

CITY OF PRAIRIE VILLAGE

October 17, 2016

Council Committee Meeting 6:00 p.m.

City Council Meeting 7:30 p.m.

COUNCIL COMMITTEE OF THE WHOLE
Council Chambers
Monday, October 17, 2016
6:00 PM

AGENDA

TED ODELL, COUNCIL PRESIDENT

AGENDA ITEMS FOR DISCUSSION

- *COU2016-60 Consider approval of items for Bond Sale related to the purchase of the streetlight system from KCPL
Gary Anderson

- *COU2016-61 Consider approval of audit services contract with Berberich Trahan & Co.
Lisa Santa Maria

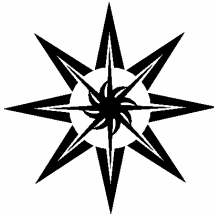
- *COU2016-62 Consider approval of the purchase and installation of a replacement generator for the Police Department building
Keith Bredehoeft

- COU2016-63 Consider approval of a design services agreement with Affinis Corp for the 2017 Paving Program
Keith Bredehoeft

- Presentation and discussion of 75th Street study near Rosewood Drive - street barricade
Keith Bredehoeft

- *COU2016-55 Consider adoption of Ordinance No. 2354 relating to uses of the public right of way
Katie Logan

***Council Action Requested the same night**



PUBLIC WORKS DEPARTMENT

Council Committee Meeting Date: October 17, 2016

Council Meeting Date: October 17, 2016

CONSIDER APPROVAL OF ITEMS FOR BOND SALE RELATED TO THE PURCHASE OF THE STREET LIGHT SYSTEM FROM KCPL

RECOMMENDATIONS

1. Consider approval of a Resolution authorizing a streetlight project within the City and the financing thereof.
2. Consider approval of the Best Bid from the GO bond sale
3. Consider approval an Ordinance authorizing and providing for the issuance of General Obligation improvement bonds, Series 2016C.
4. Consider approval of a Resolution prescribing the form and details of and authorizing and directing the sale and delivery of General Obligation improvement bonds, Series 2016C.

BACKGROUND

It is proposed that Prairie Village purchase the streetlight system located in street right of way and on city property consisting of 2,062 streetlights from KCPL. Currently the streetlights are leased from KCPL.

FUNDING SOURCES

Purchase of the Street Light System will come from the Bond Sale. Bonds will repaid with budgeted funds previously used for leasing the streetlight system.

ATTACHMENTS

- Project Resolution
- Bond Ordinance
- Bond Resolution

PREPARED BY

Keith Bredehoeft, Public Works Director

October 13, 2016

**EXCERPT OF MINUTES OF A MEETING
OF THE GOVERNING BODY OF
THE CITY OF PRAIRIE VILLAGE, KANSAS
HELD ON OCTOBER 17, 2016**

The governing body of the City (the "Governing Body") met in regular session at the usual meeting place in the City, at 7:30 p.m., the following members being present and participating, to-wit:

Absent: _____

The Mayor declared that a quorum was present and called the meeting to order.

* * * * *

(Other Proceedings)

Councilmember _____ presented and moved the adoption of a Resolution entitled:

**A RESOLUTION AUTHORIZING A STREETLIGHT PROJECT WITHIN THE
CITY AND THE FINANCING THEREOF.**

Councilmember _____ seconded the motion to adopt the Resolution. Thereupon, the Resolution was read and considered, and, the question being put to a roll call vote, the vote thereon was as follows:

Aye: _____

Nay: _____

The Mayor declared the Resolution duly adopted by the Governing Body and the City Clerk designated the same Resolution No. _____.

* * * * *

(Other Proceedings)

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CERTIFICATE

I hereby certify that the foregoing Excerpt of Minutes is a true and correct excerpt of the proceedings of the Governing Body of the City of Prairie Village, Kansas, held on the date stated therein, and that the official minutes of such proceedings are on file in my office.

(SEAL)

City Clerk

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING A STREETLIGHT PROJECT WITHIN THE CITY AND THE FINANCING THEREOF.

WHEREAS, Article 12, Section 5 of the Constitution of the State of Kansas and Charter Ordinance No. 28 of the City of Prairie Village, Kansas (the “City”), authorize the Governing Body of the City to make a variety of improvements as further described in Charter Ordinance No. 28 and to issue its general obligation bonds or other obligations of the City for the same; and

WHEREAS, the Governing Body of the City deems it necessary to make certain streetlight improvements, as more fully described herein.

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

Section 1. Pursuant to Charter Ordinance No. 28, the Governing Body hereby authorizes (a) the acquisition of approximately 2,062 streetlights in the approximate amount of \$2,292,945, as set forth in the Streetlight Sale Agreement between the City and Kansas City Power & Light Company dated September 6, 2016 and approved by the Governing Body on such date, and (b) the conversion of such streetlights to light-emitting diode (LED) fixtures in the approximate amount of \$907,055, and other necessary and appurtenant improvements (collectively, the “Improvements”).

Section 2. The cost of the Improvements shall not exceed \$3,200,000, exclusive of issuance costs and any interest costs for temporary financing. The Governing Body hereby authorizes the issuance of the City’s general obligation bonds to pay for the Improvements.

Section 3. The City expects to make capital expenditures after the date of this Resolution in connection with the Improvements, and the City intends to reimburse itself for such expenditures with the proceeds of bonds and/or notes in the maximum principal amount of \$3,200,000, exclusive of issuance costs and any interest cost for temporary financing.

Section 4. This Resolution shall take effect immediately.

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ADOPTED by the Governing Body this 17th day of October, 2016.

SIGNED by the Mayor this 17th day of October, 2016.

Mayor

ATTEST:

City Clerk

(SEAL)

BOND ORDINANCE AND RESOLUTION

- A. Excerpt of Minutes of Meeting approving sale, approving Ordinance/Bond Resolution
- B. Ordinance
- C. Ordinance Summary for Publication
- D. Bond Resolution

**EXCERPT OF MINUTES OF A MEETING
OF THE GOVERNING BODY OF
THE CITY OF PRAIRIE VILLAGE, KANSAS
HELD ON OCTOBER 17, 2016**

The City Council (the "Governing Body") met in regular session at the usual meeting place in the City, at 7:30 p.m., the following members being present and participating, to-wit:

Present: _____

Absent: _____

The Mayor declared that a quorum was present and called the meeting to order.

* * * * *

(Other Proceedings)

The Clerk reported that pursuant to the Notice of Bond Sale, bids for the purchase of General Obligation Improvement Bonds, Series 2016C, dated October 31, 2016, of the City had been received. A tabulation of said bids is set forth as **EXHIBIT A** hereto.

Thereupon, the Governing Body reviewed and considered the bids and it was found and determined that the bid of _____, _____, _____, was the best bid for the Bonds, a copy of which is attached hereto as **EXHIBIT B**.

Thereupon, there was presented an Ordinance entitled:

**AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF
GENERAL OBLIGATION IMPROVEMENT BONDS, SERIES 2016C, OF THE
CITY OF PRAIRIE VILLAGE, KANSAS; PROVIDING FOR THE LEVY AND
COLLECTION OF AN ANNUAL TAX FOR THE PURPOSE OF PAYING THE
PRINCIPAL OF AND INTEREST ON SAID BONDS AS THEY BECOME DUE;
AUTHORIZING CERTAIN OTHER DOCUMENTS AND ACTIONS IN
CONNECTION THEREWITH; AND MAKING CERTAIN COVENANTS WITH
RESPECT THERETO.**

Thereupon, Councilmember _____ moved that said Ordinance be passed. The motion was seconded by Councilmember _____. Said Ordinance was duly read and considered, and upon being put, the motion for the passage of said Ordinance was carried by the vote of the Governing Body, the vote being as follows:

Yea: _____

Nay: _____

Thereupon, the Mayor declared said Ordinance duly passed and the Ordinance was then duly numbered Ordinance No. _____, was signed and approved by the Mayor and attested by the Clerk and the Ordinance or a summary thereof was directed to be published one time in the official newspaper of the City.

Thereupon, there was presented a Resolution entitled:

A RESOLUTION PRESCRIBING THE FORM AND DETAILS OF AND AUTHORIZING AND DIRECTING THE SALE AND DELIVERY OF GENERAL OBLIGATION IMPROVEMENT BONDS, SERIES 2016C, OF THE CITY OF PRAIRIE VILLAGE, KANSAS, PREVIOUSLY AUTHORIZED BY ORDINANCE NO. [_____] OF THE ISSUER; MAKING CERTAIN COVENANTS AND AGREEMENTS TO PROVIDE FOR THE PAYMENT AND SECURITY THEREOF; AND AUTHORIZING CERTAIN OTHER DOCUMENTS AND ACTIONS CONNECTED THEREWITH.

Thereupon, Councilmember _____ moved that said Resolution be adopted. The motion was seconded by Councilmember _____. Said Resolution was duly read and considered, and upon being put, the motion for the adoption of said Resolution was carried by the vote of the Governing Body, the vote being as follows:

Yea: _____

Nay: _____

Thereupon, the Mayor declared said Resolution duly adopted and the Resolution was then duly numbered Resolution No. _____ and was signed by the Mayor and attested by the Clerk.

(Other Proceedings)

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On motion duly made, seconded and carried, the meeting thereupon adjourned.

CERTIFICATE

I hereby certify that the foregoing Excerpt of Minutes is a true and correct excerpt of the proceedings of the Governing Body of the City of Prairie Village, Kansas, held on the date stated therein, and that the official minutes of such proceedings are on file in my office.

(SEAL)

Joyce Hagen Mundy, City Clerk

EXHIBIT A
(BID TABULATION)

EXHIBIT B

(BID OF PURCHASER)

ORDINANCE NO. __

OF

THE CITY OF PRAIRIE VILLAGE, KANSAS

PASSED

OCTOBER 17, 2016

**GENERAL OBLIGATION IMPROVEMENT BONDS
SERIES 2016C**

ORDINANCE NO. ____

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION IMPROVEMENT BONDS, SERIES 2016C, OF THE CITY OF PRAIRIE VILLAGE, KANSAS; PROVIDING FOR THE LEVY AND COLLECTION OF AN ANNUAL TAX FOR THE PURPOSE OF PAYING THE PRINCIPAL OF AND INTEREST ON SAID BONDS AS THEY BECOME DUE; AUTHORIZING CERTAIN OTHER DOCUMENTS AND ACTIONS IN CONNECTION THEREWITH; AND MAKING CERTAIN COVENANTS WITH RESPECT THERETO.

WHEREAS, the City of Prairie Village, Kansas (the “City”) is a city of the first class, duly created, organized and existing under the Constitution and laws of the State; and

WHEREAS, pursuant to Charter Ordinance No. 28 of the City and Article 12, Section 5 of the Constitution of the State of Kansas, as amended, and other provisions of the laws of the State of Kansas applicable thereto, by proceedings duly had, the City Council of the City (the “Governing Body”) has authorized the following improvements (the “Improvements”) to be made in the City, to-wit:

<u>Project Name</u>	<u>Authorizing Resolution</u>	<u>Authority</u>	<u>Amount*</u>
Streetlight Acquisition	_____	Article 12, Section 5 of the Kansas Constitution; Charter Ordinance No. 28	\$ _____

; and

WHEREAS, the Governing Body is authorized by law to issue general obligation bonds of the City to pay the costs of the Improvements; and

WHEREAS, the Governing Body has advertised the sale of the Bonds in accordance with the law and at a meeting held in the City on this date awarded the sale of such Bonds to the best bidder.

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

Section 1. Definitions of Words and Terms. In addition to words and terms defined elsewhere herein, the following words and terms in this Ordinance shall have the meanings hereinafter set forth. Unless the context shall otherwise indicate, words importing the singular number shall include the plural and vice versa, and words importing persons shall include firms, associations and corporations, including public bodies, as well as natural persons.

“Act” means the Constitution and statutes of the State including K.S.A. 10-101 to 10-125, inclusive, K.S.A. 10-620 *et seq.*, Charter Ordinance No. 28 of the City and Article 12, Section 5 of the Constitution of the State of Kansas, all as amended and supplemented from time to time.

“Bond and Interest Fund” means the Bond and Interest Fund of the City for its general obligation bonds.

*Improvement costs to be financed with proceeds of the Bonds; excludes Costs of Issuance.

“Bond Resolution” means the resolution to be adopted by the Governing Body prescribing the terms and details of the Bonds and making covenants with respect thereto.

“Bonds” means the City’s General Obligation Improvement Bonds, Series 2016C, dated October 31, 2016, authorized by this Ordinance.

“City” means the City of Prairie Village, Kansas.

“Clerk” means the duly appointed and acting Clerk of the City or, in the Clerk’s absence, the duly appointed Deputy, Assistant or Acting Clerk.

“Governing Body” means the City Council of the City.

“Improvements” means the improvements referred to in the preamble to this Ordinance and any Substitute Improvements.

“Mayor” means the duly elected and acting Mayor of the City or, in the Mayor’s absence, the duly appointed and/or elected Vice Mayor or Acting Mayor of the City.

“Ordinance” means this Ordinance authorizing the issuance of the Bonds.

“State” means the State of Kansas.

“Substitute Improvements” means the substitute or additional improvements of the City authorized in the manner set forth in the Bond Resolution.

Section 2. Authorization of the Bonds. There shall be issued and hereby are authorized and directed to be issued the General Obligation Improvement Bonds, Series 2016C, of the City in the principal amount of \$[PRINCIPAL AMOUNT], for the purpose of providing funds to: (a) pay the costs of the Improvements; and (b) pay costs of issuance of the Bonds.

Section 3. Security for the Bonds. The Bonds shall be general obligations of the City payable as to both principal and interest from ad valorem taxes which may be levied without limitation as to rate or amount upon all the taxable tangible property, real and personal, within the territorial limits of the City. The full faith, credit and resources of the City are hereby irrevocably pledged for the prompt payment of the principal of and interest on the Bonds as the same become due.

Section 4. Terms, Details and Conditions of the Bonds. The Bonds shall be dated and bear interest, shall mature and be payable at such times, shall be in such forms, shall be subject to redemption and payment prior to the maturity thereof, and shall be issued and delivered in the manner prescribed and subject to the provisions, covenants and agreements set forth in the Bond Resolution hereafter adopted by the Governing Body.

Section 5. Levy and Collection of Annual Tax. The Governing Body shall annually make provision for the payment of principal of, premium, if any, and interest on the Bonds as the same become due by levying and collecting the necessary taxes upon all of the taxable tangible property within the City in the manner provided by law.

The taxes above referred to shall be extended upon the tax rolls in each of the several years, respectively, and shall be levied and collected at the same time and in the same manner as the general ad valorem taxes of the City are levied and collected, shall be used solely for the payment of the principal of

and interest on the Bonds as and when the same become due and the fees and expenses of the Paying Agent. The proceeds derived from said taxes shall be deposited in the Bond and Interest Fund.

If at any time said taxes are not collected in time to pay the principal of or interest on the Bonds when due, the Treasurer is hereby authorized and directed to pay said principal or interest out of the general funds of the City and to reimburse said general funds for money so expended when said taxes are collected.

Section 6. Further Authority. The Mayor, Clerk, Finance Director, and other City officials are hereby further authorized and directed to execute any and all documents and take such actions as they may deem necessary or advisable in order to carry out and perform the purposes of the Ordinance, and to make alterations, changes or additions in the foregoing agreements, statements, instruments and other documents herein approved, authorized and confirmed which they may approve, and the execution or taking of such action shall be conclusive evidence of such necessity or advisability.

Section 7. Governing Law. This Ordinance and the Bonds shall be governed exclusively by and construed in accordance with the applicable laws of the State.

Section 8. Effective Date. This Ordinance shall take effect and be in full force from and after its passage by the Governing Body, approval by the Mayor and publication of the Ordinance or a summary thereof in the official City newspaper.

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PASSED by the governing body of the City on October 17, 2016 and **APPROVED AND SIGNED** by the Mayor.

(SEAL)

Laura Wassmer, Mayor

ATTEST:

Joyce Hagen Mundy, City Clerk

(PUBLISHED IN THE *THE LEGAL RECORD* ON OCTOBER __, 2016)

SUMMARY OF ORDINANCE NO. ____

On October 17, 2016, the governing body of the City of Prairie Village, Kansas passed an ordinance entitled:

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION IMPROVEMENT BONDS, SERIES 2016C, OF THE CITY OF PRAIRIE VILLAGE, KANSAS; PROVIDING FOR THE LEVY AND COLLECTION OF AN ANNUAL TAX FOR THE PURPOSE OF PAYING THE PRINCIPAL OF AND INTEREST ON SAID BONDS AS THEY BECOME DUE; AUTHORIZING CERTAIN OTHER DOCUMENTS AND ACTIONS IN CONNECTION THEREWITH; AND MAKING CERTAIN COVENANTS WITH RESPECT THERETO.

The Series 2016C Bonds approved by the Ordinance are being issued in the principal amount of \$[PRINCIPAL AMOUNT] to finance certain internal improvements in the City, and constitute general obligations of the City payable as to both principal and interest, to the extent necessary, from ad valorem taxes which may be levied without limitation as to rate or amount upon all the taxable tangible property, real and personal, within the territorial limits of the City. A complete text of the Ordinance may be obtained or viewed free of charge at the office of the City Clerk, 7700 Mission Road, Prairie Village, Kansas 66208-4230. A reproduction of the Ordinance is available for not less than 7 days following the publication date of this Summary at www.pvkansas.com.

This Summary is hereby certified to be legally accurate and sufficient pursuant to the laws of the State of Kansas.

DATED: October __, 2016.

City Attorney

RESOLUTION NO. _____

OF

THE CITY OF PRAIRIE VILLAGE, KANSAS

ADOPTED

OCTOBER 17, 2016

**GENERAL OBLIGATION IMPROVEMENT BONDS
SERIES 2016C**

TABLE OF CONTENTS

ARTICLE I DEFINITIONS

Section 101. Definitions of Words and Terms..... 1

ARTICLE II AUTHORIZATION AND DETAILS OF THE BONDS

Section 201. Authorization of the Bonds..... 8
Section 202. Description of the Bonds..... 8
Section 203. Designation of Paying Agent and Bond Registrar..... 9
Section 204. Method and Place of Payment of the Bonds..... 9
Section 205. Payments Due on Saturdays, Sundays and Holidays..... 10
Section 206. Registration, Transfer and Exchange of Bonds..... 10
Section 207. Execution, Registration, Authentication and Delivery of Bonds..... 11
Section 208. Mutilated, Lost, Stolen or Destroyed Bonds..... 11
Section 209. Cancellation and Destruction of Bonds Upon Payment..... 12
Section 210. Book-Entry Bonds; Securities Depository..... 12
Section 211. Nonpresentation of Bonds..... 13
Section 212. Preliminary and Final Official Statement..... 13
Section 213. Sale of the Bonds..... 14

ARTICLE III REDEMPTION OF BONDS

Section 301. Redemption by Issuer..... 14
Section 302. Selection of Bonds to be Redeemed..... 15
Section 303. Notice and Effect of Call for Redemption..... 16

ARTICLE IV SECURITY FOR BONDS

Section 401. Security for the Bonds..... 17
Section 402. Levy and Collection of Annual Tax; Transfer to Debt Service Account..... 18

ARTICLE V ESTABLISHMENT OF FUNDS AND ACCOUNTS

DEPOSIT AND APPLICATION OF BOND PROCEEDS

Section 501. Creation of Funds and Accounts..... 18
Section 502. Deposit of Bond Proceeds..... 18
Section 503. Application of Moneys in the Improvement Fund..... 19
Section 504. Substitution of Improvements; Reallocation of Proceeds..... 19
Section 505. Application of Moneys in Debt Service Account..... 19
Section 506. Application of Moneys in the Rebate Fund..... 20
Section 507. Deposits and Investment of Moneys..... 20

ARTICLE VI DEFAULT AND REMEDIES

Section 601. Remedies..... 20
Section 602. Limitation on Rights of Owners..... 21
Section 603. Remedies Cumulative..... 21

ARTICLE VII DEFEASANCE

Section 701. Defeasance 21

ARTICLE VIII TAX COVENANTS

Section 801. General Covenants 22
Section 802. Survival of Covenants 22

ARTICLE IX CONTINUING DISCLOSURE REQUIREMENTS

Section 901. Disclosure Requirements 22
Section 902. Failure to Comply with Continuing Disclosure Requirements 23

ARTICLE X MISCELLANEOUS PROVISIONS

Section 1001. Annual Audit 23
Section 1002. Amendments 23
Section 1003. Notices, Consents and Other Instruments by Owners 24
Section 1004. Notices 25
Section 1005. Electronic Transactions 25
Section 1006. Further Authority 25
Section 1007. Severability 25
Section 1008. Governing Law 25
Section 1009. Effective Date 25

EXHIBIT A – FORM OF BONDS A-1

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RESOLUTION NO. _____

A RESOLUTION PRESCRIBING THE FORM AND DETAILS OF AND AUTHORIZING AND DIRECTING THE SALE AND DELIVERY OF GENERAL OBLIGATION IMPROVEMENT BONDS, SERIES 2016C, OF THE CITY OF PRAIRIE VILLAGE, KANSAS, PREVIOUSLY AUTHORIZED BY ORDINANCE NO. [] OF THE ISSUER; MAKING CERTAIN COVENANTS AND AGREEMENTS TO PROVIDE FOR THE PAYMENT AND SECURITY THEREOF; AND AUTHORIZING CERTAIN OTHER DOCUMENTS AND ACTIONS CONNECTED THEREWITH.

WHEREAS, the City of Prairie Village, Kansas (the “Issuer”) has previously passed the Ordinance authorizing the issuance of the Bonds; and

WHEREAS, the Ordinance authorized the City Council of the Issuer (the “Governing Body”) to adopt a resolution prescribing certain details and conditions and to make certain covenants with respect to the issuance of the Bonds.

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

ARTICLE I

DEFINITIONS

Section 101. Definitions of Words and Terms. In addition to words and terms defined elsewhere herein, the following words and terms as used in this Bond Resolution shall have the meanings hereinafter set forth. Unless the context shall otherwise indicate, words importing the singular number shall include the plural and vice versa, and words importing persons shall include firms, associations and corporations, including public bodies, as well as natural persons.

“**Act**” means the Constitution and statutes of the State including K.S.A. 10-101 to 10-125, inclusive, K.S.A. 10-620 *et seq.*, Charter Ordinance No. 28 of the Issuer and Article 12, Section 5 of the Constitution of the State of Kansas, all as amended and supplemented from time to time.

“**Authorized Denomination**” means \$5,000 or any integral multiples thereof.

“**Beneficial Owner**” of the Bonds includes any Owner of the Bonds and any other Person who, directly or indirectly has the investment power with respect to such Bonds.

“**Bond and Interest Fund**” means the Bond and Interest Fund of the Issuer for its general obligation bonds.

“**Bond Counsel**” means the firm of Gilmore & Bell, P.C., or any other attorney or firm of attorneys whose expertise in matters relating to the issuance of obligations by states and their political subdivisions is nationally recognized and acceptable to the Issuer.

“**Bond Payment Date**” means any date on which principal of or interest on any Bond is payable.

“Bond Register” means the books for the registration, transfer and exchange of Bonds kept at the office of the Bond Registrar.

“Bond Registrar” means the State Treasurer and any successors and assigns.

“Bond Resolution” means this resolution relating to the Bonds.

“Bonds” means the General Obligation Improvement Bonds, Series 2016C, authorized and issued by the Issuer pursuant to the Ordinance and this Bond Resolution.

“Business Day” means a day other than a Saturday, Sunday or any day designated as a holiday by the Congress of the United States or by the Legislature of the State and on which the Paying Agent is scheduled in the normal course of its operations to be open to the public for conduct of its operations.

“Cede & Co.” means Cede & Co., as nominee of DTC and any successor nominee of DTC.

“City” means the City of Prairie Village, Kansas.

“Clerk” means the duly appointed and/or elected Clerk or, in the Clerk’s absence, the duly appointed Deputy Clerk or Acting Clerk of the Issuer.

“Code” means the Internal Revenue Code of 1986, as amended, and the applicable regulations promulgated thereunder by the United States Department of the Treasury.

“Costs of Issuance” means all costs of issuing the Bonds, including but not limited to all publication, printing, signing and mailing expenses in connection therewith, registration fees, financial advisory fees, all legal fees and expenses of Bond Counsel and other legal counsel, expenses incurred in connection with compliance with the Code, all expenses incurred in connection with receiving ratings on the Bonds, and any premiums or expenses incurred in obtaining municipal bond insurance on the Bonds.

“Dated Date” means October 31, 2016.

“Debt Service Account” means the Debt Service Account for General Obligation Improvement Bonds, Series 2016C created within the Bond and Interest Fund pursuant to **Section 501** hereof.

“Debt Service Requirements” means the aggregate principal payments (whether at maturity or pursuant to scheduled mandatory sinking fund redemption requirements) and interest payments on the Bonds for the period of time for which calculated; provided, however, that for purposes of calculating such amount, principal and interest shall be excluded from the determination of Debt Service Requirements to the extent that such principal or interest is payable from amounts deposited in trust, escrowed or otherwise set aside for the payment thereof with the Paying Agent or other commercial bank or trust company located in the State and having full trust powers.

“Defaulted Interest” means interest on any Bond which is payable but not paid on any Interest Payment Date.

“Defeasance Obligations” means any of the following obligations:

(a) United States Government Obligations that are not subject to redemption in advance of their maturity dates; or

(b) obligations of any state or political subdivision of any state, the interest on which is excluded from gross income for federal income tax purposes and which meet the following conditions:

(1) the obligations are (i) not subject to redemption prior to maturity or (ii) the trustee for such obligations has been given irrevocable instructions concerning their calling and redemption and the issuer of such obligations has covenanted not to redeem such obligations other than as set forth in such instructions;

(2) the obligations are secured by cash or United States Government Obligations that may be applied only to principal of, premium, if any, and interest payments on such obligations;

(3) such cash and the principal of and interest on such United States Government Obligations (plus any cash in the escrow fund) are sufficient to meet the liabilities of the obligations;

(4) such cash and United States Government Obligations serving as security for the obligations are held in an escrow fund by an escrow agent or a trustee irrevocably in trust;

(5) such cash and United States Government Obligations are not available to satisfy any other claims, including those against the trustee or escrow agent; and

(6) such obligations are rated in a rating category by Moody's or Standard & Poor's that is no lower than the rating category then assigned by that Rating Agency to United States Government Obligations.

“Derivative” means any investment instrument whose market price is derived from the fluctuating value of an underlying asset, index, currency, futures contract, including futures, options and collateralized mortgage obligations.

“Disclosure Undertaking” means the Issuer's Continuing Disclosure Undertaking dated as of the Dated Date relating to certain obligations contained in the SEC Rule.

“DTC” means The Depository Trust Company, a limited-purpose trust company organized under the laws of the State of New York, and its successors and assigns, including any successor securities depository duly appointed.

“DTC Representation Letter” means the Blanket Letter of Representation from the Issuer and the Paying Agent to DTC which provides for a book-entry system, or any agreement between the Issuer and Paying Agent and a successor securities depository duly appointed.

“Event of Default” means each of the following occurrences or events:

(a) Payment of the principal and of the redemption premium, if any, of any of the Bonds shall not be made when the same shall become due and payable, either at Stated Maturity or by proceedings for redemption or otherwise;

(b) Payment of any installment of interest on any of the Bonds shall not be made when the same shall become due; or

(c) The Issuer shall default in the due and punctual performance of any other of the covenants, conditions, agreements and provisions contained in the Bonds or in this Bond Resolution

(other than the covenants relating to continuing disclosure requirements contained herein and in the Disclosure Undertaking) on the part of the Issuer to be performed, and such default shall continue for thirty (30) days after written notice specifying such default and requiring same to be remedied shall have been given to the Issuer by the Owner of any of the Bonds then Outstanding.

“Federal Tax Certificate” means the Issuer’s Federal Tax Certificate dated as of the Issue Date, as the same may be amended or supplemented in accordance with the provisions thereof.

“Financeable Costs” means the amount of expenditure for an Improvement which has been duly authorized by action of the Governing Body to be financed by general obligation bonds, less: (a) the amount of any temporary notes or general obligation bonds of the Issuer which are currently Outstanding and available to pay such Financeable Costs; and (b) any amount of Financeable Costs which has been previously paid by the Issuer or by any eligible source of funds unless such amounts are entitled to be reimbursed to the Issuer under State or federal law.

“Fiscal Year” means the twelve month period ending on December 31.

“Funds and Accounts” means funds and accounts created pursuant to or referred to in *Section 501* hereof.

“Governing Body” means the City Council of the Issuer.

“Improvement Fund” means the Improvement Fund for General Obligation Improvement Bonds, Series 2016C created pursuant to *Section 501* hereof.

“Improvements” means the improvements referred to in the preamble to the Ordinance and any Substitute Improvements.

“Independent Accountant” means an independent certified public accountant or firm of independent certified public accountants at the time employed by the Issuer for the purpose of carrying out the duties imposed on the Independent Accountant by this Bond Resolution.

“Interest Payment Date(s)” means the Stated Maturity of an installment of interest on any Bond which shall be March 1 and September 1 of each year, commencing March 1, 2017.

“Issue Date” means the date when the Issuer delivers the Bonds to the Purchaser in exchange for the Purchase Price.

“Issuer” means the City and any successors or assigns.

“Maturity” when used with respect to any Bond means the date on which the principal of such Bond becomes due and payable as therein and herein provided, whether at the Stated Maturity thereof or call for redemption or otherwise.

“Mayor” means the duly elected and acting Mayor, or in the Mayor’s absence, the duly appointed and/or elected Vice Mayor or Acting Mayor of the Issuer.

“Moody’s” means Moody’s Investors Service, a corporation organized and existing under the laws of the State of Delaware, and its successors and assigns, and, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, “Moody’s” shall be deemed to refer to any other nationally recognized securities rating agency designated by the Issuer.

“Notice Address” means with respect to the following entities:

(a) To the Issuer at:

7700 Mission Road
Prairie Village, Kansas 66208-4230
Phone: (913) 381-6464

(b) To the Paying Agent at:

State Treasurer of the State of Kansas
Landon Office Building
900 Southwest Jackson, Suite 201
Topeka, Kansas 66612-1235
Fax: (785) 296-6976

(c) To the Purchaser:

[_____

_____]

(d) To the Rating Agency(ies):

Moody's Municipal Rating Desk
7 World Trade Center
250 Greenwich Street
23rd Floor
New York, New York 10007

or such other address as is furnished in writing to the other parties referenced herein.

“Notice Representative” means:

- (a) With respect to the Issuer, the Clerk.
- (b) With respect to the Bond Registrar and Paying Agent, the Director of Bond Services.
- (c) With respect to any Purchaser, the manager of its Municipal Bond Department.
- (d) With respect to any Rating Agency, any Vice President thereof.

“Official Statement” means Issuer’s Official Statement relating to the Bonds.

“Ordinance” means Ordinance No. [_____] of the Issuer authorizing the issuance of the Bonds, as amended from time to time.

“Outstanding” means, when used with reference to the Bonds, as of a particular date of determination, all Bonds theretofore authenticated and delivered, except the following Bonds:

- (a) Bonds theretofore canceled by the Paying Agent or delivered to the Paying Agent for cancellation;
- (b) Bonds deemed to be paid in accordance with the provisions of *Article VII* hereof; and
- (c) Bonds in exchange for or in lieu of which other Bonds have been authenticated and delivered hereunder.

“Owner” when used with respect to any Bond means the Person in whose name such Bond is registered on the Bond Register. Whenever consent of the Owners is required pursuant to the terms of this Bond Resolution, and the Owner of the Bonds, as set forth on the Bond Register, is Cede & Co., the term Owner shall be deemed to be the Beneficial Owner of the Bonds.

“Participants” means those financial institutions for whom the Securities Depository effects book-entry transfers and pledges of securities deposited with the Securities Depository, as such listing of Participants exists at the time of such reference.

“Paying Agent” means the State Treasurer, and any successors and assigns.

“Permitted Investments” shall mean the investments hereinafter described, provided, however, no moneys or funds shall be invested in a Derivative: (a) investments authorized by K.S.A. 12-1675 and amendments thereto; (b) the municipal investment pool established pursuant to K.S.A. 12-1677a, and amendments thereto; (c) direct obligations of the United States Government or any agency thereof; (d) the Issuer’s temporary notes issued pursuant to K.S.A. 10-123 and amendments thereto; (e) interest-bearing time deposits in commercial banks or trust companies located in the county or counties in which the Issuer is located which are insured by the Federal Deposit Insurance Corporation or collateralized by securities described in (c); (f) obligations of the federal national mortgage association, federal home loan banks, federal home loan mortgage corporation or government national mortgage association; (g) repurchase agreements for securities described in (c) or (f); (h) investment agreements or other obligations of a financial institution the obligations of which at the time of investment are rated in either of the three highest rating categories by Moody’s or Standard & Poor’s; (i) investments and shares or units of a money market fund or trust, the portfolio of which is comprised entirely of securities described in (c) or (f); (j) receipts evidencing ownership interests in securities or portions thereof described in (c) or (f); (k) municipal bonds or other obligations issued by any municipality of the State as defined in K.S.A. 10-1101 which are general obligations of the municipality issuing the same; or (l) bonds of any municipality of the State as defined in K.S.A. 10-1101 which have been refunded in advance of their maturity and are fully secured as to payment of principal and interest thereon by deposit in trust, under escrow agreement with a bank, of securities described in (c) or (f), all as may be further restricted or modified by amendments to applicable State law.

“Person” means any natural person, corporation, partnership, joint venture, association, firm, joint-stock company, trust, unincorporated organization, or government or any agency or political subdivision thereof or other public body.

“Purchase Price” means the principal amount of the Bonds plus accrued interest to the date of delivery[, plus a premium of \$ _____, less an underwriting discount of \$ _____].

“Purchaser” means [_____, _____, _____], the original purchaser of the Bonds, and any successor and assigns.

“Rating Agency” means any company, agency or entity that provides, pursuant to request of the Issuer, financial ratings for the Bonds.

“Rebate Fund” means the Rebate Fund for General Obligation Improvement Bonds, Series 2016C created pursuant to *Section 501* hereof.

“Record Dates” for the interest payable on any Interest Payment Date means the fifteenth day (whether or not a Business Day) of the calendar month next preceding such Interest Payment Date.

“Redemption Date” means, when used with respect to any Bond to be redeemed, the date fixed for the redemption of such Bond pursuant to the terms of this Bond Resolution.

“Redemption Price” means, when used with respect to any Bond to be redeemed, the price at which such Bond is to be redeemed pursuant to the terms of this Bond Resolution, including the applicable redemption premium, if any, but excluding installments of interest whose Stated Maturity is on or before the Redemption Date.

“Replacement Bonds” means Bonds issued to the Beneficial Owners of the Bonds in accordance with *Section 210* hereof.

“SEC Rule” means Rule 15c2-12 adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934.

“Securities Depository” means, initially, DTC, and its successors and assigns.

“Special Record Date” means the date fixed by the Paying Agent pursuant to *Article II* hereof for the payment of Defaulted Interest.

“Standard & Poor's” or “S&P” means S&P Global Ratings, a division of S&P Global Inc., a corporation organized and existing under the laws of the State of New York, and its successors and assigns, and, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, Standard & Poor's shall be deemed to refer to any other nationally recognized securities rating agency designated by the Issuer.

“State” means the state of Kansas.

“State Treasurer” means the duly elected Treasurer or, in the Treasurer's absence, the duly appointed Deputy Treasurer or acting Treasurer of the State.

“Stated Maturity” when used with respect to any Bond or any installment of interest thereon means the date specified in such Bond and this Bond Resolution as the fixed date on which the principal of such Bond or such installment of interest is due and payable.

“Substitute Improvements” means the substitute or additional improvements of the Issuer described in *Article V* hereof.

[**“20__ Term Bonds”** means the Bonds scheduled to mature in the year 20__.

“20__ Term Bonds” means the Bonds scheduled to mature in the year 20__.

“Term Bonds” means collectively the 20__ Term Bonds and the 20__ Term Bonds.]

“**Treasurer**” means the duly appointed and/or elected Treasurer of the Issuer or, in the Treasurer’s absence, the duly appointed Deputy Treasurer or acting Treasurer of the Issuer.

“**United States Government Obligations**” means bonds, notes, certificates of indebtedness, treasury bills or other securities constituting direct obligations of, or obligations the principal of and interest on which are fully and unconditionally guaranteed as to full and timely payment by, the United States of America, including evidences of a direct ownership interest in future interest or principal payment on obligations issued by the United States of America (including the interest component of obligations of the Resolution Funding Corporation), or securities which represent an undivided interest in such obligations, which obligations are rated in the highest rating category by a nationally recognized rating service and such obligations are held in a custodial account for the benefit of the Issuer.

ARTICLE II

AUTHORIZATION AND DETAILS OF THE BONDS

Section 201. Authorization of the Bonds. The Bonds have been authorized and directed to be issued pursuant to the Ordinance in the principal amount of \$[PRINCIPAL AMOUNT], for the purpose of providing funds to: (a) pay the costs of the Improvements; and (b) pay Costs of Issuance.

Section 202. Description of the Bonds. The Bonds shall consist of fully registered bonds in an Authorized Denomination, and shall be numbered in such manner as the Bond Registrar shall determine. All of the Bonds shall be dated as of the Dated Date, shall become due in the amounts, on the Stated Maturities[, without option of prior redemption and payment][subject to redemption and payment prior to their Stated Maturities as provided in *Article III* hereof], and shall bear interest at the rates per annum as follows:

SERIAL BONDS

Stated Maturity <u>September 1</u>	Principal <u>Amount</u>	Annual Rate <u>of Interest</u>
2018	\$ _____	_____%
2019	_____	_____%
2020	_____	_____%
2021	_____	_____%
2022	_____	_____%
2023	_____	_____%
2024	_____	_____%

[TERM BONDS

Stated Maturity <u>September 1</u>	Principal <u>Amount</u>	Annual Rate <u>of Interest</u>
20__	\$ _____	_____%
20__	_____	_____%]

The Bonds shall bear interest at the above specified rates (computed on the basis of a 360-day year of twelve 30-day months) from the later of the Dated Date or the most recent Interest Payment Date

to which interest has been paid on the Interest Payment Dates in the manner set forth in **Section 204** hereof.

Each of the Bonds, as originally issued or issued upon transfer, exchange or substitution, shall be printed in accordance with the format required by the Attorney General of the State and shall be substantially in the form attached hereto as **EXHIBIT A** or as may be required by the Attorney General pursuant to the Notice of Systems of Registration for Kansas Municipal Bonds, 2 Kan. Reg. 921 (1983), in accordance with the Kansas Bond Registration Law, K.S.A. 10-620 *et seq.*

Section 203. Designation of Paying Agent and Bond Registrar. The State Treasurer is hereby designated as the Paying Agent for the payment of principal of and interest on the Bonds and Bond Registrar with respect to the registration, transfer and exchange of Bonds. The Mayor of the Issuer is hereby authorized and empowered to execute on behalf of the Issuer an agreement with the Bond Registrar and Paying Agent for the Bonds.

The Issuer will at all times maintain a Paying Agent and Bond Registrar meeting the qualifications herein described for the performance of the duties hereunder. The Issuer reserves the right to appoint a successor Paying Agent or Bond Registrar by (a) filing with the Paying Agent or Bond Registrar then performing such function a certified copy of the proceedings giving notice of the termination of such Paying Agent or Bond Registrar and appointing a successor, and (b) causing notice of appointment of the successor Paying Agent and Bond Registrar to be given by first class mail to each Owner. No resignation or removal of the Paying Agent or Bond Registrar shall become effective until a successor has been appointed and has accepted the duties of Paying Agent or Bond Registrar.

Every Paying Agent or Bond Registrar appointed hereunder shall at all times meet the requirements of K.S.A. 10-501 *et seq.* and K.S.A. 10-620 *et seq.*, respectively.

Section 204. Method and Place of Payment of the Bonds. The principal of, or Redemption Price, and interest on the Bonds shall be payable in any coin or currency which, on the respective dates of payment thereof, is legal tender for the payment of public and private debts.

The principal or Redemption Price of each Bond shall be paid at Maturity to the Person in whose name such Bond is registered on the Bond Register at the Maturity thereof, upon presentation and surrender of such Bond at the principal office of the Paying Agent.

The interest payable on each Bond on any Interest Payment Date shall be paid to the Owner of such Bond as shown on the Bond Register at the close of business on the Record Date for such interest (a) by check or draft mailed by the Paying Agent to the address of such Owner shown on the Bond Register or at such other address as is furnished to the Paying Agent in writing by such Owner; or (b) in the case of an interest payment to Cede & Co. or any Owner of \$500,000 or more in aggregate principal amount of Bonds, by electronic transfer to such Owner upon written notice given to the Bond Registrar by such Owner, not less than 15 days prior to the Record Date for such interest, containing the electronic transfer instructions including the bank ABA routing number and account number to which such Owner wishes to have such transfer directed.

Notwithstanding the foregoing provisions of this Section, any Defaulted Interest with respect to any Bond shall cease to be payable to the Owner of such Bond on the relevant Record Date and shall be payable to the Owner in whose name such Bond is registered at the close of business on the Special Record Date for the payment of such Defaulted Interest, which Special Record Date shall be fixed as hereinafter specified in this paragraph. The Issuer shall notify the Paying Agent in writing of the amount of Defaulted Interest proposed to be paid on each Bond and the date of the proposed payment (which date

shall be at least 30 days after receipt of such notice by the Paying Agent) and shall deposit with the Paying Agent at the time of such notice an amount of money equal to the aggregate amount proposed to be paid in respect of such Defaulted Interest or shall make arrangements satisfactory to the Paying Agent for such deposit prior to the date of the proposed payment. Following receipt of such funds the Paying Agent shall fix a Special Record Date for the payment of such Defaulted Interest which shall be not more than 15 nor less than 10 days prior to the date of the proposed payment. The Paying Agent shall promptly notify the Issuer of such Special Record Date and, in the name and at the expense of the Issuer, shall cause notice of the proposed payment of such Defaulted Interest and the Special Record Date therefore to be mailed, by first class mail, postage prepaid, to each Owner of a Bond entitled to such notice at the address of such Owner as it appears on the Bond Register not less than 10 days prior to such Special Record Date.

