notwithstanding the availability of an adequate remedy at law, and each party hereby waives the right to raise such defense in any proceedings in equity. The prevailing Party in an action to enforce its remedies hereunder shall be entitled to receive from the other Party, subject to Applicable Laws and Requirements, reasonable costs and charges, including attorneys' fees, lawfully and reasonably incurred by or on behalf of the prevailing Party in connection with the enforcement of such actions or remedies.

ARTICLE V
MISCELLANEOUS

Section 5.01 Waiver of Breach. No waiver of any breach of any covenant or agreement herein contained shall operate as a waiver of any subsequent breach of the same covenant or agreement or as a waiver of any breach of any other covenant or agreement, and in case of a breach by a party of any covenant, agreement or undertaking, a non-defaulting party may nevertheless accept from another party any payment or payments or performance hereunder without in any way waiving its right to exercise any of its rights and remedies provided for herein or otherwise with respect to any such default or defaults which were in existence at the time such payment or payments or performance were accepted by it.

Section 5.02 Force Majeure. In the event any party hereto shall be delayed or hindered in or prevented from the performance of any act required under this Agreement by reason of acts of God, strikes, lockouts, riots, insurrection, environmental restrictions or remediation required by the appropriate Government Authorities, discovery of cultural, archeological or paleontological resources or endangered species, any lawsuit seeking to restrain, enjoin, challenge or delay construction, war terrorism or other reason of a like nature not the fault of the party delayed in performing work or doing acts required under the terms of this Agreement (“**Force Majeure**”), then performance of such act shall be excused for the period of the delay, and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay. The provisions of this Section shall not be applicable to delays resulting from the inability of a party to obtain financing or to proceed with its obligations under this Agreement because of a lack of funds.

Section 5.03 Term. This Agreement will become effective upon the last to occur of the following events: (i) its approval by the Governing Body of the City and by the Board of Commissioners of JCPRD and (ii) satisfaction of the conditions set forth in **Section 4.01 (“Effective Date”)**. From and after the Effective Date, this Agreement will remain in full force and effect until terminated or amended by mutual agreement of the Governing Body of the City and by the Board of Commissioners of JCPRD. The parties agree to engage in a mutual review this Agreement at ten year intervals (or more frequently by mutual agreement), provided that the failure to conduct such review shall not affect the enforceability of this Agreement.

Section 5.04 Agreement Survives Deed. The provisions of this Agreement shall survive the Closing and shall remain binding upon and inure to the benefit of each of the parties, and their successors or assigns.

Section 5.05 Electronic Transactions. The transaction described herein may be conducted and related documents may be stored by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

Section 5.06 Amendments. This Agreement may be amended, changed or modified only by a written agreement approved by their respective governing bodies and duly executed by JCPRD and the City.

Section 5.07 Construction and Enforcement. This Agreement shall be construed and enforced in accordance with the laws of the State.

Section 5.08 Invalidity of Any Provisions. If for any reason any provision hereof shall be determined to be invalid or unenforceable, the validity and effect of the other provisions hereof shall not be affected thereby.

Section 5.09 Headings. The Article and Section headings shall not be treated as a part of this Agreement or as affecting the true meaning of the provisions hereof.

Section 5.10 Execution of Counterparts. This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

Section 5.11 Time. Time is of the essence in this Agreement.

Section 5.12 Consents and Approvals. Wherever in this Agreement it is provided that a Party shall, may or must give its approval or consent, such Party shall not, unless specifically herein provided otherwise, unreasonably withhold, condition, delay or refuse to give such approvals or consents. It is agreed, however, that the sole right and remedy for a Party in any action concerning the another Party's reasonableness will be action for declaratory judgment and/or specific performance, and in no event shall either such party be entitled to claim damages of any type or nature in any such action or to seek the recovery of attorney fees or other costs in connection with such action.

Section 5.13 Notices. All notices required or desired to be given hereunder shall be in writing and all such notices and other written documents required or desired to be given hereunder shall be deemed duly served and delivered for all purposes if (i) delivered by nationally recognized overnight delivery service; (ii) facsimile (with follow up within one (1) business day by United States Mail); or (iii) delivered in person, in each case if addressed to the parties set forth below:

To JCPRD:

Johnson County Park and Recreation District
ATTN: Executive Director
JCPRD Administration Building
7904 Renner Road
Shawnee Mission, KS 66219-9723
Telephone: (913) 826-3404
Facsimile: (913) 492-7275

With a copy to:

Ernest C. Ballweg
Johnston, Ballweg & Modrcin, L.C.
9393 W. 110th
Suite 450
Overland Park, KS 66210
Telephone: (913) 491-6900
Facsimile: (913) 491-4930

To the City:

City of Prairie Village
ATTN: City Administrator
City Hall
7700 Mission Road
Prairie Village, KS 66208
Telephone: (913) 381-6464
Facsimile: (913) 381-7755

With a copy to:

Catherine P. Logan
Lathrop & Gage LLC
10851 Mastin
Suite 1000
Overland Park, KS 66210
Telephone: (913) 451-5168
Facsimile: (913) 451-0875

All notices given by fax or personal delivery, followed up by regular United States mail, shall be deemed duly given one business day after they are so delivered.

Section 5.14 Entire Agreement. Together with the Exhibits hereto, this Agreement constitutes the entire agreement of the parties with respect to the subject matter hereof and supersedes and replaces all prior oral or written agreements concerning the subject matter hereof.

Section 5.15 Incorporation of Exhibits. The Exhibits attached hereto and incorporated herein by reference are a part of this Agreement to the same extent as if fully set forth herein.

Section 5.16 Applicable Laws and Requirements. The parties acknowledge and agree that the ability of JCPRD and the City to enter into and perform this Agreement is subject to Applicable Laws and Requirements.