The Paying Agent shall keep a record of payment of principal and Redemption Price of and interest on all Bonds and at least annually shall forward a copy or summary of such records to the Issuer.

Section 205. Payments Due on Saturdays, Sundays and Holidays. In any case where a Bond Payment Date is not a Business Day, then payment of principal, Redemption Price or interest need not be made on such Bond Payment Date but may be made on the next succeeding Business Day with the same force and effect as if made on such Bond Payment Date, and no interest shall accrue for the period after such Bond Payment Date.

Section 206. Registration, Transfer and Exchange of Bonds. The Issuer covenants that, as long as any of the Bonds remain Outstanding, it will cause the Bond Register to be kept at the office of the Bond Registrar as herein provided. Each Bond when issued shall be registered in the name of the Owner thereof on the Bond Register.

Bonds may be transferred and exchanged only on the Bond Register as provided in this Section. Upon surrender of any Bond at the principal office of the Bond Registrar, the Bond Registrar shall transfer or exchange such Bond for a new Bond or Bonds in any Authorized Denomination of the same Stated Maturity and in the same aggregate principal amount as the Bond that was presented for transfer or exchange.

Bonds presented for transfer or exchange shall be accompanied by a written instrument or instruments of transfer or authorization for exchange, in a form and with guarantee of signature satisfactory to the Bond Registrar, duly executed by the Owner thereof or by the Owner's duly authorized agent.

In all cases in which the privilege of transferring or exchanging Bonds is exercised, the Bond Registrar shall authenticate and deliver Bonds in accordance with the provisions of this Bond Resolution. The Issuer shall pay the fees and expenses of the Bond Registrar for the registration, transfer and exchange of Bonds provided for by this Bond Resolution and the cost of printing a reasonable supply of registered bond blanks. Any additional costs or fees that might be incurred in the secondary market, other than fees of the Bond Registrar, are the responsibility of the Owners of the Bonds. In the event any Owner fails to provide a correct taxpayer identification number to the Paying Agent, the Paying Agent may make a charge against such Owner sufficient to pay any governmental charge required to be paid as a result of such failure. In compliance with Code § 3406, such amount may be deducted by the Paying Agent from amounts otherwise payable to such Owner hereunder or under the Bonds.

The Issuer and the Bond Registrar shall not be required (a) to register the transfer or exchange of any Bond that has been called for redemption after notice of such redemption has been mailed by the Paying Agent pursuant to *Article III* hereof and during the period of 15 days next preceding the date of

mailing of such notice of redemption; or (b) to register the transfer or exchange of any Bond during a period beginning at the opening of business on the day after receiving written notice from the Issuer of its intent to pay Defaulted Interest and ending at the close of business on the date fixed for the payment of Defaulted Interest pursuant to this *Article II*.

The Issuer and the Paying Agent may deem and treat the Person in whose name any Bond is registered on the Bond Register as the absolute Owner of such Bond, whether such Bond is overdue or not, for the purpose of receiving payment of, or on account of, the principal or Redemption Price of and interest on said Bond and for all other purposes. All payments so made to any such Owner or upon the Owner's order shall be valid and effective to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid, and neither the Issuer nor the Paying Agent shall be affected by any notice to the contrary.

At reasonable times and under reasonable regulations established by the Bond Registrar, the Bond Register may be inspected and copied by the Owners (or a designated representative thereof) of 10% or more in principal amount of the Bonds then Outstanding or any designated representative of such Owners whose authority is evidenced to the satisfaction of the Bond Registrar.

Section 207. Execution, Registration, Authentication and Delivery of Bonds. Each of the Bonds, including any Bonds issued in exchange or as substitutions for the Bonds initially delivered, shall be executed for and on behalf of the Issuer by the manual or facsimile signature of the Mayor, attested by the manual or facsimile signature of the Clerk, and the seal of the Issuer shall be affixed thereto or imprinted thereon. The Mayor and Clerk are hereby authorized and directed to prepare and execute the Bonds in the manner herein specified, and to cause the Bonds to be registered in the office of the Clerk, which registration shall be evidenced by the manual or facsimile signature of the Clerk with the seal of the Issuer affixed thereto or imprinted thereon. The Bonds shall also be registered in the office of the State Treasurer, which registration shall be evidenced by the manual or facsimile signature of the State Treasurer with the seal of the State Treasurer affixed thereto or imprinted thereon. In case any officer whose signature appears on any Bonds ceases to be such officer before the delivery of such Bonds, such signature shall nevertheless be valid and sufficient for all purposes, as if such person had remained in office until delivery. Any Bond may be signed by such persons who at the actual time of the execution of such Bond are the proper officers to sign such Bond although at the date of such Bond such persons may not have been such officers.

The Mayor and Clerk are hereby authorized and directed to prepare and execute the Bonds as herein specified, and when duly executed, to deliver the Bonds to the Bond Registrar for authentication.

The Bonds shall have endorsed thereon a certificate of authentication substantially in the form attached hereto as *EXHIBIT A* hereof, which shall be manually executed by an authorized officer or employee of the Bond Registrar, but it shall not be necessary that the same officer or employee sign the certificate of authentication on all of the Bonds that may be issued hereunder at any one time. No Bond shall be entitled to any security or benefit under this Bond Resolution or be valid or obligatory for any purpose unless and until such certificate of authentication has been duly executed by the Bond Registrar. Such executed certificate of authentication upon any Bond shall be conclusive evidence that such Bond has been duly authenticated and delivered under this Bond Resolution. Upon authentication, the Bond Registrar shall deliver the Bonds to the Purchaser upon instructions of the Issuer or its representative.

Section 208. Mutilated, Lost, Stolen or Destroyed Bonds. If (a) any mutilated Bond is surrendered to the Bond Registrar or the Bond Registrar receives evidence to its satisfaction of the destruction, loss or theft of any Bond, and (b) there is delivered to the Issuer and the Bond Registrar such security or indemnity as may be required by each of them, then, in the absence of notice to the Issuer or

the Bond Registrar that such Bond has been acquired by a bona fide purchaser, the Issuer shall execute and, upon the Issuer's request, the Bond Registrar shall authenticate and deliver, in exchange for or in lieu of any such mutilated, destroyed, lost or stolen Bond, a new Bond of the same Stated Maturity and of like tenor and principal amount.

If any such mutilated, destroyed, lost or stolen Bond has become or is about to become due and payable, the Issuer, in its discretion, may pay such Bond instead of issuing a new Bond.

Upon the issuance of any new Bond under this Section, the Issuer and the Paying Agent may require the payment by the Owner of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and any other expenses (including the fees and expenses of the Paying Agent) connected therewith.

Every new Bond issued pursuant to this Section shall constitute a replacement of the prior obligation of the Issuer, and shall be entitled to all the benefits of this Bond Resolution equally and ratably with all other Outstanding Bonds.

Section 209. Cancellation and Destruction of Bonds Upon Payment. All Bonds that have been paid or redeemed or that otherwise have been surrendered to the Paying Agent, either at or before Maturity, shall be cancelled by the Paying Agent immediately upon the payment, redemption and surrender thereof to the Paying Agent and subsequently destroyed in accordance with the customary practices of the Paying Agent. The Paying Agent shall execute a certificate in duplicate describing the Bonds so cancelled and destroyed and shall file an executed counterpart of such certificate with the Issuer.

Section 210. Book-Entry Bonds; Securities Depository. The Issuer and Paying Agent have entered into a DTC Representation Letter with DTC. The Bonds shall initially be registered to Cede & Co., the nominee for the Securities Depository, and no Beneficial Owner will receive certificates representing their respective interests in the Bonds, except in the event the Bond Registrar issues Replacement Bonds as provided in this Section. It is anticipated that during the term of the Bonds, the Securities Depository will make book-entry transfers among its Participants and receive and transmit payment of principal of, premium, if any, and interest on, the Bonds to the Participants until and unless the Bond Registrar authenticates and delivers Replacement Bonds to the Beneficial Owners as described in the following paragraph.

The Issuer may decide, subject to the requirements of the Operational Arrangements of DTC (or a successor Securities Depository), and the following provisions of this section to discontinue use of the system of book-entry transfers through DTC (or a successor Securities Depository):

(a) If the Issuer determines (1) that the Securities Depository is unable to properly discharge its responsibilities, or (2) that the Securities Depository is no longer qualified to act as a securities depository and registered clearing agency under the Securities and Exchange Act of 1934, as amended, or (3) that the continuation of a book-entry system to the exclusion of any Bonds being issued to any Owner other than Cede & Co. is no longer in the best interests of the Beneficial Owners of the Bonds; or

(b) if the Bond Registrar receives written notice from Participants having interests in not less than 50% of the Bonds Outstanding, as shown on the records of the Securities Depository (and certified to such effect by the Securities Depository), that the continuation of a book-entry system to the exclusion of any Bonds being issued to any Owner other than Cede & Co. is no longer in the best interests of the Beneficial Owners of the Bonds, then the Bond Registrar shall notify the Owners of such determination or such notice and of the availability of certificates to Owners requesting the same, and the Bond Registrar shall register in the name of and authenticate and deliver Replacement Bonds to the Beneficial Owners or

their nominees in principal amounts representing the interest of each, making such adjustments as it may find necessary or appropriate as to accrued interest and previous calls for redemption; provided, that in the case of a determination under (a)(1) or (a)(2) of this paragraph, the Issuer, with the consent of the Bond Registrar, may select a successor securities depository in accordance with the following paragraph to effect book-entry transfers.

In such event, all references to the Securities Depository herein shall relate to the period of time when the Securities Depository has possession of at least one Bond. Upon the issuance of Replacement Bonds, all references herein to obligations imposed upon or to be performed by the Securities Depository shall be deemed to be imposed upon and performed by the Bond Registrar, to the extent applicable with respect to such Replacement Bonds. If the Securities Depository resigns and the Issuer, the Bond Registrar or Owners are unable to locate a qualified successor of the Securities Depository in accordance with the following paragraph, then the Bond Registrar shall authenticate and cause delivery of Replacement Bonds to Owners, as provided herein. The Bond Registrar may rely on information from the Securities Depository and its Participants as to the names of the Beneficial Owners of the Bonds. The cost of printing, registration, authentication, and delivery of Replacement Bonds shall be paid for by the Issuer.

In the event the Securities Depository resigns, is unable to properly discharge its responsibilities, or is no longer qualified to act as a securities depository and registered clearing agency under the Securities and Exchange Act of 1934, as amended, the Issuer may appoint a successor Securities Depository provided the Bond Registrar receives written evidence satisfactory to the Bond Registrar with respect to the ability of the successor Securities Depository to discharge its responsibilities. Any such successor Securities Depository shall be a securities depository which is a registered clearing agency under the Securities and Exchange Act of 1934, as amended, or other applicable statute or regulation that operates a securities depository upon reasonable and customary terms. The Bond Registrar upon its receipt of a Bond or Bonds for cancellation shall cause the delivery of Bonds to the successor Securities Depository in an Authorized Denominations and form as provided herein.

Section 211. Nonpresentment of Bonds. If any Bond is not presented for payment when the principal thereof becomes due at Maturity, if funds sufficient to pay such Bond have been made available to the Paying Agent all liability of the Issuer to the Owner thereof for the payment of such Bond shall forthwith cease, determine and be completely discharged, and thereupon it shall be the duty of the Paying Agent to hold such funds, without liability for interest thereon, for the benefit of the Owner of such Bond, who shall thereafter be restricted exclusively to such funds for any claim of whatever nature on his part under this Bond Resolution or on, or with respect to, said Bond. If any Bond is not presented for payment within four (4) years following the date when such Bond becomes due at Maturity, the Paying Agent shall repay, without liability for interest thereon, to the Issuer the funds theretofore held by it for payment of such Bond, and such Bond shall, subject to the defense of any applicable statute of limitation, thereafter be an unsecured obligation of the Issuer, and the Owner thereof shall be entitled to look only to the Issuer for payment, and then only to the extent of the amount so repaid to it by the Paying Agent, and the Issuer shall not be liable for any interest thereon and shall not be regarded as a trustee of such money.

Section 212. Preliminary and Final Official Statement. The Preliminary Official Statement dated October 10, 2016, is hereby ratified and approved.

The Official Statement is hereby authorized to be prepared by supplementing, amending and completing the Preliminary Official Statement, with such changes and additions thereto as are necessary to conform to and describe the transaction. The Mayor and Finance Director of the Issuer are hereby authorized to execute the Official Statement as so supplemented, amended and completed, and the use and public distribution of the Official Statement by the Purchaser in connection with the reoffering of the

Bonds is hereby authorized. The proper officials of the Issuer are hereby authorized to execute and deliver a certificate pertaining to such Official Statement as prescribed therein, dated as of the Issue Date.

The Issuer agrees to provide to the Purchaser within seven business days of the date of the sale of Bonds sufficient copies of the Official Statement to enable the Purchaser to comply with the requirements of the SEC Rule and Rule G-32 of the Municipal Securities Rulemaking Board.

Section 213. Sale of the Bonds. The sale of the Bonds to the Purchaser is hereby ratified and confirmed. The Mayor and Clerk are hereby authorized to execute the official bid form submitted by the Purchaser. Delivery of the Bonds shall be made to the Purchaser on the Issue Date (which shall be as soon as practicable after the adoption of this Bond Resolution), upon payment of the Purchase Price.

ARTICLE III

REDEMPTION OF BONDS

Section 301. Redemption by Issuer.

[**No Redemption of Bonds.** The Bonds shall not be subject to redemption and payment prior to their Stated Maturity.]

[**No Optional Redemption.** The Bonds shall not be subject to optional redemption and payment prior to their Stated Maturity.]

****[Mandatory Redemption.**

(a) 20__ *Term Bonds.* The 20__ Term Bonds shall be subject to mandatory redemption and payment prior to Stated Maturity pursuant to the mandatory redemption requirements of this Section at a Redemption Price equal to 100% of the principal amount thereof plus accrued interest to the Redemption Date. The taxes levied in *Article IV* hereof which are to be deposited into the Debt Service Account shall be sufficient to redeem, and the Issuer shall redeem on September 1 in each year, the following principal amounts of such 20__ Term Bonds:

Principal Amount	Year
\$ _____	20__
_____	20__
_____	20__*

*Final Maturity

(b) 20__ *Term Bonds.* The 20__ Term Bonds shall be subject to mandatory redemption and payment prior to Stated Maturity pursuant to the mandatory redemption requirements of this Section at a Redemption Price equal to 100% of the principal amount thereof plus accrued interest to the Redemption Date. The taxes levied in *Article IV* hereof which are to be deposited into the Debt Service Account shall be sufficient to redeem, and the Issuer shall redeem on September 1 in each year, the following principal amounts of such 20__ Term Bonds:

<u>Principal Amount</u>	<u>Year</u>
\$ _____	20__
_____	20__
_____	20__*

*Final Maturity

At its option, to be exercised on or before the 45th day next preceding any mandatory Redemption Date, the Issuer may: (1) deliver to the Paying Agent for cancellation Term Bonds subject to mandatory redemption on said mandatory Redemption Date, in any aggregate principal amount desired; or (2) furnish the Paying Agent funds, together with appropriate instructions, for the purpose of purchasing any Term Bonds subject to mandatory redemption on said mandatory Redemption Date from any Owner thereof whereupon the Paying Agent shall expend such funds for such purpose to such extent as may be practical; or (3) receive a credit with respect to the mandatory redemption obligation of the Issuer under this Section for any Term Bonds subject to mandatory redemption on said mandatory Redemption Date which, prior to such date, have been redeemed (other than through the operation of the mandatory redemption requirements of this subsection) and cancelled by the Paying Agent and not theretofore applied as a credit against any redemption obligation under this subsection. Each Term Bond so delivered or previously purchased or redeemed shall be credited at 100% of the principal amount thereof on the obligation of the Issuer to redeem Term Bonds of the same Stated Maturity on such mandatory Redemption Date, and any excess of such amount shall be credited on future mandatory redemption obligations for Term Bonds of the same Stated Maturity as designated by the Issuer, and the principal amount of Term Bonds to be redeemed by operation of the requirements of this Section shall be accordingly reduced. If the Issuer intends to exercise any option granted by the provisions of clauses (1), (2) or (3) above, the Issuer will, on or before the 45th day next preceding each mandatory Redemption Date, furnish the Paying Agent a written certificate indicating to what extent the provisions of said clauses (1), (2) and (3) are to be complied with, with respect to such mandatory redemption payment.]

Section 302. Selection of Bonds to be Redeemed.

Bonds shall be redeemed only in an Authorized Denomination. When less than all of the Bonds are to be redeemed and paid prior to their Stated Maturity, such Bonds shall be redeemed in such manner as the Issuer shall determine. Bonds of less than a full Stated Maturity shall be selected by the Bond Registrar in a minimum Authorized Denomination of principal amount in such equitable manner as the Bond Registrar may determine.

In the case of a partial redemption of Bonds by lot when Bonds of denominations greater than a minimum Authorized Denomination are then Outstanding, then for all purposes in connection with such redemption a minimum Authorized Denomination of face value shall be treated as though it were a separate Bond of the denomination of a minimum Authorized Denomination. If it is determined that one or more, but not all, of a minimum Authorized Denomination of face value represented by any Bond is selected for redemption, then upon notice of intention to redeem a minimum Authorized Denomination, the Owner or the Owner's duly authorized agent shall forthwith present and surrender such Bond to the Bond Registrar: (1) for payment of the Redemption Price and interest to the Redemption Date of a minimum Authorized Denomination of face value called for redemption, and (2) for exchange, without charge to the Owner thereof, for a new Bond or Bonds of the aggregate principal amount of the unredeemed portion of the principal amount of such Bond. If the Owner of any such Bond fails to present such Bond to the Paying Agent for payment and exchange as aforesaid, such Bond shall, nevertheless,

become due and payable on the redemption date to the extent of a minimum Authorized Denomination of face value called for redemption (and to that extent only).

Section 303. Notice and Effect of Call for Redemption. In the event the Issuer desires to call the Bonds for redemption prior to maturity, written notice of such intent shall be provided to the Bond Registrar in accordance with K.S.A. 10-129, as amended, not less than 45 days prior to the Redemption Date. The Bond Registrar shall call Bonds for redemption and payment and shall give notice of such redemption as herein provided upon receipt by the Bond Registrar at least 45 days prior to the Redemption Date of written instructions of the Issuer specifying the principal amount, Stated Maturities, Redemption Date and Redemption Prices of the Bonds to be called for redemption. The foregoing provisions of this paragraph shall not apply in the case of any mandatory redemption of Term Bonds hereunder, and Term Bonds shall be called by the Paying Agent for redemption pursuant to such mandatory redemption requirements without the necessity of any action by the Issuer and whether or not the Paying Agent holds moneys available and sufficient to effect the required redemption.

Unless waived by any Owner of Bonds to be redeemed, if the Issuer shall call any Bonds for redemption and payment prior to the Stated Maturity thereof, the Issuer shall give written notice of its intention to call and pay said Bonds to the Bond Registrar and the State Treasurer. In addition, the Issuer shall cause the Bond Registrar to give written notice of redemption to the Owners of said Bonds. Each of said written notices shall be deposited in the United States first class mail not less than 30 days prior to the Redemption Date.

All official notices of redemption shall be dated and shall contain the following information:

- (a) the Redemption Date;
- (b) the Redemption Price;
- (c) if less than all Outstanding Bonds are to be redeemed, the identification (and, in the case of partial redemption of any Bonds, the respective principal amounts) of the Bonds to be redeemed;
- (d) a statement that on the Redemption Date the Redemption Price will become due and payable upon each such Bond or portion thereof called for redemption and that interest thereon shall cease to accrue from and after the Redemption Date; and
- (e) the place where such Bonds are to be surrendered for payment of the Redemption Price, which shall be the principal office of the Paying Agent.

The failure of any Owner to receive notice given as heretofore provided or an immaterial defect therein shall not invalidate any redemption.

Prior to any Redemption Date, the Issuer shall deposit with the Paying Agent an amount of money sufficient to pay the Redemption Price of all the Bonds or portions of Bonds that are to be redeemed on such Redemption Date.

For so long as the Securities Depository is effecting book-entry transfers of the Bonds, the Bond Registrar shall provide the notices specified in this Section to the Securities Depository. It is expected that the Securities Depository shall, in turn, notify its Participants and that the Participants, in turn, will notify or cause to be notified the Beneficial Owners. Any failure on the part of the Securities Depository or a Participant, or failure on the part of a nominee of a Beneficial Owner of a Bond (having been mailed

notice from the Bond Registrar, the Securities Depository, a Participant or otherwise) to notify the Beneficial Owner of the Bond so affected, shall not affect the validity of the redemption of such Bond.

Official notice of redemption having been given as aforesaid, the Bonds or portions of Bonds to be redeemed shall become due and payable on the Redemption Date, at the Redemption Price therein specified, and from and after the Redemption Date (unless the Issuer defaults in the payment of the Redemption Price) such Bonds or portion of Bonds shall cease to bear interest. Upon surrender of such Bonds for redemption in accordance with such notice, the Redemption Price of such Bonds shall be paid by the Paying Agent. Installments of interest due on or prior to the Redemption Date shall be payable as herein provided for payment of interest. Upon surrender for any partial redemption of any Bond, there shall be prepared for the Owner a new Bond or Bonds of the same Stated Maturity in the amount of the unpaid principal as provided herein. All Bonds that have been surrendered for redemption shall be cancelled and destroyed by the Paying Agent as provided herein and shall not be reissued.

In addition to the foregoing notice, the Issuer shall provide such notices of redemption as are required by the Disclosure Undertaking. Further notice may be given by the Issuer or the Bond Registrar on behalf of the Issuer as set out below, but no defect in said further notice nor any failure to give all or any portion of such further notice shall in any manner defeat the effectiveness of a call for redemption if official notice thereof is given as above prescribed:

(a) Each further notice of redemption given hereunder shall contain the information required above for an official notice of redemption plus (1) the CUSIP numbers of all Bonds being redeemed; (2) the date of issue of the Bonds as originally issued; (3) the rate of interest borne by each Bond being redeemed; (4) the maturity date of each Bond being redeemed; and (5) any other descriptive information needed to identify accurately the Bonds being redeemed.

(b) Each further notice of redemption shall be sent at least one day before the mailing of notice to Owners by first class, registered or certified mail or overnight delivery, as determined by the Bond Registrar, to all registered securities depositories then in the business of holding substantial amounts of obligations of types comprising the Bonds and to one or more national information services that disseminate notices of redemption of obligations such as the Bonds.

(c) Each check or other transfer of funds issued for the payment of the Redemption Price of Bonds being redeemed shall bear or have enclosed the CUSIP number of the Bonds being redeemed with the proceeds of such check or other transfer.

The Paying Agent is also directed to comply with any mandatory standards then in effect for processing redemptions of municipal securities established by the State or the Securities and Exchange Commission. Failure to comply with such standards shall not affect or invalidate the redemption of any Bond.]**

ARTICLE IV

SECURITY FOR BONDS

Section 401. Security for the Bonds. The Bonds shall be general obligations of the Issuer payable as to both principal and interest from ad valorem taxes which may be levied without limitation as to rate or amount upon all the taxable tangible property, real and personal, within the territorial limits of

the Issuer. The full faith, credit and resources of the Issuer are hereby irrevocably pledged for the prompt payment of the principal of and interest on the Bonds as the same become due.

Section 402. Levy and Collection of Annual Tax; Transfer to Debt Service Account. The Governing Body shall annually make provision for the payment of principal of, premium, if any, and interest on the Bonds as the same become due by, to the extent necessary, levying and collecting the necessary taxes upon all of the taxable tangible property within the Issuer in the manner provided by law.

The taxes referred to above shall be extended upon the tax rolls in each of the several years, respectively, and shall be levied and collected at the same time and in the same manner as the other ad valorem taxes of the Issuer are levied and collected. The proceeds derived from said taxes shall be deposited in the Bond and Interest Fund, shall be kept separate and apart from all other funds of the Issuer shall thereafter be transferred to the Debt Service Account and shall be used solely for the payment of the principal of and interest on the Bonds as and when the same become due, taking into account any scheduled mandatory redemptions, and the fees and expenses of the Paying Agent.

If at any time said taxes are not collected in time to pay the principal of or interest on the Bonds when due, the Treasurer is hereby authorized and directed to pay said principal or interest out of the general funds of the Issuer and to reimburse said general funds for money so expended when said taxes are collected.

ARTICLE V

ESTABLISHMENT OF FUNDS AND ACCOUNTS DEPOSIT AND APPLICATION OF BOND PROCEEDS

Section 501. Creation of Funds and Accounts. Simultaneously with the issuance of the Bonds, there shall be created within the Treasury of the Issuer the following Funds and Accounts:

- (a) Improvement Fund for General Obligation Improvement Bonds, Series 2016C.
- (b) Debt Service Account for General Obligation Improvement Bonds, Series 2016C (within the Bond and Interest Fund).
- (c) Rebate Fund for General Obligation Improvement Bonds, Series 2016C.

The Funds and Accounts established herein shall be administered in accordance with the provisions of this Bond Resolution so long as the Bonds are Outstanding.

Section 502. Deposit of Bond Proceeds. The net proceeds received from the sale of the Bonds shall be deposited simultaneously with the delivery of the Bonds as follows:

- (a) All accrued interest received from the sale of the Bonds shall be deposited in the Debt Service Account.
- (b) The remaining balance of the proceeds derived from the sale of the Bonds shall be deposited in the Improvement Fund.

Section 503. Application of Moneys in the Improvement Fund. Moneys in the Improvement Fund shall be used for the sole purpose of: (a) paying the costs of the Improvements, in accordance with the plans and specifications therefor approved by the Governing Body and on file in the office of the Clerk, including any alterations in or amendments to said plans and specifications deemed advisable and approved by the Governing Body; (b) paying Costs of Issuance; and (c) transferring any amounts to the Rebate Fund required by this *Article V*.

Upon completion of the Improvements, any surplus remaining in the Improvement Fund shall be deposited in the Debt Service Account.

Section 504. Substitution of Improvements; Reallocation of Proceeds.

(a) The Issuer may elect for any reason to substitute or add other public improvements to be financed with proceeds of the Bonds provided the following conditions are met: (1) the Substitute Improvement and the issuance of general obligation bonds to pay the cost of the Substitute Improvement has been duly authorized by the Governing Body in accordance with the laws of the State; (2) a resolution authorizing the use of the proceeds of the Bonds to pay the Financeable Costs of the Substitute Improvement has been duly adopted by the Governing Body pursuant to this Section; (3) the Attorney General of the State has approved the amendment made by such resolution to the transcript of proceedings for the Bonds to include the Substitute Improvements; and (4) the use of the proceeds of the Bonds to pay the Financeable Cost of the Substitute Improvement will not adversely affect the tax-exempt status of the Bonds under State or federal law.

(b) The Issuer may reallocate expenditure of Bond proceeds among all Improvements financed by the Bonds; provided the following conditions are met: (1) the reallocation is approved by the Governing Body; (2) the reallocation shall not cause the proceeds of the Bonds allocated to any Improvement to exceed the Financeable Costs of the Improvement; and (3) the reallocation will not adversely affect the tax-exempt status of the Bonds under State or federal law.

Section 505. Application of Moneys in Debt Service Account. All amounts paid and credited to the Debt Service Account shall be expended and used by the Issuer for the sole purpose of paying the principal or Redemption Price of and interest on the Bonds as and when the same become due and the usual and customary fees and expenses of the Bond Registrar and Paying Agent. The Treasurer is authorized and directed to withdraw from the Debt Service Account sums sufficient to pay both principal or Redemption Price of and interest on the Bonds and the fees and expenses of the Bond Registrar and Paying Agent as and when the same become due, and to forward such sums to the Paying Agent in a manner which ensures that the Paying Agent will receive immediately available funds in such amounts on or before the Business Day immediately preceding the dates when such principal, interest and fees of the Bond Registrar and Paying Agent will become due. If, through the lapse of time or otherwise, the Owners of Bonds are no longer entitled to enforce payment of the Bonds or the interest thereon, the Paying Agent shall return said funds to the Issuer. All moneys deposited with the Paying Agent shall be deemed to be deposited in accordance with and subject to all of the provisions contained in this Bond Resolution and shall be held in trust by the Paying Agent for the benefit of the Owners of the Bonds entitled to payment from such moneys.

Any moneys or investments remaining in the Debt Service Account after the retirement of the Bonds shall be transferred and paid into the Bond and Interest Fund.

Section 506. Application of Moneys in the Rebate Fund.

(a) There shall be deposited in the Rebate Fund such amounts as are required to be deposited therein pursuant to the Federal Tax Certificate. All money at any time deposited in the Rebate Fund shall be held in trust, to the extent required to satisfy the Rebate Amount (as defined in the Federal Tax Certificate), for payment to the United States of America, and neither the Issuer nor the Owner of any Bonds shall have any rights in or claim to such money. All amounts deposited into or on deposit in the Rebate Fund shall be governed by this Section and the Federal Tax Certificate.

(b) The Issuer shall periodically determine the arbitrage rebate, if any, under Code § 148(f) in accordance with the Federal Tax Certificate, and the Issuer shall make payments to the United States of America at the times and in the amounts determined under the Federal Tax Certificate. Any moneys remaining in the Rebate Fund after redemption and payment of all of the Bonds and payment and satisfaction of any Rebate Amount, or provision made therefor, shall be deposited into the Bond and Interest Fund.

(c) Notwithstanding any other provision of this Bond Resolution, including in particular *Article VII* hereof, the obligation to pay arbitrage rebate to the United States of America and to comply with all other requirements of this Section and the Federal Tax Certificate shall survive the defeasance or payment in full of the Bonds.

Section 507. Deposits and Investment of Moneys. Moneys in each of the Funds and Accounts shall be deposited in accordance with laws of the State, in a bank, savings and loan association or savings bank organized under the laws of the State, any other state or the United States: (a) which has a main or branch office located in the Issuer; or (b) if no such entity has a main or branch office located in the Issuer, with such an entity that has a main or branch office located in the county or counties in which the Issuer is located. All such depositories shall be members of the Federal Deposit Insurance Corporation, or otherwise as permitted by State law. All such deposits shall be invested in Permitted Investments as set forth in this Article or shall be adequately secured as provided by the laws of the State. All moneys held in the Funds and Accounts shall be kept separate and apart from all other funds of the Issuer so that there shall be no commingling with any other funds of the Issuer.

Moneys held in any Fund or Account may be invested in accordance with this Bond Resolution and the Federal Tax Certificate in Permitted Investments; provided, however, that no such investment shall be made for a period extending longer than to the date when the moneys invested may be needed for the purpose for which such fund was created. All earnings on any investments held in any Fund or Account shall accrue to and become a part of such Fund or Account; provided that, during the period of construction of the Improvements, earnings on the investment of such funds may, at the discretion of the Issuer, be credited to the Debt Service Account.

ARTICLE VI

DEFAULT AND REMEDIES

Section 601. Remedies. The provisions of the Bond Resolution, including the covenants and agreements herein contained, shall constitute a contract between the Issuer and the Owners of the Bonds. If an Event of Default occurs and shall be continuing, the Owner or Owners of not less than 10% in principal amount of the Bonds at the time Outstanding shall have the right for the equal benefit and protection of all Owners of Bonds similarly situated:

(a) by mandamus or other suit, action or proceedings at law or in equity to enforce the rights of such Owner or Owners against the Issuer and its officers, agents and employees, and to require and compel duties and obligations required by the provisions of the Bond Resolution or by the Constitution and laws of the State;

(b) by suit, action or other proceedings in equity or at law to require the Issuer, its officers, agents and employees to account as if they were the trustees of an express trust; and

(c) by suit, action or other proceedings in equity or at law to enjoin any acts or things which may be unlawful or in violation of the rights of the Owners of the Bonds.

Section 602. Limitation on Rights of Owners. The covenants and agreements of the Issuer contained herein and in the Bonds shall be for the equal benefit, protection, and security of the Owners of any or all of the Bonds, all of which Bonds shall be of equal rank and without preference or priority of one Bond over any other Bond in the application of the funds herein pledged to the payment of the principal of and the interest on the Bonds, or otherwise, except as to rate of interest, date of maturity and right of prior redemption as provided in this Bond Resolution. No one or more Owners secured hereby shall have any right in any manner whatever by his or their action to affect, disturb or prejudice the security granted and provided for herein, or to enforce any right hereunder, except in the manner herein provided, and all proceedings at law or in equity shall be instituted, had and maintained for the equal benefit of all Outstanding Bonds.

Section 603. Remedies Cumulative. No remedy conferred herein upon the Owners is intended to be exclusive of any other remedy, but each such remedy shall be cumulative and in addition to every other remedy and may be exercised without exhausting and without regard to any other remedy conferred herein. No waiver of any default or breach of duty or contract by the Owner of any Bond shall extend to or affect any subsequent default or breach of duty or contract or shall impair any rights or remedies thereon. No delay or omission of any Owner to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or acquiescence therein. Every substantive right and every remedy conferred upon the Owners of the Bonds by this Bond Resolution may be enforced and exercised from time to time and as often as may be deemed expedient. If action or proceedings taken by any Owner on account of any default or to enforce any right or exercise any remedy has been discontinued or abandoned for any reason, or shall have been determined adversely to such Owner, then, and in every such case, the Issuer and the Owners of the Bonds shall be restored to their former positions and rights hereunder, respectively, and all rights, remedies, powers and duties of the Owners shall continue as if no such suit, action or other proceedings had been brought or taken.

ARTICLE VII

DEFEASANCE

Section 701. Defeasance. When any or all of the Bonds, redemption premium, if any, or scheduled interest payments thereon have been paid and discharged, then the requirements contained in this Bond Resolution and the pledge of the Issuer's faith and credit hereunder and all other rights granted hereby shall terminate with respect to the Bonds or scheduled interest payments thereon so paid and discharged. Bonds, redemption premium, if any, or scheduled interest payments thereon shall be deemed to have been paid and discharged within the meaning of this Bond Resolution if there has been deposited

with the Paying Agent, or other commercial bank or trust company located in the State and having full trust powers, at or prior to the Stated Maturity or Redemption Date of said Bonds or the interest payments thereon, in trust for and irrevocably appropriated thereto, moneys and/or Defeasance Obligations which, together with the interest to be earned on any such Defeasance Obligations, will be sufficient for the payment of the principal of or Redemption Price of said Bonds and/or interest accrued to the Stated Maturity or Redemption Date, or if default in such payment has occurred on such date, then to the date of the tender of such payments. If the amount to be so deposited is based on the Redemption Price of any Bonds, no such satisfaction shall occur until (a) the Issuer has elected to redeem such Bonds, and (b) either notice of such redemption has been given, or the Issuer has given irrevocable instructions, or shall have provided for an escrow agent to give irrevocable instructions, to the Bond Registrar to give such notice of redemption in compliance with *Article III* hereof. Any money and Defeasance Obligations that at any time shall be deposited with the Paying Agent or other commercial bank or trust company by or on behalf of the Issuer, for the purpose of paying and discharging any of the Bonds, shall be and are hereby assigned, transferred and set over to the Paying Agent or other bank or trust company in trust for the respective Owners of the Bonds, and such moneys shall be and are hereby irrevocably appropriated to the payment and discharge thereof. All money and Defeasance Obligations deposited with the Paying Agent or such bank or trust company shall be deemed to be deposited in accordance with and subject to all of the provisions of this Bond Resolution.

ARTICLE VIII

TAX COVENANTS

Section 801. General Covenants. The Issuer covenants and agrees that it will comply with: (a) all applicable provisions of the Code necessary to maintain the exclusion from gross income for federal income tax purposes of the interest on the Bonds; and (b) all provisions and requirements of the Federal Tax Certificate. The Mayor and Finance Director are hereby authorized and directed to execute the Federal Tax Certificate in a form approved by Bond Counsel, for and on behalf of and as the act and deed of the Issuer. The Issuer will, in addition, adopt such other ordinances or resolutions and take such other actions as may be necessary to comply with the Code and with all other applicable future laws, regulations, published rulings and judicial decisions, in order to ensure that the interest on the Bonds will remain excluded from federal gross income, to the extent any such actions can be taken by the Issuer.

Section 802. Survival of Covenants. The covenants contained in this Article and in the Federal Tax Certificate shall remain in full force and effect notwithstanding the defeasance of the Bonds pursuant to *Article VII* hereof or any other provision of this Bond Resolution until such time as is set forth in the Federal Tax Certificate.

ARTICLE IX

CONTINUING DISCLOSURE REQUIREMENTS

Section 901. Disclosure Requirements. The Issuer hereby covenants with the Purchaser and the Beneficial Owners to provide and disseminate such information as is required by the SEC Rule and as further set forth in the Disclosure Undertaking, the provisions of which are incorporated herein by reference. Such covenant shall be for the benefit of and enforceable by the Purchaser and the Beneficial Owners.

Section 902. Failure to Comply with Continuing Disclosure Requirements. In the event the Issuer fails to comply in a timely manner with its covenants contained in the preceding section, the Purchaser and/or any Beneficial Owner may make demand for such compliance by written notice to the Issuer. In the event the Issuer does not remedy such noncompliance within 10 days of receipt of such written notice, the Purchaser or any Beneficial Owner may in its discretion, without notice or demand, proceed to enforce compliance by a suit or suits in equity for the specific performance of such covenant or agreement contained in the preceding section or for the enforcement of any other appropriate legal or equitable remedy, as the Purchaser and/or any Beneficial Owner shall deem effectual to protect and enforce any of the duties of the Issuer under such preceding section. Notwithstanding any other provision of this Bond Resolution, failure of the Issuer to comply with its covenants contained in the preceding section shall not be considered an Event of Default under this Bond Resolution.

ARTICLE X

MISCELLANEOUS PROVISIONS

Section 1001. Annual Audit. Annually, promptly after the end of the Fiscal Year, the Issuer will cause an audit to be made of the financial statements of the Issuer for the preceding Fiscal Year by an Independent Accountant. Within 30 days after the completion of each such audit, a copy thereof shall be filed in the office of the Clerk. Such audit shall at all times during the usual business hours be open to the examination and inspection by any taxpayer, any Owner of any of the Bonds, or by anyone acting for or on behalf of such taxpayer or Owner. Upon payment of the reasonable cost of preparing and mailing the same, a copy of any annual audit will, upon request, be sent to any Owner or prospective Owner. As soon as possible after the completion of the annual audit, the Governing Body shall review such audit, and if the audit discloses that proper provision has not been made for all of the requirements of this Bond Resolution, the Issuer shall promptly cure such deficiency.

Section 1002. Amendments. The rights and duties of the Issuer and the Owners, and the terms and provisions of the Bonds or of this Bond Resolution, may be amended or modified at any time in any respect by resolution of the Issuer with the written consent of the Owners of not less than a majority in principal amount of the Bonds then Outstanding, such consent to be evidenced by an instrument or instruments executed by such Owners and duly acknowledged or proved in the manner of a deed to be recorded, and such instrument or instruments shall be filed with the Clerk, but no such modification or alteration shall:

- (a) extend the maturity of any payment of principal or interest due upon any Bond;
- (b) effect a reduction in the amount which the Issuer is required to pay as principal of or interest on any Bond;
- (c) permit preference or priority of any Bond over any other Bond; or
- (d) reduce the percentage in principal amount of Bonds required for the written consent to any modification or alteration of the provisions of this Bond Resolution.

Any provision of the Bonds or of this Bond Resolution may, however, be amended or modified by resolution duly adopted by the Governing Body at any time in any legal respect with the written consent of the Owners of all of the Bonds at the time Outstanding.

Without notice to or the consent of any Owners, the Issuer may amend or supplement this Bond Resolution for the purpose of curing any formal defect, omission, inconsistency or ambiguity herein, to grant to or confer upon the Owners any additional rights, remedies, powers or authority that may lawfully be granted to or conferred upon the Owners, to more precisely identify the Improvements, to reallocate proceeds of the Bonds among Improvements, to provide for Substitute Improvements, to conform this Bond Resolution to the Code or future applicable federal law concerning tax-exempt obligations, or in connection with any other change therein which is not materially adverse to the interests of the Owners.

Every amendment or modification of the provisions of the Bonds or of this Bond Resolution, to which the written consent of the Owners is given, as above provided, shall be expressed in a resolution adopted by the Governing Body amending or supplementing the provisions of this Bond Resolution and shall be deemed to be a part of this Bond Resolution. A certified copy of every such amendatory or supplemental resolution, if any, and a certified copy of this Bond Resolution shall always be kept on file in the office of the Clerk, and shall be made available for inspection by the Owner of any Bond or a prospective purchaser or owner of any Bond authorized by this Bond Resolution, and upon payment of the reasonable cost of preparing the same, a certified copy of any such amendatory or supplemental resolution or of this Bond Resolution will be sent by the Clerk to any such Owner or prospective Owner.

Any and all modifications made in the manner hereinabove provided shall not become effective until there has been filed with the Clerk a copy of the resolution of the Issuer hereinabove provided for, duly certified, as well as proof of any required consent to such modification by the Owners of the Bonds then Outstanding. It shall not be necessary to note on any of the Outstanding Bonds any reference to such amendment or modification.

The Issuer shall furnish to the Paying Agent a copy of any amendment to the Bonds or this Bond Resolution which affects the duties or obligations of the Paying Agent under this Bond Resolution.

Section 1003. Notices, Consents and Other Instruments by Owners. Any notice, consent, request, direction, approval or other instrument to be signed and executed by the Owners may be in any number of concurrent writings of similar tenor and may be signed or executed by such Owners in person or by agent appointed in writing. Proof of the execution of any such instrument or of the writing appointing any such agent and of the ownership of Bonds, if made in the following manner, shall be sufficient for any of the purposes of this Bond Resolution, and shall be conclusive in favor of the Issuer and the Paying Agent with regard to any action taken, suffered or omitted under any such instrument, namely:

(a) The fact and date of the execution by any person of any such instrument may be proved by a certificate of any officer in any jurisdiction who by law has power to take acknowledgments within such jurisdiction that the person signing such instrument acknowledged before such officer the execution thereof, or by affidavit of any witness to such execution.

(b) The fact of ownership of Bonds, the amount or amounts, numbers and other identification of Bonds, and the date of holding the same shall be proved by the Bond Register.