Section 5.17 Non-liability of Officials, Employees and Agents of JCPRD and the City. No recourse shall be had for any claim based thereon or upon any representation, obligation, covenant or agreement contained in this Agreement against any past, present or future official, officer, employee or agent of JCPRD or the City, under any rule of law or equity, statute or constitution or by the enforcement of any assessment or penalty or otherwise, and all such liability of any such officials, officers, employees or agents as such is hereby expressly waived and released as a condition of and consideration for the execution of this Agreement.

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

[Remainder of page intentionally left blank. Signature pages follow.]

**JOHNSON COUNTY PARK & RECREATION
DISTRICT,**

a body corporate organized and existing pursuant to
the laws of the State of Kansas

By: _____
Print Name and Title

Attest:

Print Name and Title

Approved as to Form

Ernest C. Ballweg, Attorney for
Johnson County Park & Recreation
District

CITY:

CITY OF PRAIRIE VILLAGE, KANSAS,
a municipal corporation organized and existing
pursuant to the laws of the State of Kansas

By: _____
Laura Wassmer, Mayor

Attest:

Joyce Hagen Mundy
City Clerk

Approved as to Form:

Catherine P. Logan
City Attorney

EXHIBIT A

PARK AND VILLAGE PROJECT AREA LEGAL DESCRIPTIONS

The following property located in Johnson County, Prairie Village, Kansas:

LOTS 1 THROUGH 12, INCLUSIVE, AND LOT A, EXCEPT THE SOUTH 10 FEET THEREOF, BLOCK B, MEADOWBROOK ACRES, A SUBDIVISION IN THE CITY OF PRAIRIE VILLAGE, JOHNSON COUNTY, KANSAS;

AND ALL OF THE SOUTHWEST ONE-QUARTER (SW ¼) OF SECTION THIRTY-THREE (33) TOWNSHIP TWELVE (12) RANGE TWENTY-FIVE (25) IN THE CITY OF PRAIRIE VILLAGE, JOHNSON COUNTY, KANSAS, EXCEPT THAT PART PLATTED AS MEADOWBROOK ACRES; AND EXCEPT THE SOUTH 40 FEET THEREOF IN 95TH STREET; AND EXCEPT THE WEST 30 FEET THEREOF IN NALL AVENUE;

AND EXCEPT A TRACT DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHWEST CORNER OF SECTION 33, TOWNSHIP 12 SOUTH, RANGE 25 EAST, JOHNSON COUNTY, KANSAS; THENCE NORTH 0° 00' 00" EAST ALONG THE WEST LINE OF SAID SECTION 33, A DISTANCE OF 700.00 FEET TO A POINT; THENCE SOUTH 83° 50' 00" EAST A DISTANCE OF 1,030.00 FEET TO A POINT; THENCE SOUTH 65° 35' 00" EAST, A DISTANCE OF 375.00 FEET TO A POINT; THENCE SOUTH 0° 00' 00" WEST, A DISTANCE OF 429.24 FEET TO A POINT ON THE SOUTH LINE OF SAID SECTION 33; THENCE SOUTH 89° 47' 09" WEST ALONG THE SOUTH LINE OF SAID SECTION 33 A DISTANCE OF 1,365.51 FEET TO THE PLACE OF BEGINNING;

AND EXCEPT A TRACT DESCRIBED AS FOLLOWS: ALL THAT PART OF THE SOUTHWEST ¼ OF SECTION 33, TOWNSHIP 12 SOUTH, RANGE 25 EAST, NOW IN THE CITY OF PRAIRIE VILLAGE, JOHNSON COUNTY, KANSAS, MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHEAST CORNER OF THE SOUTHWEST ¼ OF SAID SECTION 33, THENCE SOUTH 89° 47' 09" WEST, ALONG THE SOUTH LINE OF THE SOUTHWEST ¼ OF SECTION 33, A DISTANCE OF 676.70 FEET, TO THE TRUE POINT OF BEGINNING OF SUBJECT TRACT; THENCE CONTINUING SOUTH 89° 47' 09" WEST, ALONG THE SOUTH LINE OF THE SOUTHWEST ¼ OF SAID SECTION 33, A DISTANCE OF 605 FEET; THENCE NORTH 0° 00' 00" EAST, A DISTANCE OF 240 FEET; THENCE NORTH 89° 47' 09" EAST ALONG A LINE PARALLEL TO THE SOUTH LINE OF THE SOUTHWEST ¼ OF SAID SECTION 33, A DISTANCE OF 490 FEET; THENCE SOUTH 25° 38' 32" EAST, A DISTANCE OF 265.74 FEET TO THE TRUE POINT OF BEGINNING OF SUBJECT TRACT;

ALSO: A PART OF THE NORTHWEST ¼ OF SECTION 33, TOWNSHIP 12, RANGE 25, JOHNSON COUNTY, KANSAS, MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT A POINT ON THE SOUTH LINE AND 88.86 FEET EAST OF THE SOUTHWEST CORNER OF THE NORTHWEST ¼ OF SAID SECTION 33; THENCE NORTH 75° EAST, ALONG THE SOUTH LINE OF SOMERSET DRIVE, AS ESTABLISHED BY THE PLAT OF WEST RIDING, A SUBDIVISION OF LAND NOW IN THE CITY OF PRAIRIE VILLAGE, JOHNSON COUNTY, KANSAS, A DISTANCE OF 454.01 FEET, TO A POINT OF CURVATURE; THENCE NORTHEASTERLY, ALONG THE SOUTH LINE OF SAID SOMERSET DRIVE, SAID SOUTH LINE BEING ON A CURVE TO THE LEFT HAVING A RADIUS OF 640 FEET, A DISTANCE OF 176.13 FEET; THENCE SOUTH 11° 43' 23" EAST, A DISTANCE OF 183.42 FEET, TO A POINT ON THE SOUTH LINE OF THE NORTHWEST ¼ OF SAID SECTION 33; THENCE SOUTH 89° 26' 38" WEST, ALONG THE SOUTH LINE OF THE NORTHWEST ¼ OF SAID SECTION 33, A DISTANCE OF 637.59 FEET, TO THE POINT OF BEGINNING.