In determining whether the Owners of the requisite principal amount of Bonds Outstanding have given any request, demand, authorization, direction, notice, consent or waiver under this Bond Resolution, Bonds owned by the Issuer shall be disregarded and deemed not to be Outstanding under this Bond Resolution, except that, in determining whether the Owners shall be protected in relying upon any such request, demand, authorization, direction, notice, consent or waiver, only Bonds which the Owners know to be so owned shall be so disregarded. Notwithstanding the foregoing, Bonds so owned which have been pledged in good faith shall not be disregarded as aforesaid if the pledgee establishes to the

satisfaction of the Owners the pledgee's right so to act with respect to such Bonds and that the pledgee is not the Issuer.

Section 1004. Notices. Any notice, request, complaint, demand or other communication required or desired to be given or filed under this Bond Resolution shall be in writing, given to the Notice Representative at the Notice Address and shall be deemed duly given or filed if the same shall be: (a) duly mailed by registered or certified mail, postage prepaid; or (b) communicated via fax, with electronic or telephonic confirmation of receipt. Copies of such notices shall also be given to the Paying Agent. The Issuer, the Paying Agent and the Purchaser may from time to time designate, by notice given hereunder to the others of such parties, such other address to which subsequent notices, certificates or other communications shall be sent.

All notices given by: (a) certified or registered mail as aforesaid shall be deemed duly given as of the date they are so mailed; (b) fax as aforesaid shall be deemed duly given as of the date of confirmation of receipt. If, because of the temporary or permanent suspension of regular mail service or for any other reason, it is impossible or impractical to mail any notice in the manner herein provided, then such other form of notice as shall be made with the approval of the Paying Agent shall constitute a sufficient notice.

Section 1005. Electronic Transactions. The issuance of the Bonds and the transactions related thereto and described herein may be conducted and documents may be stored by electronic means.

Section 1006. Further Authority. The officers and officials of the Issuer, including the Mayor, Finance Director and Clerk, are hereby authorized and directed to execute all documents and take such actions as they may deem necessary or advisable in order to carry out and perform the purposes of this Bond Resolution and to make ministerial alterations, changes or additions in the foregoing agreements, statements, instruments and other documents herein approved, authorized and confirmed which they may approve, and the execution or taking of such action shall be conclusive evidence of such necessity or advisability.

Section 1007. Severability. If any section or other part of this Bond Resolution, whether large or small, is for any reason held invalid, the invalidity thereof shall not affect the validity of the other provisions of this Bond Resolution.

Section 1008. Governing Law. This Bond Resolution shall be governed exclusively by and construed in accordance with the applicable laws of the State.

Section 1009. Effective Date. This Bond Resolution shall take effect and be in full force from and after its adoption by the Governing Body.

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ADOPTED by the Governing Body on October 17, 2016.

(SEAL)

Laura Wassmer, Mayor

ATTEST:

Joyce Hagen Mundy, City Clerk

EXHIBIT A
(FORM OF BONDS)

REGISTERED
NUMBER __

REGISTERED
\$

Unless this certificate is presented by an authorized representative of The Depository Trust Company, a New York Corporation (“DTC”), to the Issuer or its agent for registration of transfer, exchange or payment, and any certificate issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

UNITED STATES OF AMERICA
STATE OF KANSAS
COUNTY OF JOHNSON
CITY OF PRAIRIE VILLAGE
GENERAL OBLIGATION IMPROVEMENT BOND
SERIES 2016C

Interest
Rate:

Maturity
Date: September 1, 20__

Dated
Date: October 31, 2016

CUSIP:

REGISTERED OWNER:

PRINCIPAL AMOUNT:

KNOW ALL PERSONS BY THESE PRESENTS: That the City of Prairie Village, in the County of Johnson, State of Kansas (the “Issuer”), for value received, hereby acknowledges itself to be indebted and promises to pay to the Registered Owner shown above, or registered assigns, but solely from the source and in the manner herein specified, the Principal Amount shown above on the Maturity Date shown above[, unless called for redemption prior to said Maturity Date], and to pay interest thereon at the Interest Rate per annum shown above (computed on the basis of a 360-day year of twelve 30-day months), from the Dated Date shown above, or from the most recent date to which interest has been paid or duly provided for, payable semiannually on March 1 and September 1 of each year, commencing March 1, 2017 (the “Interest Payment Dates”), until the Principal Amount has been paid.

Method and Place of Payment. The principal or redemption price of this Bond shall be paid at maturity [or upon earlier redemption] to the person in whose name this Bond is registered at the maturity [or redemption] date thereof, upon presentation and surrender of this Bond at the principal office of the Treasurer of the State of Kansas, Topeka, Kansas (the “Paying Agent” and “Bond Registrar”). The interest payable on this Bond on any Interest Payment Date shall be paid to the person in whose name this Bond is registered on the registration books maintained by the Bond Registrar at the close of business on

the Record Date(s) for such interest, which shall be the 15th day (whether or not a business day) of the calendar month next preceding the Interest Payment Date. Such interest shall be payable (a) by check or draft mailed by the Paying Agent to the address of such Registered Owner shown on the Bond Register or at such other address as is furnished to the Paying Agent in writing by such Registered Owner; or (b) in the case of an interest payment to Cede & Co. or any Owner of \$500,000 or more in aggregate principal amount of Bonds by electronic transfer to such Owner upon written notice given to the Bond Registrar by such Registered Owner, not less than 15 days prior to the Record Date for such interest, containing the electronic transfer instructions including the bank, ABA routing number and account number to which such Registered Owner wishes to have such transfer directed. The principal [or redemption price of] and interest on the Bonds shall be payable in any coin or currency that, on the respective dates of payment thereof, is legal tender for the payment of public and private debts. Interest not punctually paid will be paid in the manner established in the within defined Bond Resolution.

Definitions. Capitalized terms used herein and not otherwise defined herein shall have the meanings assigned to such terms in the hereinafter defined Bond Resolution.

Authorization of Bonds. This Bond is one of an authorized series of Bonds of the Issuer designated “General Obligation Improvement Bonds, Series 2016C,” aggregating the principal amount of \$[PRINCIPAL AMOUNT] (the “Bonds”) issued for the purposes set forth in the Ordinance of the Issuer authorizing the issuance of the Bonds and the Resolution of the Issuer prescribing the form and details of the Bonds (collectively, the “Bond Resolution”). The Bonds are issued by the authority of and in full compliance with the provisions, restrictions and limitations of the Constitution and laws of the State of Kansas, including K.S.A. 10-101 to 10-125, inclusive, K.S.A. 10-620 *et seq.*, Charter Ordinance No. 28 of the Issuer and Article 12, Section 5 of the Constitution of the State of Kansas, as amended, and all other provisions of the laws of the State of Kansas applicable thereto.

General Obligations. The Bonds constitute general obligations of the Issuer payable as to both principal and interest from ad valorem taxes which may be levied without limitation as to rate or amount upon all the taxable tangible property, real and personal, within the territorial limits of the Issuer. The full faith, credit and resources of the Issuer are hereby irrevocably pledged for the prompt payment of the principal of and interest on the Bonds as the same become due.

Redemption Prior to Maturity. The Bonds are [not] subject to redemption prior to maturity[, as provided in the Bond Resolution].

Book-Entry System. The Bonds are being issued by means of a book-entry system with no physical distribution of bond certificates to be made except as provided in the Bond Resolution. One Bond certificate with respect to each date on which the Bonds are stated to mature or with respect to each form of Bonds, registered in the nominee name of the Securities Depository, is being issued and required to be deposited with the Securities Depository and immobilized in its custody. The book-entry system will evidence positions held in the Bonds by the Securities Depository’s participants, beneficial ownership of the Bonds in authorized denominations being evidenced in the records of such participants. Transfers of ownership shall be effected on the records of the Securities Depository and its participants pursuant to rules and procedures established by the Securities Depository and its participants. The Issuer and the Bond Registrar will recognize the Securities Depository nominee, while the Registered Owner of this Bond, as the owner of this Bond for all purposes, including (i) payments of principal of, and redemption premium, if any, and interest on, this Bond, (ii) notices and (iii) voting. Transfer of principal, interest and any redemption premium payments to participants of the Securities Depository, and transfer of principal, interest and any redemption premium payments to beneficial owners of the Bonds by participants of the Securities Depository will be the responsibility of such participants and other nominees of such beneficial owners. The Issuer and the Bond Registrar will not be responsible or liable for such

transfers of payments or for maintaining, supervising or reviewing the records maintained by the Securities Depository, the Securities Depository nominee, its participants or persons acting through such participants. While the Securities Depository nominee is the owner of this Bond, notwithstanding the provision hereinabove contained, payments of principal of, redemption premium, if any, and interest on this Bond shall be made in accordance with existing arrangements among the Issuer, the Bond Registrar and the Securities Depository.

Transfer and Exchange. EXCEPT AS OTHERWISE PROVIDED IN THE BOND RESOLUTION, THIS GLOBAL BOND MAY BE TRANSFERRED, IN WHOLE BUT NOT IN PART, ONLY TO ANOTHER NOMINEE OF THE SECURITIES DEPOSITORY OR TO A SUCCESSOR SECURITIES DEPOSITORY OR TO A NOMINEE OF A SUCCESSOR SECURITIES DEPOSITORY. This Bond may be transferred or exchanged, as provided in the Bond Resolution, only on the Bond Register kept for that purpose at the principal office of the Bond Registrar, upon surrender of this Bond, together with a written instrument of transfer or authorization for exchange satisfactory to the Bond Registrar duly executed by the Registered Owner or the Registered Owner's duly authorized agent, and thereupon a new Bond or Bonds in any Authorized Denomination of the same maturity and in the same aggregate principal amount shall be issued to the transferee in exchange therefor as provided in the Bond Resolution and upon payment of the charges therein prescribed. The Issuer shall pay all costs incurred in connection with the issuance, payment and initial registration of the Bonds and the cost of a reasonable supply of bond blanks. The Issuer and the Paying Agent may deem and treat the person in whose name this Bond is registered on the Bond Register as the absolute owner hereof for the purpose of receiving payment of, or on account of, the principal or redemption price hereof and interest due hereon and for all other purposes. The Bonds are issued in fully registered form in Authorized Denominations.

Authentication. This Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the hereinafter defined Bond Resolution until the Certificate of Authentication and Registration hereon shall have been lawfully executed by the Bond Registrar.

IT IS HEREBY DECLARED AND CERTIFIED that all acts, conditions, and things required to be done and to exist precedent to and in the issuance of this Bond have been properly done and performed and do exist in due and regular form and manner as required by the Constitution and laws of the State of Kansas, and that the total indebtedness of the Issuer, including this series of bonds, does not exceed any constitutional or statutory limitation.

IN WITNESS WHEREOF, the Issuer has caused this Bond to be executed by the manual or facsimile signature of its Mayor, and attested by the manual or facsimile signature of its Clerk, and its seal to be affixed hereto or imprinted hereon.

CITY OF PRAIRIE VILLAGE, KANSAS

[(Facsimile Seal)]

By: _____ (facsimile)
Laura Wassmer, Mayor

ATTEST:

By: _____ (facsimile)
Joyce Hagen Mundy, City Clerk

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of a series of General Obligation Improvement Bonds, Series 2016C, of the City of Prairie Village, Kansas, described in the within-mentioned Bond Resolution.

Registration Date: _____

Treasurer of the State of Kansas,
Topeka, Kansas
as Bond Registrar and Paying Agent

By: _____

Registration Number: _____

CERTIFICATE OF CLERK

STATE OF KANSAS)
) SS.
COUNTY OF JOHNSON)

The undersigned, Clerk of the City of Prairie Village, Kansas, does hereby certify that the within Bond has been duly registered in my office according to law as of October 31, 2016.

WITNESS my hand and official seal.

(Facsimile Seal)

By: _____ (facsimile)
Joyce Hagen Mundy, City Clerk

CERTIFICATE OF STATE TREASURER

OFFICE OF THE TREASURER, STATE OF KANSAS

RON ESTES, Treasurer of the State of Kansas, does hereby certify that a transcript of the proceedings leading up to the issuance of this Bond has been filed in the office of the State Treasurer, and that this Bond was registered in such office according to law on _____.

WITNESS my hand and official seal.

(Facsimile Seal)

By: _____
Treasurer of the State of Kansas

BOND ASSIGNMENT

FOR VALUE RECEIVED, the undersigned do(es) hereby sell, assign and transfer to

(Name and Address)

(Social Security or Taxpayer Identification No.)

the Bond to which this assignment is affixed in the outstanding principal amount of \$_____, standing in the name of the undersigned on the books of the Bond Registrar. The undersigned do(es) hereby irrevocably constitute and appoint _____ as agent to transfer said Bond on the books of said Bond Registrar with full power of substitution in the premises.

Dated _____

Name

Social Security or
Taxpayer Identification No.

Signature (Sign here exactly as name(s)
appear on the face of Certificate)

Signature guarantee:

By _____

LEGAL OPINION

The following is a true and correct copy of the approving legal opinion of Gilmore & Bell, P.C., Bond Counsel, which was dated and issued as of the date of original issuance and delivery of such Bonds:

GILMORE & BELL, P.C.
2405 Grand Boulevard
Suite 1100
Kansas City, Missouri 64108

(PRINTED LEGAL OPINION)



ADMINISTRATION

Finance Committee Meeting Date: October 5, 2016
Council Meeting Date: October 17, 2016
Committee Meeting Date: October 17, 2016

COU2016-61: Consider Audit Services Contract

RECOMMENDATION

The Selection Committee recommends the City Council approve the audit services agreement with Berberich Trahan & Co., P.A. for the City's 2016 financial statements.

SUGGESTED MOTION

Move that the Council approve the agreement with Berberich Trahan & Co., P.A. to audit the City's 2016 financial statements.

BACKGROUND

KSA 75-1124 requires the City to have an annual audit. In 2012, the City issued a Request for Proposals for auditing services and selected Berberich Trahan & Co., P.A. The firm performed the audits of 2012 - 2015 financial statements.

In August of this year, staff issued a Request for Proposals (RFP) for the Professional Audit Services for the City. The Selection Committee found Berberich Trahan & Co., services to be of high quality and their proposal best fit the needs and philosophy of the City. The engagement is a three (3) year contract with two (2), one (1) year options to renew. Renewal is subject to an annual review and the concurrence of the City Council.

The proposed fee for the 2016 audit is \$24,000, the same cost as the 2015 audit.

The Selection Committee also discussed formalizing an Audit Rotation Policy. Currently, the rotation is included as part of the bid specification. An inquiry was sent out to other cities to see if they have a policy. Below are the responses received to date:

- Gardner - No formal rotation policy
- Johnson County - No formal rotation policy
- Merriam - No formal rotation policy
- Overland Park - No formal rotation policy

FUNDING SOURCE

Funding for the financial statement audit is included in the 2016 budget for the Financial Management Program.

ATTACHMENTS: Agreement with Berberich Trahan & Co., P.A.

PREPARED BY: Lisa Santa Maria, Finance Director Date: October 10, 2016



BERBERICH TRAHAN & CO., P.A.
Certified Public Accountants

October 6, 2016

Mayor and City Council
City of Prairie Village, Kansas
7700 Mission Road
Prairie Village, Kansas 66208

The Objective and Scope of the Audit of the Financial Statements

You have requested that we audit the financial statements of the City of Prairie Village, Kansas (the City), which comprise governmental activities, each major fund and the aggregate remaining fund information as of and for the year ended December 31, 2016 which collectively comprise the basic financial statements. We will also apply certain limited procedures to the required supplementary information in accordance with auditing standards generally accepted in the United States of America and will report on whether supplementary information is fairly stated, in all material respects, in relation to the financial statements as a whole. We are pleased to confirm our acceptance and our understanding of this audit engagement by means of this letter.

Our audit will be conducted with the objective of our expressing an opinion on the financial statements.

The Responsibilities of the Auditor

We will conduct our audit in accordance with auditing standards generally accepted in the United States of America (GAAS) and the "Kansas Municipal Audit and Accounting Guide." Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

Because of the inherent limitations of an audit, together with the inherent limitations of internal control, an unavoidable risk that some material misstatements may not be detected exists, even though the audit is properly planned and performed in accordance with GAAS. Also, an audit is not designed to detect errors or fraud that is immaterial to the financial statements.

An Independently Owned Member
McGLADREY ALLIANCE





Mayor and City Council
City of Prairie Village, Kansas
Page 2

In making our risk assessments, we consider internal control relevant to the City's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. However, we will communicate to you in writing concerning any significant deficiencies or material weaknesses in internal control relevant to the audit of the financial statements that we have identified during the audit.

We will also communicate to the City Council *(a)* any fraud involving senior management and fraud (whether caused by senior management or other employees) that causes a material misstatement of the financial statements that becomes known to us during the audit, and *(b)* any instances of noncompliance with laws and regulations that we become aware of during the audit (unless they are clearly inconsequential).

The Responsibilities of Management and Identification of the Applicable Financial Reporting Framework

Our audit will be conducted on the basis that management and when appropriate, those charged with governance, acknowledge and understand that they have responsibility:

- a. For the preparation and fair presentation of the financial statements in accordance with accounting principles generally accepted in the United States of America;
- b. For the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error; and
- c. To provide us with:
 - (1) Access to all information of which management is aware that is relevant to the preparation and fair presentation of the financial statements such as records, documentation, and other matters;
 - (2) Additional information that we may request from management for the purpose of the audit; and
 - (3) Unrestricted access to persons within the entity from whom we determine it necessary to obtain audit evidence.

As part of our audit process, we will request from management and when appropriate, those charged with governance, written confirmation concerning representations made to us in connection with the audit including among other items:

- a. That management has fulfilled its responsibilities as set out in the terms of this letter; and
- b. That it believes the effects of any uncorrected misstatements aggregated by us during the current engagement and pertaining to the latest period presented are immaterial, both individually and in the aggregate, to the financial statements taken as a whole.



Mayor and City Council
City of Prairie Village, Kansas
Page 3

Management is responsible for identifying and ensuring that the City complies with the laws and regulations applicable to its activities, and for informing us about all known material violations of such laws or regulations. In addition, management is responsible for the design and implementation of programs and controls to prevent and detect fraud, and for informing us about all known or suspected fraud affecting the entity involving management, employees who have significant roles in internal control, and others where the fraud could have a material effect on the financial statements. Management is also responsible for informing us of its knowledge of any allegations of fraud or suspected fraud affecting the entity received in communications from employees, former employees, analysts, regulators, short sellers, or others.

Management is responsible for the preparation of the RSI and supplementary information presented in accordance with accounting principles generally accepted in the United States of America. Management agrees to include the auditor's report on the RSI or supplementary information in any document that contains the RSI or supplementary information and that indicates that the auditor has reported on such RSI or supplementary information. Management also agrees to present the supplementary information with the audited financial statements or, if the supplementary information will not be presented with audited financial statements, to make the audited financial statements readily available to the intended users of the supplementary information no later than the date of issuance of the supplementary information and the auditor's report thereon.

The City Council is responsible for informing us of its views about the risks of fraud within the entity, and its knowledge of any fraud or suspected fraud affecting the entity.

You have informed us that you may issue public debt in the future and that you may include our report on your financial statements in the offering statement. You have further informed us that you do not intend that we be associated with the proposed offering.

We agree that our association with any proposed offering is not necessary, providing the City agrees to clearly indicate that we are not associated with the contents of any such official statement or memorandum. The City agrees that the following disclosure will be prominently displayed in any such official statement or memorandum:

Berberich Trahan & Co., P.A., our independent auditor, has not been engaged to perform, and has not performed, since the date of its report included herein, any procedures on the financial statements addressed in that report. Berberich Trahan & Co., P.A. also has not performed any procedures relating to this official statement.



Mayor and City Council
City of Prairie Village, Kansas
Page 4

Because Berberich Trahan & Co., P.A. will rely on the City and its management to discharge the foregoing responsibilities, the City holds harmless and releases Berberich Trahan & Co., P.A., its directors, and employees from all claims, liabilities, losses, and costs arising in circumstances where there has been a knowing misrepresentation by a member of the City's management which has caused, in any respect, Berberich Trahan & Co., P.A.'s breach of contract or negligence. This provision shall survive the termination of this arrangement for services.

The City's Records and Assistance

If circumstances arise relating to the condition of the City's records, the availability of appropriate audit evidence, or indications of a significant risk of material misstatement of the financial statements because of error, fraudulent financial reporting, or misappropriation of assets, which in our professional judgment, prevent us from completing the audit or forming an opinion, we retain the unilateral right to take any course of action permitted by professional standards, including declining to express an opinion, issue a report, or withdraw from the engagement.

During the course of our engagement, we may accumulate records containing data that should be reflected in the City's books and records. The City will determine that all such data, if necessary, will be so reflected. Accordingly, the City will not expect us to maintain copies of such records in our possession.

The assistance to be supplied by City personnel, including the preparation of schedules and analyses of accounts, has been discussed and coordinated with Lisa Santa Maria, Finance Director. The timely and accurate completion of this work is an essential condition to our completion of the audit and issuance of our audit report.

If, in connection with our audit, you request us to perform accounting services necessary for the preparation of the financial statements (such as maintaining depreciation schedules, drafting the financial statements, etc.), you agree to designate an appropriate individual to oversee the services, make all management decisions involved in those services, evaluate the adequacy and results of the services, and accept responsibility for the results of the services.

Other Relevant Information

From time to time and depending upon the circumstances, we may use third-party service providers to assist us in providing professional services to you. In such circumstances, it may be necessary for us to disclose confidential client information to them. We enter into confidentiality agreements with all third-party service providers and we are satisfied that they have appropriate procedures in place to prevent the unauthorized release of your confidential information to others.



Mayor and City Council
City of Prairie Village, Kansas
Page 5

RSM US LLP will be available to support Berberich Trahan & Co., P.A. by rendering services related to the performance of the engagement. If a situation occurs in connection with the proposed engagement for which we would request the services of RSM US LLP, we will notify you and obtain permission from you before giving access to your records. We will maintain supervision, control and ultimate responsibility for the performance of this engagement.

Berberich Trahan & Co., P.A. is independently owned and operated and assumes full responsibility for the quality of service delivered to our clients. We are responsible for our own client fee arrangements and maintenance of our client relationships.

RSM US Alliance provides its members with access to resources of RSM US LLP. RSM US Alliance member firms are separate and independent businesses and legal entities that are responsible for their own acts and omissions, and each are separate and independent from RSM US LLP. RSM US LLP is the U.S. member firm of RSM International, a global network of independent audit, tax and consulting firms. Members of RSM US Alliance have access to RSM International resources through RSM US LLP but are not member firms of RSM US LLP and RSM International. RSM, the RSM logo and RSM US ALLIANCE are trademarks of RSM International Association or RSM US. The services and products provided by RSM US Alliance are proprietary to RSM US LLP.

Fees, Costs, and Access to Workpapers

Our fees for the audit and accounting services described above are based upon the value of the services performed and the time required by the individuals assigned to the engagement, plus direct expenses. Our fee estimate and completion of our work is based upon the following criteria:

- a. Anticipated cooperation from City personnel
- b. Timely responses to our inquiries
- c. Timely completion and delivery of client assistance requests
- d. Timely communication of all significant accounting and financial reporting matters
- e. The assumption that unexpected circumstances will not be encountered during the engagement



Mayor and City Council
City of Prairie Village, Kansas
Page 6

If any of the aforementioned criteria are not met, then fees may increase. We propose that our fee for this audit engagement, which includes out-of-pocket expenses, will be \$ 24,000. The quoted fee for the year ended December 31, 2016 will be the maximum for the work described in this letter unless the scope of the engagement is changed, the assistance which the City has agreed to furnish is not provided, or unexpected conditions are encountered. No changes will be made in the maximum agreed to amount without discussion with you regarding the proposed change. All other provisions of this letter will survive any fee adjustment. No changes will be made to the fee without discussion with you regarding the proposed change. Interim billings will be submitted as work progresses and as expenses are incurred. Billings are due upon submission.

In accordance with our policy, a finance charge of 1% per month will be applied to balances that are over 60 days old. Payments will be applied first to the accrued finance charges and then to outstanding invoices.

In the event we are requested or authorized by the City or are required by government regulation, subpoena, or other legal process to produce our documents or our personnel as witnesses with respect to our engagement for the City, the City will, so long as we are not a party to the proceeding in which the information is sought, reimburse us for our professional time and expenses, as well as the fees and expenses of our counsel, incurred in responding to such requests.

You have informed us that you intend to prepare a comprehensive annual financial report (CAFR) and submit it for evaluation by the Government Finance Officers Association's Certificate of Achievement for Excellence in Financial Reporting. Our association with the CAFR is to consist of performing a review of the CAFR to insure its readiness for submission.

Claim Resolution

The City and Berberich Trahan & Co., P.A. agree that no claim arising out of services rendered pursuant to this agreement shall be filed more than two years after the date of the audit report issued by Berberich Trahan & Co., P.A. or the date of this arrangement letter if no report has been issued. The City waives any claim for punitive damages. Berberich Trahan & Co., P.A.'s liability for all claims, damages and costs of the City arising from this engagement is limited to the amount of fees paid by the City to Berberich Trahan & Co., P.A. for the services rendered under this arrangement letter.

If any dispute arises among the parties hereto, the parties agree first to try in good faith to settle the dispute by mediation administered by the American Arbitration Association under its Rules for Professional Accounting and Related Services Disputes before resorting to litigation. The costs of any mediation proceeding shall be shared equally by all parties.



Mayor and City Council
City of Prairie Village, Kansas
Page 7

The City and Berberich Trahan & Co., P.A. both agree that any dispute over fees charged by Berberich Trahan & Co., P.A. to the City will be submitted for resolution by arbitration in accordance with the Rules for Professional Accounting and Related Services Disputes of the American Arbitration Association. Such arbitration shall be binding and final. In agreeing to arbitration, we both acknowledge that, in the event of a dispute over fees charged by Berberich Trahan & Co., P.A., each of us is giving up the right to have the dispute decided in a court of law before a judge or jury and instead we are accepting the use of arbitration for resolution.

Reporting

We will issue a written report upon completion of our audit of the City's financial statements. Our report will be addressed to the City Council of the City. We cannot provide assurance that an unmodified opinion will be expressed. Circumstances may arise in which it is necessary for us to modify our opinion, add an emphasis-of-matter or other-matter paragraph(s), or withdraw from the engagement.

This letter constitutes the complete and exclusive statement of agreement between Berberich Trahan & Co, P.A. and the City, superseding all proposals, oral or written, and all other communications, with respect to the terms of the engagement between the parties.

Please sign and return the enclosed copy of this letter to indicate your acknowledgment of, and agreement with, the arrangements for our audit of the financial statements including our respective responsibilities.

Very truly yours,

BERBERICH TRAHAN & CO., P.A.

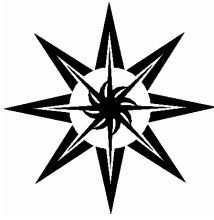
Stacey A. Hammond
Director

SAH:tls
Enclosures

Confirmed on behalf of the City of Prairie Village, Kansas:

Signature

Date



PUBLIC WORKS DEPARTMENT

Council Committee Date: October 17, 2016
Council Meeting Date: October 17, 2016

CONSIDER PURCHASE AND INSTALLATION OF A REPLACEMENT GENERATOR FOR THE POLICE DEPARTMENT BUILDING FROM MARK ONE ELECTRIC, INC

RECOMMENDATION

Staff recommends the City Council approve the purchase and installation of a replacement generator for the Police Department Building from Mark One Electric, Inc. for \$54,724.23.

BACKGROUND

The existing generator at the Police Building is nearing the end of its useful life of 20 years and is in need of replacement. This generator provides the Police Department building with backup power when the main power supply from KCPL shuts off. Backup power to Police Department building is essential and therefore we are recommending replacement with a new generator to ensure quality backup power. The new generator will function essentially the same as the existing one does. We are adding a new feature which will allow for the easy connection to a portable backup generator should the need arise.

Three bids were received for this purchase-

MarkOne Electric, Inc	\$54,724.23
Capital Electric	\$63,068.00
RF Fisher	\$98,135.00

FUNDING SOURCE

This item is included in the Equipment Reserve Fund and adequate funds are available for purchase.

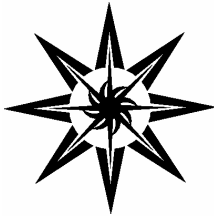
ATTACHMENTS

None

PREPARED BY

Keith Bredehoeft, Public Works Director

October 13, 2016



PUBLIC WORKS DEPARTMENT

Council Committee Meeting Date: October 17, 2016
Council Meeting Date: November 7, 2016

CONSIDER DESIGN AGREEMENT WITH AFFINIS CORP FOR THE DESIGN OF THE 2017 PAVING PROGRAM.

RECOMMENDATION

Move to approve the design agreement with Affinis Corp for the design of the 2017 Paving Program in the amount of \$86,006.00.

BACKGROUND

This agreement is for the design of the 2017 Paving Program and contains a tentative list of streets for the 2017 Paving Program. This list will be evaluated in the coming months for prioritization based on street condition. Construction is anticipated to begin in Summer 2017.

FUNDING SOURCE

CIP Funding is available for design in the capital project:

RELATED TO VILLAGE VISION

- TR1c. Ensure that infrastructure improvements meet the needs of all transportation users.*
- CFS3a. Ensure streets and sidewalks are in good condition by conducting maintenance and repairs as needed.*

ATTACHMENTS

1. Design Agreement with Affinis Corp

PREPARED BY

Melissa Prenger, Senior Project Manager

October 13, 2016

AGREEMENT FOR PROFESSIONAL ENGINEER

For

DESIGN SERVICES

Of

PROJECT PAVP2017- 2017 PAVING PROGRAM

THIS AGREEMENT, made at the Prairie Village, Kansas, this ____ day of _____, by and between the City of Prairie Village, Kansas, a municipal corporation with offices at 7700 Mission Road, Prairie Village, Kansas, 66208, hereinafter called the “**City**”, and Affinis Corp, a corporation with offices at 8900 Indian Creek Parkway, Suite 450, Overland Park, KS, 66210 hereinafter called the “**Consultant**”.

WITNESSED, THAT WHEREAS, the City has determined a need to retain a professional engineering firm to provide civil engineering services for the Design of the 2017 Paving Program, hereinafter called the “**Project**”,

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

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

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

Article I City Responsibilities

- A. **Project Definition** The City is preparing to design and construct roadway improvements throughout the city as part of Paving Program.
- B. **City Representative** The City has designated, Melissa Prenger, Public Works Senior Project Manager, to act as the City’s representative with respect to the services to be performed or furnished by the Consultant under this Agreement. Such person shall have authority to transmit instructions, receive information, interpret and define the City’s policies and decisions with respect to the Consultant’s services for the Project.
- C. **Existing Data and Records** The City shall make available to the Consultant all existing data and records relevant to the Project such as, maps, plans, correspondence files and other information possessed by the City that is relevant to the Project. Consultant shall not be responsible for verifying or ensuring the accuracy of any information or content supplied by City or any other Project participant unless specifically defined by the scope of work, nor ensuring that such information or content does not violate or infringe any law or other third party rights. However, Consultant shall promptly advise the City, in writing, of any inaccuracies in the information provided or any other violation or infringement of any law or third party rights that Consultant observes. City shall

indemnify Consultant for any infringement claims resulting from Consultant's use of such content, materials or documents.

- D. **Review For Approval** The City shall review all criteria, design elements and documents as to the City requirements for the Project, including objectives, constraints, performance requirements and budget limitations.
- E. **Standard Details** The City shall provide copies of all existing standard details and documentation for use by the Consultant for the project.
- F. **Submittal Review** The City shall diligently review all submittals presented by the Consultant in a timely manner.
- G. The City has funded the 2017 Paving Project which may include the following streets:
 - 1. Fontana Street, 91st Street to 92nd Terrace - mill & overlay with concrete repair
 - 2. 87th Street, Mission Road to Delmar Road - mill & overlay with new sidewalk
 - 3. Cedar Drive, Somerset Drive to 90th Street - mill & overlay with concrete repair
 - 4. Booth Street, 77th Street to Somerset Drive - mill & overlay with concrete repair
 - 5. 73rd Street, Booth Street to Springfield Street - mill & overlay with concrete repair
 - 6. 73rd Street - Springfield Street to Belinder Avenue -mill & overlay with concrete repair
 - 7. 65th Place, 65th Terrace to Nall Avenue - mill & overlay with new sidewalk
 - 8. 65th Terrace - 65th Place to Nall Avenue - mill & overlay with new sidewalk
 - 9. Tomahawk Road, 81st Street to 83rd Street- mill & overlay with concrete repair
 - 10. 72nd Terrace, 73rd Street to Cherokee Drive - mill & overlay
 - 11. 75th Street cul-de-sac, 75th Street to 75th Street cul-de-sac - mill & overlay with concrete repair
 - 12. 83rd Terrace, Juniper Lane to Nall Avenue - mill & overlay with concrete repair
 - 13. Linden Drive cul-de-sac, Linden Drive cul-de-sac to Linden Drive - mill & overlay with concrete repair
 - 14. El Monte Street, 67th Street to Oxford Road - mill & overlay with concrete repair
 - 15. 76th Street, Colonial Drive to Lamar Avenue - mill & overlay with concrete repair
 - 16. Rosewood Drive, 79th Street to Roe Avenue - mill & overlay with concrete repair
 - 17. City Hall Parking Lot - mill & overlay with concrete repair
 - 18. Oxford Road, Tomahawk Road to 69th Street - mill & overlay

Article II Consultant Responsibilities

- A. **Professional Engineering Services** The Consultant shall either perform for or furnish to the City professional engineering services and related services in all phases of the Project to which this Agreement applies as hereinafter provided.
- B. **Prime Consultant** The Consultant shall serve as the prime professional Consultant for the City on this Project.
- C. **Standard Care** The standard of care for all professional consulting services and related services either performed for or furnished by the Consultant under this Agreement will be the care and skill ordinarily used by members of the Consultant's profession, practicing under similar conditions at the same time and in the same locality.
- D. **Consultant Representative** Designate a person to act as the Consultant's representative with respect to the services to be performed or furnished by the Consultant under this Agreement. Such person shall have authority to transmit instructions, receive information, and make decisions with respect to the Consultant's services for the Project.

Article III Scope of Services

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

1. Schedule and attend one startup meeting with City to confirm project goals, schedule, budget and expectations. Review the list of work locations with applicable priorities as provided by the City. Review any criteria changes in the program.
2. Review with City staff, the list of issues based on service requests, work orders, permits issued, Public Works staff experiences, available plans, previous studies, and pertinent information regarding the Project.
3. Schedule and attend up to three (3) utility coordination meetings. Request utility comments, coordinate planned relocations among agencies and verify relocation/adjustment schedule.
4. Conduct field reconnaissance with City to evaluate and identify:
 - a. Design issues.
 - b. Identify existing drainage components in project area (location, size, material, capacity, storm design adequacy and condition).
 - c. Need for drainage improvements.
 - d. Need for full depth pavement repairs.
 - e. Need for sidewalk replacement.
 - f. Location for new sidewalk.
 - g. Need for curb and gutter replacement.
 - h. Need for and limits of driveway replacement.
 - i. Need for which type of ADA ramps.
 - j. Utility locations and conflicts.
 - k. Tree conflicts.
5. Perform topographic and field survey of identified project locations. Areas requiring topographic survey are:

Locations where new sidewalk is to be designed and constructed. Topographic survey shall be on one side of street only, from back of curb to behind right of way line and shall include curb returns at intersections:

 - (a) 65th Place, 65th Terrace to Nall Avenue
 - (b) 65th Terrace, 65th Place to Nall Avenue
 - (c) 87th Street, Mission Road to Delmar Road
6. Gather aerial and topographic data from Johnson County AIMS mapping for all project locations.
7. Record location of existing traffic markings and review for compliance with MUTCD and City standards.
8. Identify location of bench marks and section markers.
9. Prepare preliminary construction plans (60%).
 - a. Project title sheet.
 - b. General site plan showing and identifying surface features such as street right-of-way, edge of pavement, sidewalks, driveways, boring locations, trees, house outline, address, owner name based on latest AIMS coverage data, irrigation systems, known electronic dog fences and any other pertinent surface feature.

- c. Plan sheets for street improvements showing all utilities, sanitary sewer, water, gas, electric, telephone, traffic signals, and street lights, as well as all conflicts and test pits. Profiles will be provided for streets when a topographic survey is performed.
 - d. Typical sections.
 - e. Cross sections for streets with a detailed topographic survey.
 - f. City details drawings and other special details pertinent to the project.
 - g. Traffic control plan showing temporary and permanent traffic control measures per MUTCD for various phases of construction.
10. Submit one set (one full size and one half size) of preliminary (60% completion) construction plans for City review.
 11. Present one set (half size) of preliminary plans to appropriate governmental agencies and utility companies requesting comments and verification of potential conflicts.
 12. Perform field check with City.
 13. Schedule, prepare for and attend two (2) public meetings for the project. The City will be responsible for sending notifications to the residents and property owners.
 14. Present a detailed opinion of probable construction cost of City defined construction pay items with quantities and current unit costs. Add to the total construction cost, a contingency of 15 percent.
 15. Attend and prepare minutes for up to four (4) project meetings and disperse the minutes to City representative and all other attendees within five working days.
 16. Prepare final documents base of review and comments from City and other review agencies of the preliminary plans.
 17. Prepare final project manual for City review.
 18. Submit one half size set of final (95%) plans and specifications for City review.
 19. Submit one half-size set of final (95%) plans and specifications to other appropriate governmental agencies and utility companies with identification of significant changes to preliminary design plans.
 20. Prepare a final opinion of probable construction cost.
 21. Prepare bid documents for the project using the City's standard documents for the Paving Program. Items listed in the Bidding Services and Construction Services Phases shall be performed for each bid package.
 22. Provide one hard copy and electronic copy of any report or plans. Provide files of the plans in PDF Format.

B. Bidding Services Phase

Bidding services will be provided for each program separately and include the following.

1. Provide the City a notice of bid for publication.
2. Post advertisement for bid on electronic plan room (Drexel Technologies) and provide bid documents for reproduction.
3. Via electronic plan room provide all bid documents for potential bidders to purchase.
4. Provide all utilities with bid set of plans and request attendance at pre-bid meeting.

5. Conduct a pre-bid meeting. Prepare minutes of pre-bid meeting and disperse to City representative and all other attendees within five working days.
6. Prepare and distribute addenda prior to bid opening. Assist bidders with questions during bidding.
7. Provide to the City an Engineer's Estimate and bid tab sheet prior to the bid opening.
8. Attend bid opening.
9. Check accuracy of bids, evaluate the bidders and make a recommendation of award to the City.
10. Prepare five sets construction documents including bonds for execution by the contractor and the City.
11. Provide one hard copy and electronic copy of any report or drawings. Provide files of the plans or drawings in PDF Format.

C. Construction Services Phase

Construction services will be provided for each program separately and include the following.

1. Prepare for attend preconstruction meeting with City and Contractor. Prepare and distribute meeting notes.
2. Provide periodic consultation by telephone or email to assist with construction issues.
 - a. Consultation will be initiated by Client and/or Construction Representative.
 - b. Consultant shall provide documentation on invoice that provides a brief description of the issue and/or activity.
 - c. Any consultation resulting from a design error by the Consultant shall be excluded from this scope of work and shall be provided at the expense of the Consultant.
3. Review shop drawings and submittals.
4. Prepare plan revisions as necessitated by conditions encountered in the field during construction, with the exception of traffic control plans.
5. Prepare final record drawings which reflect:
 - a. Minor design changes.
 - b. Changes made in the field by City representatives and are marked on the construction plan set.
6. Submit to the City electronic CAD files and TIFF images of the revised sheets.
7. Attend construction progress meetings as directed/requested by the Client. Four (4) meetings are budgeted.

Article IV Time Schedule

- A. Timely Progress** The Consultant's services under this Agreement have been agreed to in anticipation of timely, orderly and continuous progress of the Project.
- B. Authorization to Proceed** If the City fails to give prompt written authorization to proceed with any phase of services after completion of the immediately preceding phase, the Consultant shall be entitled to equitable adjustment of rates and amounts of compensations to reflect reasonable costs incurred by the Consultant as a result of the delay or changes in the various elements that comprise such rates of compensation.