EXHIBIT B

PARK AND VILLAGE PROJECT AREA MAP

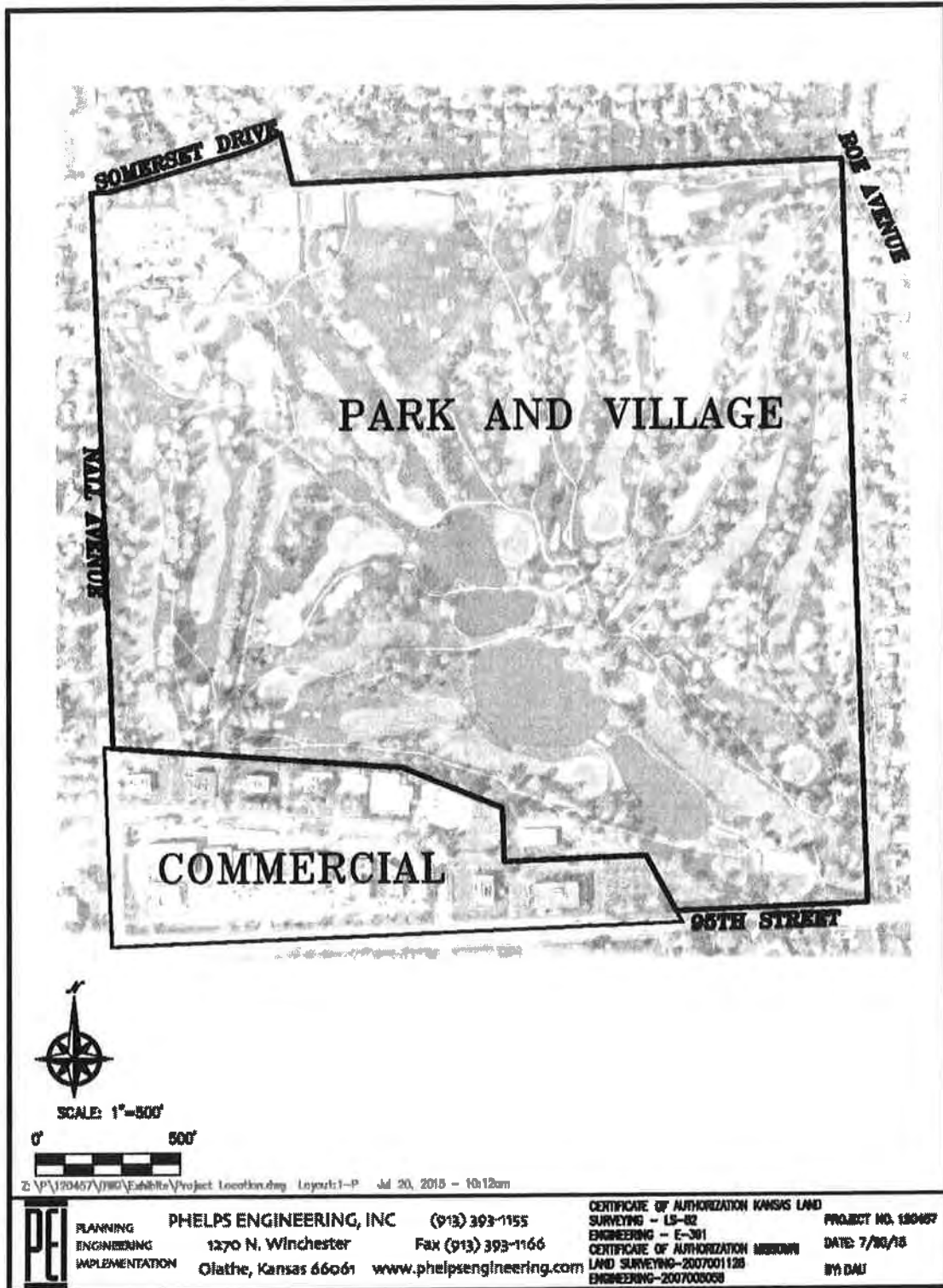


EXHIBIT C Preliminary Park Budget

Scope	Park	Public
Land Acquisition	5,872,951	
Pre-Construction (design, engineering, testing, surveys, mobilization)	977,066	
Initial Pond Work	1,322,244	
Initial Priority Trail Work (17,620 LF)	694,570	
Transit Improvements	35,000	
Park Improvements (other trails, monument signs, FF&E, landscape, hardscape, design, contingency)	1,735,248	
SUBTOTAL PARK COSTS:	10,637,079	-
Grading & Erosion Control Streets and Paving		180,225
Parkway Road (Public Street A)		781,457
Park Edge Connector Street (Public Street B)		399,693
Park Access Street (Public Street C)		272,886
Apartment Connections to Public Street C		-
Residential Street (Private Streets D-1)		-
Alleys		-
Storm Sewer on the Site		1,270,063
Street Lighting		276,000
Sanitary Sewer		1,047,443
Off-Site Improvements (Nail Avenue, Roe Avenue)		257,221
Utilities (By Utility Companies)		525,134
Contingency		818,017
SUBTOTAL CONSTRUCTION COSTS:		5,828,139
Fees		
Funding Agreement: Reimbursement		250,000
Inspection Fee on City Public Improvements		269,946
Engineering Design & Surveys		539,891
Construction Survey Staking		89,982
Bonds (performance, maintenance, etc)		179,964
TOTAL PROJECT OPINION OF PROBABLE COSTS:	10,637,079	7,157,921
Total of Park & Public Scopes	17,795,000	
Sources (pg 17 of CC's October 2015 FA)		
GO Bonds	9,925,000	
SO Bonds	6,150,000	
Tax Exemption Contribution Est.	1,720,000	
SMAC funds	TBD	
Surplus/(Shortfall)		(0)