- C. **Default Neither** City nor Consultant shall be considered in default of this Agreement for delays in performance caused by circumstances beyond the reasonable control of the nonperforming party. For purposes of this Agreement, such circumstances include, but are not limited to, abnormal weather conditions; floods; earthquakes; fire; epidemics; war, riots, and other civil disturbances; strikes, lockouts, work slowdowns, and other labor disturbances; sabotage; judicial restraint; and delay in or inability to procure permits, licenses, or authorizations from any local, state, or federal agency for any of the supplies, materials, accesses, or services required to be provided by either City or Consultant under this Agreement. Should such circumstances occur, the consultant shall within a reasonable time of being prevented from performing, give written notice to the City describing the circumstances preventing continued performance and the efforts being made to resume performance of this Agreement.
- D. **Completion Schedule** Recognizing that time is of the essence, the Consultant proposes to complete the scope of services as specified in the Scope of Services:

Design Phase	Due by January 20, 2017
Bid Advertisement Date	February 14, 2017
Letting Date	March 10, 2017

Article V Compensation

- A. **Maximum Compensation** The City agrees to pay the Consultant as maximum compensation as defined in Exhibit B for the scope of services the following fees:

2017 Paving Project	
Design Phase	\$ <u>76,885.00</u>
Bidding Services Phase	\$ <u>5,305.00</u>
Construction Services Phase	\$ <u>3,816.00</u>
Total Fee for Paving Project	\$ <u>86,006.00</u>

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

Article VI General Provisions

- A. Opinion of Probable Cost and Schedule:** Since the Consultant has no control over the cost of labor, materials or equipment furnished by Contractors, or over competitive bidding or market conditions, the opinion of probable Project cost, construction cost or project schedules are based on the experience and best judgment of the Consultant, but the Consultant cannot and does not guarantee the costs or that actual schedules will not vary from the Consultant's projected schedules.
- B. Quantity Errors:** Negligent quantity miscalculations or omissions because of the Consultant's error shall be brought immediately to the City's attention. The Consultant shall not charge the City for the time and effort of checking and correcting the errors to the City's satisfaction.
- C. Reuse of Consultant Documents:** All documents including the plans and specifications provided or furnished by the Consultant pursuant to this Agreement are instruments of service in respect of the Project. The Consultant shall retain an ownership and property interest upon payment therefore whether or not the Project is completed. The City may make and retain copies for the use by the City and others; however, such documents are not intended or suitable for reuse by the City or others as an extension of the Project or on any other Project. Any such reuse without written approval or adaptation by the Consultant for the specific purpose intended will be at the City's sole risk and without liability to the Consultant. The City shall indemnify and hold harmless the Consultant from all claims, damages, losses and expenses including attorney's fees arising out of or resulting reuse of the documents.
- D. Reuse of City Documents** In a similar manner, the Consultant is prohibited from reuse or disclosing any information contained in any documents, plans or specifications relative to the Project without the expressed written permission of the City.
- E. Insurance** The Consultant shall procure and maintain, at its expense, the following insurance coverage:
1. Workers' Compensation -- Statutory Limits, with Employer's Liability limits of \$100,000 each employee, \$500,000 policy limit;
 2. 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;
 3. 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;
 4. Errors and omissions coverage of not less than \$1,000,000. Deductibles for any of the above coverage shall not exceed \$25,000 unless approved in writing by City.
 5. In addition, Consultant agrees to require all consultants and sub-consultants to obtain and provide insurance in identical type and amounts of coverage together and to require satisfaction of all other insurance requirements provided in this Agreement.
- F. Insurance Carrier Rating** Consultant's insurance shall be from an insurance carrier with an A.M. Best rating of A-IX or better, shall be on the GL 1986 ISO Occurrence form or such other form as may be approved by City, and shall name, by endorsement to be attached to the certificate of insurance, City, and its divisions, departments, officials, officers and employees, and other parties as specified by City as additional insureds as their interest may appear, except that the additional insured requirement shall not apply to Errors and Omissions coverage. Such endorsement shall be ISO CG2010 11/85 or equivalent. "Claims Made" and "Modified Occurrence" forms are not acceptable, except for Errors and Omissions coverage. Each certificate of insurance shall state that such insurance will not be canceled until after thirty (30) days' unqualified written notice of cancellation or reduction has been given to the City, except in the event of nonpayment of premium, in which case there shall be ten (10) days' unqualified written notice. Subrogation against City and City's Agent shall be waived. Consultant's insurance policies shall be endorsed to indicate that

Consultant's insurance coverage is primary and any insurance maintained by City or City's Agent is non-contributing as respects the work of Consultant.

- G. Insurance Certificates** Before Consultant performs any portion of the Work, it shall provide City with certificates and endorsements evidencing the insurance required by this Article. Consultant agrees to maintain the insurance required by this Article of a minimum of three (3) years following completion of the Project and, during such entire three (3) year period, to continue to name City, City's agent, and other specified interests as additional insureds thereunder.
- H. Waiver of Subrogation** Coverage shall contain a waiver of subrogation in favor of the City, and its subdivisions, departments, officials, officers and employees.
- I. Consultant Negligent Act** If due to the Consultant's negligent act, error or omission, any required item or component of the project is omitted from the Construction documents produced by the Consultant, the Consultant's liability shall be limited to the difference between the cost of adding the item at the time of discovery of the omission and the cost had the item or component been included in the construction documents. The Consultant will be responsible for any retrofit expense, waste, any intervening increase in the cost of the component, and a presumed premium of 10% of the cost of the component furnished through a change order from a contractor to the extent caused by the negligence or breach of contract of the Consultant or its subconsultants.
- J. Termination** This Agreement may be terminated by either party upon seven days written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party; provided, however, the nonperforming party shall have 14 calendar days from the receipt of the termination notice to cure the failure in a manner acceptable to the other party. In any such case, the Consultant shall be paid the reasonable value of the services rendered up to the time of termination on the basis of the payment provisions of this Agreement. Copies of all completed or partially completed designs, plans and specifications prepared under this Agreement shall be delivered to the City when and if this Agreement is terminated, but it is mutually agreed by the parties that the City will use them solely in connection with this Project, except with the written consent of the Consultant (subject to the above provision regarding Reuse of Documents).
- K. Controlling Law** This Agreement is to be governed by the laws of the State of Kansas.
- L. Indemnity** To the fullest extent permitted by law, with respect to the performance of its obligations in this Agreement or implied by law, and whether performed by Consultant or any sub-consultants hired by Consultant, the Consultant agrees to indemnify City, and its agents, servants, and employees against all claims, damages, and losses, including reasonable attorneys' fees and defense costs, caused by the negligent acts, errors, or omissions of the Consultant or its sub-consultants, to the extent and in proportion to the comparative degree of fault of the Consultant and its sub-consultants.
- M. Severability** Any provision or part of the Agreement held to be void or unenforceable under any law or regulation shall be deemed stricken and all remaining provisions shall continue to be valid and binding upon the City and the Consultant, who agree that the Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision. The provisions of this Article shall not prevent this entire Agreement from being void should a provision which is of the essence of this Agreement be determined void.
- N. Notices** Any notice required under this Agreement will be in writing, addressed to the appropriate party at the address which appears on the signature page to this Agreement (as modified in writing from item to time by such party) and given personally, by registered or certified mail, return receipt requested, by facsimile or by a nationally recognized overnight courier service. All notices shall be effective upon the date of receipt.

- O. Successors and Assigns** The City and the Consultant each is hereby bound and the partners, successors, executors, administrators, legal representatives and assigns of the City and the Consultant are hereby bound to the other party to this Agreement and to the partners, successors, executors, administrators, legal representatives and assigns of such other party in respect of all covenants and obligations of this Agreement.
- P. Written Consent to Assign** Neither the City nor the Consultant may assign, sublet, or transfer any rights under the Agreement without the written consent of the other, which consent shall not be unreasonably withheld; provided, Consultant may assign its rights to payment without Owner's consent, and except to the extent that any assignment, subletting or transfer is mandated by law or the effect of this limitation may be restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Agreement.
- Q. Duty Owed by the Consultant** Nothing in this Agreement shall be construed to create, impose or give rise to any duty owed by the Consultant to any Contractor, subcontractor, supplier, other person or entity or to any surety for or employee of any of them, or give any rights or benefits under this Agreement to anyone other than the City and the Consultant.

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

City:

City of Prairie Village, Kansas

By:

Laura Wassmer, Mayor

Address for giving notices:

City of Prairie Village
Department of Public Works
3535 Somerset Drive
Prairie Village, Kansas 66208

Telephone: 913-385-4640
Email: publicworks@pvkansas.com

ATTEST:

Joyce Hagen Mundy, City Clerk

Consultant:

Affinis Corp

By

Clifton M. Speegle, PE

Address for giving notices:

Affinis Corp
8900 Indian Creek Parkway, Suite 450
Overland Park, KS 66210

Telephone: 913-239-1110
Email: cspeegle@affinis.us

APPROVED AS TO FORM BY:

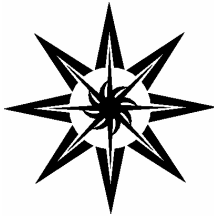
Catherine P. Logan, City Attorney



EXHIBIT B
PROJECT ESTIMATING SHEET
 PV Project Number: PAVP2017
 2017 Street Paving Program
 Prairie Village, Kansas

Revised Date: 10/10/2016
 Made By: KEL/CMS/ALR

Tasks	PRINCIPAL	SR. PROJECT	PROJECT	ENGINEER	ENGINEER	INTERN	DESIGN	CAD	CAD	PROJ.	LAND	LAND	SURVEY CREW	SURVEY CREW	LABOR	OTHER DIRECT COSTS		TOTAL
		MANAGER	MANAGER	II	I	ENGINEER (IE)	TECH I	TECH II	TECH I	SUPPORT	SURVEYOR II	SURVEYOR I	MEMBER II	MEMBER I	COSTS	ITEM	COST	FEE
DESIGN PHASE	\$220.00	\$215.00	\$175.00	\$145.00	\$120.00	\$100.00	\$95.00	\$85.00	\$80.00	\$75.00	\$160.00	\$100.00	\$90.00	\$70.00				
1 Startup meeting		1		1											\$360			\$360
2 Review existing information				2		2									\$490			\$490
3 Utility coordination		2		14		8	8								\$4,020			\$4,020
4 Field Reconnaissance				8			8	4							\$2,260			\$2,260
5 Field survey (topo)											4	18	48	48	\$10,120			\$10,120
6 AIMS mapping				1			2								\$335			\$335
7 Existing pavement markings				1		2		8							\$1,025			\$1,025
8 Preliminary plans (60%)	2														\$440			\$440
a. Cover Sheet								2							\$170			\$170
b. Site plans				2				2							\$460			\$460
c. Plan/profile sheets		4		24		30	56	55							\$17,335			\$17,335
d. Typical sections								2							\$170			\$170
e. Cross sections						10	55	16							\$7,585			\$7,585
f. Details				4		4	4	12							\$2,380			\$2,380
g. Traffic control & pavement marking plan				2		4		8							\$1,370			\$1,370
9 Preliminary plan (60%) submittal to City							4								\$380			\$380
10 Preliminary plan (60%) submittal to Utilities				2			4			2					\$820			\$820
11 Field Check (All w/City)				20			20								\$4,800			\$4,800
12 Public Meeting (2)		3		8		4									\$2,205			\$2,205
13 OPCC (+15%)		2		8			8								\$2,350			\$2,350
14 Project Meetings (Monthly) & documentation (assume 1)		2		2			2								\$910			\$910
15 Final design documents		2		8		4	8	24							\$4,790			\$4,790
16 Project manual		2		4		4				2					\$1,560			\$1,560
17 Final plan (95%) submittal to City							4								\$380			\$380
18 Final plan (95%) submittal to Utilities							4			2					\$530			\$530
19 OPCC		2		16		2	16	4							\$4,810			\$4,810
20 Prepare bid documents (all)	2	2		8		8	8			8					\$4,190			\$4,190
21 Deliverables (Hard copy & PDF)							2								\$190			\$190
																Mileage	\$200.00	\$200
																Repro./Delivery	\$250.00	\$250
DESIGN PHASE - SUBTOTAL HOURS	4	22	0	135	0	82	213	137	0	14	4	18	48	48				
DESIGN PHASE - SUBTOTAL FEE	\$880	\$4,730	\$0	\$19,575	\$0	\$8,200	\$20,235	\$11,645	\$0	\$1,050	\$640	\$1,800	\$4,320	\$3,360	\$76,435		\$450.00	\$76,885



PUBLIC WORKS DEPARTMENT

Council Committee Meeting Date: October 17, 2016

Discussion of 75th Street and Rosewood Fence and Retaining Wall

DISCUSSION

Discussion of 75th and Rosewood Fence and Retaining wall.

BACKGROUND

In the Fall of 2015 and again in the late Spring of 2016 the resident at 75th and Rosewood presented to Council their concerns relating to the retaining wall and fence adjacent to their property. The report they submitted to Council is attached. In the spring of 2016 and accident occurred at the fence and retaining wall which prompted the second visit by the resident. See attached picture of the accident.

Attached are past emails written by Public Works that summarizes the situation. At the Council meeting on June 6, 2016, Public Works agreed to double check the design criteria, as referenced in the attached emails, for these types of situations. With the assistance of Affinis, our design engineer, we reviewed the criteria and confirmed that the design criteria referenced the emails is the proper design criteria for these types of situations for low speed urban roadways. The picture of the railing from the recently completed project on 75th street is how we would handle this situation if it was reconstructed today.

Public Works recommends proceeding as described in the email which would leave the condition as is until the next rehabilitation project in the future, probably 7 to 10 years from now.

FUNDING SOURCE

n/a

ATTACHMENTS

Report from Resident
Photo of traffic accident
Emails from Public Works
Photos of recently installed 75th Street Retaining Wall and Railing

PREPARED BY

Keith Bredehoeft, Public Works Director

October 13, 2015

Proposal submitted by resident - Katie Danner

Street Safety Proposal along 75th Street Corridor (North side of 75th Street in between Rosewood Circle and Ash Street)

The owners of 7426 Rosewood Circle are making the city aware of an unsafe situation regarding an 11ft drop-off from the street to the creek and lots below. As of now the only protection from the 75th street traffic above these two lots is a 4ft chain-link fence. Considering the high volume of traffic and recent incidents involving accidental vehicle runoff along the 75th street corridor, we are proposing the city immediately look into the installation of a concrete/fence barrier similar to the examples shown which are found throughout Prairie Village.

Ashbury Methodist Church East Lot



7426 Rosewood Circle



PROPOSAL

The proposed street guard will add needed safety while staying consistent with Prairie Village aesthetics by replacing a chain link pedestrian fence with a 2'-6" stone stamped concrete barrier with a 1'-6" pedestrian railing above. The railing will enable site-lines to remain within city code guidelines.



Existing



Proposal

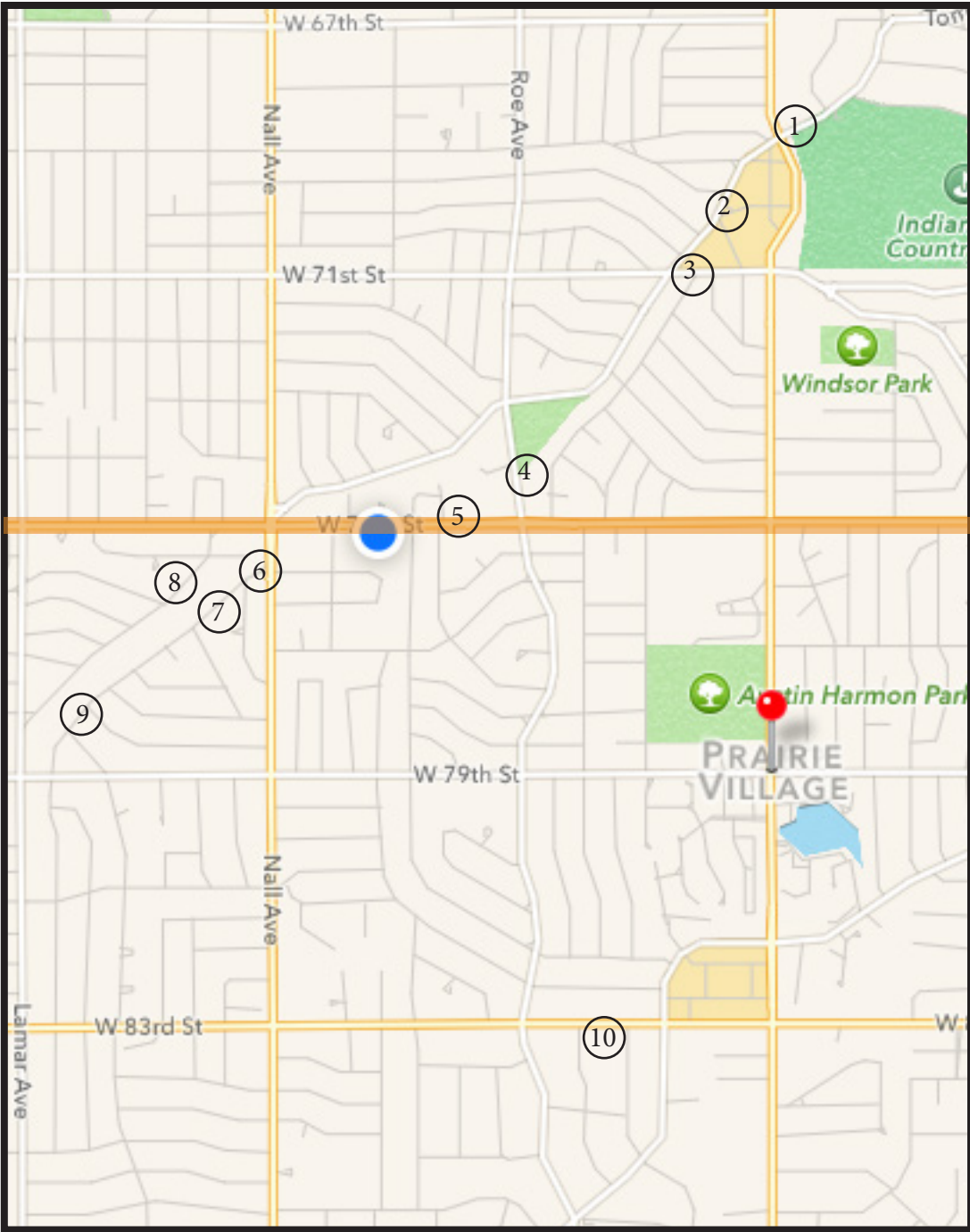




Proposal

Proposal submitted by resident - Katie Danner

MAP

Nearby examples of street guard rails.



-  75th Street
-  7426 Rosewood Circle
-  Examples

Proposal submitted by resident - Katie Danner

1: Mission and Tomahawk



2: Village Shops



3: 71st and Tomahawk



4: Porter Park



5: Briar and 75th



Proposal submitted by resident - Katie Danner

6: Nall and Tomahawk



7: Tomahawk and Reeds



8: Colonial and 76th

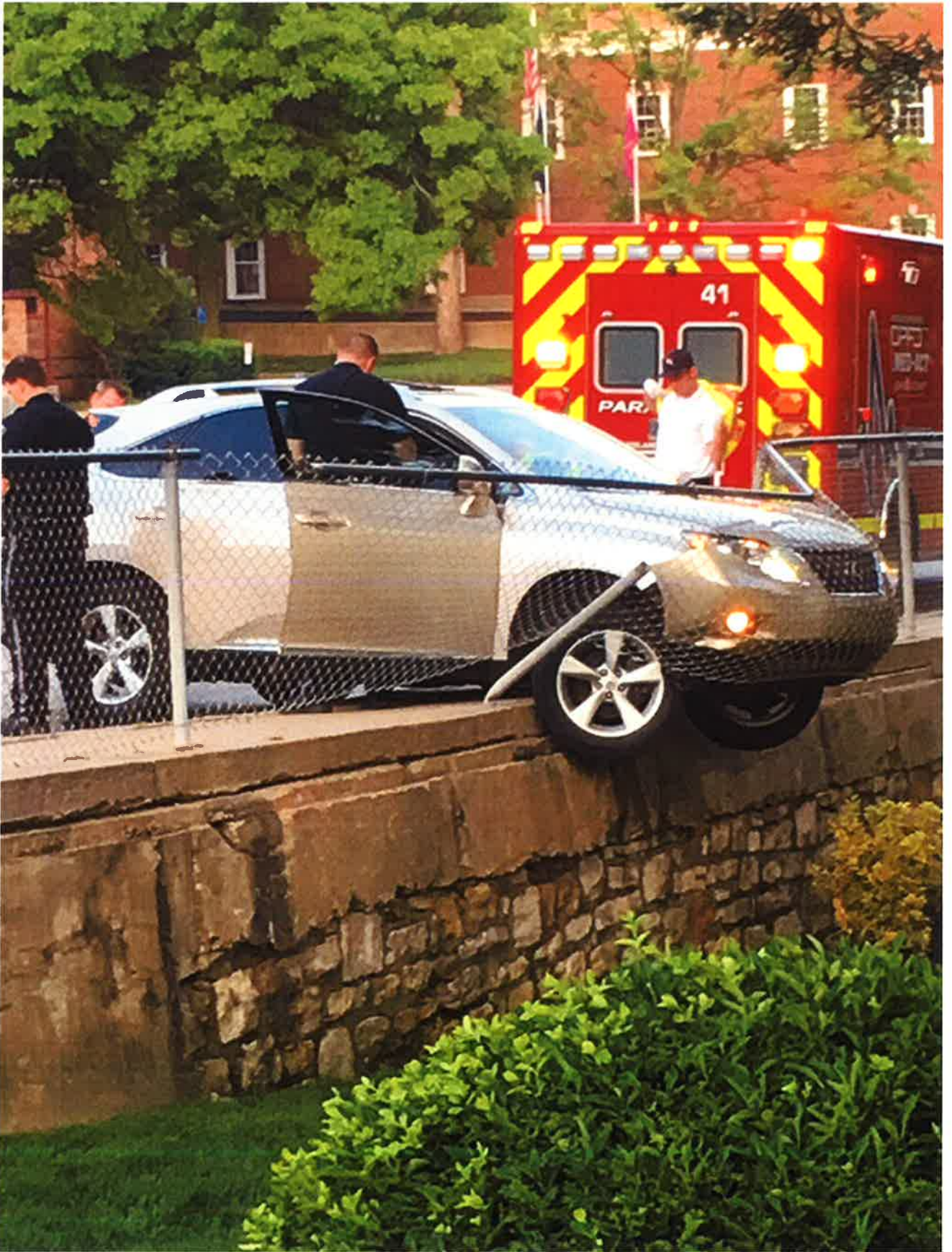


9: Tomahawk and Dearborn



10: 83rd and Fontana





From: Keith Bredehoeft
Sent: Friday, June 03, 2016 10:58 AM
To: Council Members
Cc: Wes Jordan; Tim Schwartzkopf; Melissa Prenger
Subject: FW: 75th Street Safety Proposal

Council,

We have become aware that the resident's located at the northwest corner of 75th Street and Rosewood Circle will probably come to council next Monday. The same residents came to council last fall related to the same issue. I attached the residents proposal that was presented to all council members last fall. We had discussions with them and the below email was how those communications wrapped up. There was an accident this week, see attached picture, that has brought this up for additional discussion.

My email below summarizes Public Works view of the situation. While no decisions will be made Monday, Public Works will look to Council for direction on how to proceed.

Thanks and have a great weekend.
Keith

From: Keith Bredehoeft
Sent: Friday, January 08, 2016 4:23 PM
To: 'ktdanner@gmail.com'
Cc: 'spreardon08@gmail.com'; 'Ruth Hopkins (pvhobby@aol.com)'; Quinn Bennion; 'scott.jones@ubs.com'; Melissa Prenger
Subject: FW: 75th Street Safety Proposal

Hello Katie,

I know you have recently talked with Melissa Prenger, our Project Manager, about your safety proposal and I wanted to follow up to your email below related to this issue.

First, I appreciate your concerns related to this issue. I am not sure, at this time, when the City will make any changes but I do want to address a couple of things.

- I understand, as you mention below, that your main concern is keeping 75th Street traffic on 75th if an accident occurs. I understand this desire but we do not protect any of the properties on 75th from errant vehicles. There are many, if not most, of the residential properties along 75th that are close to vehicular traffic and all could make the claim that they want to be protected from traffic on 75th. This is a 35 MPH street and the design standards for this type of roadway do not require installing barriers along the roadway. I do understand there are times that vehicles do travel at high rates of speed and can cause accidents but we can't design for all the possibilities.

- The treatment we would install if these walls were to be re-built today would be like walls we recently installed on 75th toward State Line Road. See the attached pictures. These walls were constructed

with the railing shown in the pictures. While these do provide some protection they are not considered crash barriers. These railings also allow for good visibility from the connecting streets as cars turn onto 75th Street.

I would anticipate addressing the new railings and new walls when the next major rehabilitation, probably 7 or so years from now, is completed. We will be doing a surface maintenance treatment 75th next year but that is not the full rehabilitation.

Thanks and once again I do appreciate and understand your concerns. Let me know if you have any questions.

Keith Bredehoeft
Prairie Village Public Works
913-385-4642







Council Committee Date: October 17, 2016
Council Meeting Date: October 17, 2016

Consider adoption Ordinance No. 2354 relating to Uses of the Public Right-of-Way

At the October 3, 2016 meeting, Ordinance No. 2353 was adopted amending certain provisions of the City code governing use of the Public Right-of-Way required as a result of the enactment of Senate Substitute for House Bill 2131, which contains what is now known as the Kansas New Wireless Deployment Act (the "Act").

The attached Ordinance No. 2354 supersedes Ordinance No. 2353 and makes a correction and additions to Ordinance No. 2353 as follows:

Correction: The version of Section 13-510(F)(b) which was in the packet at the October 3 meeting was not the final version being recommended by staff. The change is to define "front yard" consistently with the zoning and subdivision regulations.

Additions:

- The addition of definitions for "Application" and "Existing facility" (both from Act) for clarity.
- The definition of "newly constructed facility" as incorporated into 13-510(F), prohibits "newly constructed facilities" in front yards. At the October 3 meeting staff recommended a carve out from this prohibition for antennas on existing or replacement street lights. Since such antennas in some cases also require above ground utility boxes at the base of the poles, staff recommend addition to the exception in (ii) of the "newly constructed facility" definition the following "and any attached utility box which is permitted without a conditional use permit under Sections 19.02.499 and 19.30.055 of the City's Zoning Regulations."

The applicable sections of the Zoning Regulations are attached. Summarized, utility boxes which would be included in the exception (and therefore allowed) have (a) a footprint of 12 square feet or less in area and (i) a pad 2.5 times the area of the utility box footprint or less, or (ii) 32 square feet or less, or (b) have a height of 56 inches or less.

- A new section 12-516(D), which provides how an amended application is to be processed.

Comparison of other Jurisdictions: I reviewed the Prairie Village Right-Of-Way code changes with those of Overland Park, Leawood and Shawnee. A comparison chart is attached. Olathe and Lenexa have not yet amended their right-of-way provisions. I did not have an opportunity to review changes in other cities in Johnson County for inclusion in the comparison chart. Based upon the completed review, I believe that the Prairie

Village provisions are as restrictive as the other cities reviewed, and in the case of the prohibition in front yards, are more restrictive than those cities.

ATTACHMENTS

Ordinance 2354

Marked Version of Ordinance No. 2354 compared to Ordinance No. 2353

Comparison Chart

Sections 19.02.499 and 19.30.055 of the City's Zoning Regulations

PREPARED BY

Catherine P. Logan

City Attorney

October 13, 2016

ORDINANCE NO. 2354

AN ORDINANCE RELATING TO MANAGING THE USE AND OCCUPANCY OF PUBLIC RIGHT-OF-WAY FOR THE CITY OF PRAIRIE VILLAGE, KANSAS; AMENDING AND REPEALING EXISTING PRAIRIE VILLAGE MUNICIPAL CODE SECTIONS 13-503, 13-510, 13-511, 13-512, 13-514, 13-516, 13-518, 13-525, AND 13-528, AND PROVIDING SUBSTITUTE PROVISIONS THEREFOR.

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

SECTION 1. Prairie Village Municipal Code Section 13-503 is hereby amended to read:

- 13-503. DEFINITIONS.** For purposes of this article, the following words and phrases shall have the meaning given herein:
- A. Abandoned Facilities means those facilities owned by the ROW-user that are not in use and will not be utilized by the owner in the future.
 - B. Affiliate means any person controlling, controlled by or under the common control of a service provider.
 - C. Applicant means any person requesting permission to occupy, lease or operate facilities using the right-of-way, or to excavate the right-of-way.
 - D. Application means a request submitted by an applicant to an authority for:
(1) The construction of a new wireless support structure or new wireless facility; (2) the substantial modification of a wireless support structure or wireless facility; or (3) collocation of a wireless facility or replacement of a wireless facility.
 - E. Area of Influence means that area around a street excavation where the pavement and sub-grade is impacted by the excavation and is subject to more rapid deterioration.
 - F. City means the City of Prairie Village, Kansas, a municipal corporation and any duly authorized representative.
 - G. City Engineer means the City Engineer, Prairie Village, Kansas, or the authorized representative.
 - H. Construct means and includes construct, install, erect, build, affix or otherwise place any fixed structure or object, in, on, under, through or above the right-of-way.
 - I. Day means calendar day unless otherwise specified.
 - J. Emergency means a condition that (1) poses a clear and immediate danger to life or health, or of a significant loss of property; or (2) requires immediate repair or replacement in order to restore service to a user.
 - K. Excavate means and includes any cutting, digging, excavating, tunneling, boring, grading or other alteration of the surface or subsurface material or earth in the right-of-way.
 - L. Excavation Fee means the fee charged by the City for each street or pavement cut which is intended to recover the costs associated with

construction and repair activities of the ROW-user and its contractors and/or subcontractors.

- M. Existing facility means a facility that exists at the time an application is filed.
- N. FCC means Federal Communications Commission.
- O. Facility means lines, pipes, irrigation systems, wires, cables, conduit facilities, ducts, poles, towers, vaults, pedestals, boxes, appliances, antennas, transmitters, gates, meters, appurtenances, wireless communication facilities (including but not limited to wireless support structures, small cell facilities, base stations, transmission equipment, distributed antenna systems, and primary equipment enclosures, all as may be defined or described in the Kansas New Wireless Deployment Act, as amended), or other equipment.
- P. Governing Body means the Mayor and the City Council of the City of Prairie Village, Kansas.
- Q. Governmental Entity means any county, township, city, town, village, school district, library district, road district, drainage or levee district, sewer district, water district, fire district or other municipal corporation, quasi-municipal corporation or political subdivision of the State of Kansas or of any other state of the United States and any agency or instrumentality of the State of Kansas or of any other state of the United States.
- R. KCC means the Kansas Corporation Commission.
- S. Newly Constructed Facilities means all facilities other than existing facilities except (i) replacement street lights which meet the City's design criteria, and (ii) antennas on existing or replacement street lights with conduit or cable placed within the pole, and any attached utility box which is permitted without a conditional use permit under Sections 19.02.499 and 19.30.055 of the City Zoning Regulations.
- T. Parkway means the area between a property line and the street curb. Sometimes called boulevard, tree-shelf or snow-shelf.
- U. Pavement means and includes Portland cement concrete pavement, asphalt concrete pavement, asphalt treated road surfaces and any aggregate base material.
- V. Permit and Inspection Fee means the fee charged by the City to recover its cost incurred for right-of-way management; including, but not limited to, costs associated with registering applicants; issuing, processing and verifying right-of-right permit applications; inspecting job sites and restoration of improvements; determining the adequacy of right-of-way restoration; revoking right-of-way permits and, other costs the City may incur in managing the provisions of this Article.
- W. Permittee means any person to whom a right-of-way permit is issued to excavate a right-of-way.
- X. Person means any natural or corporate person, business association or business entity including, but not limited to, a partnership, a sole proprietorship, a political subdivision, a public or private agency of any

kind, a utility, a successor or assign of any of the foregoing, or any other legal entity.

- Y. Public Improvement means any project undertaken by the city for the construction, reconstruction, maintenance, or repair of any public infrastructure, and including without limitation, streets, alleys, bridges, bikeways, parkways, sidewalks, sewers, drainage facilities, traffic control devices, street lights, public facilities, public buildings or public lands.
- Z. Public Lands means any real property of the city that is not right-of-way.
- AA. Public Works Director means the Director of the Public Works Department of the City of Prairie Village, Kansas, or the authorized representative.
- BB. Registration means the application process of a service provider, the approval of the application by the City, and the authorization of the service provider to use any portion of the right-of-way within the city to provide service both within and beyond the city limits.
- CC. Repair means the temporary construction work necessary to make the right-of-way useable.
- DD. Repair and Restoration Costs means those costs associated with repairing and restoring the public right-of-way because of damage caused by the ROW-user and its contractors and/or subcontractors in the right-of-way.
- EE. Restoration means the process by which an excavated right-of-way and surrounding area, including pavement and foundation, is returned to the same condition, or better, than existed before the commencement of the work.
- FF. Right-of-way means the area on, below, or above streets, alleys, bridges, and parkways in which the City has a dedicated or acquired right-of-way interest in the real property.
- GG. Right-of-Way Permit means the authorization to excavate for the construction, installation, repair or maintenance of any type of facility within the right-of-way.
- HH. Routine Service Operation means a work activity that makes no material change to the facilities and does not disrupt traffic.
- II. ROW-user means a person, its successors and assigns, that uses the right-of-way for purposes of work, excavation, provision of services, or to install, construct, maintain, repair facilities thereon, including, but not limited to, landowners and service providers. A ROW-user shall not include ordinary vehicular or pedestrian traffic or any governmental entity that has entered into an interlocal agreement pursuant to K.S.A. 12-2901 et seq. with the City regarding the use and occupancy of the City's right-of-way.
- JJ. Service means a commodity provided to a person by means of a delivery system that is comprised of facilities located or to be located in the right-of-way, including, but not limited to, gas, telephone, cable television, Internet services. Open video systems, wireless services, alarm systems, steam, electric, water, telegraph, data transmission, petroleum pipelines, or sanitary sewerage.

- KK. Service Provider means any person owning, possessing or having an interest in facilities in the right-of-way that are used for the provisions of a service for or without a fee; provided, that this definition shall also include persons owning, possessing or having an interest in facilities in the right-of-way that are used by, may be used by or are intended for use by another person, in whole or in part, to provide a service for or without a fee, regardless of whether the actual facility owner provides any service as defined herein.
- LL. Street means the pavement and sub-grade of a City residential, collector or arterial roadway.

SECTION 2. Prairie Village Municipal Code Section 13-510 is hereby amended to read:

13-510. USE OF THE RIGHT-OF-WAY.

- A. The ROW-user's use of the right-of-way shall in all matters be subordinate to the City's use or occupation of the right-of-way. Without limitation of its rights, the City expressly reserves the right to exercise its governmental powers now and hereafter vested in or granted to the City.
- B. The ROW-user shall coordinate the placement of facilities in a manner that does not interfere with a Public Improvement and does not compromise the public health, safety, or welfare, as reasonably determined by the City. Where placement is not regulated, the facilities shall be placed with adequate clearance from such public improvements so as not to impact or be impacted by such public improvement as defined in the City's "Manual of Infrastructure Standards" available in the office of the Public Works Director. Such Standards shall be competitively neutral and not unreasonable or discriminatory.
- C. The ROW-users shall consider any request made by the City concerning placement of facilities in private easements in order to limit or eliminate future street improvement relocation expenses.
- D. All facilities shall be located and laid so as not to disrupt or interfere with any pipes, drains, sewers, irrigation systems, or other structures or public improvements already installed. In addition, the ROW-user shall, in doing work in connection with its facilities, avoid, so far as may be practicable, disrupting or interfering with the lawful use of right-of-way or other public lands of the City.
- E. All facilities of the ROW-user shall be placed so that they do not interfere with the use of right-of-way and public lands. The City, through its Public Works Director, shall have the right to consult and review the location, design and nature of the facility prior to its being installed.
- F. All newly-constructed facilities shall be located underground. The ROW-user shall comply with all requirements of the City relating to underground facilities. This requirement may be waived by the Public Works Director at his or her discretion for safety concerns, or some other good cause under the condition that does not cause discrimination among ROW-users. If this requirement is waived, the facilities shall be located as directed by the Public Works Director, including, but not limited to,

requirements regarding location, height, breakaway design, and clear zones. Provided, however, the height of a facility will not exceed, or cause any existing facility to exceed, the lesser of:

- (a) thirty-five (35) feet for residential or collector streets or forty-five (45) feet for arterial streets; and
- (b) sixty-six (66) inches above the height of existing street light poles along the right-of-way surrounding the facility.

Above ground facilities shall comply with the Manual of Infrastructure Standards and all applicable zoning regulations, including but not limited to design, size, height, setbacks, screening and landscaping, and illumination, and be located in a manner that does not compromise the public health, safety, or welfare. No newly-constructed above ground facilities shall be located in any front yard, as determined by applicable zoning or subdivision regulations.

- G. The ROW-user shall not interfere with the facilities of the other ROW-users without their permission. If and when the City requires or negotiates to have a service provider cease using its existing poles and to relocate its facilities underground, all other service providers using the same poles shall also relocate their facilities underground at the same time, except transmission equipment, as defined in 47 CFR 1.40001. Provided, any such relocations shall be subject to the appeal process contained in Section 13-528, as amended.
- H. The Public Works Director may assign specific corridors within the right-of-way, or any particular segment thereof as may be necessary, for each type of facility that is currently or, pursuant to current technology, the Public Works Director expects will someday be located within the right-of-way. All right-of-way permits issued by Public Works Director shall indicate the proper corridor for the ROW-user's facilities. Any ROW-user whose facilities are currently in the right-of-way in a position at a variance with the designated corridors shall, no later than at the time of next reconstruction or excavation of the area where its facilities are located, move the facilities to its assigned position within the right-of-way, unless this requirement is waived by Public Works Director for good cause shown, upon consideration of such factors as the remaining economic life of the facilities, public health, safety, or welfare, user service needs and hardship to the ROW-user.
- I. If, in the preparation and planning of a right-of-way project, the Public Works Director deems it appropriate for a conduit to be constructed along, across or under the right-of-way, the Public Works Director shall contact all appropriate ROW-users for their input on the planning and design of such conduit. If a ROW-user desires to construct, maintain or operate facilities along such right-of-way, the Public Works Director may require the ROW-user to use such conduit, and to contribute to the expense of such conduit, provided, however, the ROW-user's use of the conduit is reasonable and appropriate under the circumstances.

- J. All earth, materials, sidewalks, paving, crossings, utilities, other public improvements or improvements of any kind damaged or removed by the ROW-user shall be fully repaired or replaced promptly by the ROW-user at its sole expense and to the reasonable satisfaction of the City. Upon determination by the Public Works Director that such repair or replacement is a public safety matter, all such repair or replacement shall be commenced within twenty-four (24) hours of notice from the City, or the Public Works Director may direct the city to make such repair or replacement and bill the ROW-user for the City cost. The Public Works Director has the authority to inspect the repair or replacement of the damage, and if necessary, to require the ROW-user to do any necessary additional work.
- K. All technical standards governing construction, reconstruction, installation, operation, testing, use, maintenance, and dismantling of a ROW-user's facilities in the right-of-way shall be in accordance with the Manual of Infrastructure standards and all applicable federal, state and local law and regulations, including those promulgated by national trade associations commonly associated with the service provided by the ROW-user. It is understood that the standards established in this paragraph are minimum standards and the requirements established or referenced in this article may be in addition to or stricter than such minimum standards. A ROW-user shall not construct or reconstruct any of its facilities located upon, over, under or within the City right-of-way without first having submitted in writing a description of its planned improvement to the Public Works Director and having received a permit for such improvement. The Public Works Director may require that any drawings, plans and/or specifications submitted be certified by a Kansas registered professional engineer stating that such drawings, plans and/or specifications comply with all applicable technical codes, rules and regulations, unless such plans are based directly on nationally recognized codes, which are appropriately cited, and attested to on the plans by the signature of an authorized official of the organization applying for the permit.
- L. The ROW-user shall cooperate promptly and fully with the City and take all reasonable measures necessary to provide accurate and complete on-site information regarding the nature and horizontal and vertical location of its facilities located within the right-of-way, both underground and overhead, when requested by the City or its authorized agent for a public improvement. Such location and identification shall be at the sole expense of the ROW-user without any expense to the City, its employees, agents, or authorized contractors.

SECTION 3. Prairie Village Municipal Code Section 13-511 is hereby amended to read:

13-511. FACILITY RELOCATION.

- A. The ROW-user shall promptly remove, relocate or adjust any facilities located in the right-of-way as directed by the City for a public

improvement or when reasonably required by the City by reason of public health, safety and welfare. Such removal, relocation, or adjustment shall be performed by the ROW-user at the ROW-user's sole expense without expense to the City, its employees, agents, or authorized contractors and shall be specifically subject to rules, regulations and schedules of the City pertaining to such. The ROW-user shall proceed with relocations at due diligence upon notice by the City to begin relocation.

- B. The ROW-user shall promptly remove, relocate or adjust any facilities located in private easement, as directed by the City, for a public improvement, at City expense, by moving such facilities to areas within the expanded right-of-way or within remaining private easements or remaining portions of such easements not condemned by nor disclaimed to the City to avoid conflict with City construction and improvements. The ROW-user shall disclaim those parts of its easements which lie within the expanded right-of-way. Should the City, in the future, elect to require the ROW-user to again relocate its facilities to other areas within the expanded right-of-way, the cost of any such future relocation shall be borne by the City.
- C. As soon as working drawings are available for public improvements which will require the ROW-user to relocate its facilities, the city shall provide the ROW-user with written notice of relocations and the anticipated bid letting date of said improvement. The ROW-user shall respond with any conflicts and a proposed construction schedule within thirty (30) days.
- D. Following notice by the City in the form of the delivery of final design plans for such public improvements, the ROW-user shall remove, and relocate its facilities in accordance with the mutually agreed upon schedule, provided the project is not delayed by adverse weather conditions and other factors beyond the control of the ROW-user. The ROW-user shall certify to the City, in writing, that its facilities have been relocated or adjusted to clear construction in accordance with project plans provided by the City.
- E. Any damages suffered by the City, its agents or its contractors to the extent caused by ROW-user's failure to timely relocate or adjust its facilities, or failure to properly relocate or adjust such facilities, shall be borne by the ROW-user.
- F. In the event the ROW-user is required to move its facilities in accordance with this section, any ordinary right-of-way permit fee shall be waived.
- G. It is the intent of this section for both the City and the ROW-user to cooperate with one another so that the need for facility relocation is minimized and, when required and feasible, relocations may be completed prior to receipt of bids by the City for a public improvement.
- H. In the event that a ROW-user is required to move its facilities for a private benefit, the ROW-user shall not bear the cost of the relocation or adjustment to the extent of such private benefit, and the ROW-user shall not be obligated to commence the relocation or adjustment until receipt of funds for such relocation or adjustment.

SECTION 4. Prairie Village Municipal Code Section 13-512 is hereby amended to read:

13-512. PROTECTION OF THE PUBLIC.