EXHIBIT D
PRELIMINARY PLAT



EXHIBIT E

Title of Document: Kansas Special Warranty Deed

Date of Document: _____, 2015

Grantor: MB-18, LLC, a Kansas limited liability company

Grantee: Johnson County Park and Recreation District

Grantee's Mailing Address: JCPRD Administration Building
7904 Renner Road
Shawnee Mission, Kansas 66219

Legal Description See **Exhibit A**

Reference Document No.: N/A

KANSAS SPECIAL WARRANTY DEED

THIS KANSAS SPECIAL WARRANTY DEED is made as of _____, 2015, by and between MB-18, LLC, a Kansas limited liability company ("Grantor"), and JOHNSON COUNTY PARK AND RECREATION DISTRICT, a body corporate and political subdivision organized and existing pursuant to the laws of the State of Kansas ("Grantee" or "JCPRD"), with an address of JCPRD Administration Building, 7904 Renner Road, Shawnee Mission, Kansas 66219.

WITNESSETH, that Grantor, for and in consideration of the sum of TEN DOLLARS (\$10.00) to Grantor paid by Grantee (the receipt of which is hereby acknowledged) does by these presents CONVEY AND GRANT, unto Grantee and its successors and assigns, the following described lots, tracts or parcels of land, lying, being and situate in the County of Johnson and State of Kansas (the "Property"), to wit:

See Exhibit A.

SUBJECT TO: easements, covenants and restrictions of record, the use restrictions described herein, and taxes and special assessments.

Grantee shall at all times use the Property only as a public park, and for no other use. If Grantee (i) fails to use all or any part of the Property as a public park or (ii) permits any other use of the Property for any period of time whatsoever, Grantee shall be automatically dispossessed of all of Grantee's right, title, and interest in and to the Property, and title to the Property shall automatically vest in the City of Prairie Village, Kansas (the "City") and in such event the Property will continue to be restricted to use as a park and subject to the other restrictions set forth herein.

Additionally, the Property shall be subject to, and Grantee shall enforce, cause to be enforced, and otherwise fully comply with, the following use restrictions (the "Park Use Restrictions"); if and to the extent approved by the City Council of Prarie Village after notice, hearing and adoption of an ordinance, if at all, described in Subsection A, some or all of the Park Use Restrictions shall terminate March 1, 2041 as to all portions of the Property except within the Residential Preservation Area wherein the Park Use Restrictions shall remain in place on a permanent basis.

A. The following uses and/or structures shall be prohibited in all areas of the Property or any portion thereof:

1. skate parks (provided that skating on the ponds and trails shall be permitted at the discretion of the Grantee);
2. permanent areas for off-leash dogs, cats, or other domesticated animals; and
3. permanent athletic fields, goals, bleachers, sports lighting or other actions or indications of programmed organized sports or facilities except within the Community Center Activity Zone as set forth on Exhibit B; goals, lights or apparatuses not affixed to the Property but stored overnight upon the Property shall be considered permanent. Temporary goals for occasional training and practice shall be permitted.

After March 1, 2041, the City Council of Prairie Village, Kansas (the "City Council") may hold a hearing, and by majority vote, determine whether to adopt an ordinance, to be recorded in the Land

Records of Johnson County, Kansas, permitting a previously prohibited use, structure or facility but only after a public hearing has also been held by the City's Planning Commission. Said City Council and Planning Commission hearings shall be held only after written notice delivered to the owners of all real property within 200 feet of the Property, to the Grantee and to the "designated successors." Such notice shall be sent between 10 and 20 days before each hearing and shall contain a description of the proposed use, structure or facility.

B. The following uses shall be prohibited within a residential preservation area (the "Residential Preservation Area") defined as any area within one hundred (100) feet of any current or future residential property line, including but not limited to lots for single family homes, multi-family townhomes, apartments, and senior living facilities:

1. Lights or lighting structures that do not comply with the lighting standards in the lighting plan approved and adopted by the City of Prairie Village, Kansas (the "City").

2. Bathrooms, permanent structures, and parking lots provided that the definition of structure shall not include bridges, trails, lighting permitted by Section B(1) above, residential style utility boxes nor include the parking lot and tennis courts which were set forth on the original Park Master Plan.

C. From the recording date of this Deed until perpetuity, any material changes made now or in the future to the original Park Master Plan attached as **Exhibit C** shall require the approval of City Council of Prairie Village Kansas after notice and hearing as delineated in Section A hereof.

Only the City, or Grantor or its designated successor neighborhood association may seek injunctive relief and/or specific performance in any court of competent jurisdiction to enforce this document, the Park Use Restrictions or the requirement that the Property be used only as a public park. Written consent from Grantor or its designated successor shall be required to amend the Park Use Restrictions. The term "designated successor" shall mean any association described on **Exhibit D**. Grantor shall have no right of reversion of title to the Property for Grantee's failure to enforce, cause to be enforced, or otherwise comply with the Park Use Restrictions or the requirement that the Property be used only as a public park.

Grantor, for Grantor and Grantor's successors and assigns, covenants that Grantor is lawfully seized of Grantor's interest in the Property and has good right to convey its interest in the Property and guarantees quiet possession of the Property against the claims of those claiming any right, interest or title through Grantor, except as provided herein, and further covenants that the Property is free from all encumbrances created by Grantor, except as provided above, and Grantor will warrant and defend the Property against all lawful claims of those claiming any right, interest or title through Grantor, except as provided above; but Grantor does not warrant title against those claiming a right, interest or title that arose prior to, or separate from, Grantor's interest in the Property.

[The remainder of this page intentionally left blank.]

IN WITNESS WHEREOF, Grantor has caused this instrument to be executed as of the day and year first above written.

GRANTOR:

MB-18, LLC,
a Kansas limited liability company

By: _____
Name: _____
Title: _____

STATE OF _____)
) ss.
COUNTY OF _____)

On this day of _____, 2015, before me personally appeared _____, to me known to be the person described in and who executed the foregoing instrument, who being by me duly sworn, did say such person is the _____ of **MB-18, LLC**, a Kansas limited liability company, and acknowledged said instrument to be such person’s free act and deed and the free act and deed of said limited liability company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year last above written.

Print Name: _____
Notary Public in and for said County and State

My Commission Expires:

EXHIBIT A

Legal Description

Tract T of MEADOWBROOK PARK, a subdivision in the City of Prairie Village, Johnson County, Kansas.

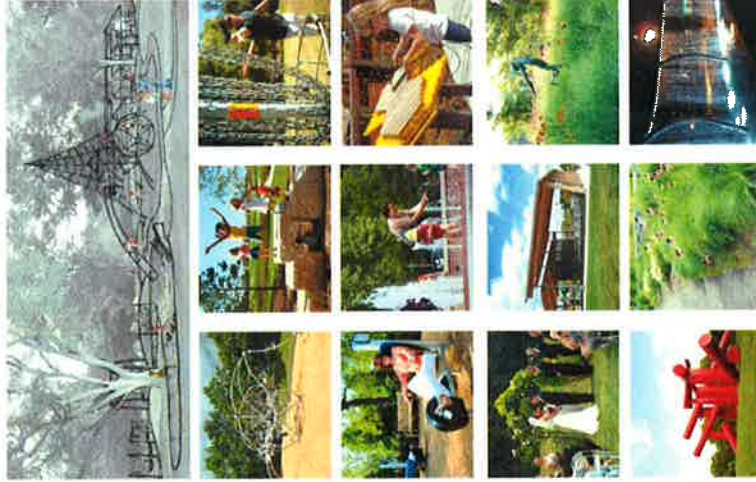
EXHIBIT B

Community Center Activity Zone



EXHIBIT C

Park Master Plan



MEADOWBROOK PARK MASTER PLAN



1 | PROPOSED SITE PLAN

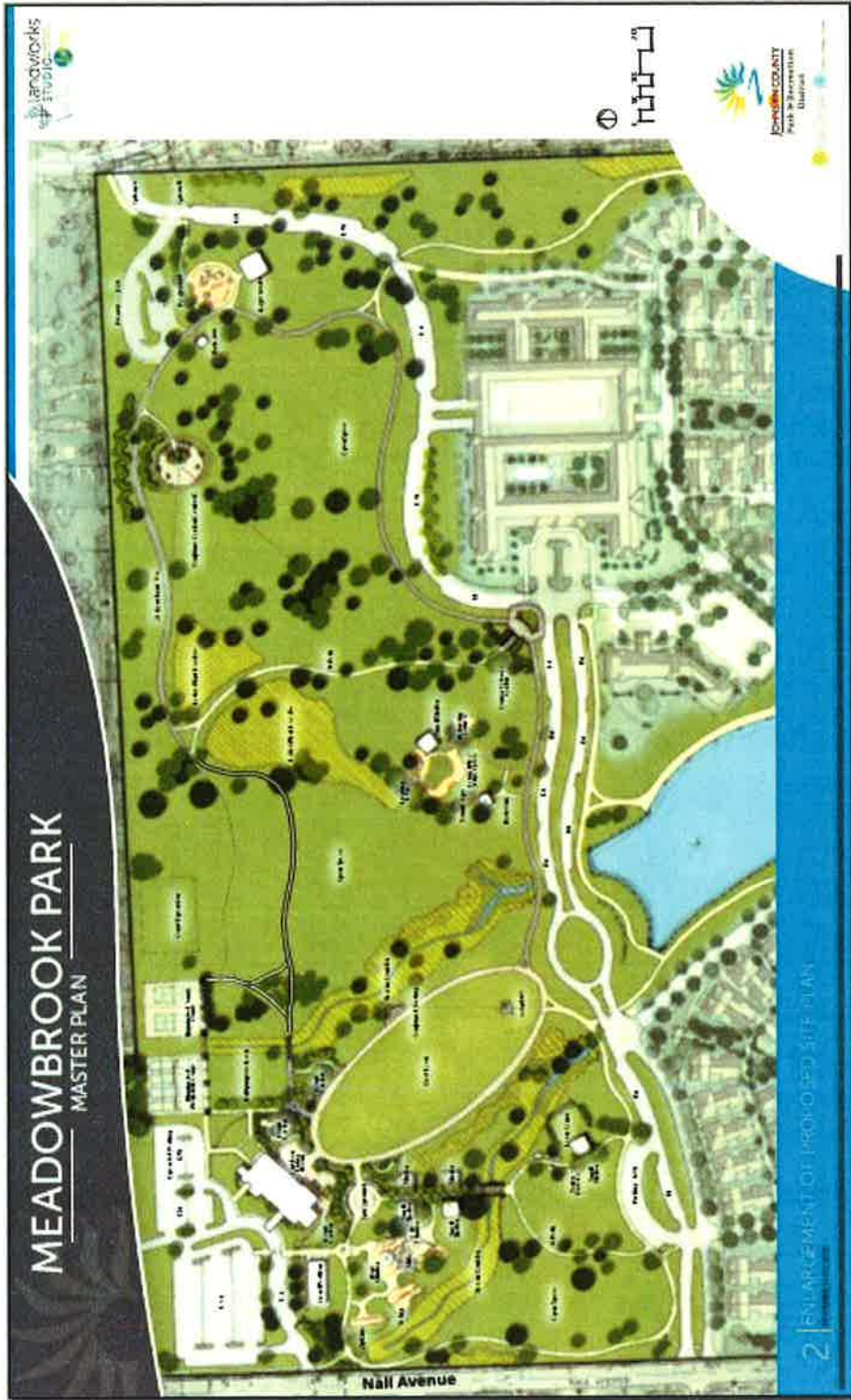


EXHIBIT D

Designated Successor Neighborhood Associations

- 1. That Designated Successor Commercial Association established by the Grantor at such times and upon such rules as are set forth in the RESIDENTIAL AND COMMERCIAL MASTER DECLARATION FOR MEADOWBROOK PARK defined below .**