- A. It shall be the responsibility of the ROW-user to take adequate measures to protect and defend its facilities in the right-of-way from harm and damage.
- B. The City shall not be liable for any damage to or loss of any of the ROW-user's facilities within the right-of-way as a result of or in connection with any construction, excavation, grading, filling or work of any kind, including public improvements by or on the behalf of the City, except to the extent caused by the negligent, willful, intentional, or malicious acts or omissions of the City.
- C. The ROW-user shall be responsible to the City and its agents, representatives, and authorized contractors for all damages suffered by them including, but not limited to delay damages, repair costs, down time, construction delays, penalties or other expenses of any kind arising out of the failure of the ROW-user to timely perform any of its obligations under this article to the extent caused by the acts or omissions of the ROW-user.
- D. The City or its authorized contractors shall be responsible for taking reasonable precautionary measures including calling for facility locations when constructing its public improvements.
- E. Any ROW-user who for any purpose makes or causes to be made any excavation in, upon, under, through or adjoining any street, sidewalk, alley or other right-of-way, and shall leave any part or portion thereof open, or shall leave any part or portion thereof disrupted with rubbish, building or other material during construction and/or the night time, shall cause the same to be enclosed with good substantial and sufficient barricades or drums equipped with the appropriate type warning lights and orange safety fencing material which is properly secured around the excavation or the disruption.
- F. Whenever a ROW-user shall excavate the full width of any street, sidewalk, alley, driveway approach or other right-of-way, it shall be its duty to maintain an adequate passage for vehicles and pedestrians across or around the excavation until it is refilled as specified.
- G. Any excavation left open overnight on any thoroughfare or collector type street shall be securely covered. The ROW-user assumes the sole responsibility for maintaining proper barricades, plates, safety fencing and/or lights as required from the time of opening of the excavation until the excavation is surfaced and opened for travel.
- H. The Public Works Director, upon the review and approval of a plan and details for trimming trees in the right-of-way, may grant permission by permit to any ROW-user to trim trees upon and overhanging the right-of-way so as to prevent such trees from coming in contact with the facilities of the ROW-user.
- I. In the event the ROW-user severely disturbs or damages the root structure of any tree in the right-of-way to the detriment of the health and safety of the tree, the ROW-user will be required to remove and replace the tree at the ROW-user's cost. Further, in review of the ROW-user's plan, Public

Works Director, in his or her discretion, may require the ROW-user to directionally bore around any tree in the right-of-way.

- J. Upon the appropriate request of any person having satisfied City procedure and ordinances, the ROW-user shall remove, raise, or lower its facilities temporarily to permit the moving of houses or other structures. The expense of such temporary removal, raising or lowering shall be paid by the person requesting the same, and the ROW-user may require such payment in advance. The ROW-user must be given not less than fifteen (15) days written notice from the person detailing the time and location of the moving operations, and not less than twenty-four (24)-hours advance notice from the person advising of the actual operation.
- K. The Public Works Director may cause to be removed any encroachment in the Right-of-Way that creates a hazard to public health, safety, or welfare, and the cost of such removal and restoration of the right-of-way shall be borne by the ROW-user.

SECTION 5. Prairie Village Municipal Code Section 13-514 is hereby amended to read:

13-514. ABANDONED AND UNUSABLE FACILITIES.

- A. A ROW-user owning abandoned facilities in the right-of-way must either:
 - 1. Remove its facilities and replace or restore any damage or disturbance caused by the removal at its own expense. The Public Works Director may allow underground facilities or portions thereof remain in place if the public works director determines that it is in the best interest of public health, safety, or welfare to do so. At such time, the City may take ownership and responsibility of such vacated facilities left in place; or
 - 2. Provide information satisfactory to the city that the ROW-user's obligations for its facilities in the right-of-way have been lawfully assumed by another authorized ROW-user; or
 - 3. Submit to the City a proposal and instruments for transferring ownership of its facilities to the city. If the ROW-user proceeds under this section, the City may, at its option purchase the equipment, require the ROW-user, at its own expense, to remove it, or require the ROW-user to post a bond in an amount sufficient to reimburse the City for reasonable anticipated costs to be incurred to remove the facilities.
- B. Facilities of a ROW-user who fails to comply with this section, and whose facilities remain unused for two (2) years, shall be deemed to be abandoned after the City has made a good faith effort to contact the ROW-user, unless the City receives confirmation that the ROW-user intends to use the facilities. Abandoned facilities are deemed to be a nuisance. The City may exercise any remedies or rights it has at law or in equity, including, but not limited to,
 - 1. abating the nuisance,
 - 2. taking possession and ownership of the facility and restoring it to a useable function, or

3. requiring the removal of the facility by the ROW-user.

SECTION 6. Prairie Village Municipal Code Section 13-516 is hereby amended to read:

13-516

PERMIT APPLICATIONS.

- A. Application for a right-of-way permit shall be submitted to the Public Works Director either by the ROW-user or by the person who will do the work and/or excavation in the right-of-way. Before an application may be submitted, the applicant must attend a pre-application meeting with designated City staff, unless waived by the Public Works Director.
- B. Right-of-way applications shall contain and be considered complete only upon receipt of the following:
 1. Compliance with verification of registration;
 2. Submission of a completed permit application form, including all required attachments and scaled drawings showing the location and area of the proposed project and the location of all existing and proposed facilities at such location;
 3. A traffic control plan;
 4. Payment of all money due to the city for permit fees and costs, for prior excavation costs, for any loss, damage or expense suffered by the City because of the applicant's prior excavations of the right-of-way or for any emergency actions taken by the City, unless the payment of such money is in dispute and timely appealed as provided hereafter.
- C. All applications shall be processed within the timeframes required by state and federal law.
- D. In the event Applicant modifies a proposed application, the modified application will be considered a new application subject to commencement of a new application review period; provided that the Applicant and the City may enter into a mutually agreeable tolling agreement allowing the City to request additional submittals and additional time as may be reasonably necessary for review of the modified application.
- D. If an applicant has submitted an application for a permit for the installation, construction, maintenance, or repair of multiple facilities, that applicant may not submit another application for a permit for the installation, construction, maintenance, or repair of multiple facilities until the first application has been approved or denied. This provision may be waived by the Public Works Director.

SECTION 7. Prairie Village Municipal Code Section 13-518 is hereby amended to read:

13-518.

RIGHT-OF-WAY PERMIT FEES.

- A. The right-of-way permit fee and other appropriate fees, including but not limited to inspection fees, excavation fees, pole attachment fees, and franchise fees, shall be recommended by the Public Works Director, approved by the governing body and listed in the Schedule of Fees

maintained in the City Clerk's office, as such Schedule may be amended from time to time. An application shall not be deemed submitted unless the right-of-way permit fee is paid. The right-of-way permit fee shall be subject to all state and federal fee limitations.

- B. Fees paid for a right-of-way permit, which is subsequently revoked by the Public Works Director, are not refundable.
- C. Except as provided for in an emergency situation, when a ROW-user is found to have worked or is working in the right-of-way without having obtained a permit, the fee for the permit will be double the amount had the ROW-user obtained a permit prior to beginning work.
- D. The City may also charge and collect any necessary repair and restoration costs.

SECTION 8. Prairie Village Municipal Code Section 13-525 is hereby amended to read:

13-525. DENIAL OF PERMIT.

- A. The Public Works Director may deny a permit or prohibit the use or occupancy of a specific portion of the right-of-way to protect the public health, safety and welfare, to prevent interference with the safety and convenience of ordinary travel over the right-of-way, or when necessary to protect the right-of-way and its users. The Public Works Director, at his or her discretion, may consider all relevant factors including but not limited to:
 - 1. The extent to which the right-of-way space where the permit is sought is available;
 - 2. The competing demands for the particular space in the right-of-way;
 - 3. The availability of other locations in the right-of-way or in other right-of-way for the facilities of the applicant;
 - 4. The applicability of any ordinance or other regulations, including City zoning regulations, that affect location or other standards for facilities in the right-of-way;
 - 5. The degree of compliance of the applicant with the terms and conditions of its franchise, this article, and other applicable ordinances and regulations;
 - 6. The degree of disruption to surrounding communities and businesses that will result from the use of that part of the right-of-way;
 - 7. The balancing of costs of disruption to the public and damage to the right-of-way, against the benefits to that part of the public served by the construction in the right-of-way;
 - 8. Whether the applicant maintains a current registration with the City.
 - 9. Whether the issuance of a right-of-way permit for the particular dates and/or time requested would cause a conflict or interferes with an exhibition, celebration, festival, or any other event. In exercising this discretion, the Public Works Director shall be

- guided by the safety and convenience of anticipated travel of the public over the right-of-way.
10. Whether the application complies with the Manual of Infrastructure Standards.
 11. The adverse impact of the facilities or the facilities' proposed location on any reasonable public interest necessitated by public health, safety, or welfare.
- B. Notwithstanding the above provisions, the Public Works Director may in his or her discretion issue a right-of-way permit in any case where the permit is necessary to:
 1. Prevent substantial economic hardship to a user of the applicant's service;
 2. Allow such user to materially improve the service provided by the applicant.
 - C. Any denial of a wireless communications antenna, tower, or related facilities shall, in accordance with federal and state law, be made in writing and supported by substantial evidence contained in a written record issued contemporaneously with said decision.

SECTION 9. Prairie Village Municipal Code Section 13-528 is hereby amended to read:

13-528. APPEALS PROCESS.

- A. Whenever a person shall deem themselves aggrieved by any decision or action taken by the Public Works Director, the person may file an appeal to the Governing Body within ten (10) calendar days of the date of notice of such decision or action. Provided, this section shall not apply to any person who is availing themselves of the appeal provisions set forth in K.S.A. 66-2019(h)(6), as amended.
- B. The persons shall be afforded a hearing on the matter before the Governing Body within thirty (30) days of filing the appeal.
- C. In cases of applicability or interpretation of the rules, the Governing Body may revoke such decision or action taken by the Public Works Director.
- D. In cases where compliance with such decision or action taken by the Public Works Director would cause undue hardship, the Governing Body may extend the time limit of such decision or action, or may grant exceptions to, or waive requirements of, or grant a variance from the specific provisions of rules. The Governing Body shall give due consideration to the purposes of the rules in preserving public safety and convenience, integrity of public infrastructure, and the operational safety and function of the public right-of-way.
- E. Pending a decision by the Governing Body, the order of the Public Works Director shall be stayed, unless the public works director determines that such action will pose a threat to public safety or the integrity of the public infrastructure.
- F. If a person still deem themselves aggrieved after the appeal to the Governing Body, such person shall have thirty (30) days after the effective

date of the Governing Body's final decision to institute an action in the District Court of Johnson County, Kansas.

Section 10. Ordinance No. 2353 and all other ordinances and parts thereof that are inconsistent with any provision of this Ordinance are hereby repealed.

Section 11. This Ordinance shall take effect and be in force from and after its passage, approval and publication as provided by law.

PASSED by the City Council of the City of Prairie Village, Kansas on October 17, 2016.

APPROVED:

Laura Wassmer, Mayor

ATTEST:

Joyce Hagen Mundy, City Clerk

APPROVED AS TO LEGAL FORM:

Catherine P. Logan, City Attorney

ORDINANCE NO. ~~2353~~2354

AN ORDINANCE RELATING TO MANAGING THE USE AND OCCUPANCY OF PUBLIC RIGHT-OF-WAY FOR THE CITY OF PRAIRIE VILLAGE, KANSAS; AMENDING AND REPEALING EXISTING PRAIRIE VILLAGE MUNICIPAL CODE SECTIONS 13-503, 13-510, 13-511, 13-512, 13-514, 13-516, 13-518, 13-525, AND 13-528, AND PROVIDING SUBSTITUTE PROVISIONS THEREFOR.

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

SECTION 1. Prairie Village Municipal Code Section 13-503 is hereby amended to read:

- 13-503. DEFINITIONS.** For purposes of this article, the following words and phrases shall have the meaning given herein:
- A. Abandoned Facilities means those facilities owned by the ROW-user that are not in use and will not be utilized by the owner in the future.
 - B. Affiliate means any person controlling, controlled by or under the common control of a service provider.
 - C. Applicant means any person requesting permission to occupy, lease or operate facilities using the right-of-way, or to excavate the right-of-way.
 - D. Application means a request submitted by an applicant to an authority for:
(1) The construction of a new wireless support structure or new wireless facility; (2) the substantial modification of a wireless support structure or wireless facility; or (3) collocation of a wireless facility or replacement of a wireless facility.
 - E. Area of Influence means that area around a street excavation where the pavement and sub-grade is impacted by the excavation and is subject to more rapid deterioration.
 - F. City means the City of Prairie Village, Kansas, a municipal corporation and any duly authorized representative.
 - G. City Engineer means the City Engineer, Prairie Village, Kansas, or the authorized representative.
 - H. Construct means and includes construct, install, erect, build, affix or otherwise place any fixed structure or object, in, on, under, through or above the right-of-way.
 - I. Day means calendar day unless otherwise specified.
 - J. Emergency means a condition that (1) poses a clear and immediate danger to life or health, or of a significant loss of property; or (2) requires immediate repair or replacement in order to restore service to a user.
 - K. Excavate means and includes any cutting, digging, excavating, tunneling, boring, grading or other alteration of the surface or subsurface material or earth in the right-of-way.
 - L. Excavation Fee means the fee charged by the City for each street or pavement cut which is intended to recover the costs associated with

construction and repair activities of the ROW-user and its contractors and/or subcontractors.

- M. Existing facility means a facility that exists at the time an application is filed.
- N. ~~L.~~ FCC means Federal Communications Commission.
- O. ~~M.~~ Facility means lines, pipes, irrigation systems, wires, cables, conduit facilities, ducts, poles, towers, vaults, pedestals, boxes, appliances, antennas, transmitters, gates, meters, appurtenances, wireless communication facilities (including but not limited to wireless support structures, small cell facilities, base stations, transmission equipment, distributed antenna systems, and primary equipment enclosures, all as may be defined or described in the Kansas New Wireless Deployment Act, as amended), or other equipment.
- P. ~~N.~~ Governing Body means the Mayor and the City Council of the City of Prairie Village, Kansas.
- Q. ~~O.~~ Governmental Entity means any county, township, city, town, village, school district, library district, road district, drainage or levee district, sewer district, water district, fire district or other municipal corporation, quasi-municipal corporation or political subdivision of the State of Kansas or of any other state of the United States and any agency or instrumentality of the State of Kansas or of any other state of the United States.
- R. ~~P.~~ KCC means the Kansas Corporation Commission.
- S. ~~Q.~~ Newly Constructed Facilities means all ~~new~~ facilities other than existing facilities except (i) replacement street lights which meet the City's design criteria, and (ii) antennas on existing or replacement street lights with conduit or cable placed within the pole, and any attached utility box which is permitted without a conditional use permit under Sections 19.02.499 and 19.30.055 of the City Zoning Regulations.
- T. ~~R.~~ Parkway means the area between a property line and the street curb. Sometimes called boulevard, tree-shelf or snow-shelf.
- U. ~~S.~~ Pavement means and includes Portland cement concrete pavement, asphalt concrete pavement, asphalt treated road surfaces and any aggregate base material.
- V. ~~T.~~ Permit and Inspection Fee means the fee charged by the City to recover its cost incurred for right-of-way management; including, but not limited to, costs associated with registering applicants; issuing, processing and verifying right-of-right permit applications; inspecting job sites and restoration of improvements; determining the adequacy of right-of-way restoration; revoking right-of-way permits and, other costs the City may incur in managing the provisions of this Article.
- W. ~~U.~~ Permittee means any person to whom a right-of-way permit is issued to excavate a right-of-way.
- X. ~~V.~~ Person means any natural or corporate person, business association or business entity including, but not limited to, a partnership, a sole proprietorship, a political subdivision, a public or private agency of any

kind, a utility, a successor or assign of any of the foregoing, or any other legal entity.

- Y. ~~W.~~ Public Improvement means any project undertaken by the city for the construction, reconstruction, maintenance, or repair of any public infrastructure, and including without limitation, streets, alleys, bridges, bikeways, parkways, sidewalks, sewers, drainage facilities, traffic control devices, street lights, public facilities, public buildings or public lands.
- Z. ~~X.~~ Public Lands means any real property of the city that is not right-of-way.
- AA. ~~Y.~~ Public Works Director means the Director of the Public Works Department of the City of Prairie Village, Kansas, or the authorized representative.
- BB. ~~ZZ.~~ Registration means the application process of a service provider, the approval of the application by the City, and the authorization of the service provider to use any portion of the right-of-way within the city to provide service both within and beyond the city limits.
- CC. ~~AA.~~ Repair means the temporary construction work necessary to make the right-of-way useable.
- DD. ~~BB.~~ Repair and Restoration Costs means those costs associated with repairing and restoring the public right-of-way because of damage caused by the ROW-user and its contractors and/or subcontractors in the right-of-way.
- EE. ~~CC.~~ Restoration means the process by which an excavated right-of-way and surrounding area, including pavement and foundation, is returned to the same condition, or better, than existed before the commencement of the work.
- FF. ~~DD.~~ Right-of-way means the area on, below, or above streets, alleys, bridges, and parkways in which the City has a dedicated or acquired right-of-way interest in the real property.
- GG. ~~EE.~~ Right-of-Way Permit means the authorization to excavate for the construction, installation, repair or maintenance of any type of facility within the right-of-way.
- HH. ~~FF.~~ Routine Service Operation means a work activity that makes no material change to the facilities and does not disrupt traffic.
- II. ~~GG.~~ ROW-user means a person, its successors and assigns, that uses the right-of-way for purposes of work, excavation, provision of services, or to install, construct, maintain, repair facilities thereon, including, but not limited to, landowners and service providers. A ROW-user shall not include ordinary vehicular or pedestrian traffic or any governmental entity that has entered into an interlocal agreement pursuant to K.S.A. 12-2901 et seq. with the City regarding the use and occupancy of the City's right-of-way.
- JJ. ~~HH.~~ Service means a commodity provided to a person by means of a delivery system that is comprised of facilities located or to be located in the right-of-way, including, but not limited to, gas, telephone, cable television, Internet services. Open video systems, wireless services, alarm

systems, steam, electric, water, telegraph, data transmission, petroleum pipelines, or sanitary sewerage.

KK. H.Service Provider means any person owning, possessing or having an interest in facilities in the right-of-way that are used for the provisions of a service for or without a fee; provided, that this definition shall also include persons owning, possessing or having an interest in facilities in the right-of-way that are used by, may be used by or are intended for use by another person, in whole or in part, to provide a service for or without a fee, regardless of whether the actual facility owner provides any service as defined herein.

LL. JJ.Street means the pavement and sub-grade of a City residential, collector or arterial roadway.

SECTION 2. Prairie Village Municipal Code Section 13-510 is hereby amended to read:

13-510. USE OF THE RIGHT-OF-WAY.

- A. The ROW-user's use of the right-of-way shall in all matters be subordinate to the City's use or occupation of the right-of-way. Without limitation of its rights, the City expressly reserves the right to exercise its governmental powers now and hereafter vested in or granted to the City.
- B. The ROW-user shall coordinate the placement of facilities in a manner that does not interfere with a Public Improvement and does not compromise the public health, safety, or welfare, as reasonably determined by the City. Where placement is not regulated, the facilities shall be placed with adequate clearance from such public improvements so as not to impact or be impacted by such public improvement as defined in the City's "Manual of Infrastructure Standards" available in the office of the Public Works Director. Such Standards shall be competitively neutral and not unreasonable or discriminatory.
- C. The ROW-users shall consider any request made by the City concerning placement of facilities in private easements in order to limit or eliminate future street improvement relocation expenses.
- D. All facilities shall be located and laid so as not to disrupt or interfere with any pipes, drains, sewers, irrigation systems, or other structures or public improvements already installed. In addition, the ROW-user shall, in doing work in connection with its facilities, avoid, so far as may be practicable, disrupting or interfering with the lawful use of right-of-way or other public lands of the City.
- E. All facilities of the ROW-user shall be placed so that they do not interfere with the use of right-of-way and public lands. The City, through its Public Works Director, shall have the right to consult and review the location, design and nature of the facility prior to its being installed.
- F. All newly-constructed facilities shall be located underground. The ROW-user shall comply with all requirements of the City relating to underground facilities. This requirement may be waived by the Public Works Director at his or her discretion for safety concerns, or some other good cause under the condition that does not cause discrimination among

ROW-users. If this requirement is waived, the facilities shall be located as directed by the Public Works Director, including, but not limited to, requirements regarding location, height, breakaway design, and clear zones. Provided, however, the height of a facility will not exceed, or cause any existing facility to exceed, the lesser of:

- (a) thirty-five (35) feet for residential or collector streets or forty-five (45) feet for arterial streets; and
- (b) sixty-six (66) inches above the height of existing street light poles along the right-of-way surrounding the facility.

Above ground facilities shall comply with the Manual of Infrastructure Standards and all applicable zoning regulations, including but not limited to design, size, height, setbacks, screening and landscaping, and illumination, and be located in a manner that does not compromise the public health, safety, or welfare. No newly-constructed above ground facilities shall be located ~~directly in front of any single family home (or in front of where a single family home could be constructed, in the case of a vacant lot), provided that if the Public Works Director deems it necessary or appropriate, such facilities may be located in the front yard, at or along the property line between two adjacent properties~~ in any front yard, as determined by applicable zoning or subdivision regulations.

- G. The ROW-user shall not interfere with the facilities of the other ROW-users without their permission. If and when the City requires or negotiates to have a service provider cease using its existing poles and to relocate its facilities underground, all other service providers using the same poles shall also relocate their facilities underground at the same time, except transmission equipment, as defined in 47 CFR 1.40001. Provided, any such relocations shall be subject to the appeal process contained in Section 13-528, as amended.
- H. The Public Works Director may assign specific corridors within the right-of-way, or any particular segment thereof as may be necessary, for each type of facility that is currently or, pursuant to current technology, the Public Works Director expects will someday be located within the right-of-way. All right-of-way permits issued by Public Works Director shall indicate the proper corridor for the ROW-user's facilities. Any ROW-user whose facilities are currently in the right-of-way in a position at a variance with the designated corridors shall, no later than at the time of next reconstruction or excavation of the area where its facilities are located, move the facilities to its assigned position within the right-of-way, unless this requirement is waived by Public Works Director for good cause shown, upon consideration of such factors as the remaining economic life of the facilities, public health, safety, or welfare, user service needs and hardship to the ROW-user.
- I. If, in the preparation and planning of a right-of-way project, the Public Works Director deems it appropriate for a conduit to be constructed along, across or under the right-of-way, the Public Works Director shall contact all appropriate ROW-users for their input on the planning and design of

such conduit. If a ROW-user desires to construct, maintain or operate facilities along such right-of-way, the Public Works Director may require the ROW-user to use such conduit, and to contribute to the expense of such conduit, provided, however, the ROW-user's use of the conduit is reasonable and appropriate under the circumstances.

- J. All earth, materials, sidewalks, paving, crossings, utilities, other public improvements or improvements of any kind damaged or removed by the ROW-user shall be fully repaired or replaced promptly by the ROW-user at its sole expense and to the reasonable satisfaction of the City. Upon determination by the Public Works Director that such repair or replacement is a public safety matter, all such repair or replacement shall be commenced within twenty-four (24) hours of notice from the City, or the Public Works Director may direct the city to make such repair or replacement and bill the ROW-user for the City cost. The Public Works Director has the authority to inspect the repair or replacement of the damage, and if necessary, to require the ROW-user to do any necessary additional work.
- K. All technical standards governing construction, reconstruction, installation, operation, testing, use, maintenance, and dismantling of a ROW-user's facilities in the right-of-way shall be in accordance with the Manual of Infrastructure standards and all applicable federal, state and local law and regulations, including those promulgated by national trade associations commonly associated with the service provided by the ROW-user. It is understood that the standards established in this paragraph are minimum standards and the requirements established or referenced in this article may be in addition to or stricter than such minimum standards. A ROW-user shall not construct or reconstruct any of its facilities located upon, over, under or within the City right-of-way without first having submitted in writing a description of its planned improvement to the Public Works Director and having received a permit for such improvement. The Public Works Director may require that any drawings, plans and/or specifications submitted be certified by a Kansas registered professional engineer stating that such drawings, plans and/or specifications comply with all applicable technical codes, rules and regulations, unless such plans are based directly on nationally recognized codes, which are appropriately cited, and attested to on the plans by the signature of an authorized official of the organization applying for the permit.
- L. The ROW-user shall cooperate promptly and fully with the City and take all reasonable measures necessary to provide accurate and complete on-site information regarding the nature and horizontal and vertical location of its facilities located within the right-of-way, both underground and overhead, when requested by the City or its authorized agent for a public improvement. Such location and identification shall be at the sole expense of the ROW-user without any expense to the City, its employees, agents, or authorized contractors.

SECTION 3. Prairie Village Municipal Code Section 13-511 is hereby amended to read:

13-511. FACILITY RELOCATION.

- A. The ROW-user shall promptly remove, relocate or adjust any facilities located in the right-of-way as directed by the City for a public improvement or when reasonably required by the City by reason of public health, safety and welfare. Such removal, relocation, or adjustment shall be performed by the ROW-user at the ROW-user's sole expense without expense to the City, its employees, agents, or authorized contractors and shall be specifically subject to rules, regulations and schedules of the City pertaining to such. The ROW-user shall proceed with relocations at due diligence upon notice by the City to begin relocation.
- B. The ROW-user shall promptly remove, relocate or adjust any facilities located in private easement, as directed by the City, for a public improvement, at City expense, by moving such facilities to areas within the expanded right-of-way or within remaining private easements or remaining portions of such easements not condemned by nor disclaimed to the City to avoid conflict with City construction and improvements. The ROW-user shall disclaim those parts of its easements which lie within the expanded right-of-way. Should the City, in the future, elect to require the ROW-user to again relocate its facilities to other areas within the expanded right-of-way, the cost of any such future relocation shall be borne by the City.
- C. As soon as working drawings are available for public improvements which will require the ROW-user to relocate its facilities, the city shall provide the ROW-user with written notice of relocations and the anticipated bid letting date of said improvement. The ROW-user shall respond with any conflicts and a proposed construction schedule within thirty (30) days.
- D. Following notice by the City in the form of the delivery of final design plans for such public improvements, the ROW-user shall remove, and relocate its facilities in accordance with the mutually agreed upon schedule, provided the project is not delayed by adverse weather conditions and other factors beyond the control of the ROW-user. The ROW-user shall certify to the City, in writing, that its facilities have been relocated or adjusted to clear construction in accordance with project plans provided by the City.
- E. Any damages suffered by the City, its agents or its contractors to the extent caused by ROW-user's failure to timely relocate or adjust its facilities, or failure to properly relocate or adjust such facilities, shall be borne by the ROW-user.
- F. In the event the ROW-user is required to move its facilities in accordance with this section, any ordinary right-of-way permit fee shall be waived.
- G. It is the intent of this section for both the City and the ROW-user to cooperate with one another so that the need for facility relocation is minimized and, when required and feasible, relocations may be completed prior to receipt of bids by the City for a public improvement.

- H. In the event that a ROW-user is required to move its facilities for a private benefit, the ROW-user shall not bear the cost of the relocation or adjustment to the extent of such private benefit, and the ROW-user shall not be obligated to commence the relocation or adjustment until receipt of funds for such relocation or adjustment.

SECTION 4. Prairie Village Municipal Code Section 13-512 is hereby amended to read:

13-512. PROTECTION OF THE PUBLIC.

- A. It shall be the responsibility of the ROW-user to take adequate measures to protect and defend its facilities in the right-of-way from harm and damage.
- B. The City shall not be liable for any damage to or loss of any of the ROW-user's facilities within the right-of-way as a result of or in connection with any construction, excavation, grading, filling or work of any kind, including public improvements by or on the behalf of the City, except to the extent caused by the negligent, willful, intentional, or malicious acts or omissions of the City.
- C. The ROW-user shall be responsible to the City and its agents, representatives, and authorized contractors for all damages suffered by them including, but not limited to delay damages, repair costs, down time, construction delays, penalties or other expenses of any kind arising out of the failure of the ROW-user to timely perform any of its obligations under this article to the extent caused by the acts or omissions of the ROW-user.
- D. The City or its authorized contractors shall be responsible for taking reasonable precautionary measures including calling for facility locations when constructing its public improvements.
- E. Any ROW-user who for any purpose makes or causes to be made any excavation in, upon, under, through or adjoining any street, sidewalk, alley or other right-of-way, and shall leave any part or portion thereof open, or shall leave any part or portion thereof disrupted with rubbish, building or other material during construction and/or the night time, shall cause the same to be enclosed with good substantial and sufficient barricades or drums equipped with the appropriate type warning lights and orange safety fencing material which is properly secured around the excavation or the disruption.
- F. Whenever a ROW-user shall excavate the full width of any street, sidewalk, alley, driveway approach or other right-of-way, it shall be its duty to maintain an adequate passage for vehicles and pedestrians across or around the excavation until it is refilled as specified.
- G. Any excavation left open overnight on any thoroughfare or collector type street shall be securely covered. The ROW-user assumes the sole responsibility for maintaining proper barricades, plates, safety fencing and/or lights as required from the time of opening of the excavation until the excavation is surfaced and opened for travel.
- H. The Public Works Director, upon the review and approval of a plan and details for trimming trees in the right-of-way, may grant permission by permit to any ROW-user to trim trees upon and overhanging the right-of-

way so as to prevent such trees from coming in contact with the facilities of the ROW-user.

- I. In the event the ROW-user severely disturbs or damages the root structure of any tree in the right-of-way to the detriment of the health and safety of the tree, the ROW-user will be required to remove and replace the tree at the ROW-user's cost. Further, in review of the ROW-user's plan, Public Works Director, in his or her discretion, may require the ROW-user to directionally bore around any tree in the right-of-way.
- J. Upon the appropriate request of any person having satisfied City procedure and ordinances, the ROW-user shall remove, raise, or lower its facilities temporarily to permit the moving of houses or other structures. The expense of such temporary removal, raising or lowering shall be paid by the person requesting the same, and the ROW-user may require such payment in advance. The ROW-user must be given not less than fifteen (15) days written notice from the person detailing the time and location of the moving operations, and not less than twenty-four (24)-hours advance notice from the person advising of the actual operation.
- K. The Public Works Director may cause to be removed any encroachment in the Right-of-Way that creates a hazard to public health, safety, or welfare, and the cost of such removal and restoration of the right-of-way shall be borne by the ROW-user.

SECTION 5. Prairie Village Municipal Code Section 13-514 is hereby amended to read:

13-514. ABANDONED AND UNUSABLE FACILITIES.

- A. A ROW-user owning abandoned facilities in the right-of-way must either:
 - 1. Remove its facilities and replace or restore any damage or disturbance caused by the removal at its own expense. The Public Works Director may allow underground facilities or portions thereof remain in place if the public works director determines that it is in the best interest of public health, safety, or welfare to do so. At such time, the City may take ownership and responsibility of such vacated facilities left in place; or
 - 2. Provide information satisfactory to the city that the ROW-user's obligations for its facilities in the right-of-way have been lawfully assumed by another authorized ROW-user; or
 - 3. Submit to the City a proposal and instruments for transferring ownership of its facilities to the city. If the ROW-user proceeds under this section, the City may, at its option purchase the equipment, require the ROW-user, at its own expense, to remove it, or require the ROW-user to post a bond in an amount sufficient to reimburse the City for reasonable anticipated costs to be incurred to remove the facilities.
- B. Facilities of a ROW-user who fails to comply with this section, and whose facilities remain unused for two (2) years, shall be deemed to be abandoned after the City has made a good faith effort to contact the ROW-user, unless the City receives confirmation that the ROW-user intends to

use the facilities. Abandoned facilities are deemed to be a nuisance. The City may exercise any remedies or rights it has at law or in equity, including, but not limited to,

1. abating the nuisance,
2. taking possession and ownership of the facility and restoring it to a useable function, or
3. requiring the removal of the facility by the ROW-user.

SECTION 6. Prairie Village Municipal Code Section 13-516 is hereby amended to read:

13-516 PERMIT APPLICATIONS.

- A. Application for a right-of-way permit shall be submitted to the Public Works Director either by the ROW-user or by the person who will do the work and/or excavation in the right-of-way. Before an application may be submitted, the applicant must attend a pre-application meeting with designated City staff, unless waived by the Public Works Director.
- B. Right-of-way applications shall contain and be considered complete only upon receipt of the following:
 1. Compliance with verification of registration;
 2. Submission of a completed permit application form, including all required attachments and scaled drawings showing the location and area of the proposed project and the location of all existing and proposed facilities at such location;
 3. A traffic control plan;
 4. Payment of all money due to the city for permit fees and costs, for prior excavation costs, for any loss, damage or expense suffered by the City because of the applicant's prior excavations of the right-of-way or for any emergency actions taken by the City, unless the payment of such money is in dispute and timely appealed as provided hereafter.
- C. All applications shall be processed within the timeframes required by state and federal law.
- D. In the event Applicant modifies a proposed application, the modified application will be considered a new application subject to commencement of a new application review period; provided that the Applicant and the City may enter into a mutually agreeable tolling agreement allowing the City to request additional submittals and additional time as may be reasonably necessary for review of the modified application.
- D. If an applicant has submitted an application for a permit for the installation, construction, maintenance, or repair of multiple facilities, that applicant may not submit another application for a permit for the installation, construction, maintenance, or repair of multiple facilities until the first application has been approved or denied. This provision may be waived by the Public Works Director.

SECTION 7. Prairie Village Municipal Code Section 13-518 is hereby amended to read:

13-518. RIGHT-OF-WAY PERMIT FEES.

- A. The right-of-way permit fee and other appropriate fees, including but not limited to inspection fees, excavation fees, pole attachment fees, and franchise fees, shall be recommended by the Public Works Director, approved by the governing body and listed in the Schedule of Fees maintained in the City Clerk's office, as such Schedule may be amended from time to time. An application shall not be deemed submitted unless the right-of-way permit fee is paid. The right-of-way permit fee shall be subject to all state and federal fee limitations.
- B. Fees paid for a right-of-way permit, which is subsequently revoked by the Public Works Director, are not refundable.
- C. Except as provided for in an emergency situation, when a ROW-user is found to have worked or is working in the right-of-way without having obtained a permit, the fee for the permit will be double the amount had the ROW-user obtained a permit prior to beginning work.
- D. The City may also charge and collect any necessary repair and restoration costs.

SECTION 8. Prairie Village Municipal Code Section 13-525 is hereby amended to read:

13-525. DENIAL OF PERMIT.

- A. The Public Works Director may deny a permit or prohibit the use or occupancy of a specific portion of the right-of-way to protect the public health, safety and welfare, to prevent interference with the safety and convenience of ordinary travel over the right-of-way, or when necessary to protect the right-of-way and its users. The Public Works Director, at his or her discretion, may consider all relevant factors including but not limited to:
 - 1. The extent to which the right-of-way space where the permit is sought is available;
 - 2. The competing demands for the particular space in the right-of-way;
 - 3. The availability of other locations in the right-of-way or in other right-of-way for the facilities of the applicant;
 - 4. The applicability of any ordinance or other regulations, including City zoning regulations, that affect location or other standards for facilities in the right-of-way;
 - 5. The degree of compliance of the applicant with the terms and conditions of its franchise, this article, and other applicable ordinances and regulations;
 - 6. The degree of disruption to surrounding communities and businesses that will result from the use of that part of the right-of-way;

7. The balancing of costs of disruption to the public and damage to the right-of-way, against the benefits to that part of the public served by the construction in the right-of-way;
 8. Whether the applicant maintains a current registration with the City.
 9. Whether the issuance of a right-of-way permit for the particular dates and/or time requested would cause a conflict or interferes with an exhibition, celebration, festival, or any other event. In exercising this discretion, the Public Works Director shall be guided by the safety and convenience of anticipated travel of the public over the right-of-way.
 10. Whether the application complies with the Manual of Infrastructure Standards.
 11. The adverse impact of the facilities or the facilities' proposed location on any reasonable public interest necessitated by public health, safety, or welfare.
- B. Notwithstanding the above provisions, the Public Works Director may in his or her discretion issue a right-of-way permit in any case where the permit is necessary to:
1. Prevent substantial economic hardship to a user of the applicant's service;
 2. Allow such user to materially improve the service provided by the applicant.
- C. Any denial of a wireless communications antenna, tower, or related facilities shall, in accordance with federal and state law, be made in writing and supported by substantial evidence contained in a written record issued contemporaneously with said decision.

SECTION 9. Prairie Village Municipal Code Section 13-528 is hereby amended to read:

13-528. APPEALS PROCESS.

- A. Whenever a person shall deem themselves aggrieved by any decision or action taken by the Public Works Director, the person may file an appeal to the Governing Body within ten (10) calendar days of the date of notice of such decision or action. Provided, this section shall not apply to any person who is availing themselves of the appeal provisions set forth in K.S.A. 66-2019(h)(6), as amended.
- B. The persons shall be afforded a hearing on the matter before the Governing Body within thirty (30) days of filing the appeal.
- C. In cases of applicability or interpretation of the rules, the Governing Body may revoke such decision or action taken by the Public Works Director.
- D. In cases where compliance with such decision or action taken by the Public Works Director would cause undue hardship, the Governing Body may extend the time limit of such decision or action, or may grant exceptions to, or waive requirements of, or grant a variance from the specific provisions of rules. The Governing Body shall give due consideration to the purposes of the rules in preserving public safety and

convenience, integrity of public infrastructure, and the operational safety and function of the public right-of-way.

- E. Pending a decision by the Governing Body, the order of the Public Works Director shall be stayed, unless the public works director determines that such action will pose a threat to public safety or the integrity of the public infrastructure.
- F. If a person still deem themselves aggrieved after the appeal to the Governing Body, such person shall have thirty (30) days after the effective date of the Governing Body's final decision to institute an action in the District Court of Johnson County, Kansas.

Section 10. ~~All Ordinance No. 2353 and all other~~ ordinances and parts thereof that are inconsistent with any provision of this Ordinance are hereby repealed.

Section 11. This Ordinance shall take effect and be in force from and after its passage, approval and publication as provided by law.

PASSED by the City Council of the City of Prairie Village, Kansas on October ~~31~~17, 2016.

APPROVED:

Laura Wassmer, Mayor

ATTEST:

Joyce Hagen Mundy, City Clerk

APPROVED AS TO LEGAL FORM:

Catherine P. Logan, City Attorney

Sections Amended	PV ROW Changes adopted 10-3-16	OP ROW Changes adopted 9-19-16	Leawood ROW Changes adopted 9-19-16	Shawnee ROW Changes adopted 9-26-16	Olathe ROW Changes NOT YET ADOPTED	Lenexa ROW Changes NOT YET ADOPTED
<p>“Facility” Defined</p>	<p>Adds “wireless communications facilities” with references to included definitions of components thereof in new Act</p>	<p>Adds “wireless communications facilities”</p>	<p>Adds “wireless communications facilities”</p>	<p>Adds “wireless communications facilities” and definition of small cell facility</p>		
<p>Use of ROW</p>	<p>Prohibits (replaces term “minimize”) interfere with Public Improvement and adds language “not compromise public health, safety and welfare” [standard allowed by new Act] 13-510(B)</p>	<p>Same as PV</p>	<p>Already similar to OP and PV as amended - was not amended</p>	<p>Same as PV and OP</p>		

	<p>PV ROW Changes adopted 10-3-16</p>	<p>OP ROW Changes adopted 9-19-16</p>	<p>Leawood ROW Changes adopted 9-19-16</p>	<p>Shawnee ROW Changes adopted 9-26-16</p>	<p>Olathe ROW Changes NOT YET ADOPTED</p>	<p>Lenexa ROW Changes NOT YET ADOPTED</p>
<p>Underground Requirement for newly constructed facilities</p>	<p>Newly Constructed Facilities shall be located underground. "Newly constructed facilities" excludes replacement street lights and antennas on existing or replacement street lights with conduit inside pole. 13-503(Q). Note clean up item that the definition exclusion does not include vaults and utility boxes which may be associated with the antennas excepted above. Waiver by Public Works Director for good cause. 13-510(F)</p>	<p>No change to existing provision that "newly constructed facilities" underground "whenever reasonably possible"</p>	<p>No change to existing provision that "newly constructed facilities" underground "whenever reasonably possible"</p>	<p>No change to existing provision that "newly constructed facilities" underground "whenever reasonably possible"</p>	<p>Same</p>	<p>Same</p>

Above Ground Regulations	PV 13-510(F)							
Compliance with specified standards of the Public Works Director or City Engineer	Added	Added	Already included	Added				
Compliance with zoning	Added	Added	Not specified in section amended	Added				
Located in a manner that does not compromise the public health, safety or welfare	Added	Added	Already included	Added				
Breakaway Design required	Added	Not specified (although may be specified by applicable standards)	Not specified (although may be specified by applicable standards)	Not specified (although may be specified by applicable standards)				

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	PV ROW Changes adopted 10-3-16	OP ROW Changes adopted 9-19-16	Leawood ROW Changes adopted 9-19-16	Shawnee ROW Changes adopted 9-26-16	Olathe ROW Changes NOT YET ADOPTED	Lenexa ROW Changes NOT YET ADOPTED
Clear Zones required	Added	Location as directed by City Engineer	Already included	Location as directed by Director of Public Works		
Height Limits	Height as specified by Public Works Director not to exceed: 35' residential or collector streets 45' arterial streets 66" above height of existing street light poles along that portion of ROW	Height as specified by City Engineer	Same as PV	Height as specified by Public Works Director not to exceed: 60' with some temporary and permanent exceptions, including electric power lines rated at or above "feeder" line class, telecable lines rated at or above "trunk" line, poles used exclusively for street lighting or traffic control, electric substations and related equipment.		
Prohibited in any front yards	Added	Not specified in ROW Code	Not specified in ROW Code	Not specified in ROW Code		

	<p>PV ROW Changes adopted 10-3-16</p>	<p>OP ROW Changes adopted 9-19-16</p>	<p>Leawood ROW Changes adopted 9-19-16</p>	<p>Shawnee ROW Changes adopted 9-26-16</p>	<p>Olathe ROW Changes NOT YET ADOPTED</p>	<p>Lenexa ROW Changes NOT YET ADOPTED</p>
<p>City Self Help</p>	<p>Public Works Director may have encroachments in ROW creating hazard to public health, safety and welfare removed at cost of ROW user. 13-513(K)</p>	<p>Same</p>	<p>Already included</p>	<p>Same</p>		

	<p>PV ROW Changes adopted 10-3-16</p>	<p>OP ROW Changes adopted 9-19-16</p>	<p>Leawood ROW Changes adopted 9-19-16</p>	<p>Shawnee ROW Changes adopted 9-26-16</p>	<p>Olathe ROW Changes NOT YET ADOPTED</p>	<p>Lenexa ROW Changes NOT YET ADOPTED</p>
<p>Application for use of ROW Procedures</p>	<p>Preapplication meeting Adds timelines for processing If application is for multiple facilities, applicant may not submit a second application until the current application is approved or denied 13-516 Permit fees subject to state and federal. 13-518</p>	<p>Same</p>	<p>Not in section amended</p>	<p>More detailed than PV, OP and Leawood, most provisions incorporate the Act into the Ordinance. Adds some provisions not in Act, which contemplate further timelines if an application is rejected and resubmitted. Still under study by PV staff and legal counsel</p>	<p>Modified applications are considered new application [added to PV]</p>	

	PV ROW Changes adopted 10-3-16	OP ROW Changes adopted 9-19-16	Leawood ROW Changes adopted 9-19-16	Shawnee ROW Changes adopted 9-26-16	Olathe ROW Changes NOT YET ADOPTED	Lenexa ROW Changes NOT YET ADOPTED
Denial relevant factors include	Zoning regulations Applicant maintain a current registration with City Applicant's compliance with "Manual of Infrastructure Standards" Adverse impact necessitated by public health, safety or welfare 13-525(4),(8),(10) and (11)	Same	Not in section amended	Same		

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19.30.050 Appeals of Conditional Use Permits.

Any person, official or governmental agency dissatisfied with the Planning Commission's decision on any Conditional Use Permit application may bring an action in the District Court to determine the reasonableness of any such decision. Such appeals must be filed in the District Court within thirty (30) calendar days after the date that the decision of the Planning Commission was made.

19.30.055 Specifically Listed Conditional Uses.

The following uses may be permitted by conditional use permit:

- A. Temporary use of land for commercial or industrial purposes; provided that any building or structure constructed thereon which is not otherwise permitted in the district in which such land is situated, and any stored equipment or material shall be removed upon the date of expiration of the conditional use permit, which permit shall be valid for not more than two years, but may be renewable after public hearing;
- B. Off-street parking lots and parking structures;
- C. Drive-up, drive-through or drive-in services in the C-0, C-1, and C-2 Districts. Such permit shall not be approved unless the following conditions and procedures are met:
 - a. The access, circulation and stacking pattern of vehicles using such facility shall be reviewed and approved by the city's traffic engineers prior to Planning Commission approval of plans.
 - b. Alcoholic or cereal malt beverages shall not be sold or otherwise dispensed at such facility.
 - c. A conditional use permit for drive-up, drive-through or drive-in food services shall be approved only for premises located in Districts C-1 and C-2.
- D. Satellite dish antennas, with a diameter of one meter or greater and those not permitted in Section 19.34.040 (D); and non commercial transmitting and receiving antennas and towers; (Ord. 1899, Sec. I, 1996; Ord. 1909, Sec. I, 1997; Ord. 2249, Sec. III, 2012)
- E. Property Maintenance Facilities. Buildings, structures and premises for property maintenance facilities, and uses;
- F. Portable carts, booths and stands or other similar facilities used for retail sales of merchandise.
- G. Utility boxes that have a footprint larger than twelve (12) square feet in area, a pad greater than 2.5 times the area of the utility box footprint or greater than 32 square feet; or have a height of more than fifty-six (56) inches. (Ord. 2029 Sec. IV, 2002; Ord. 2225, Sec. III, 2010)

Chapter 19.02 – Definitions

19.02.460 Structural Alterations.

"Structural alterations" means any change in the supporting members of a building, such as bearing walls or partitions, columns, beams or girders, or any structural change in the roof, but not including extension or enlargement.

19.02.465 Structure.

"Structure" means anything constructed or erected, which requires location on the ground or attached to something having a location on the ground, including but not limited to advertising signs, billboards, and poster panels; but exclusive of customary fences, boundary or retaining walls, or utility poles.

19.02.470 Subdivider.

"Subdivider" means a person, firm or corporation undertaking the subdivision or resubdividing of a tract or parcel of land.

19.02.472 Temporary Political Sign.

"Temporary political sign" means a sign relating to a candidate, political party, ballot issue, or other political issue to be voted upon in any public election, or relating to the expression or communication of constitutionally protected speech, other than commercial speech. (Ord. 1944, Sec. 1, 1998)

19.02.475 Terrace.

"Terrace" means the standard designation established by the uniform street naming system for numbered east-west streets located between numbered streets.

19.02.480 Theater, motion picture.

"Motion picture theater" means a building or part of a building devoted to the showing of motion pictures on a paid admission basis.

19.02.485 Theater, outdoor drive-in.

"Outdoor drive-in theater" means an open lot or part thereof, with its appurtenant facilities, devoted primarily to the showing of motion pictures or theatrical productions, on a paid admission basis, to patrons seated in automobiles or on outdoor seats.

19.02.490 Townhouse.

"Townhouse" means a building containing more than one dwelling unit with such dwelling units being separated by common walls as opposed to one unit being over another.

19.02.495 Truck.

"Truck" includes tractor and trailer trucks, or any motor vehicle, which carries truck license.

19.02.499 Utility Box.

Any cabinet, pedestal, box, building or other equipment enclosure used for public utility services, public service corporations, or telecommunications providers including any associated equipment such as condensing units and generators. Traffic signal controllers shall not be considered utility boxes. Utility boxes with a footprint smaller than one and one half square foot, a pad of two square feet or less, and a height of 36" or less are exempt from this definition. Utility racks and open trellis-type structures for mounting equipment are not permitted. All equipment must be placed within a cabinet or enclosed structure that has an acceptable aesthetic design and has break away capability for safety. (Ord. 2190, Sec. II, 2009)

All existing utility boxes are nonconforming structures and have all rights granted by Chapter 19.40 "Nonconformities". Utility boxes are exempt from Section 19.40.015B Enlargement, Repair and

Maintenance and Section 19.40.015C Damage, Destruction and Demolition, and may be replaced provided that the replacement box is generally the same size as or smaller than the original utility box. This determination will be made by City staff. (Ord. 2029, Sec. I, 2002; Ord. 2190, Sec. II, 2009)

19.02.500 Variance.

"Variance" means variation from a specific provision of this title as applied to a specific piece of property or structure.

19.02.502 Wall, Retaining

A wall which may be constructed of wood, stone, brick, concrete, block or similar materials designed or built to retain soil or other materials from slumping, sliding or falling. (Ord. 2247, Sec. II, 2011)

19.02.503 Wall, Solid

A free standing structure, which is for the purpose of blocking a view or providing privacy; providing aesthetics; preventing intrusion, escape or trespass; or redirecting a person's direction of travel. A solid wall generally is constructed of brick, stone, concrete, block or similar materials or materials that are similar in appearance. (Ord. 2247, Sec. II, 2011)

19.02.505 Wellness Center.

"Wellness Center" means a single purpose or dual-purpose facility for providing therapy or fitness services on an individual basis rather than on a group basis, by appointment for services such as physical therapy, weight lifting, massage therapy, and fitness exercises. Each masseuse/masseur shall be licensed in accordance with the requirements of the Municipal Code.

19.02.515 Yard.

"Yard" means an open space at grade between a building and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided herein. In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard or the depth of a rear yard, the least horizontal distance between the lot line and the building or structure shall be used. Where lots abut a street that is designated a traffic artery on the thoroughfare plan, all yards abutting said street shall be measured from a line one-half the proposed right-of-way width from the centerline, or from the lot line, whichever provides the greater setback. On other lots, all yards abutting a street shall be measured from a line twenty-five feet from the centerline, or from the lot line, whichever provides the greater setback. Minimum front, side and rear yards are established within each zoning district.

19.02.520 Yard, Front.

"Front Yard" means an unoccupied, open space, except as hereinafter provided, between the front street line of the lot and the wall of the building or structure nearest the street on which the lot fronts and the line of that wall extended to the side lines of the lot. The minimum depth of the front yard shall be determined by measuring the distance between the point of the wall of the building or the structure nearest the street and the front street line of the lot. The front yard of a corner lot shall be adjacent to that street on which the lot has its least dimension unless otherwise specified by the Building Official.

If the corner lot consists of all of more than two platted parcels of land each of whose least dimensions is on the same street as the other lots in the block, then the location of the front yard of this lot shall be on the same street as the other lots unless otherwise specified by the Building Official.

If a corner lot consists entirely of unplatted land or a combination of platted and unplatted land, the front yard shall be on that street on which there fronts the greater number of lots, whether platted or unplatted unless otherwise specified by the Building Official.

**COUNCIL MEETING AGENDA
CITY OF PRAIRIE VILLAGE
Council Chambers
Monday, October 17, 2016
7:30 PM**

- I. **CALL TO ORDER**
- II. **ROLL CALL**
- III. **PLEDGE OF ALLEGIANCE**
- IV. **INTRODUCTION OF STUDENTS & SCOUTS**
- V. **PUBLIC PARTICIPATION**

(5 minute time limit for items not otherwise listed on the agenda)

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 the regular City Council meeting minutes - October 3, 2016
- 2. Approve the purchase of a vehicle by the Prairie Village Police Department

VII. **COMMITTEE REPORTS**

Council Committee of the Whole

- COU2016-56 Consider approval of employee health, dental, and vision insurance providers as recommended by City Staff
- COU2016-57 Consider approval of changes to building permit fees
- COU2016-60 Consider approval of items for Bond Sale related to the purchase of the streetlight system from KCPL
- COU2016-61 Consider approval of audit services contract with Berberich Trahan & Co.
- COU2016-62 Consider approval of the purchase and installation of a replacement generator for the Police Department building
- COU2016-55 Consider adoption of Ordinance No. 2354 relating to uses of the public right of way

Planning Commission

- PC2016-XX Consider approval of vacation of an easement

- VIII. **MAYOR'S REPORT**
- 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

CITY COUNCIL
CITY OF PRAIRIE VILLAGE
October 3, 2016

The City Council of Prairie Village, Kansas, met in regular session on Monday, October 3, 2016 at 7:30 p.m. in the Council Chambers at the Municipal Building, 7700 Mission Road, Prairie Village, Kansas.

ROLL CALL

Mayor Laura Wassmer called the meeting to order and roll call was taken with the following Council members present: Ashley Weaver, Jori Nelson, Serena Schermoly, Steve Noll, Eric Mikkelson, Sheila Myers, Brooke Morehead, Dan Runion, Courtney McFadden, Ted Odell and Terrence Gallagher.

Teen Council members present: Tyler Ruzich.

Staff present: Tim Schwartzkopf, Chief of Police; Keith Bredehoeft, Director of Public Works; Katie Logan, City Attorney; Quinn Bennion, City Administrator; Wes Jordan, Assistant City Administrator; Lisa Santa Maria, Finance Director and Joyce Hagen Mundy, City Clerk.

INTRODUCTION OF STUDENTS & SCOUTS

Two scouts were in attendance from Troop 284 earning their “Citizenship and Community Badge”. Eight students from Shawnee Mission North were in attendance for their American Government class. Mayor Wassmer recognized Tyler Ruzich, a student from Shawnee Mission North who is serving on the city’s teen council.

INTRODUCTION OF NEW POLICE OFFICERS

Chief Tim Schwartzkopf welcomed the families and friends of three new officers and current officers in attendance to support new police officers Jonathan Uhrug, Ryan Morrill and Curtis Phipps who were issued the Oath of Office. Chief noted the challenges faced by today's police officers. The officers have completed the police academy, 16 weeks of field training and some have previous law enforcement experience. Officer Morrill has a degree in criminal justice and five years of police experience; Office Phipps has a graduate degree in business and was previously an officer with the Johnson County Sheriff Office and Officer Uhrug is a Kansas State graduate with 9 years of active service in the Army.

Mayor Wassmer welcomed the new officers on behalf of the Council and community expressing appreciation for the work that they will be doing to protect and serve our residents as part of a strong and dedicated police force. She stated they had the support of the Council and community. He changed out his porch light for a blue light to show support for Prairie Village officers.

PUBLIC PARTICIPATION

Dan Andersen, Chair of the Prairie Village Arts Council, invited the Council to attend the 10th annual State of the Arts exhibit and reception on Friday, October 14th from 6 pm to 8 pm. He announced that the committee had secured a sponsor for valet parking for the event.

Mr. Andersen introduced Annette Hadley whose appointment to the Arts Council is on the Consent Agenda. Ms. Hadley provided brief background information and stated that she was pleased to become part of the Arts Council.

William Copher, 7844 Tomahawk, noted a blue light display done by residents of Dallas recently after a police shooting to express the community's support and expressed his support of the city's police department.

CONSENT AGENDA

Eric Mikkelson asked for the removal of item #3. Brooke Morehead asked that on page 149 of the September 19th City Council minutes that all of names of the Village Square Committee be reflected. Serena Schermoly noted that Luke Hafner, a teen council member, was not in attendance at the City Council meeting just in the committee meeting.

Eric Mikkelson noted that item #3 changes the policy regarding the reservation of tennis courts and significantly increases fees for the use of these courts by schools. He expressed concern with the impact of this on the public schools. He acknowledged that the schools are heavy users of the courts; however, preferred the city act in partnership with the schools. Mr. Mikkelson noted the city's ability to use the SME parking lot. Mayor Wassmer replied that the city donated land for the SME parking lot and constructed a portion of it.

Terrence Gallagher replied this action had the unanimous support of the Park & Recreation Committee. He noted that city staff met with the Athletic Director and Tennis Coach of Shawnee Mission East, who suggested the proposed maintenance fee which has been agreed to by Bishop Miege and Kansas City Christian Schools as well as the proposed tournament fee. Mr. Gallagher noted the school district does charge the city for use of some of its facilities. Staff felt a consistent established fee was fair and reasonable for all entities.

Joyce Hagen Mundy stated that the SME Athletic Director stated that it was customary for the school to pay maintenance fees for the use of facilities to offset costs incurred by the leasing entity and that such funds are included in their budget. She suggested a fee of \$50 per court, acknowledging their use of six courts for over 800 hours in the spring and fall. The question of whether to charge fees for the excessive use of the city's tennis courts by school teams has been raised several times over the past years.

Mrs. Mundy stated the tournament fee was developed in conversation with Public works based on issues that have occurred over the past years requiring extensive public Works involvement. The hosting school for the Regional and State tournaments require all ten courts as well as additional portable toilet facilities brought onto the site, the tennis shack open and access to the adjacent park pavilion. The proposed fee covers costs for the city to provide and/or arrange for those services. No deposit is required for school related tournaments.

Sheila Myers noted that these tournaments involve several schools and costs are shared.

Serena Schermoly confirmed that courts could be rented on an individual basis for \$7 per hour per court, but that school and/or tournament reservations would have a priority for use.

Eric Mikkelson asked for clarification on the prioritization of courts. Mrs. Mundy replied that Shawnee Mission East as a public school within the city is given priority for the use of Harmon Park Courts and have the upper six courts every day for practice. Bishop Miege and Kansas City Christian School share the use of the lower four Harmon Courts and courts at Taliaferro and Windsor on an alternating day basis.

Dan Runion asked if those fees are included in the city's budget. Lisa Santa Maria replied the city has a revenue line item for these fees with funds going into the general fund.

Steve Noll moved the City Council approve revised Council Policy #527 entitled "Tennis Court Reservation" and establish a tennis court maintenance fee of \$50 per court and tournament reservation fee of \$300. The motion was seconded by Sheila Myers and passed by a vote of 9 to 2 with Mr. Runion and Mr. Mikkelson voting in opposition.

Ted Odell moved the approval of the Consent Agenda items for October 3, 2016 with the noted corrections:

1. Approve the regular City Council meeting minutes of September 19, 2016 as corrected
2. Approve Claims Ordinance #2946
3. Removed
4. Ratify the Mayor's appointment of Annette Hadley to the Prairie Village Arts Council with her term expiring in April, 2017
5. Approve an agreement with the Mid-America Regional Council (MARC) for funding operations of Operation Green Light Traffic Control Systems (OGL) in Prairie Village for 2017 and 2018 in the amount of \$10,800.
6. Approve the purchase of a Falcon Hot Asphalt Trailer and the transfer of \$27,633 from the 2016 Equipment Reserve Fund for the purchase

A roll call vote was taken with the following members voting "aye": Weaver, Nelson, Schermoly, Noll, Mikkelson, Myers, Morehead, Runion, McFadden, Odell and Gallagher.

COMMITTEE REPORTS

Council Committee of the Whole

COU2016-53 Consider approval of amendment to Police Pension Plan related to time of Service

Ashley Weaver moved the City Council approve increasing the service cap in the Police Pension Plan to a maximum of 30 years with officers increasing their contribution

rate to 8.0% beginning in their 26th year. The motion was seconded by Steve Noll and passed unanimously.

COU2016-54 Consider increase in vacation accrual for employees with 20 years of service

Ashley Weaver moved the City Council approve an increase for employees with twenty years of continuous service from twenty days to twenty-five days per year. The motion was seconded by Sheila Myers.

Eric Mikkelson noted that this item had been changed from what was presented at the previous Council Committee of the Whole meeting. Wes Jordan replied that during discussion of this item in committee, some Council members raised concerns with the liability created by the ability to carry over 400 hours of vacation instead of the current 320 hours. Department heads discussed this at a recent meeting and agreed that the intent of the proposed change was not to create additional liability for the city, but to reward long-term employees with an additional week of vacation. He noted that this was a recommendation of the 2006 salary and compensation study. Most employees do not bank vacation in large amounts. Department heads agreed that the amount of banked vacation remain at 320 hours with an additional week of vacation being given to employees with 20 or more years of continuous service.

Therefore, the proposed change before the City Council at this time is to only increase the vacation time and to leave the amount of vacation that can be accrued at 320 hours. Mr. Mikkelson commended staff for reconsidering the policy change and making the proposed revision. Mr. Jordan stated that the vacation is accrued on a per pay period basis so the increase of five days would not be immediately given to employees but accrued at a rate of 7.69 days per pay period.

The motion was voted on and passed unanimously.

COU2016-55 Consider amendment to the Right-of-Way Ordinance related to small cell facilities

Katie Logan stated that based on the conversation at the earlier committee meeting she prepared the following additional definition and language recommended to be added to the proposed ordinance:

Newly Constructed Facilities means all new facilities except (i) replacement street lights which meet the City's design criteria, and (ii) antennas on existing or replacement street lights with conduit or cable placed within the pole.

And to be added to the end of the first sentence of 13-510(F)
"other than utility boxes which are permitted without a conditional use permit by Sections 19.02.499 and 19.30.055 of the Subdivision Regulations."

Mayor Wassmer confirmed that utility boxes are permitted in front yards. Mrs. Logan responded that the intent of the ordinance was not to require all utility boxes to be placed underground.

Jori Nelson said she would like to have staff research what can be done to protect residents' property. She feels that anything that can be placed underground should be placed underground.

Quinn Bennion stated that currently the smaller boxes are allowed and the city cannot change the zoning code with this ordinance. This change would need to take place through action by the Planning Commission.

Eric Mikkelson stated the perception of many, including Planning Commission members, is that there has been a proliferation of boxes throughout the city. He would like the city to require underground installation. If it is not possible, the applicant can request a special waiver. Ashley Weaver asked what the difficulties were with

underground placement.

Ted Odell replied transformers cannot be placed underground. He noted the cabinets such as those at 91st and Roe could not be located underground.

Katie Logan recommended that the issue of utility box location not be dealt with at this time, noting that the Public Works Director has the authority to approve the location of equipment boxes and that this can be addressed through zoning regulations by the Planning Commission.

Courtney McFadden added that large boxes are generally placed in commercial areas and that service technicians need to have access to the boxes to make adjustments or repairs.

Eric Mikkelson moved the Governing Body adopt Ordinance 2353 relating to managing the use and occupancy of public right-of-way for the City of Prairie Village, Kansas; amending and repealing existing Prairie Village Municipal Code Sections 13-503, 13-510, 13-511, 13-512, 13-514, 13-516, 13-518, 13-525 and 13-528 and providing substitute provisions therefore with the addition of the definition for “Newly Constructed Facilities”. The motion was seconded by Sheila Myers.

A roll call vote was taken with the following members voting “aye”: Weaver, Nelson, Schermoly, Noll, Mikkelson, Myers, Morehead, Runion, Odell, Gallagher and Wassmer. Courtney McFadden abstained due to a professional conflict of interest.

COU2016-58 Consider approval of the Preliminary Engineering Study contract with Water Resources Solutions, LLC for the Delmar and Fontana low water crossing removal and drainage project

Keith Bredehoeft stated that on September 6, 2016 council directed public works to move forward with developing a project to solve the residential flooding at Delmar and

Fontana and remove the low water crossing. As this is essentially starting over, it was recommended that a consultant be hired to do a new analysis.

Significant construction funding is potentially available from the County's SMAC program. Applications for 2018 and later funding are due by December 31, 2016. Staff recommends using Don Baker with Water Resources Solutions, LLC to help prepare a Preliminary Engineering Study (PES) for the SMAC funding application. Mr. Baker helped the City do the peer review of the work Larkin had previously performed for the City and was also one of the final three firms selected for interviews during the last selection process for Street and Drainage design engineering consultant.

Mr. Bredehoeft noted that this contract is only for the PES and that Water Resources will not necessarily be utilized for full design if the City decides to move forward with a construction project. Mr. Baker is already familiar with the project after performing the peer review and he has prepared in excess of 35 PES for the SMAC program so he is very familiar with their processes.

As part of the process, he anticipates having two resident meetings this fall. The first to explain where the process is and gather information and the second to present concepts and resolution to the problems. As proposed this project will remove the two low water crossings and will lower the 100 year water surface elevation as much as possible to eliminate home flooding. Mr. Bredehoeft stated that funds are available in the CIP for this study under Project DELN0001.

Brooke Morehead asked if warning signs would be considered in the study as an alternative solution or if the removal of the low water crossings is a done deal. Mr. Bredehoeft replied the direction given by Council earlier was for the removal of the low water crossings and added that changes to the warning signs are planned as well. It

has always been his recommendation as Public Works Director that the expenditure of the volume of funds needed for this project needs to resolve the flooding problems and address the safety issues created by the low water crossing. Mrs. Morehead responded that there are no assurances.

Ted Odell moved the City Council approve the Preliminary Engineering Study contract with Water Resources Solutions, LLC in the amount of \$26,540 for Project DELN0001 for the Delmar and Fontana low water crossing removal and drainage project. The motion was seconded by Dan Runion.

Jori Nelson noted this has been discussed for several years and questioned the need for another study asking if the necessary information wasn't available in previous studies. Mr. Bredehoeft replied that to move ahead with this project different criteria need to be addressed for the CARS submittal. He noted that Mr. Baker is familiar with the previous studies and will use information contained in them in his analysis; however, a new study for this new solution is necessary.

Brooke Morehead noted that at the earlier meeting the residents spoke in strong support of retaining the low water crossing. Mr. Bredehoeft acknowledged the residents' desire, but noted the engineering solution to best address the issues requires the removal of the low water crossing.

Dan Runion stated this project has grown beyond the desires of the neighboring residents. Local government has a responsibility to maintain safe roadways. He appreciates the feelings expressed by the residents, but maintaining the safety of this roadway goes beyond aesthetics and removal of the low water crossing is necessary to resolve the existing safety issues.

Mr. Bredehoeft stated the direction given by the Council was to move forward with the removal of the low water crossing and design of a project to address the residential flooding.

The motion was voted on and passed by a vote of 11 to 1 with Mrs. Morehead voting in opposition.

COU2016-59 Consider bid award for 2016 Tree Trimming Program

Keith Bredehoeft stated the 2016 Tree Trimming Program includes three areas (Areas 41, 42 and 43) as well as park tree trimming. The Parks to be trimmed this year will be: Bennett Park, Brenizer Park, Harmon-Santa Fe Parks, City Hall Campus, McCrum Park, Prairie Park, Weltner Park and Windsor Park. The remaining Parks will be bid in next year's trimming program. All the trees will be trimmed to remove any dead wood larger than 2-inches over the right-of-way, remove limbs interfering with sight line to traffic signals and street signs, and with a cone under the street lights.

The following four bids were received on September 16, 2016 with KC Tree submitting the low bid of \$64,500 for Areas 42, 42 & 43 and \$49,950 for the Parks for a total bid of \$114,450. Funds are available in the 2016 Public Works Operating Budget.

Bidder	Area 41, 42 & 43	Parks
Kansas City Tree	\$64,500.00	\$49,950.00
Arbor Masters	\$108,534.00	\$57,045.00
Custom Tree	\$198,585.00	\$139,968.00
VanBooven Tree	\$114,975.00	No Bid

Ted Odell expressed concern with the wide range of the bids and accepting a bid that was significantly lower than others. Mr. Bredehoeft replied that he is comfortable with Kansas City Tree who have had this contract three of the past five years and have performed well. He acknowledged that last year Davey Tree submitted a substantially lower bid that was accepted and city staff has had to spend a lot of time with them to ensure that the level of service required by the city was met.

Serena Schermoly asked if the city had looked into the safety record for KC Tree. Mr. Bredehoeft replied that is not checked in the review process. He added there were no safety issues during the three years KC Tree performed this work for the city.

Eric Mikkelson moved the City Council approve the award of the bid of Kansas City Tree Company in the amount of \$114,450 for the 2016 Tree Trimming Program. The motion was seconded by Serena Schermoly and passed unanimously.

MAYOR'S REPORT

Mayor Wassmer reported on her activities on behalf of the City including a presentation to a group of 85+ retired men who meet regularly on what is happening in Prairie Village. She, Terrence Gallagher and Sheila Myers met to discuss the Parks Master Plan moving forward.

STAFF REPORTS

Public Safety

- Chief Schwartzkopf reported that he read to the students at Briarwood and Corinth Elementary schools.
- National Coffee with a Cop Day is Friday, October 7th. Panera will host Coffee with a Cop from 7 a.m. to 9 a.m.

Public Works

- Keith Bredehoeft presented the new crosswalk installed for Belinder Elementary. He will see how it performs during the winter months and may consider using the design and material elsewhere in the City.

Terrence Gallagher added that the same technology was used for the crosswalk at 75th & Wornall and noted the PV Star could possibly be incorporated into the crosswalk. Mayor Wassmer stated this may be something that the city can consider with the Mission Road 75th to 83rd Street project.

- Kansas Forest Service will be planting 9 to 12 trees in Porter Park on Thursday, October 6th as part of a grant program in response to the loss of trees from AEB.
- A new kiosk sign has been installed at Windsor Park as part of an Eagle Scout project and Kansas State students will be constructing one at Porter Park.

Eric Mikkelson stated the new sign looks great and thanked Mr. Gallagher for his involvement in this project.

- The City was approved by MARC to receive a Bike Route Grant. The project will start after the first of the year.

- Public meeting was held for the trail at the Village Shopping Center.
- Meadowbrook will remain a construction site until the homes are built next year. The street will remain closed until that time with the final coat of asphalt being placed next spring.

Jori Nelson asked for an update on the EAB project. Mr. Bredehoeft responded that there are infected trees in the City. It takes three to four years for the disease to take its toll. The eight streets that were treated are doing well.

Administration

- Wes Jordan reported the office building that has been demolished at 75th & Mission Road will be replaced with a two story office building located closer to Mission Road with parking on the south side of the property. The building permit has been issued.
- Lisa Santa Maria reported the RFP Audit proposals will be reviewed by the Finance Committee on Wednesday, October 5th from 1 to 3 pm.
- Quinn Bennion congratulated the City Council on the city’s receipt of an Aaa Bond rating for the street light bonds.
- Mr. Bennion advised that Melissa Prenger is continuing to meet and work with representatives from Prairie Baptist Church regarding their drainage issues.

OLD BUSINESS

Ted Odell stated that he would like an elevation survey done of the foundations for the Mission Chateau project to verify that the buildings will be at the agreed upon height. Mr. Odell also expressed concern with maintenance of a planter at the Corinth Square Shopping Center.

NEW BUSINESS

Jori Nelson announced the upcoming Environmental Community Forum to be held at Village Church on Thursday, October 6th.

Committee meetings scheduled for the next two weeks include:

Planning Commission	10/04/2016	7:00 p.m.
Tree Board Seminar	10/05/2016	6:00 p.m.
JazzFest Committee Meeting	10/11/2016	5:30 p.m.
PV Arts Council	10/12/2016	5:30 p.m.
Park & Recreation Committee	10/12/2016	6:30 p.m.
Council Committee of the Whole	10/17/2016	6:00 p.m.

=====

The Prairie Village Arts Council is pleased to present the 10th annual State of the Arts Exhibit in the R.G. Endres Gallery during the month of October. The artist reception will be from 6 to 8 p.m. on Friday, October 14th.

The League of Kansas Municipalities Conference will be held Saturday, October 8th through Monday, October 10th at the Overland Park Convention Center. If you are interested in attending, please contact Meghan Buom by September 23rd.

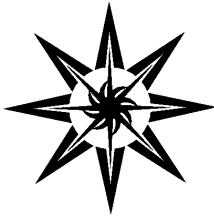
The 32nd Annual Prairie Village Peanut Butter Week in support of Harvesters Food Bank will be held October 10 - 16, 2016. Support the drive through donations at City Hall or at your local church or school.

Save the Date - The Northeast Johnson County Chamber of Commerce Annual Gala will be held on Saturday, November 19th.

ADJOURNMENT

With no further business to come before the City Council the meeting was adjourned at 8:55 p.m.

Joyce Hagen Mundy
City Clerk



POLICE DEPARTMENT

Council Meeting Date: October 17, 2016

CONSENT AGENDA: PURCHASE REQUEST OF POLICE VEHICLE

RECOMMENDATION

Staff recommends the purchase of one (1) 2016 Nissan Altima for \$23,000.00.

COUNCIL ACTION REQUESTED ON OCTOBER 17, 2016.

BACKGROUND

On an annual basis, the Police Department replaces older Investigations vehicles due to age, mileage, and/or maintenance problems. The Department is seeking authorization to purchase this vehicle from State Line Nissan.

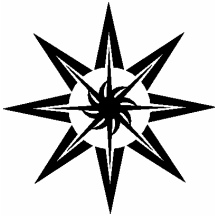
The current fleet is primarily all Ford products. One reason we selected the Nissan Altima was for surveillance and other covert or drug related investigations.

This purchase was previously approved by the City Council as part of the 2016 Public Safety Budget.

FUNDING SOURCE 01-03-26-8006-000 - \$23,000.00

PREPARED BY

Captain Wes Lovett
Investigations Commander
Date: October 13, 2016



COUNCIL COMMITTEE

Council Committee Meeting Date: October 3, 2016

City Council Meeting Date: October 17, 2016

COU 2016-56

Consider approving the City's health, dental, and vision insurance providers, as recommended by City staff.

RECOMMENDATION

Staff is recommending the Governing Body approve United Health Care as the new provider for employee health insurance. CBIZ conducted a comprehensive bid process at the request of City Staff due to steep renewal rate projections from the current provider - Blue Cross Blue Shield of Kansas City. Staff is also recommending dental and vision insurance renewals with current providers.

SUGGESTED MOTION

Move that the Committee:

- 1) Approve moving from Blue Cross Blue Shield of Kansas City (BCBS) to United Health Care (UHC) as the City's health insurance provider for the 2017 plan year, with a 6.0% increase in premiums, shared between the City and employees.
- 2) Approve Delta Dental of Kansas as the City's dental insurance provider for the 2017 plan year, with a 0.0% increase in premiums.
- 3) Approve Superior Vision as the City's vision insurance provider for the 2017 plan year, with a 4.0% increase in premiums.

BACKGROUND

A CBIZ representative will be in attendance at Monday night's meeting.

The health insurance renewal is based on the claims incurred by plan participants over the twelve month period of June 2015 - May 2016; the City's loss ratio for this period was 103%. The initial renewal rates for 2017 were over 20% of an increase which exceeded the 2017 budget projection of a 10% maximum. As a result of the steep increase, CBIZ conducted a Request for Proposal that went to six medical carriers. There were four that responded; BCBS, UHC, Midwest Public Risk (MPR), and Humana.

Staff worked with CBIZ to develop a viable alternative within budget while striving to maintain similar benefits. The discussion and coverage reviews resulted in the recommendation of United Health Care. The City was with UHC prior to BCBS, from 2001 - 2008.

The City will offer two plans for employees to select from. The current Base PPO has been replaced with an HMO, with a few minor changes. The new Base HMO will have no annual deductible and the Out-Of-Pocket maximum will stay at \$5,500 for an individual and \$10,000 for a family. This will be the only HMO plan available. The Qualified High Deductible Health Plan (QHDHP) deductibles will remain at \$2,600 for an individual and \$5,200 for a family, however the coinsurance will change from 0% to 10%. The Out-Of-Pocket maximum will increase slightly from \$2,600 to \$3,000 for an individual and from \$5,200 to \$6,000 for a family.

The new HMO plan co-pays for office visits remains at \$35/70 and for Urgent Care will change from \$70 to \$75. Prescription co-pays for level 2 will change from \$40 to \$35 and level 3 from \$70 to \$60.

In addition, for 2017 the City will require all employees to enroll in the plan. For the past few years, employees could opt out of the health plan. This will ensure the City will have more leverage when negotiating rates at future renewals while minimizing exposure to being rated on an individual basis due to enrollment falling below the threshold of 100 employees.

The Health Risk Assessment (HRA) or biometric screenings will continue. Those that complete an HRA or screening will receive a discounted rate on the premium of \$20.00 per month.

The City recommends that the differential for tobacco users covered on the City's health insurance plan (employee or dependent) continue in 2017. Those individuals who do use tobacco products (cigarettes, pipes, chewing tobacco, cigars, etc.) more than once per week will be assessed \$20 in their monthly premium costs.

Delta Dental of Kansas, the City's dental insurance provider, has agreed to renew the dental plans for 2017 with 0% increase.

The City's vision insurance provider, Superior Vision, has a 4% increase in premium for 2017, with a four year guarantee on rates.

RENEWAL HISTORY

1/1/12: Blue KC agreed to a negotiate renewal of no increase in rates. CBIZ also negotiated the domestic partner benefit as well as a premium holiday for one month of savings of \$90,000.

1/1/13: Blue KC agreed to a negotiated renewal of no increase in rates. CBIZ also negotiated a change in the funding of the plan, from a non-participating fully insured contract, to a Maximum Refund contract. While still fully insured, the City will be able to receive any excess funds back in the form of a refund. (The City received a refund from Blue KC in the amount of \$28,165 in May 2014.)

- 1/1/14: Blue KC agreed to a negotiated renewal increase of 3.43%, a concession of 1.37%. Blue KC also agreed to keep the out of pocket at the current level (including medical expenses) with no rate impact.
- 1/1/15: The original renewal offering from Blue KC was an increase of 10.2% which increased the out of pocket maximum levels to accommodate the inclusion of the pharmacy co pays. Additionally the QHDHP deductible and out of pocket maximum were increased from \$2,500/\$5,000 to \$2,600/\$5,200. After negotiations, we were able to reduce the renewal to 8.2%. Then moving the QHDHP to a different network, the City was able to obtain a final 2.2% blended increase across all plans.
- 1/1/16: The agreed negotiated renewal increase of 9% included a deductible increase for the Base PPO from \$500/\$1,000 to \$750/\$1,500; co pays from \$30/\$60 to \$35/\$70; and pharmacy co pays from \$12/\$35/\$60 to \$12/\$40/\$70. The HMO out-of-pocket maximum increased from \$4,500/\$9,000 to \$5,500/\$10,000.

FUNDING SOURCE

Employee insurance premiums are funded with the General Fund. The 2017 budget anticipated an increase in City premium contributions of 10%. The renewal rates of 6.0%, 0%, and 4% for the health, dental, and vision plans, fit within the budgeted funds. The annual costs for health insurance coverage for 2017 is approximately \$903,278, which is 4% less than the 10% budgetary increase projection.

ATTACHMENTS

- Medical Benefits Comparison
-

Prepared By:

Amy Hunt

Human Resources Manager

Date: September 26, 2016



City of Prairie Village United Healthcare Fully Insured Effective January 1, 2017

MEDICAL	
Carrier Website	
Plan Type	
Annual Deductible (calendar year) ⁽¹⁾	
Individual	
Family	
Coinsurance	
Member Pays	
Maximum Out-of-Pocket (calendar year) ⁽²⁾	
Individual	
Family	
Physician Services	
Preventive Care	
Office Visits	
Diagnostic (Non-routine) X-Ray	
Diagnostic (Non-routine) Labs	
Routine Eye Exam (every year)	
Chiropractic Services (unlimited visits)	
Urgent Care Center	
Hospital Services	
Inpatient Care	
Outpatient Surgery and Services	
High Tech Diagnostics	
Ambulance	
Emergency Room	
Prescription Drugs	
Level 1	
Level 2	
Level 3	
Mail Order (90 Day Supply)	
Total Rates	
MONTHLY RATES	
Employee Only	
Employee + One	
Employee + Family	

United Healthcare			
www.uhc.com			
QHDHP Choice Plus POS (HSA)			
In Network		Out of Network	
\$2,600		\$2,600	
\$5,200		\$5,200	
0%	10%	30%	
\$2600	\$3000	\$5200	\$6000
\$5200	\$6000	\$10400	\$12000
\$0		Deductible then 20%	
Deductible		Deductible then 20%	
Deductible		Deductible then 20%	
Deductible		Deductible then 20%	
Not covered		Not covered	
Deductible		Deductible then 20%	
Deductible		Deductible then 20%	
Deductible		Deductible then 20%	
Deductible	Deductible	Deductible then 20%	Deductible
Deductible	Deductible	Deductible then 20%	Deductible
Deductible then \$10		Deductible then \$10	
Deductible then \$35		Deductible then \$35	
Deductible then \$60		Deductible then \$60	
2.5x copays after Deductible		Not covered	
<u>Current BCBS</u>		<u>New UHC</u>	
\$399.10		\$422.53	
\$965.80		\$1,022.68	
\$1,424.73		\$1,507.16	

United Healthcare			
www.uhc.com			
Base Plan Choice Plus POS (HMO)			
In Network		Out of Network	
N/A		\$5,000	
N/A		\$10,000	
30%		40%	
\$5,500		\$10,000	
\$10,000		\$20,000	
\$0		Deductible then 40%	
\$35 / \$70*		Deductible then 40%	
\$0		Deductible then 40%	
\$0		Deductible then 40%	
Not covered		Not covered	
\$35		Deductible then 40%	
\$75		Deductible then 40%	
30%		Deductible then 40%	
30%		Deductible then 40%	
30%		Deductible then 40%	
		30%	
		\$250 then 30%	
\$10		\$10	
\$35		\$35	
\$60		\$60	
2.5x Copays		Not covered	
<u>Current BCBS/Base</u>		<u>New UHC Base</u>	
\$459.47		\$487.60	
\$1,112.09		\$1,180.17	
\$1,638.92		\$1,739.26	

Employee Contributions	
MONTHLY RATES	
Employee Only	
Employee + One	
Employee + Family	

Current BCBS		New UHC	
(\$59.87)		(\$65.07)	
\$48.29		\$43.14	
\$199.46		\$202.72	

Current BCBS/Base		New UHC Base	
\$0.00		\$0.00	
\$189.06		\$200.63	
\$409.73		\$434.82	

Employer Contributions	
MONTHLY RATES	
Employee Only	
Employee + One	
Family	

Current BCBS		New UHC	
\$458.97		\$487.60	
\$917.51		\$979.54	
\$1,225.27		\$1,304.45	

Current BCBS/Base		New UHC Base	
\$459.47		\$487.60	
\$923.03		\$979.54	
\$1,229.19		\$1,304.45	

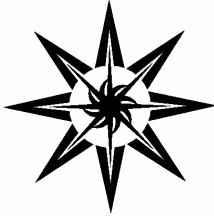
Note: This is only a summary. Please refer to the booklet/certificate for specific details. If a conflict arises, the booklet/certificate will govern in all cases.

- (1) Family deductible is embedded. An individual covered in a family will not pay more than the individual deductible.
- (2) Out-of-pocket amount includes deductible, coinsurance, and all member copays.

*Includes \$0 PCP copay for covered persons less than age 19; \$35 copay for all members if using a Specialist participating in Designated Network

Includes ACA Taxes as follows:

- 1) Health Insurance Excise Tax: N/A for 2017
- 2) PCOR Fee: \$2.25 per member per year (Estimated at \$443)
- 3) Reinsurer Fee: N/A for 2017



CODES ADMINISTRATION

Council Committee Meeting Date: October 3, 2016
City Council Meeting Date: October 17, 2016

COU2016-57: Consider adopting the International Code Council Building Valuation Data Table for assessing permit fees.

RECOMMENDATION

Staff recommends adopting the International Code Council Building Valuation Data Table and amended fee schedule for assessing permit fees.

SUGGESTED MOTION

I move that Council approve the International Code Council Building Valuation Data Table current publication, the attached fee schedule as presented for assessing permit fees, and proposed ordinance changes to Chapter 4 as submitted.

BACKGROUND

The current procedure to assess permit fees is confusing and outdated. Currently, the value to be used in computing the building permit and plan review fee is broken down into four costs (1) General cost to construct including materials and labor (2) Cost of electrical materials and labor (3) Cost of plumbing materials and labor (4) Cost of HVAC material and Labor. Each of the four units of cost are then individually calculated by the permit fee schedule and then a plan review fee is assessed. The values are based on what the applicant submits. The determination of value or valuation under any provision of these codes shall be made by the Building Official.

Total Valuation:

Fees:

\$1-\$500	\$25
\$501 - \$2000	\$25 for first \$500 plus \$1.5 for each additional \$100 up to and including \$2000
\$2,001 - \$25,000	\$47.5 for first \$2,000 plus \$5 for each additional \$1,000
\$25,001 - \$50,000	\$162.5 for first \$25,000 plus \$3.5 for each additional \$1,000
\$50,001 - \$100,000	\$250 for first \$50,000 plus \$2.5 for each additional \$1,000
\$100,001 - \$500,000	\$385 for first \$100,000 plus \$2.25 for each additional \$1,000
\$500,001 - \$1,000,000	\$1,285 for first \$500,000 plus \$2 for each additional \$1,000
\$1,000,001 and up	\$2,281 for first \$1,000,000 plus \$2 for additional each \$1,000

INTERNATIONAL CODE COUNCIL

The majority of cities in the surrounding area have adopted the International Code Council Building Valuation Data (ICCBVD) Table as a standard base for charging applicable permit fees. From this base, a modifier/multiplier is applied as an adjustment +/- for each municipality and that percentage varies somewhat between the cities. The ICCBVD is an international recognized cost valuation table for the average construction cost per square foot which can be used for determining permit fees for a jurisdiction. The table specifies the average costs to include foundation work, structural and nonstructural building components, electrical, plumbing, mechanical, and interior finish material. The “modifier” is used to take into account regional cost differences. However, Staff does not believe a “modifier” is necessarily applicable in this area. The net difference between the ICCBVD and the current process will likely be a net increase in fees in the range of 12%-15%.