- 2. That Designated Successor Residential Association A established by the Grantor at such times and upon such rules as are set forth in the RESIDENTIAL AND COMMERCIAL MASTER DECLARATION FOR MEADOWBROOK PARK defined below.**

- 3. That Designated Successor Residential Association B established by the Grantor at such times and upon such rules as are set forth in the RESIDENTIAL AND COMMERCIAL MASTER DECLARATION FOR MEADOWBROOK PARK defined below.**

Other than Grantor, no person, entity or property owner shall have rights under this document unless such entity is designated as one of the designated successor associations referenced in 1 through 3 above pursuant to the RESIDENTIAL AND COMMERCIAL MASTER ASSOCIATION DECLARATION FOR MEADOWBROOK PARK executed and recorded by Grantor ____ 2016, at book____ and page____.

EXHIBIT E

PRELIMINARY PLAT



EXHIBIT F

PROJECT SCHEDULE

Development	# of Units/SF	Projected Appraised Value per Unit/SF		Projected Appraised Value	Projected Assessed Value	Projected Assessed Value per Unit/SF	Projected Taxes	% Assessed on Tax Rolls as of:		
		1/1/2017	1/1/2018					1/1/2017	1/1/2018	1/1/2018
Single Family - 60x120	8	\$ 84,824	\$ 5,351,360	\$ 5,351,360	\$ 66,369	\$ 8,290	\$ 74,250	25%	42%	100%
Single Family - 50x120	14	\$ 766,846	\$ 10,595,858	\$ 10,595,858	\$ 87,037	\$ 10,800	\$ 147,000	25%	40%	100%
Single Family - 60x120	1	\$ 928,828	\$ 928,828	\$ 928,828	\$ 95,327	\$ 11,500	\$ 11,500	25%	40%	100%
Single Family - 60x110	12	\$ 720,865	\$ 8,649,965	\$ 8,649,965	\$ 99,711	\$ 120,000	\$ 120,000	25%	40%	100%
Single Family - 65x120	5	\$ 650,550	\$ 4,252,752	\$ 4,252,752	\$ 97,973	\$ 58,000	\$ 58,000	25%	40%	100%
Single Family - 80x120	4	\$ 1,225,368	\$ 4,901,477	\$ 4,901,477	\$ 140,977	\$ 17,000	\$ 17,000	25%	40%	100%
Single Family - 60x120	1	\$ 1,008,128	\$ 1,009,128	\$ 1,009,128	\$ 116,350	\$ 14,000	\$ 14,000	25%	40%	100%
Single Family - 65x110	2	\$ 762,898	\$ 1,585,772	\$ 1,585,772	\$ 182,364	\$ 22,000	\$ 22,000	25%	40%	100%
Single Family - 85x135	2	\$ 720,805	\$ 1,441,611	\$ 1,441,611	\$ 185,785	\$ 20,000	\$ 20,000	25%	40%	100%
Single Family - 100x100	2	\$ 1,287,450	\$ 2,584,859	\$ 2,584,859	\$ 148,207	\$ 36,000	\$ 36,000	25%	40%	100%
Single Family - 60x135	1	\$ 1,482,067	\$ 1,482,067	\$ 1,482,067	\$ 171,588	\$ 20,700	\$ 20,700	25%	40%	100%
Single Family - 60x120	70	\$ 368,443	\$ 27,511,098	\$ 27,511,098	\$ 46,591	\$ 5,800	\$ 5,800	25%	40%	100%
Townhomes - 30x120	280	\$ 128,141	\$ 35,879,867	\$ 35,879,867	\$ 14,599	\$ 1,780	\$ 1,780	25%	50%	100%
Multifamily	330	\$ 168,121	\$ 55,679,867	\$ 55,679,867	\$ 12,434	\$ 665,000	\$ 665,000	5%	50%	100%
Senior Housing	44	\$ 190,201	\$ 7,928,859	\$ 7,928,859	\$ 23,723	\$ 110,000	\$ 110,000	25%	100%	100%
Hotel	5,090	\$ 185,78	\$ 828,828	\$ 828,828	\$ 41,463	\$ 25,000	\$ 25,000	25%	100%	100%
Total			\$ 100,212,241	\$ 100,212,241	\$ 17,386,313	\$ 2,087,600	\$ 2,087,600			

EXHIBIT G

Title of Document: Kansas Special Warranty Deed

Date of Document: _____, 2015

Grantor: MB-18, LLC, a Kansas limited liability company

Grantee: Johnson County Park and Recreation District

Grantee's Mailing Address: JCPRD Administration Building
7904 Renner Road
Shawnee Mission, Kansas 66219

Legal Description See **Exhibit A**

Reference Document No.: N/A

KANSAS SPECIAL WARRANTY DEED

THIS KANSAS SPECIAL WARRANTY DEED is made as of _____, 2015, by and between MB-18, LLC, a Kansas limited liability company ("Grantor"), and JOHNSON COUNTY PARK AND RECREATION DISTRICT, a body corporate and political subdivision organized and existing pursuant to the laws of the State of Kansas ("Grantee" or "JCPRD"), with an address of JCPRD Administration Building, 7904 Renner Road, Shawnee Mission, Kansas 66219.