ATTACHMENTS:

- City of Prairie Village Building Permit/Plan Review Fees
- International Code Council Building Valuation Data Table

PREPARED BY

Wes Jordan
Assistant City Administrator
Date: September 28, 2016

City of Prairie Village, KS
 Building Permit/Plan Review Fees
 Effective ~~January 1, 2009~~ **Effective November 30th 2016**

Residential (to include additions/alterations) and Commercial:

\$1-\$500

~~\$25.00~~ **\$31.25**

\$501-\$2,000

~~\$25~~ **\$31.25** for first \$500, plus ~~\$1.50~~ **\$1.88** for each additional \$100 or fraction thereof.

\$2,001-\$25,000

~~\$47.50~~ **\$59.38** for first \$2,000 plus ~~\$5.00~~ **\$6.25** for each additional \$1,000 or fraction thereof.

\$25,001-\$50,000

~~\$162.50~~ **\$203.13** for first \$25,000 plus ~~\$3.50~~ **\$4.38** for each additional \$1,000 or fraction thereof.

\$50,001-\$100,000

~~\$250~~ **\$312.50** for first \$50,000 plus ~~\$2.50~~ **\$3.13** for each additional \$1,000 or fraction thereof.

\$100,001-\$500,000

~~\$385~~ **\$481.25** for first \$100,000 plus ~~\$2.25~~ **\$2.81** for each additional \$1,000 or fraction thereof.

\$500,001-\$1,000,000

~~\$1,285~~ **\$1,606.25** for first \$500,000 plus ~~\$2.00~~ **\$2.50** for each additional \$1,000 or fraction thereof.

\$1,000,000 and up

~~\$2,281~~ **\$2,851.25** for first \$1,000,000 plus ~~\$2.00~~ **\$2.50** for each additional \$1,000 or fraction thereof.

FIXED FEES:

Signs – Based on valuation table

Residential decks \$40.00
fee

Retaining wall \$45.00

New Footing/Foundation \$55.00

Foundation Repair \$30.00

Lawn Irrigation \$30.00

Residential Re-roof \$45.00

1 & 2 Family

Commercial Re-roof – Based on valuation table

Pool Demolition \$50.00

Interior Demo Residential \$50.00

Demolition/Residential ~~\$50.00~~ **\$100.00**

Demolition/Commercial ~~\$100.00~~ **\$200.00**

Commercial Tennis Bubble \$50.00

Shed \$25.00

Fence \$45.00

Spas/Hot tub \$40.00

Temporary CO \$100.00

Certificate of Occupancy \$20.00

PLAN REVIEW:

Residential

~~10%~~ **15%** of total building permit

\$25.00 minimum

Commercial

65% of total building permit fee

\$30.00 minimum

MISCELLANEOUS FEES:

Moving Structure \$100.00

plus City costs, if applicable

After hours inspection fee

\$50.00 per hour, minimum 2 hours

Re-inspection fee ~~\$50~~ **\$75** each

Commercial Building Permit addendum plan review fee \$200.00 each (Proposed new fee)

Residential Building Permit addendum plan review fee \$35.00 each (Proposed new fee)

International Code Council Building Valuation Table

Group (2015 International Building Code)	IA	IB	IIA	IIB	IIIA	IIIB	IV	VA	VB
A-1 Assembly, theaters, with stage	226.92	219.10	213.80	205.04	192.95	187.36	198.56	176.18	169.73
A-1 Assembly, theaters, without stage	207.97	200.15	194.85	186.09	174.15	168.55	179.61	157.38	150.92
A-2 Assembly, nightclubs	177.89	172.85	168.07	161.49	151.98	147.78	155.80	137.68	132.99
A-2 Assembly, restaurants, bars, banquet halls	176.89	171.85	166.07	160.49	149.98	146.78	154.80	135.68	131.99
A-3 Assembly, churches	209.94	202.13	196.83	188.07	176.32	170.72	181.59	159.54	153.09
A-3 Assembly, general, community halls, libraries, museums	175.12	167.31	161.01	153.25	140.50	135.90	146.77	123.72	118.27
A-4 Assembly, arenas	206.97	199.15	192.85	185.09	172.15	167.55	178.61	155.38	149.92
B Business	181.12	174.43	168.67	160.26	146.18	140.70	153.97	128.34	122.72
E Educational	192.29	185.47	180.15	172.12	160.72	152.55	166.18	140.46	136.18
F-1 Factory and industrial, moderate hazard	108.98	103.99	97.83	94.17	84.37	80.56	90.16	69.50	65.44
F-2 Factory and industrial, low hazard	107.98	102.99	97.83	93.17	84.37	79.56	89.16	69.50	64.44
H-1 High Hazard, explosives	102.01	97.02	91.86	87.20	78.60	73.79	83.19	63.73	N.P.
H234 High Hazard	102.01	97.02	91.86	87.20	78.60	73.79	83.19	63.73	58.67
H-5 HPM	181.12	174.43	168.67	160.26	146.18	140.70	153.97	128.34	122.72
I-1 Institutional, supervised environment	180.72	174.14	169.28	161.12	149.06	145.04	161.12	133.69	129.43
I-2 Institutional, hospitals	304.80	298.11	292.36	283.95	268.92	N.P.	277.65	251.09	N.P.
I-2 Institutional, nursing homes	211.20	204.51	198.75	190.34	177.26	N.P.	184.05	159.42	N.P.
I-3 Institutional, restrained	206.08	199.38	193.63	185.22	172.62	166.14	178.93	154.78	147.16
I-4 Institutional, day care facilities	180.72	174.14	169.28	161.12	149.06	145.04	161.12	133.69	129.43
M Mercantile	132.61	127.57	121.79	116.21	106.35	103.15	110.52	92.05	88.36
R-1 Residential, hotels	182.28	175.70	170.83	162.68	150.87	146.84	162.68	135.49	131.23
R-2 Residential, multiple family	152.86	146.27	141.41	133.25	122.04	118.01	133.25	106.66	102.41
R-3 Residential, one- and two-family	143.93	139.97	136.51	132.83	127.95	124.61	130.57	119.73	112.65
R-4 Residential, care/assisted living facilities	180.72	174.14	169.28	161.12	149.06	145.04	161.12	133.69	129.43
S-1 Storage, moderate hazard	101.01	96.02	89.86	86.20	76.60	72.79	82.19	61.73	57.67
S-2 Storage, low hazard	100.01	95.02	89.86	85.20	76.60	71.79	81.19	61.73	56.67
U Utility, miscellaneous	77.82	73.48	69.04	65.52	59.23	55.31	62.58	46.83	44.63

• Private garages use utility, miscellaneous

• Remodel work (R-3) deduct 50% from BVD

• Finished basements (R-3) = deduct 50% from BVD

• For shell only buildings deduct 40% from BVD

• For tenant finishes deduct 25% from BVD

*NP – not permitted



Building Valuation Data – AUGUST 2016

The International Code Council is pleased to provide the following Building Valuation Data (BVD) for its members. The BVD will be updated at six-month intervals, with the next update in February 2017. ICC strongly recommends that all jurisdictions and other interested parties actively evaluate and assess the impact of this BVD table before utilizing it in their current code enforcement related activities.

The BVD table provides the “average” construction costs per square foot, which can be used in determining permit fees for a jurisdiction. Permit fee schedules are addressed in Section 109.2 of the 2015 *International Building Code* (IBC) whereas Section 109.3 addresses building permit valuations. The permit fees can be established by using the BVD table and a Permit Fee Multiplier, which is based on the total construction value within the jurisdiction for the past year. The Square Foot Construction Cost table presents factors that reflect relative value of one construction classification/occupancy group to another so that more expensive construction is assessed greater permit fees than less expensive construction.

ICC has developed this data to aid jurisdictions in determining permit fees. It is important to note that while this BVD table does determine an estimated value of a building (i.e., Gross Area x Square Foot Construction Cost), this data is only intended to assist jurisdictions in determining their permit fees. This data table is not intended to be used as an estimating guide because the data only reflects average costs and is not representative of specific construction.

This degree of precision is sufficient for the intended purpose, which is to help establish permit fees so as to fund code compliance activities. This BVD table provides jurisdictions with a simplified way to determine the estimated value of a building that does not rely on the permit applicant to determine the cost of construction. Therefore, the bidding process for a particular job and other associated factors do not affect the value of a building for determining the permit fee. Whether a specific project is bid at a cost above or below the computed value of construction does not affect the permit fee because the cost of related code enforcement activities is not directly affected by the bid process and results.

Building Valuation

The following building valuation data represents average valuations for most buildings. In conjunction with IBC Section 109.3, this data is offered as an aid for the building official to determine if the permit valuation is underestimated. Again it should be noted that, when using this data, these are “average” costs based on typical construction methods for each occupancy group and type of construction. The average costs include foundation work, structural and nonstructural

building components, electrical, plumbing, mechanical and interior finish material. The data is a national average and does not take into account any regional cost differences. As such, the use of Regional Cost Modifiers is subject to the authority having jurisdiction.

Permit Fee Multiplier

Determine the Permit Fee Multiplier:

1. Based on historical records, determine the total annual construction value which has occurred within the jurisdiction for the past year.
2. Determine the percentage (%) of the building department budget expected to be provided by building permit revenue.
- 3.

$$\text{Permit Fee Multiplier} = \frac{\text{Bldg. Dept. Budget x (\%)}}{\text{Total Annual Construction Value}}$$

Example

The building department operates on a \$300,000 budget, and it expects to cover 75 percent of that from building permit fees. The total annual construction value which occurred within the jurisdiction in the previous year is \$30,000,000.

$$\text{Permit Fee Multiplier} = \frac{\$300,000 \times 75\%}{\$30,000,000} = 0.0075$$

Permit Fee

The permit fee is determined using the building gross area, the Square Foot Construction Cost and the Permit Fee Multiplier.

$$\text{Permit Fee} = \text{Gross Area} \times \text{Square Foot Construction Cost} \times \text{Permit Fee Multiplier}$$

Example

Type of Construction: IIB
 Area: 1st story = 8,000 sq. ft.
 2nd story = 8,000 sq. ft.
 Height: 2 stories
 Permit Fee Multiplier = 0.0075
 Use Group: B

1. Gross area:
Business = 2 stories x 8,000 sq. ft. = 16,000 sq. ft.
2. Square Foot Construction Cost:
B/IIB = \$160.26/sq. ft. Permit Fee:
Business = 16,000 sq. ft. x \$160.26/sq. ft x 0.0075
= \$19,231

Important Points

- The BVD is not intended to apply to alterations or repairs to existing buildings. Because the scope of alterations or repairs to an existing building varies so greatly, the Square Foot Construction Costs table does not reflect accurate values for that purpose. However, the Square Foot Construction Costs table can be used to determine the cost of an addition that is basically a stand-alone building which happens to be attached to an existing building. In the case of such additions, the only alterations to the existing building would involve the attachment of the addition to the existing building and the openings between the addition and the existing building.
- For purposes of establishing the Permit Fee Multiplier, the estimated total annual construction value for a given time period (1 year) is the sum of each building's value (Gross Area x Square Foot Construction Cost) for that time period (e.g., 1 year).
- The Square Foot Construction Cost does not include the price of the land on which the building is built. The Square Foot Construction Cost takes into account everything from foundation work to the roof structure and coverings but does not include the price of the land. The cost of the land does not affect the cost of related code enforcement activities and is not included in the Square Foot Construction Cost.

Square Foot Construction Costs ^{a, b, c, d}

Group (2015 International Building Code)	IA	IB	IIA	IIB	IIIA	IIIB	IV	VA	VB
A-1 Assembly, theaters, with stage	226.92	219.10	213.80	205.04	192.95	187.36	198.56	176.18	169.73
A-1 Assembly, theaters, without stage	207.97	200.15	194.85	186.09	174.15	168.55	179.61	157.38	150.92
A-2 Assembly, nightclubs	177.49	172.34	167.98	161.18	151.95	147.76	155.52	137.58	132.93
A-2 Assembly, restaurants, bars, banquet halls	176.49	171.34	165.98	160.18	149.95	146.76	154.52	135.58	131.93
A-3 Assembly, churches	209.94	202.13	196.83	188.07	176.32	170.72	181.59	159.54	153.09
A-3 Assembly, general, community halls, libraries, museums	175.12	167.31	161.01	153.25	140.50	135.90	146.77	123.72	118.27
A-4 Assembly, arenas	206.97	199.15	192.85	185.09	172.15	167.55	178.61	155.38	149.92
B Business	181.12	174.43	168.67	160.26	146.18	140.70	153.97	128.34	122.72
E Educational	192.29	185.47	180.15	172.12	160.72	152.55	166.18	140.46	136.18
F-1 Factory and industrial, moderate hazard	108.53	103.54	97.56	93.81	84.17	80.36	89.86	70.57	66.08
F-2 Factory and industrial, low hazard	107.53	102.54	97.56	92.81	84.17	79.36	88.86	70.57	65.08
H-1 High Hazard, explosives	101.60	96.60	91.63	86.88	78.44	73.62	82.93	64.84	N.P.
H234 High Hazard	101.60	96.60	91.63	86.88	78.44	73.62	82.93	64.84	59.35
H-5 HPM	181.12	174.43	168.67	160.26	146.18	140.70	153.97	128.34	122.72
I-1 Institutional, supervised environment	180.72	174.14	169.28	161.12	149.06	145.04	161.12	133.69	129.43
I-2 Institutional, hospitals	304.80	298.11	292.36	283.95	268.92	N.P.	277.65	251.09	N.P.
I-2 Institutional, nursing homes	211.20	204.51	198.75	190.34	177.26	N.P.	184.05	159.42	N.P.
I-3 Institutional, restrained	206.08	199.38	193.63	185.22	172.62	166.14	178.93	154.78	147.16
I-4 Institutional, day care facilities	180.72	174.14	169.28	161.12	149.06	145.04	161.12	133.69	129.43
M Mercantile	132.23	127.09	121.73	115.92	106.18	102.99	110.26	91.82	88.16
R-1 Residential, hotels	182.28	175.70	170.83	162.68	150.87	146.84	162.68	135.49	131.23
R-2 Residential, multiple family	152.86	146.27	141.41	133.25	122.04	118.01	133.25	106.66	102.41
R-3 Residential, one- and two-family	143.93	139.97	136.51	132.83	127.95	124.61	130.57	119.73	112.65
R-4 Residential, care/assisted living facilities	180.72	174.14	169.28	161.12	149.06	145.04	161.12	133.69	129.43
S-1 Storage, moderate hazard	100.60	95.60	89.63	85.88	76.44	72.62	81.93	62.84	58.35
S-2 Storage, low hazard	99.60	94.60	89.63	84.88	76.44	71.62	80.93	62.84	57.35
U Utility, miscellaneous	77.82	73.48	69.04	65.52	59.23	55.31	62.58	46.83	44.63

COUNCIL COMMITTEE OF THE WHOLE
October 3, 2016

The Council Committee of the Whole met on Monday, October 3, 2016 at 6:00 p.m. in the Council Chambers. The meeting was called to order by Council President Ted Odell with the following members present: Mayor Laura Wassmer, Ashley Weaver, Jori Nelson, Serena Schermoly, Steve Noll, Eric Mikkelson, Sheila Myers, Brooke Morehead, Dan Runion, Courtney McFadden, Ted Odell and Terrence Gallagher.

Staff Members present: Tim Schwartzkopf, Chief of Police; Captains Myron Ward and Wes Lovett; Keith Bredehoeft, Director of Public Works; Katie Logan, City Attorney; Quinn Bennion, City Administrator; Wes Jordan, Assistant City Administrator; Lisa Santa Maria, Finance Director; Amy Hunt, Human Resources Manager; Mitch Dringman, Building Official and Joyce Hagen Mundy, City Clerk.

Also present was Dave Johnson and Kristen Grace with CBIZ, city's employee insurance broker, and Teen Council member Tyler Ruzich.

COU2016-56 Consider City's employee health, dental and vision insurance providers

Amy Hunt stated that the city went out to bid for employee insurance coverage for 2017. Last year a bid process was planned, but due to dropping below 100 enrolled participants the claims experience rating was not accessible.

The health insurance renewal is based on the claims incurred by plan participants over the twelve month period of June 2015 - May 2016; the City's loss ratio for this period was 103%. The initial renewal rates for 2017 were over 20% an increase which exceeded the 2017 budget of 10%. CBIZ moved forward with the planned Request for Proposal which went to six medical carriers with the following four responding: BCBS, UHC, Midwest Public Risk (MPR), and Humana.

Staff worked with CBIZ to develop a viable alternative within budget while striving to maintain similar benefits. The discussion and coverage reviews resulted in the recommendation of switching to United Healthcare. The City was with UHC prior to BCBS, from 2001 - 2008.

The City will offer two plans for employees to select from. The current Base PPO has been replaced with a Point of Sale (POS) plan, with a few minor changes. The new Base POS will have no annual deductible and the Out-Of-Pocket maximum will stay at \$5,500 for an individual and \$10,000 for a family. The Qualified High Deductible Health Plan (QHDHP) deductibles will remain at \$2,600 for an individual and \$5,200 for a family, however the coinsurance will change from 0% to 10%. The Out-Of-Pocket maximum will increase from \$2,600 to \$3,000 for an individual and from \$5,200 to \$6,000 for a family.

The new POS plan co-pays for office visits remains at \$35/70 and for Urgent Care will change from \$70 to \$75. Prescription co-pays for level 2 will change from \$40 to \$35 and level 3 from \$70 to \$60.

In addition, for 2017 the City will require all employees to enroll in an Employee Only plan. This will ensure the City will have more leverage when negotiating rates at future renewals while minimizing exposure to being rated on an individual basis due to enrollment falling below the threshold of 100 employees.

Serena Schermoly questioned requiring employees to pay for insurance coverage that they don't need. Amy Hunt responded there would be no cost to the employee for single coverage.

David Johnson with CBIZ stated that maintaining an insurance base enrollment of 100 or more is key in the insurance industry. It is the breakpoint for being able to acquire claim information. If the city's enrollment base falls below 100, it would be required to submit individual health information from all employees on the plan. Plans with 100+ enrollees get a larger group rating and are generally less expensive.

Mayor Wassmer asked if it would be beneficial to add Council members to the plan to meet the 100 minimum enrollment. Mr. Johnson replied that if all employees were required to participate the same requirement would have to be made for council members.

Jori Nelson asked how many employees have opted out of insurance coverage. Mrs. Hunt replied about 10. Ms. Nelson confirmed that if they were required to participate, the city would be responsible for the additional premium costs and asked if that had been included in the budget. Lisa Santa Maria replied the budget was prepared with the assumption that all employees would participate in the health insurance coverage.

David Johnson stressed the importance of maintaining a 100+ base enrollment. Ashley Weaver confirmed that generally groups with less than 100 participants have higher premiums and less options in the plan design.

Terrence Gallagher asked for clarification on conflicting costs being given and asked if UHC has improved their customer relations stating that his experience with them has been negative.

Jori Nelson asked if the employees were unhappy with Blue Cross/Blue Shield. Quinn Bennion stated they have not and noted the city has been with them for 8 years. However, a cost increase of 22% greatly exceeds what has been budgeted. Mr. Jordan stated the cost increase to remain with BCBS would be \$200,000 vs. 6% with the proposed coverage from UHC. This is the most viable option with the benefit funds available.

Serena Schermoly asked if employees could be required to participate in the health coverage. Mrs. Hunt replied they could as long as the city was paying 100% of the premium.

Eric Mikkelson asked if all the bids received were for the same level of coverage. Mr. Johnson responded that all bids were based on the same specifications with the number of employees and experience at the time of the bid. Ashley Weaver confirmed that if the city only paid 95% of the premium for single coverage, employees would have to have the ability to opt out of insurance coverage. Mr. Johnson stated the requirement for all employees to participate is designed to help the city out in the future by ensuring a participation level of more than 100. It is an independent issue from the program selection. Mr. Mikkelson asked what the percentage increases were from the other bidders. Kristen Grace with CBIZ replied Humana was 27% and 25% increase for the two plans and MPR was a 20+% increase for both plans. Mr. Johnson added that Humana is currently undergoing a merger with Aetna and that the MPR plan uses a July to July calendar year.

Jori Nelson asked if employees would pay the 20% difference to stay with BCBS and their same physicians. Mr. Jordan stated the participating physicians and hospitals for both plans were very similar with more participating hospitals with the UHC plan. He stated that the city did not have any customer service issues with UHC during the years that it was the city's insurance provider. Mr. Jordan stated that prior to 2011, the city did require all employees to participate in the city's health insurance program.

Sheila Myers asked if 100% premium coverage for single coverage was standard. Amy Hunt replied that it is customary in most nearby municipalities. Mrs. Myers asked if a high deductible plan was available. Mr. Jordan stated it was and the city has encouraged employees to participate in it; however, its cost has increased for the past few years. Mr. Jordan added that in the 2006 salary and benefit study conducted for the City one of the recommendations was to increase the percentage of premium paid by the city for family coverage. This will be one of the items covered in the salary study to be done in 2017. He stated that staff has invested several hours to get to this point to be able to bring forward a plan that is below the budgeted amount and still provides employees with a plan that will allow them to retain their current physician/hospital relationship.

Mayor Wassmer stated that regardless the mandated insurance coverage the city is looking at either a 20% increase to remain with the current provider or a 6% increase to change providers. The mandated 100% coverage is to ensure that the city is in a better position for future renewals and to retain access to claim experience.

Eric Mikkelson asked if the city could take the 6% and not mandate coverage saving the city the cost of the added employees. Amy Hunt explained that if the city's insurance base drops below 100, the city is denied any claim history for three months. By mandating coverage the city is ensuring that it will receive continuous claim history reports. Mr. Bennion acknowledged that the city could save short term costs by allowing employees to opt out.

The question before the Council is whether to accept a 20% increase with the current provider or a 6% increase with a new provider offering two plan options with an almost identical physician listing. The premium for the base plan is \$485.60 per month or approximately \$5,800 annually. If the 10 employees now opting out of coverage were required to participate, the additional cost to the city would be \$58,000 initially.

Ted Odell asked what the deadline was for submittal of information. Mrs. Hunt replied the plan begins January 1, 2017 and information would need to be submitted to the carrier by December 1, 2016. She noted open enrollment meetings would need to be held for the employees to review the new plans.

Dan Runion asked if there were any lifetime caps. Mr. Johnson replied there were none. Terrence Gallagher asked if the City of Mission Hills would be paying this cost for the employees providing service to them. Mr. Bennion replied that a share of the insurance costs are included in the agreement for police services.

Ashley Weaver asked what incentives were offered to employees. Amy Hunt replied biometric screenings will continue. Those that complete the screening will receive a discounted rate on the premium of \$20 per month. The differential for tobacco users covered on the City's health insurance plan (employee or dependent) would continue in 2017. Those individuals who do use tobacco products (cigarettes, pipes, chewing tobacco, cigars, etc.) more than once per week will be assessed \$20 in their monthly premium costs. UHC has an employee wellness program that rewards employees for participating in healthy life style and wellness activities. The city offers a sick leave incentive for employees using two or less days of sick leave during the course of the year. Mrs. Weaver suggested looking into other possible incentives. Mrs. Hunt replied there is an employee wellness committee that looks into these items.

Dan Runion asked if funds are available in the budget. Quinn Bennion stated funds for the 6% increase are available, funds for a 20% increase are not. The adopted budget had assumed a 10% increase.

Employee insurance premiums are funded with the General Fund. The 2017 budget anticipated an increase in City premium contributions of 10%. The renewal rates of 6.0%, 0%, and 4% for the health, dental, and vision plans, fit within the budgeted funds. The annual costs for health insurance coverage for 2017 year is approximately \$903,278 which is 4% less than the 10% budgetary increase projection.

Mrs. Hunt noted that Delta Dental of Kansas, the City's dental insurance provider, has agreed to renew the dental plans for 2017 with 0% increase. The City's vision insurance provider, Superior Vision, has a 4% increase in premium for 2017, with a four year guarantee on rates.

Sheila Myers made the following motion, which was seconded by Courtney McFadden and passed by a vote of 10 to 1 with Terrence Gallagher voting in opposition.

RECOMMEND THE CITY COUNCIL APPROVE MOVING FROM BLUE

**CROSS BLUE SHIELD TO UNITED HEALTH CARE (UHC) AS THE CITY'S HEALTH INSURANCE PROVIDER FOR THE 2017 PLAN YEAR WITH A 6.0% INCREASE IN PREMIUMS, SHARED BETWEEN THE CITY AND EMPLOYEES, AND APPROVE DELTA DENTAL OF KANSAS AS THE CITY'S DENTAL INSURANCE PROVIDER FOR THE 2017 PLAN YEAR WITH A 0.0% INCREASE IN PREMIUMS AND APPROVE SUPERIOR VISION AS THE CITY'S VISION INSURANCE PROVIDER FOR THE 2017 PLAN YEAR WITH A 4.0% INCREASE IN PREMIUMS
COUNCIL ACTION REQUIRED**

COU2016-55 Consider an amendment to the Right of Way Ordinance on small cell facilities

Katie Logan, City Attorney, advised the Council on the recent legislation adopted this past summer known as the "Kansas New Wireless Deployment Act" which became law October 1, 2016. The Legislature has determined that "wireless facilities are critical to ensuring that all citizens in the state have true access to broadband," that these facilities "have a significant economic benefit," and that "the permitting, construction, modification, maintenance and operation of these facilities ... are declared to be matters of statewide concern and interest" (rather than matters of local concern). The Act is uniformly applicable to all cities, and the City may not charter out of its provisions.

Mrs. Logan stated that among the most important pieces of the Act is that a wireless services provider or wireless infrastructure provider "shall have the right to construct, maintain and operate wireless support structures, utility poles, small cell wireless facilities or distributed antenna systems along, across, upon, under or above the public right-of-way." She added by definition, "primary equipment enclosures" would include very large metal cabinets plus outside associated equipment, and the Act would allow wireless services providers to install these in the City's right-of-way by right.

She noted that earlier versions of the legislation were even broader, giving wireless providers the right to install facilities on other city property, including city buildings.

Currently, Chapter 19.33 of the City's Zoning Regulations (at Section 19.33.020) states that, with certain exceptions, "wireless communication facilities, towers and antennae" shall be allowed only upon approval of a special use permit." (Under Section 19.33.060 of the Zoning Regulations, "small wireless communications antennae installations"—antennae that may be attached to existing utility or street light poles—may be approved administratively).

Mrs. Logan stated the requirement for a special use permit is likely problematic, at least as to the right-of-way, because under the Act the City "must be competitively neutral with regard to other uses of the public right-of-way" and "may not be unreasonable or discriminatory" (and, the City does not require that all users of the right-of-way obtain special use permits). Therefore, the staff has prepared changes to the Right-of-Way Ordinance to be addressed to regulate the use of the right-of-way to the extent possible or desirable under the Act. Changes to the zoning regulations will be dealt with at a later date.

Wireless providers' rights to the right-of-way are not unlimited. The City "may exercise its home rule powers in its administration and regulation related to the management of the public right-of-way provided that any such exercise must be competitively neutral and may not be unreasonable or discriminatory."

The Act also states that the authority (the City) "shall have the right to prohibit the use or occupation of a specific portion of public right-of-way by a provider due to a reasonable public interest necessitated by public health, safety and welfare so long as such interest is exercised in a competitively neutral manner and is not unreasonable or discriminatory." The Act also states that a wireless services provider or wireless infrastructure provider "shall comply with all laws and rules and regulations governing the use of public right-of-way."

The key revisions recommended by City staff are as follows:

- Expand the definition of "facility" to include wireless communication facilities, wireless support structures, small cell facilities, base stations, transmission equipment, and distributed antenna systems.
- Add language establishing that regulations are in place for the public health, safety and welfare, and that they shall be competitively neutral and non-discriminatory.
- Establish, as a first principle, that all newly-constructed facilities—of whatever kind—shall be located underground. The Public Works Director would have authority to allow above-ground facilities for safety concerns or other appropriate reasons, provided such reasons are non-discriminatory. Provided a court would find that such a rule is "reasonable," this would offer the City a good amount of protection over the appearance of the right-of-way. A possible risk with this approach, however, may be that the City could preclude itself from approving above-ground facilities which it would prefer (becoming a victim of its own rule), or at least open itself to claims of discrimination if the City does approve other above-ground projects.
- Where above-ground facilities are permitted in the right-of-way, clarify that height may not exceed the lesser of (a) 35 feet for residential or collector streets, or 45 feet for arterial streets, or (b) 66 inches above the height of existing street light poles along that portion of the right-of-way (note: these height restrictions are the same as recently adopted by the City of Leawood).
- Provide that poles must be of a "breakaway" design and comply with established "clear zone" protocols.
- State that above-ground facilities (to the extent otherwise approved) may not be located in the front yard in front of single-family homes.
- Incorporate other revisions necessary to comply with the Act, such as costs of relocation, timelines for processing applications, and appeal rights.

Mayor Wassmer noted the state legislation gives telecommunications companies the ability to freely use city right of way for their operations. Cities are trying to determine how to minimize the impact while abiding by the new regulations.

Katie Logan stated the proposed legislation imposes as much restriction as staff and legal counsel feel can be done, noting that there is no case law, attorney general guidance, or other legal authority defining or setting parameters for what are "reasonable public health, safety and welfare requirements and regulations." City staff has proposed that the revised right-of-way ordinance establish new, non-discriminatory practices to protect the health, safety and welfare by limiting the use of the right-of-way such that, to the extent possible, all facilities and lines are placed underground and, when not possible, the height of above-ground facilities is limited.

Mrs. Logan noted that the Prairie Village right-of-way ordinance was based on, and is nearly identical to, that adopted by the City of Overland Park. The City of Overland Park has adopted most of these same proposed revisions in its own right-of-way ordinance, except that the proposed revisions to the Prairie Village ordinance are more restrictive than Overland Park's in limiting above-ground facilities. The revised City of Leawood right-of-way ordinance also includes a preference for underground facilities "[w]henver reasonably possible," but does not mandate it quite as strongly as Prairie Village's proposal.

Mayor Wassmer referenced a letter received from AT&T regarding the proposed ordinance revisions which listed three concerns - required underground placement, prohibition on newly constructed facilities above ground in any front yard and the restriction on the submission of multi-facility applications.

The intent of the ordinance is not to prohibit, but to encourage underground installations whenever possible as well as to encourage the use of existing infrastructure rather than having new installations. The city would prefer to see utility pole installations using existing poles rather than adding additional poles. Mr. Bennion stated that it is common for cities to encourage the underground installations particularly in front yards.

Eric Mikkelson asked if any cities were doing more than Prairie Village, if so he would be interested in comparing them. He likes more restrictiveness. Mrs. Logan responded that she is not aware of any more restrictive ordinances than what has been proposed.

Questions were raised regarding "public health, safety and welfare" language. Mrs. Logan replied that federal law prohibits emissions, state law addresses break-away poles".

Jori Nelson asked if the light pole replacements would impact the city's ability to use LED lights that will be purchased. Mr. Bennion noted the city is actually in a better position with the purchase of the street light system. The City would then be in control of the replacement poles and LED lights. Ms. Nelson asked if there was any specific language addressing how many feet an installation may be placed from homes and property lines. Mr. Bennion replied this is not addressed in the state statute, but noted

that the initial legislation would have allowed installations on city property as well as right-of-ways.

Serena Schermoly stated she would like to see what other cities are doing, particularly in regard to “boxes”. Mrs. Logan replied that the proposed ordinance only addresses right-of-way and not the zoning regulations on boxes. With the law already in effect, the city wanted to get something adopted quickly to provide some restrictions. The city will address the zoning issues later. She noted that what is adopted this evening, could be amended after further investigation and study.

Courtney McFadden reminded the Council these regulations are to address “small cell technology” not the construction of cell towers. She noted that the wording related to underground requirements is confusing. She stated this legislation passed with overwhelming support and was the result of extensive interaction among multiple entities. It will enable good things to happen for our residents and community.

Mayor Wassmer stressed that this law was already in effect and urged the Council to take action now to allow for more local control noting that amendments could be made to it in the future.

Mr. Bennion stated it was not the intent of the ordinance to eliminate new facilities, the intent was to address new poles.

Jori Nelson asked if there was language in the legislation for any regulation of aesthetics. Mrs. Logan responded that would be addressed in the zoning regulations. She noted the ordinance stresses consistency in treatment and actions.

Eric Mikkelson stated that he could make the argument that public welfare includes aesthetics. He wants the city to push the envelope on this issue. He understands the need to take immediate action; but he would still like to see a comprehensive review of what other cities are doing to take back local control. He feels the ordinance needs to have a definition added for “newly constructed”.

Dan Runion asked when other cities passed their ordinances. Mrs. Logan replied most were in September. Overland Park passed theirs last week.

Sheila Myers made the following motion, which was seconded by Ashley Weaver and passed by a vote of 11 to 0 with Courtney McFadden abstaining due to a professional conflict of interest.

**RECOMMEND THE GOVERNING BODY ADOPT ORDINANCE
2353 RELATED TO MANAGING THE USE AND OCCUPANCY
OF PUBLIC RIGHT-OF-WAY FOR THE CITY OF PRAIRIE
VILLAGE, KANSAS; AMENDING AND REPEALING PRAIRIE
VILLAGE MUNICIPAL CODE SECTIONS 13-503, 13-13-510,
13-511, 13-512, 13-514, 13-516, 13-518, 13-525, AND 13-528,**

**AND PROVIDING SUBSTITUTE PROVISIONS THEREFOR.
COUNCIL ACTION TAKEN
10/03/2016**

COU2016-57 Consider changes to building permit fees

Mitch Dringman, City Building Official, stated the current procedure to assess permit fees is confusing and outdated. Currently, the value to be used in computing the building permit and plan review fee is broken down into four costs (1) General cost to construct including materials and labor (2) Cost of electrical materials and labor (3) Cost of plumbing materials and labor (4) Cost of HVAC material and labor. Each of the four units of cost are then individually calculated by the permit fee schedule and then a plan review fee is assessed. The values are based on what the applicant submits. The determination of value or valuation under any provision of these codes shall be made by the Building Official.

Mr. Dringman stated that the majority of cities in the surrounding area have adopted the International Code Council Building Valuation Data (ICCBVD) Table as a standard base for charging applicable permit fees. From this base, a modifier/multiplier is applied as an adjustment +/- for each municipality and that percentage varies somewhat between the cities. The ICCBVD is an international recognized cost valuation table for the average construction cost per square foot which can be used for determining permit fees for a jurisdiction. The table specifies the average costs to include foundation work, structural and nonstructural building components, electrical, plumbing, mechanical, and interior finish material. The "modifier" is used to take into account regional cost differences. However, Staff does not believe a "modifier" is necessarily applicable in this area. The net difference between the ICCBVD and the current process will likely be a net increase in fees in the range of 12%-15%.

Dan Runion questioned if the change in process could be made and remain fee neutral. Mitch Dringman responded there is a consistent standard for valuations and its use would result in a 12 to 15% increase in residential fees and 20 to 25% increase in commercial fees. Mayor Wassmer confirmed that our commercial fees are significantly lower than other jurisdictions.

Brooke Morehead why the city would not want to have the lowest building fees to encourage building and renovation. She noted that when fees are increased these costs are generally passed through to the resident or customer. She is ok with the standardization of the process, but does not feel the fees need to be increased. Mr. Jordan replied that the current fees being charged are not recovering the costs incurred by the multiple plan reviews and inspections involved particularly with a commercial construction project. A comparison was done and the city's fees are 50% less than Overland Park but they require the same plan review and inspections. It is anticipated that the Mission Chateau project will require over 300 building inspections during its construction. The city had to add another inspector to handle the demand for inspections. The permit fees need to recover the costs. Mr. Jordan noted the impact on residential permits is minimal. Mrs. Morehead stated she agreed costs should be covered.

Eric Mikkelson made the following motion, which was seconded by Ashley Weaver and passed by a vote of 10 to1 with Dan Runion voting in opposition:

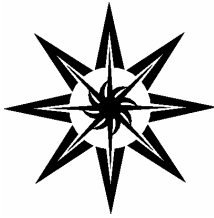
**RECOMMEND THE CITY COUNCIL APPROVE THE INTERNATIONAL
CODE COUNCIL BUILDING VALUATION DATA TABLE CURRENT
PUBLICATION ATTACHED FEE SCHEDULE FOR ASSESSING
PERMIT FEES**

**COUNCIL ACTION REQUIRED
CONSENT AGENDA**

ADJOURNMENT

The Council Committee of the Whole meeting was adjourned at 7:30 p.m.

Ted Odell
Council President



PUBLIC WORKS DEPARTMENT

Council Committee Meeting Date: October 17, 2016

Council Meeting Date: October 17, 2016

CONSIDER APPROVAL OF ITEMS FOR BOND SALE RELATED TO THE PURCHASE OF THE STREET LIGHT SYSTEM FROM KCPL

RECOMMENDATIONS

1. Consider approval of a Resolution authorizing a streetlight project within the City and the financing thereof.
2. Consider approval of the Best Bid from the GO bond sale
3. Consider approval an Ordinance authorizing and providing for the issuance of General Obligation improvement bonds, Series 2016C.
4. Consider approval of a Resolution prescribing the form and details of and authorizing and directing the sale and delivery of General Obligation improvement bonds, Series 2016C.

BACKGROUND

It is proposed that Prairie Village purchase the streetlight system located in street right of way and on city property consisting of 2,062 streetlights from KCPL. Currently the streetlights are leased from KCPL.

FUNDING SOURCES

Purchase of the Street Light System will come from the Bond Sale. Bonds will repaid with budgeted funds previously used for leasing the streetlight system.

ATTACHMENTS

- Project Resolution
- Bond Ordinance
- Bond Resolution

PREPARED BY

Keith Bredehoeft, Public Works Director

October 13, 2016

**EXCERPT OF MINUTES OF A MEETING
OF THE GOVERNING BODY OF
THE CITY OF PRAIRIE VILLAGE, KANSAS
HELD ON OCTOBER 17, 2016**

The governing body of the City (the "Governing Body") met in regular session at the usual meeting place in the City, at 7:30 p.m., the following members being present and participating, to-wit:

Absent: _____

The Mayor declared that a quorum was present and called the meeting to order.

* * * * *

(Other Proceedings)

Councilmember _____ presented and moved the adoption of a Resolution entitled:

**A RESOLUTION AUTHORIZING A STREETLIGHT PROJECT WITHIN THE
CITY AND THE FINANCING THEREOF.**

Councilmember _____ seconded the motion to adopt the Resolution. Thereupon, the Resolution was read and considered, and, the question being put to a roll call vote, the vote thereon was as follows:

Aye: _____

Nay: _____

The Mayor declared the Resolution duly adopted by the Governing Body and the City Clerk designated the same Resolution No. _____.

* * * * *

(Other Proceedings)

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CERTIFICATE

I hereby certify that the foregoing Excerpt of Minutes is a true and correct excerpt of the proceedings of the Governing Body of the City of Prairie Village, Kansas, held on the date stated therein, and that the official minutes of such proceedings are on file in my office.

(SEAL)

City Clerk

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING A STREETLIGHT PROJECT WITHIN THE CITY AND THE FINANCING THEREOF.

WHEREAS, Article 12, Section 5 of the Constitution of the State of Kansas and Charter Ordinance No. 28 of the City of Prairie Village, Kansas (the “City”), authorize the Governing Body of the City to make a variety of improvements as further described in Charter Ordinance No. 28 and to issue its general obligation bonds or other obligations of the City for the same; and

WHEREAS, the Governing Body of the City deems it necessary to make certain streetlight improvements, as more fully described herein.

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

Section 1. Pursuant to Charter Ordinance No. 28, the Governing Body hereby authorizes (a) the acquisition of approximately 2,062 streetlights in the approximate amount of \$2,292,945, as set forth in the Streetlight Sale Agreement between the City and Kansas City Power & Light Company dated September 6, 2016 and approved by the Governing Body on such date, and (b) the conversion of such streetlights to light-emitting diode (LED) fixtures in the approximate amount of \$907,055, and other necessary and appurtenant improvements (collectively, the “Improvements”).

Section 2. The cost of the Improvements shall not exceed \$3,200,000, exclusive of issuance costs and any interest costs for temporary financing. The Governing Body hereby authorizes the issuance of the City’s general obligation bonds to pay for the Improvements.

Section 3. The City expects to make capital expenditures after the date of this Resolution in connection with the Improvements, and the City intends to reimburse itself for such expenditures with the proceeds of bonds and/or notes in the maximum principal amount of \$3,200,000, exclusive of issuance costs and any interest cost for temporary financing.

Section 4. This Resolution shall take effect immediately.

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ADOPTED by the Governing Body this 17th day of October, 2016.

SIGNED by the Mayor this 17th day of October, 2016.

Mayor

ATTEST:

City Clerk

(SEAL)

BOND ORDINANCE AND RESOLUTION

- A. Excerpt of Minutes of Meeting approving sale, approving Ordinance/Bond Resolution
- B. Ordinance
- C. Ordinance Summary for Publication
- D. Bond Resolution

**EXCERPT OF MINUTES OF A MEETING
OF THE GOVERNING BODY OF
THE CITY OF PRAIRIE VILLAGE, KANSAS
HELD ON OCTOBER 17, 2016**

The City Council (the "Governing Body") met in regular session at the usual meeting place in the City, at 7:30 p.m., the following members being present and participating, to-wit:

Present: _____

Absent: _____

The Mayor declared that a quorum was present and called the meeting to order.

* * * * *

(Other Proceedings)

The Clerk reported that pursuant to the Notice of Bond Sale, bids for the purchase of General Obligation Improvement Bonds, Series 2016C, dated October 31, 2016, of the City had been received. A tabulation of said bids is set forth as **EXHIBIT A** hereto.

Thereupon, the Governing Body reviewed and considered the bids and it was found and determined that the bid of _____, _____, _____, was the best bid for the Bonds, a copy of which is attached hereto as **EXHIBIT B**.