WITNESSETH, that Grantor, for and in consideration of the sum of TEN DOLLARS (\$10.00) to Grantor paid by Grantee (the receipt of which is hereby acknowledged) does by these presents CONVEY AND GRANT, unto Grantee and its successors and assigns, the following described lots, tracts or parcels of land, lying, being and situate in the County of Johnson and State of Kansas (the "Property"), to wit:

See Exhibit A.

SUBJECT TO: easements, covenants and restrictions of record, the use restrictions described herein, and taxes and special assessments.

Grantee shall at all times use the Property only as a public park, and for no other use. If Grantee (i) fails to use all or any part of the Property as a public park or (ii) permits any other use of the Property for any period of time whatsoever, Grantee shall be automatically dispossessed of all of Grantee's right, title, and interest in and to the Property, and title to the Property shall automatically vest in the City of Prairie Village, Kansas (the "City") and in such event the Property will continue to be restricted to use as a park and subject to the other restrictions set forth herein.

Additionally, the Property shall be subject to, and Grantee shall enforce, cause to be enforced, and otherwise fully comply with, the following use restrictions (the "Park Use Restrictions"); if and to the extent approved by the City Council of Prarie Village after notice, hearing and adoption of an ordinance, if at all, described in Subsection A, some or all of the Park Use Restrictions shall terminate March 1, 2041 as to all portions of the Property except within the Residential Preservation Area wherein the Park Use Restrictions shall remain in place on a permanent basis.

A. The following uses and/or structures shall be prohibited in all areas of the Property or any portion thereof:

1. skate parks (provided that skating on the ponds and trails shall be permitted at the discretion of the Grantee);
2. permanent areas for off-leash dogs, cats, or other domesticated animals; and
3. permanent athletic fields, goals, bleachers, sports lighting or other actions or indications of programmed organized sports or facilities except within the Community Center Activity Zone as set forth on Exhibit B; goals, lights or apparatuses not affixed to the Property but stored overnight upon the Property shall be considered permanent. Temporary goals for occasional training and practice shall be permitted.

After March 1, 2041, the City Council of Prairie Village, Kansas (the "City Council") may hold a hearing, and by majority vote, determine whether to adopt an ordinance, to be recorded in the Land

Records of Johnson County, Kansas, permitting a previously prohibited use, structure or facility but only after a public hearing has also been held by the City's Planning Commission. Said City Council and Planning Commission hearings shall be held only after written notice delivered to the owners of all real property within 200 feet of the Property, to the Grantee and to the "designated successors." Such notice shall be sent between 10 and 20 days before each hearing and shall contain a description of the proposed use, structure or facility.

B. The following uses shall be prohibited within a residential preservation area (the "Residential Preservation Area") defined as any area within one hundred (100) feet of any current or future residential property line, including but not limited to lots for single family homes, multi-family townhomes, apartments, and senior living facilities:

1. Lights or lighting structures that do not comply with the lighting standards in the lighting plan approved and adopted by the City of Prairie Village, Kansas (the "City").

2. Bathrooms, permanent structures, and parking lots provided that the definition of structure shall not include bridges, trails, lighting permitted by Section B(1) above, residential style utility boxes nor include the parking lot and tennis courts which were set forth on the original Park Master Plan.

C. From the recording date of this Deed until perpetuity, any material changes made now or in the future to the original Park Master Plan attached as Exhibit C shall require the approval of City Council of Prairie Village Kansas after notice and hearing as delineated in Section A hereof.

Only the City, or Grantor or its designated successor neighborhood association may seek injunctive relief and/or specific performance in any court of competent jurisdiction to enforce this document, the Park Use Restrictions or the requirement that the Property be used only as a public park. Written consent from Grantor or its designated successor shall be required to amend the Park Use Restrictions. The term "designated successor" shall mean any association described on Exhibit D. Grantor shall have no right of reversion of title to the Property for Grantee's failure to enforce, cause to be enforced, or otherwise comply with the Park Use Restrictions or the requirement that the Property be used only as a public park.

Grantor, for Grantor and Grantor's successors and assigns, covenants that Grantor is lawfully seized of Grantor's interest in the Property and has good right to convey its interest in the Property and guarantees quiet possession of the Property against the claims of those claiming any right, interest or title through Grantor, except as provided herein, and further covenants that the Property is free from all encumbrances created by Grantor, except as provided above, and Grantor will warrant and defend the Property against all lawful claims of those claiming any right, interest or title through Grantor, except as provided above; but Grantor does not warrant title against those claiming a right, interest or title that arose prior to, or separate from, Grantor's interest in the Property.

[The remainder of this page intentionally left blank.]

IN WITNESS WHEREOF, Grantor has caused this instrument to be executed as of the day and year first above written.

GRANTOR:

MB-18, LLC,
a Kansas limited liability company

By: _____

Name: _____

Title: _____

STATE OF _____)
) ss.
COUNTY OF _____)

On this day of _____, 2015, before me personally appeared _____, to me known to be the person described in and who executed the foregoing instrument, who being by me duly sworn, did say such person is the _____ of **MB-18, LLC**, a Kansas limited liability company, and acknowledged said instrument to be such person's free act and deed and the free act and deed of said limited liability company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year last above written.

Print Name: _____
Notary Public in and for said County and State

My Commission Expires:

EXHIBIT A

Legal Description

Tract T of MEADOWBROOK PARK, a subdivision in the City of Prairie Village, Johnson County, Kansas.

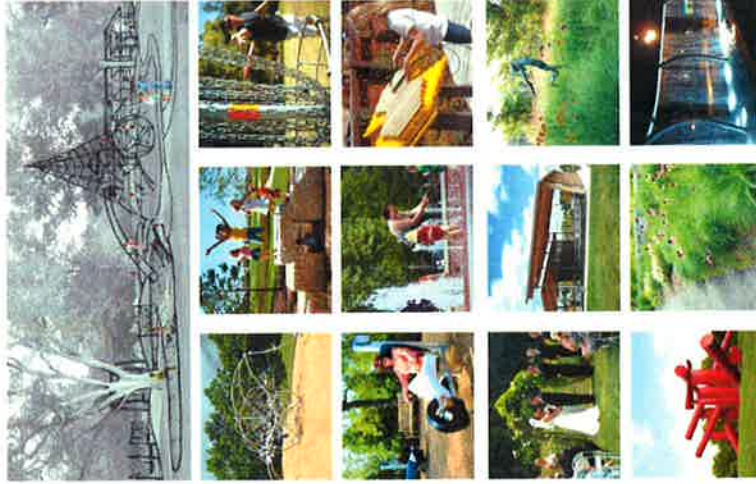
EXHIBIT B

Community Center Activity Zone



EXHIBIT C

Park Master Plan



MEADOWBROOK PARK MASTER PLAN



1 | PROPOSED SITE PLAN

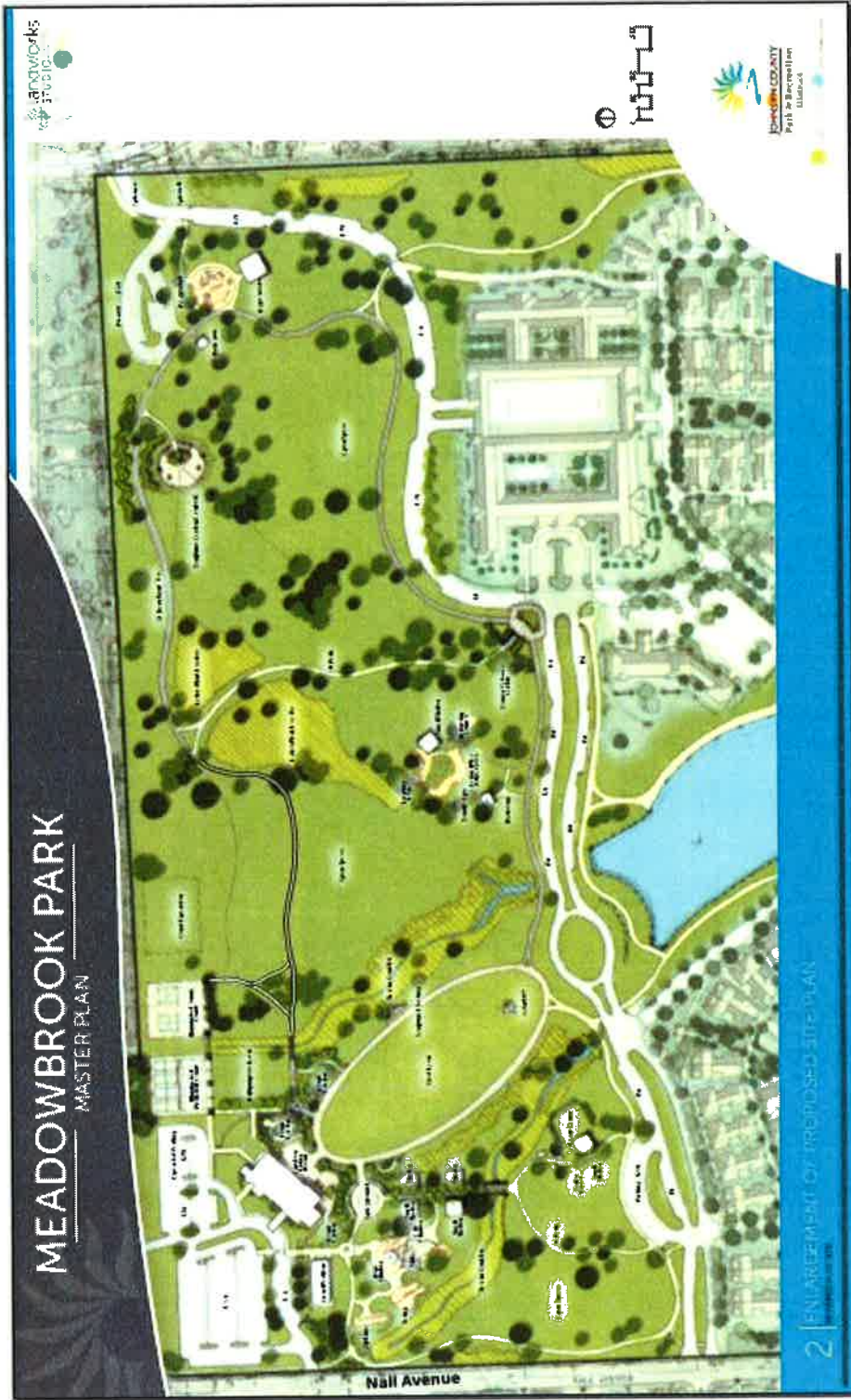


EXHIBIT D

Designated Successor Neighborhood Associations

- 1. That Designated Successor Commercial Association established by the Grantor at such times and upon such rules as are set forth in the RESIDENTIAL AND COMMERCIAL MASTER DECLARATION FOR MEADOWBROOK PARK defined below .**

- 2. That Designated Successor Residential Association A established by the Grantor at such times and upon such rules as are set forth in the RESIDENTIAL AND COMMERCIAL MASTER DECLARATION FOR MEADOWBROOK PARK defined below.**

- 3. That Designated Successor Residential Association B established by the Grantor at such times and upon such rules as are set forth in the RESIDENTIAL AND COMMERCIAL MASTER DECLARATION FOR MEADOWBROOK PARK defined below.**

Other than Grantor, no person, entity or property owner shall have rights under this document unless such entity is designated as one of the designated successor associations referenced in 1 through 3 above pursuant to the RESIDENTIAL AND COMMERCIAL MASTER ASSOCIATION DECLARATION FOR MEADOWBROOK PARK executed and recorded by Grantor ____ 2016, at book ____ and page ____.