Thereupon, there was presented an Ordinance entitled:

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION IMPROVEMENT BONDS, SERIES 2016C, OF THE CITY OF PRAIRIE VILLAGE, KANSAS; PROVIDING FOR THE LEVY AND COLLECTION OF AN ANNUAL TAX FOR THE PURPOSE OF PAYING THE PRINCIPAL OF AND INTEREST ON SAID BONDS AS THEY BECOME DUE; AUTHORIZING CERTAIN OTHER DOCUMENTS AND ACTIONS IN CONNECTION THEREWITH; AND MAKING CERTAIN COVENANTS WITH RESPECT THERETO.

Thereupon, Councilmember _____ moved that said Ordinance be passed. The motion was seconded by Councilmember _____. Said Ordinance was duly read and considered, and upon being put, the motion for the passage of said Ordinance was carried by the vote of the Governing Body, the vote being as follows:

Yea: _____

Nay: _____

Thereupon, the Mayor declared said Ordinance duly passed and the Ordinance was then duly numbered Ordinance No. _____, was signed and approved by the Mayor and attested by the Clerk and the Ordinance or a summary thereof was directed to be published one time in the official newspaper of the City.

Thereupon, there was presented a Resolution entitled:

A RESOLUTION PRESCRIBING THE FORM AND DETAILS OF AND AUTHORIZING AND DIRECTING THE SALE AND DELIVERY OF GENERAL OBLIGATION IMPROVEMENT BONDS, SERIES 2016C, OF THE CITY OF PRAIRIE VILLAGE, KANSAS, PREVIOUSLY AUTHORIZED BY ORDINANCE NO. [_____] OF THE ISSUER; MAKING CERTAIN COVENANTS AND AGREEMENTS TO PROVIDE FOR THE PAYMENT AND SECURITY THEREOF; AND AUTHORIZING CERTAIN OTHER DOCUMENTS AND ACTIONS CONNECTED THEREWITH.

Thereupon, Councilmember _____ moved that said Resolution be adopted. The motion was seconded by Councilmember _____. Said Resolution was duly read and considered, and upon being put, the motion for the adoption of said Resolution was carried by the vote of the Governing Body, the vote being as follows:

Yea: _____

Nay: _____

Thereupon, the Mayor declared said Resolution duly adopted and the Resolution was then duly numbered Resolution No. _____ and was signed by the Mayor and attested by the Clerk.

(Other Proceedings)

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On motion duly made, seconded and carried, the meeting thereupon adjourned.

CERTIFICATE

I hereby certify that the foregoing Excerpt of Minutes is a true and correct excerpt of the proceedings of the Governing Body of the City of Prairie Village, Kansas, held on the date stated therein, and that the official minutes of such proceedings are on file in my office.

(SEAL)

Joyce Hagen Mundy, City Clerk

EXHIBIT A
(BID TABULATION)

EXHIBIT B

(BID OF PURCHASER)

ORDINANCE NO. __

OF

THE CITY OF PRAIRIE VILLAGE, KANSAS

PASSED

OCTOBER 17, 2016

**GENERAL OBLIGATION IMPROVEMENT BONDS
SERIES 2016C**

ORDINANCE NO. ____

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION IMPROVEMENT BONDS, SERIES 2016C, OF THE CITY OF PRAIRIE VILLAGE, KANSAS; PROVIDING FOR THE LEVY AND COLLECTION OF AN ANNUAL TAX FOR THE PURPOSE OF PAYING THE PRINCIPAL OF AND INTEREST ON SAID BONDS AS THEY BECOME DUE; AUTHORIZING CERTAIN OTHER DOCUMENTS AND ACTIONS IN CONNECTION THEREWITH; AND MAKING CERTAIN COVENANTS WITH RESPECT THERETO.

WHEREAS, the City of Prairie Village, Kansas (the “City”) is a city of the first class, duly created, organized and existing under the Constitution and laws of the State; and

WHEREAS, pursuant to Charter Ordinance No. 28 of the City and Article 12, Section 5 of the Constitution of the State of Kansas, as amended, and other provisions of the laws of the State of Kansas applicable thereto, by proceedings duly had, the City Council of the City (the “Governing Body”) has authorized the following improvements (the “Improvements”) to be made in the City, to-wit:

<u>Project Name</u>	<u>Authorizing Resolution</u>	<u>Authority</u>	<u>Amount*</u>
Streetlight Acquisition	_____	Article 12, Section 5 of the Kansas Constitution; Charter Ordinance No. 28	\$ _____

; and

WHEREAS, the Governing Body is authorized by law to issue general obligation bonds of the City to pay the costs of the Improvements; and

WHEREAS, the Governing Body has advertised the sale of the Bonds in accordance with the law and at a meeting held in the City on this date awarded the sale of such Bonds to the best bidder.

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

Section 1. Definitions of Words and Terms. In addition to words and terms defined elsewhere herein, the following words and terms in this Ordinance shall have the meanings hereinafter set forth. Unless the context shall otherwise indicate, words importing the singular number shall include the plural and vice versa, and words importing persons shall include firms, associations and corporations, including public bodies, as well as natural persons.

“**Act**” means the Constitution and statutes of the State including K.S.A. 10-101 to 10-125, inclusive, K.S.A. 10-620 *et seq.*, Charter Ordinance No. 28 of the City and Article 12, Section 5 of the Constitution of the State of Kansas, all as amended and supplemented from time to time.

“**Bond and Interest Fund**” means the Bond and Interest Fund of the City for its general obligation bonds.

*Improvement costs to be financed with proceeds of the Bonds; excludes Costs of Issuance.

“Bond Resolution” means the resolution to be adopted by the Governing Body prescribing the terms and details of the Bonds and making covenants with respect thereto.

“Bonds” means the City’s General Obligation Improvement Bonds, Series 2016C, dated October 31, 2016, authorized by this Ordinance.

“City” means the City of Prairie Village, Kansas.

“Clerk” means the duly appointed and acting Clerk of the City or, in the Clerk’s absence, the duly appointed Deputy, Assistant or Acting Clerk.

“Governing Body” means the City Council of the City.

“Improvements” means the improvements referred to in the preamble to this Ordinance and any Substitute Improvements.

“Mayor” means the duly elected and acting Mayor of the City or, in the Mayor’s absence, the duly appointed and/or elected Vice Mayor or Acting Mayor of the City.

“Ordinance” means this Ordinance authorizing the issuance of the Bonds.

“State” means the State of Kansas.

“Substitute Improvements” means the substitute or additional improvements of the City authorized in the manner set forth in the Bond Resolution.

Section 2. Authorization of the Bonds. There shall be issued and hereby are authorized and directed to be issued the General Obligation Improvement Bonds, Series 2016C, of the City in the principal amount of \$[PRINCIPAL AMOUNT], for the purpose of providing funds to: (a) pay the costs of the Improvements; and (b) pay costs of issuance of the Bonds.

Section 3. Security for the Bonds. The Bonds shall be general obligations of the City payable as to both principal and interest from ad valorem taxes which may be levied without limitation as to rate or amount upon all the taxable tangible property, real and personal, within the territorial limits of the City. The full faith, credit and resources of the City are hereby irrevocably pledged for the prompt payment of the principal of and interest on the Bonds as the same become due.

Section 4. Terms, Details and Conditions of the Bonds. The Bonds shall be dated and bear interest, shall mature and be payable at such times, shall be in such forms, shall be subject to redemption and payment prior to the maturity thereof, and shall be issued and delivered in the manner prescribed and subject to the provisions, covenants and agreements set forth in the Bond Resolution hereafter adopted by the Governing Body.

Section 5. Levy and Collection of Annual Tax. The Governing Body shall annually make provision for the payment of principal of, premium, if any, and interest on the Bonds as the same become due by levying and collecting the necessary taxes upon all of the taxable tangible property within the City in the manner provided by law.

The taxes above referred to shall be extended upon the tax rolls in each of the several years, respectively, and shall be levied and collected at the same time and in the same manner as the general ad valorem taxes of the City are levied and collected, shall be used solely for the payment of the principal of

and interest on the Bonds as and when the same become due and the fees and expenses of the Paying Agent. The proceeds derived from said taxes shall be deposited in the Bond and Interest Fund.

If at any time said taxes are not collected in time to pay the principal of or interest on the Bonds when due, the Treasurer is hereby authorized and directed to pay said principal or interest out of the general funds of the City and to reimburse said general funds for money so expended when said taxes are collected.

Section 6. Further Authority. The Mayor, Clerk, Finance Director, and other City officials are hereby further authorized and directed to execute any and all documents and take such actions as they may deem necessary or advisable in order to carry out and perform the purposes of the Ordinance, and to make alterations, changes or additions in the foregoing agreements, statements, instruments and other documents herein approved, authorized and confirmed which they may approve, and the execution or taking of such action shall be conclusive evidence of such necessity or advisability.

Section 7. Governing Law. This Ordinance and the Bonds shall be governed exclusively by and construed in accordance with the applicable laws of the State.

Section 8. Effective Date. This Ordinance shall take effect and be in full force from and after its passage by the Governing Body, approval by the Mayor and publication of the Ordinance or a summary thereof in the official City newspaper.

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PASSED by the governing body of the City on October 17, 2016 and **APPROVED AND SIGNED** by the Mayor.

(SEAL)

Laura Wassmer, Mayor

ATTEST:

Joyce Hagen Mundy, City Clerk

(PUBLISHED IN THE *THE LEGAL RECORD* ON OCTOBER __, 2016)

SUMMARY OF ORDINANCE NO. ____

On October 17, 2016, the governing body of the City of Prairie Village, Kansas passed an ordinance entitled:

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION IMPROVEMENT BONDS, SERIES 2016C, OF THE CITY OF PRAIRIE VILLAGE, KANSAS; PROVIDING FOR THE LEVY AND COLLECTION OF AN ANNUAL TAX FOR THE PURPOSE OF PAYING THE PRINCIPAL OF AND INTEREST ON SAID BONDS AS THEY BECOME DUE; AUTHORIZING CERTAIN OTHER DOCUMENTS AND ACTIONS IN CONNECTION THEREWITH; AND MAKING CERTAIN COVENANTS WITH RESPECT THERETO.

The Series 2016C Bonds approved by the Ordinance are being issued in the principal amount of \$[PRINCIPAL AMOUNT] to finance certain internal improvements in the City, and constitute general obligations of the City payable as to both principal and interest, to the extent necessary, from ad valorem taxes which may be levied without limitation as to rate or amount upon all the taxable tangible property, real and personal, within the territorial limits of the City. A complete text of the Ordinance may be obtained or viewed free of charge at the office of the City Clerk, 7700 Mission Road, Prairie Village, Kansas 66208-4230. A reproduction of the Ordinance is available for not less than 7 days following the publication date of this Summary at www.pvkansas.com.

This Summary is hereby certified to be legally accurate and sufficient pursuant to the laws of the State of Kansas.

DATED: October __, 2016.

City Attorney

RESOLUTION NO. _____

OF

THE CITY OF PRAIRIE VILLAGE, KANSAS

ADOPTED

OCTOBER 17, 2016

**GENERAL OBLIGATION IMPROVEMENT BONDS
SERIES 2016C**

TABLE OF CONTENTS

ARTICLE I DEFINITIONS

Section 101. Definitions of Words and Terms..... 1

ARTICLE II AUTHORIZATION AND DETAILS OF THE BONDS

Section 201. Authorization of the Bonds..... 8
Section 202. Description of the Bonds..... 8
Section 203. Designation of Paying Agent and Bond Registrar..... 9
Section 204. Method and Place of Payment of the Bonds..... 9
Section 205. Payments Due on Saturdays, Sundays and Holidays..... 10
Section 206. Registration, Transfer and Exchange of Bonds..... 10
Section 207. Execution, Registration, Authentication and Delivery of Bonds..... 11
Section 208. Mutilated, Lost, Stolen or Destroyed Bonds..... 11
Section 209. Cancellation and Destruction of Bonds Upon Payment..... 12
Section 210. Book-Entry Bonds; Securities Depository..... 12
Section 211. Nonpresentment of Bonds..... 13
Section 212. Preliminary and Final Official Statement..... 13
Section 213. Sale of the Bonds..... 14

ARTICLE III REDEMPTION OF BONDS

Section 301. Redemption by Issuer..... 14
Section 302. Selection of Bonds to be Redeemed..... 15
Section 303. Notice and Effect of Call for Redemption..... 16

ARTICLE IV SECURITY FOR BONDS

Section 401. Security for the Bonds..... 17
Section 402. Levy and Collection of Annual Tax; Transfer to Debt Service Account..... 18

ARTICLE V ESTABLISHMENT OF FUNDS AND ACCOUNTS

DEPOSIT AND APPLICATION OF BOND PROCEEDS

Section 501. Creation of Funds and Accounts..... 18
Section 502. Deposit of Bond Proceeds..... 18
Section 503. Application of Moneys in the Improvement Fund..... 19
Section 504. Substitution of Improvements; Reallocation of Proceeds..... 19
Section 505. Application of Moneys in Debt Service Account..... 19
Section 506. Application of Moneys in the Rebate Fund..... 20
Section 507. Deposits and Investment of Moneys..... 20

ARTICLE VI DEFAULT AND REMEDIES

Section 601. Remedies..... 20
Section 602. Limitation on Rights of Owners..... 21
Section 603. Remedies Cumulative..... 21

ARTICLE VII DEFEASANCE

Section 701. Defeasance 21

ARTICLE VIII TAX COVENANTS

Section 801. General Covenants 22
Section 802. Survival of Covenants 22

ARTICLE IX CONTINUING DISCLOSURE REQUIREMENTS

Section 901. Disclosure Requirements 22
Section 902. Failure to Comply with Continuing Disclosure Requirements 23

ARTICLE X MISCELLANEOUS PROVISIONS

Section 1001. Annual Audit 23
Section 1002. Amendments 23
Section 1003. Notices, Consents and Other Instruments by Owners 24
Section 1004. Notices 25
Section 1005. Electronic Transactions 25
Section 1006. Further Authority 25
Section 1007. Severability 25
Section 1008. Governing Law 25
Section 1009. Effective Date 25

EXHIBIT A – FORM OF BONDS A-1

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RESOLUTION NO. _____

A RESOLUTION PRESCRIBING THE FORM AND DETAILS OF AND AUTHORIZING AND DIRECTING THE SALE AND DELIVERY OF GENERAL OBLIGATION IMPROVEMENT BONDS, SERIES 2016C, OF THE CITY OF PRAIRIE VILLAGE, KANSAS, PREVIOUSLY AUTHORIZED BY ORDINANCE NO. [] OF THE ISSUER; MAKING CERTAIN COVENANTS AND AGREEMENTS TO PROVIDE FOR THE PAYMENT AND SECURITY THEREOF; AND AUTHORIZING CERTAIN OTHER DOCUMENTS AND ACTIONS CONNECTED THEREWITH.

WHEREAS, the City of Prairie Village, Kansas (the “Issuer”) has previously passed the Ordinance authorizing the issuance of the Bonds; and

WHEREAS, the Ordinance authorized the City Council of the Issuer (the “Governing Body”) to adopt a resolution prescribing certain details and conditions and to make certain covenants with respect to the issuance of the Bonds.

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

ARTICLE I

DEFINITIONS

Section 101. Definitions of Words and Terms. In addition to words and terms defined elsewhere herein, the following words and terms as used in this Bond Resolution shall have the meanings hereinafter set forth. Unless the context shall otherwise indicate, words importing the singular number shall include the plural and vice versa, and words importing persons shall include firms, associations and corporations, including public bodies, as well as natural persons.

“Act” means the Constitution and statutes of the State including K.S.A. 10-101 to 10-125, inclusive, K.S.A. 10-620 *et seq.*, Charter Ordinance No. 28 of the Issuer and Article 12, Section 5 of the Constitution of the State of Kansas, all as amended and supplemented from time to time.

“Authorized Denomination” means \$5,000 or any integral multiples thereof.

“Beneficial Owner” of the Bonds includes any Owner of the Bonds and any other Person who, directly or indirectly has the investment power with respect to such Bonds.

“Bond and Interest Fund” means the Bond and Interest Fund of the Issuer for its general obligation bonds.

“Bond Counsel” means the firm of Gilmore & Bell, P.C., or any other attorney or firm of attorneys whose expertise in matters relating to the issuance of obligations by states and their political subdivisions is nationally recognized and acceptable to the Issuer.

“Bond Payment Date” means any date on which principal of or interest on any Bond is payable.

“Bond Register” means the books for the registration, transfer and exchange of Bonds kept at the office of the Bond Registrar.

“Bond Registrar” means the State Treasurer and any successors and assigns.

“Bond Resolution” means this resolution relating to the Bonds.

“Bonds” means the General Obligation Improvement Bonds, Series 2016C, authorized and issued by the Issuer pursuant to the Ordinance and this Bond Resolution.

“Business Day” means a day other than a Saturday, Sunday or any day designated as a holiday by the Congress of the United States or by the Legislature of the State and on which the Paying Agent is scheduled in the normal course of its operations to be open to the public for conduct of its operations.

“Cede & Co.” means Cede & Co., as nominee of DTC and any successor nominee of DTC.

“City” means the City of Prairie Village, Kansas.

“Clerk” means the duly appointed and/or elected Clerk or, in the Clerk’s absence, the duly appointed Deputy Clerk or Acting Clerk of the Issuer.

“Code” means the Internal Revenue Code of 1986, as amended, and the applicable regulations promulgated thereunder by the United States Department of the Treasury.

“Costs of Issuance” means all costs of issuing the Bonds, including but not limited to all publication, printing, signing and mailing expenses in connection therewith, registration fees, financial advisory fees, all legal fees and expenses of Bond Counsel and other legal counsel, expenses incurred in connection with compliance with the Code, all expenses incurred in connection with receiving ratings on the Bonds, and any premiums or expenses incurred in obtaining municipal bond insurance on the Bonds.

“Dated Date” means October 31, 2016.

“Debt Service Account” means the Debt Service Account for General Obligation Improvement Bonds, Series 2016C created within the Bond and Interest Fund pursuant to **Section 501** hereof.

“Debt Service Requirements” means the aggregate principal payments (whether at maturity or pursuant to scheduled mandatory sinking fund redemption requirements) and interest payments on the Bonds for the period of time for which calculated; provided, however, that for purposes of calculating such amount, principal and interest shall be excluded from the determination of Debt Service Requirements to the extent that such principal or interest is payable from amounts deposited in trust, escrowed or otherwise set aside for the payment thereof with the Paying Agent or other commercial bank or trust company located in the State and having full trust powers.

“Defaulted Interest” means interest on any Bond which is payable but not paid on any Interest Payment Date.

“Defeasance Obligations” means any of the following obligations:

(a) United States Government Obligations that are not subject to redemption in advance of their maturity dates; or

(b) obligations of any state or political subdivision of any state, the interest on which is excluded from gross income for federal income tax purposes and which meet the following conditions:

(1) the obligations are (i) not subject to redemption prior to maturity or (ii) the trustee for such obligations has been given irrevocable instructions concerning their calling and redemption and the issuer of such obligations has covenanted not to redeem such obligations other than as set forth in such instructions;

(2) the obligations are secured by cash or United States Government Obligations that may be applied only to principal of, premium, if any, and interest payments on such obligations;

(3) such cash and the principal of and interest on such United States Government Obligations (plus any cash in the escrow fund) are sufficient to meet the liabilities of the obligations;

(4) such cash and United States Government Obligations serving as security for the obligations are held in an escrow fund by an escrow agent or a trustee irrevocably in trust;

(5) such cash and United States Government Obligations are not available to satisfy any other claims, including those against the trustee or escrow agent; and

(6) such obligations are rated in a rating category by Moody's or Standard & Poor's that is no lower than the rating category then assigned by that Rating Agency to United States Government Obligations.

“Derivative” means any investment instrument whose market price is derived from the fluctuating value of an underlying asset, index, currency, futures contract, including futures, options and collateralized mortgage obligations.

“Disclosure Undertaking” means the Issuer's Continuing Disclosure Undertaking dated as of the Dated Date relating to certain obligations contained in the SEC Rule.

“DTC” means The Depository Trust Company, a limited-purpose trust company organized under the laws of the State of New York, and its successors and assigns, including any successor securities depository duly appointed.

“DTC Representation Letter” means the Blanket Letter of Representation from the Issuer and the Paying Agent to DTC which provides for a book-entry system, or any agreement between the Issuer and Paying Agent and a successor securities depository duly appointed.

“Event of Default” means each of the following occurrences or events:

(a) Payment of the principal and of the redemption premium, if any, of any of the Bonds shall not be made when the same shall become due and payable, either at Stated Maturity or by proceedings for redemption or otherwise;

(b) Payment of any installment of interest on any of the Bonds shall not be made when the same shall become due; or

(c) The Issuer shall default in the due and punctual performance of any other of the covenants, conditions, agreements and provisions contained in the Bonds or in this Bond Resolution

(other than the covenants relating to continuing disclosure requirements contained herein and in the Disclosure Undertaking) on the part of the Issuer to be performed, and such default shall continue for thirty (30) days after written notice specifying such default and requiring same to be remedied shall have been given to the Issuer by the Owner of any of the Bonds then Outstanding.

“Federal Tax Certificate” means the Issuer’s Federal Tax Certificate dated as of the Issue Date, as the same may be amended or supplemented in accordance with the provisions thereof.

“Financeable Costs” means the amount of expenditure for an Improvement which has been duly authorized by action of the Governing Body to be financed by general obligation bonds, less: (a) the amount of any temporary notes or general obligation bonds of the Issuer which are currently Outstanding and available to pay such Financeable Costs; and (b) any amount of Financeable Costs which has been previously paid by the Issuer or by any eligible source of funds unless such amounts are entitled to be reimbursed to the Issuer under State or federal law.

“Fiscal Year” means the twelve month period ending on December 31.

“Funds and Accounts” means funds and accounts created pursuant to or referred to in *Section 501* hereof.

“Governing Body” means the City Council of the Issuer.

“Improvement Fund” means the Improvement Fund for General Obligation Improvement Bonds, Series 2016C created pursuant to *Section 501* hereof.

“Improvements” means the improvements referred to in the preamble to the Ordinance and any Substitute Improvements.

“Independent Accountant” means an independent certified public accountant or firm of independent certified public accountants at the time employed by the Issuer for the purpose of carrying out the duties imposed on the Independent Accountant by this Bond Resolution.

“Interest Payment Date(s)” means the Stated Maturity of an installment of interest on any Bond which shall be March 1 and September 1 of each year, commencing March 1, 2017.

“Issue Date” means the date when the Issuer delivers the Bonds to the Purchaser in exchange for the Purchase Price.

“Issuer” means the City and any successors or assigns.

“Maturity” when used with respect to any Bond means the date on which the principal of such Bond becomes due and payable as therein and herein provided, whether at the Stated Maturity thereof or call for redemption or otherwise.

“Mayor” means the duly elected and acting Mayor, or in the Mayor’s absence, the duly appointed and/or elected Vice Mayor or Acting Mayor of the Issuer.

“Moody’s” means Moody’s Investors Service, a corporation organized and existing under the laws of the State of Delaware, and its successors and assigns, and, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, “Moody’s” shall be deemed to refer to any other nationally recognized securities rating agency designated by the Issuer.

“Notice Address” means with respect to the following entities:

(a) To the Issuer at:

7700 Mission Road
Prairie Village, Kansas 66208-4230
Phone: (913) 381-6464

(b) To the Paying Agent at:

State Treasurer of the State of Kansas
Landon Office Building
900 Southwest Jackson, Suite 201
Topeka, Kansas 66612-1235
Fax: (785) 296-6976

(c) To the Purchaser:

[_____

_____]

(d) To the Rating Agency(ies):

Moody's Municipal Rating Desk
7 World Trade Center
250 Greenwich Street
23rd Floor
New York, New York 10007

or such other address as is furnished in writing to the other parties referenced herein.

“Notice Representative” means:

- (a) With respect to the Issuer, the Clerk.
- (b) With respect to the Bond Registrar and Paying Agent, the Director of Bond Services.
- (c) With respect to any Purchaser, the manager of its Municipal Bond Department.
- (d) With respect to any Rating Agency, any Vice President thereof.

“Official Statement” means Issuer’s Official Statement relating to the Bonds.

“Ordinance” means Ordinance No. [_____] of the Issuer authorizing the issuance of the Bonds, as amended from time to time.

“Outstanding” means, when used with reference to the Bonds, as of a particular date of determination, all Bonds theretofore authenticated and delivered, except the following Bonds:

- (a) Bonds theretofore canceled by the Paying Agent or delivered to the Paying Agent for cancellation;
- (b) Bonds deemed to be paid in accordance with the provisions of *Article VII* hereof; and
- (c) Bonds in exchange for or in lieu of which other Bonds have been authenticated and delivered hereunder.

“Owner” when used with respect to any Bond means the Person in whose name such Bond is registered on the Bond Register. Whenever consent of the Owners is required pursuant to the terms of this Bond Resolution, and the Owner of the Bonds, as set forth on the Bond Register, is Cede & Co., the term Owner shall be deemed to be the Beneficial Owner of the Bonds.

“Participants” means those financial institutions for whom the Securities Depository effects book-entry transfers and pledges of securities deposited with the Securities Depository, as such listing of Participants exists at the time of such reference.

“Paying Agent” means the State Treasurer, and any successors and assigns.

“Permitted Investments” shall mean the investments hereinafter described, provided, however, no moneys or funds shall be invested in a Derivative: (a) investments authorized by K.S.A. 12-1675 and amendments thereto; (b) the municipal investment pool established pursuant to K.S.A. 12-1677a, and amendments thereto; (c) direct obligations of the United States Government or any agency thereof; (d) the Issuer’s temporary notes issued pursuant to K.S.A. 10-123 and amendments thereto; (e) interest-bearing time deposits in commercial banks or trust companies located in the county or counties in which the Issuer is located which are insured by the Federal Deposit Insurance Corporation or collateralized by securities described in (c); (f) obligations of the federal national mortgage association, federal home loan banks, federal home loan mortgage corporation or government national mortgage association; (g) repurchase agreements for securities described in (c) or (f); (h) investment agreements or other obligations of a financial institution the obligations of which at the time of investment are rated in either of the three highest rating categories by Moody’s or Standard & Poor’s; (i) investments and shares or units of a money market fund or trust, the portfolio of which is comprised entirely of securities described in (c) or (f); (j) receipts evidencing ownership interests in securities or portions thereof described in (c) or (f); (k) municipal bonds or other obligations issued by any municipality of the State as defined in K.S.A. 10-1101 which are general obligations of the municipality issuing the same; or (l) bonds of any municipality of the State as defined in K.S.A. 10-1101 which have been refunded in advance of their maturity and are fully secured as to payment of principal and interest thereon by deposit in trust, under escrow agreement with a bank, of securities described in (c) or (f), all as may be further restricted or modified by amendments to applicable State law.

“Person” means any natural person, corporation, partnership, joint venture, association, firm, joint-stock company, trust, unincorporated organization, or government or any agency or political subdivision thereof or other public body.

“Purchase Price” means the principal amount of the Bonds plus accrued interest to the date of delivery[, plus a premium of \$ _____, less an underwriting discount of \$ _____].

“Purchaser” means [_____, _____, _____], the original purchaser of the Bonds, and any successor and assigns.

“Rating Agency” means any company, agency or entity that provides, pursuant to request of the Issuer, financial ratings for the Bonds.

“Rebate Fund” means the Rebate Fund for General Obligation Improvement Bonds, Series 2016C created pursuant to *Section 501* hereof.

“Record Dates” for the interest payable on any Interest Payment Date means the fifteenth day (whether or not a Business Day) of the calendar month next preceding such Interest Payment Date.

“Redemption Date” means, when used with respect to any Bond to be redeemed, the date fixed for the redemption of such Bond pursuant to the terms of this Bond Resolution.

“Redemption Price” means, when used with respect to any Bond to be redeemed, the price at which such Bond is to be redeemed pursuant to the terms of this Bond Resolution, including the applicable redemption premium, if any, but excluding installments of interest whose Stated Maturity is on or before the Redemption Date.

“Replacement Bonds” means Bonds issued to the Beneficial Owners of the Bonds in accordance with *Section 210* hereof.

“SEC Rule” means Rule 15c2-12 adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934.

“Securities Depository” means, initially, DTC, and its successors and assigns.

“Special Record Date” means the date fixed by the Paying Agent pursuant to *Article II* hereof for the payment of Defaulted Interest.

“Standard & Poor's” or “S&P” means S&P Global Ratings, a division of S&P Global Inc., a corporation organized and existing under the laws of the State of New York, and its successors and assigns, and, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, Standard & Poor's shall be deemed to refer to any other nationally recognized securities rating agency designated by the Issuer.

“State” means the state of Kansas.

“State Treasurer” means the duly elected Treasurer or, in the Treasurer's absence, the duly appointed Deputy Treasurer or acting Treasurer of the State.

“Stated Maturity” when used with respect to any Bond or any installment of interest thereon means the date specified in such Bond and this Bond Resolution as the fixed date on which the principal of such Bond or such installment of interest is due and payable.

“Substitute Improvements” means the substitute or additional improvements of the Issuer described in *Article V* hereof.

[**“20__ Term Bonds”** means the Bonds scheduled to mature in the year 20__.

“20__ Term Bonds” means the Bonds scheduled to mature in the year 20__.

“Term Bonds” means collectively the 20__ Term Bonds and the 20__ Term Bonds.]

“**Treasurer**” means the duly appointed and/or elected Treasurer of the Issuer or, in the Treasurer’s absence, the duly appointed Deputy Treasurer or acting Treasurer of the Issuer.

“**United States Government Obligations**” means bonds, notes, certificates of indebtedness, treasury bills or other securities constituting direct obligations of, or obligations the principal of and interest on which are fully and unconditionally guaranteed as to full and timely payment by, the United States of America, including evidences of a direct ownership interest in future interest or principal payment on obligations issued by the United States of America (including the interest component of obligations of the Resolution Funding Corporation), or securities which represent an undivided interest in such obligations, which obligations are rated in the highest rating category by a nationally recognized rating service and such obligations are held in a custodial account for the benefit of the Issuer.

ARTICLE II

AUTHORIZATION AND DETAILS OF THE BONDS

Section 201. Authorization of the Bonds. The Bonds have been authorized and directed to be issued pursuant to the Ordinance in the principal amount of \$[PRINCIPAL AMOUNT], for the purpose of providing funds to: (a) pay the costs of the Improvements; and (b) pay Costs of Issuance.

Section 202. Description of the Bonds. The Bonds shall consist of fully registered bonds in an Authorized Denomination, and shall be numbered in such manner as the Bond Registrar shall determine. All of the Bonds shall be dated as of the Dated Date, shall become due in the amounts, on the Stated Maturities[, without option of prior redemption and payment][subject to redemption and payment prior to their Stated Maturities as provided in *Article III* hereof], and shall bear interest at the rates per annum as follows:

SERIAL BONDS

Stated Maturity <u>September 1</u>	Principal <u>Amount</u>	Annual Rate <u>of Interest</u>
2018	\$ _____	_____%
2019	_____	_____%
2020	_____	_____%
2021	_____	_____%
2022	_____	_____%
2023	_____	_____%
2024	_____	_____%

[TERM BONDS

Stated Maturity <u>September 1</u>	Principal <u>Amount</u>	Annual Rate <u>of Interest</u>
20__	\$ _____	_____%
20__	_____	_____%]

The Bonds shall bear interest at the above specified rates (computed on the basis of a 360-day year of twelve 30-day months) from the later of the Dated Date or the most recent Interest Payment Date

to which interest has been paid on the Interest Payment Dates in the manner set forth in **Section 204** hereof.

Each of the Bonds, as originally issued or issued upon transfer, exchange or substitution, shall be printed in accordance with the format required by the Attorney General of the State and shall be substantially in the form attached hereto as **EXHIBIT A** or as may be required by the Attorney General pursuant to the Notice of Systems of Registration for Kansas Municipal Bonds, 2 Kan. Reg. 921 (1983), in accordance with the Kansas Bond Registration Law, K.S.A. 10-620 *et seq.*

Section 203. Designation of Paying Agent and Bond Registrar. The State Treasurer is hereby designated as the Paying Agent for the payment of principal of and interest on the Bonds and Bond Registrar with respect to the registration, transfer and exchange of Bonds. The Mayor of the Issuer is hereby authorized and empowered to execute on behalf of the Issuer an agreement with the Bond Registrar and Paying Agent for the Bonds.

The Issuer will at all times maintain a Paying Agent and Bond Registrar meeting the qualifications herein described for the performance of the duties hereunder. The Issuer reserves the right to appoint a successor Paying Agent or Bond Registrar by (a) filing with the Paying Agent or Bond Registrar then performing such function a certified copy of the proceedings giving notice of the termination of such Paying Agent or Bond Registrar and appointing a successor, and (b) causing notice of appointment of the successor Paying Agent and Bond Registrar to be given by first class mail to each Owner. No resignation or removal of the Paying Agent or Bond Registrar shall become effective until a successor has been appointed and has accepted the duties of Paying Agent or Bond Registrar.

Every Paying Agent or Bond Registrar appointed hereunder shall at all times meet the requirements of K.S.A. 10-501 *et seq.* and K.S.A. 10-620 *et seq.*, respectively.

Section 204. Method and Place of Payment of the Bonds. The principal of, or Redemption Price, and interest on the Bonds shall be payable in any coin or currency which, on the respective dates of payment thereof, is legal tender for the payment of public and private debts.

The principal or Redemption Price of each Bond shall be paid at Maturity to the Person in whose name such Bond is registered on the Bond Register at the Maturity thereof, upon presentation and surrender of such Bond at the principal office of the Paying Agent.

The interest payable on each Bond on any Interest Payment Date shall be paid to the Owner of such Bond as shown on the Bond Register at the close of business on the Record Date for such interest (a) by check or draft mailed by the Paying Agent to the address of such Owner shown on the Bond Register or at such other address as is furnished to the Paying Agent in writing by such Owner; or (b) in the case of an interest payment to Cede & Co. or any Owner of \$500,000 or more in aggregate principal amount of Bonds, by electronic transfer to such Owner upon written notice given to the Bond Registrar by such Owner, not less than 15 days prior to the Record Date for such interest, containing the electronic transfer instructions including the bank ABA routing number and account number to which such Owner wishes to have such transfer directed.

Notwithstanding the foregoing provisions of this Section, any Defaulted Interest with respect to any Bond shall cease to be payable to the Owner of such Bond on the relevant Record Date and shall be payable to the Owner in whose name such Bond is registered at the close of business on the Special Record Date for the payment of such Defaulted Interest, which Special Record Date shall be fixed as hereinafter specified in this paragraph. The Issuer shall notify the Paying Agent in writing of the amount of Defaulted Interest proposed to be paid on each Bond and the date of the proposed payment (which date

shall be at least 30 days after receipt of such notice by the Paying Agent) and shall deposit with the Paying Agent at the time of such notice an amount of money equal to the aggregate amount proposed to be paid in respect of such Defaulted Interest or shall make arrangements satisfactory to the Paying Agent for such deposit prior to the date of the proposed payment. Following receipt of such funds the Paying Agent shall fix a Special Record Date for the payment of such Defaulted Interest which shall be not more than 15 nor less than 10 days prior to the date of the proposed payment. The Paying Agent shall promptly notify the Issuer of such Special Record Date and, in the name and at the expense of the Issuer, shall cause notice of the proposed payment of such Defaulted Interest and the Special Record Date therefore to be mailed, by first class mail, postage prepaid, to each Owner of a Bond entitled to such notice at the address of such Owner as it appears on the Bond Register not less than 10 days prior to such Special Record Date.

The Paying Agent shall keep a record of payment of principal and Redemption Price of and interest on all Bonds and at least annually shall forward a copy or summary of such records to the Issuer.

Section 205. Payments Due on Saturdays, Sundays and Holidays. In any case where a Bond Payment Date is not a Business Day, then payment of principal, Redemption Price or interest need not be made on such Bond Payment Date but may be made on the next succeeding Business Day with the same force and effect as if made on such Bond Payment Date, and no interest shall accrue for the period after such Bond Payment Date.

Section 206. Registration, Transfer and Exchange of Bonds. The Issuer covenants that, as long as any of the Bonds remain Outstanding, it will cause the Bond Register to be kept at the office of the Bond Registrar as herein provided. Each Bond when issued shall be registered in the name of the Owner thereof on the Bond Register.

Bonds may be transferred and exchanged only on the Bond Register as provided in this Section. Upon surrender of any Bond at the principal office of the Bond Registrar, the Bond Registrar shall transfer or exchange such Bond for a new Bond or Bonds in any Authorized Denomination of the same Stated Maturity and in the same aggregate principal amount as the Bond that was presented for transfer or exchange.

Bonds presented for transfer or exchange shall be accompanied by a written instrument or instruments of transfer or authorization for exchange, in a form and with guarantee of signature satisfactory to the Bond Registrar, duly executed by the Owner thereof or by the Owner's duly authorized agent.

In all cases in which the privilege of transferring or exchanging Bonds is exercised, the Bond Registrar shall authenticate and deliver Bonds in accordance with the provisions of this Bond Resolution. The Issuer shall pay the fees and expenses of the Bond Registrar for the registration, transfer and exchange of Bonds provided for by this Bond Resolution and the cost of printing a reasonable supply of registered bond blanks. Any additional costs or fees that might be incurred in the secondary market, other than fees of the Bond Registrar, are the responsibility of the Owners of the Bonds. In the event any Owner fails to provide a correct taxpayer identification number to the Paying Agent, the Paying Agent may make a charge against such Owner sufficient to pay any governmental charge required to be paid as a result of such failure. In compliance with Code § 3406, such amount may be deducted by the Paying Agent from amounts otherwise payable to such Owner hereunder or under the Bonds.

The Issuer and the Bond Registrar shall not be required (a) to register the transfer or exchange of any Bond that has been called for redemption after notice of such redemption has been mailed by the Paying Agent pursuant to *Article III* hereof and during the period of 15 days next preceding the date of

mailing of such notice of redemption; or (b) to register the transfer or exchange of any Bond during a period beginning at the opening of business on the day after receiving written notice from the Issuer of its intent to pay Defaulted Interest and ending at the close of business on the date fixed for the payment of Defaulted Interest pursuant to this *Article II*.

The Issuer and the Paying Agent may deem and treat the Person in whose name any Bond is registered on the Bond Register as the absolute Owner of such Bond, whether such Bond is overdue or not, for the purpose of receiving payment of, or on account of, the principal or Redemption Price of and interest on said Bond and for all other purposes. All payments so made to any such Owner or upon the Owner's order shall be valid and effective to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid, and neither the Issuer nor the Paying Agent shall be affected by any notice to the contrary.

At reasonable times and under reasonable regulations established by the Bond Registrar, the Bond Register may be inspected and copied by the Owners (or a designated representative thereof) of 10% or more in principal amount of the Bonds then Outstanding or any designated representative of such Owners whose authority is evidenced to the satisfaction of the Bond Registrar.

Section 207. Execution, Registration, Authentication and Delivery of Bonds. Each of the Bonds, including any Bonds issued in exchange or as substitutions for the Bonds initially delivered, shall be executed for and on behalf of the Issuer by the manual or facsimile signature of the Mayor, attested by the manual or facsimile signature of the Clerk, and the seal of the Issuer shall be affixed thereto or imprinted thereon. The Mayor and Clerk are hereby authorized and directed to prepare and execute the Bonds in the manner herein specified, and to cause the Bonds to be registered in the office of the Clerk, which registration shall be evidenced by the manual or facsimile signature of the Clerk with the seal of the Issuer affixed thereto or imprinted thereon. The Bonds shall also be registered in the office of the State Treasurer, which registration shall be evidenced by the manual or facsimile signature of the State Treasurer with the seal of the State Treasurer affixed thereto or imprinted thereon. In case any officer whose signature appears on any Bonds ceases to be such officer before the delivery of such Bonds, such signature shall nevertheless be valid and sufficient for all purposes, as if such person had remained in office until delivery. Any Bond may be signed by such persons who at the actual time of the execution of such Bond are the proper officers to sign such Bond although at the date of such Bond such persons may not have been such officers.

The Mayor and Clerk are hereby authorized and directed to prepare and execute the Bonds as herein specified, and when duly executed, to deliver the Bonds to the Bond Registrar for authentication.

The Bonds shall have endorsed thereon a certificate of authentication substantially in the form attached hereto as *EXHIBIT A* hereof, which shall be manually executed by an authorized officer or employee of the Bond Registrar, but it shall not be necessary that the same officer or employee sign the certificate of authentication on all of the Bonds that may be issued hereunder at any one time. No Bond shall be entitled to any security or benefit under this Bond Resolution or be valid or obligatory for any purpose unless and until such certificate of authentication has been duly executed by the Bond Registrar. Such executed certificate of authentication upon any Bond shall be conclusive evidence that such Bond has been duly authenticated and delivered under this Bond Resolution. Upon authentication, the Bond Registrar shall deliver the Bonds to the Purchaser upon instructions of the Issuer or its representative.

Section 208. Mutilated, Lost, Stolen or Destroyed Bonds. If (a) any mutilated Bond is surrendered to the Bond Registrar or the Bond Registrar receives evidence to its satisfaction of the destruction, loss or theft of any Bond, and (b) there is delivered to the Issuer and the Bond Registrar such security or indemnity as may be required by each of them, then, in the absence of notice to the Issuer or

the Bond Registrar that such Bond has been acquired by a bona fide purchaser, the Issuer shall execute and, upon the Issuer's request, the Bond Registrar shall authenticate and deliver, in exchange for or in lieu of any such mutilated, destroyed, lost or stolen Bond, a new Bond of the same Stated Maturity and of like tenor and principal amount.

If any such mutilated, destroyed, lost or stolen Bond has become or is about to become due and payable, the Issuer, in its discretion, may pay such Bond instead of issuing a new Bond.

Upon the issuance of any new Bond under this Section, the Issuer and the Paying Agent may require the payment by the Owner of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and any other expenses (including the fees and expenses of the Paying Agent) connected therewith.

Every new Bond issued pursuant to this Section shall constitute a replacement of the prior obligation of the Issuer, and shall be entitled to all the benefits of this Bond Resolution equally and ratably with all other Outstanding Bonds.

Section 209. Cancellation and Destruction of Bonds Upon Payment. All Bonds that have been paid or redeemed or that otherwise have been surrendered to the Paying Agent, either at or before Maturity, shall be cancelled by the Paying Agent immediately upon the payment, redemption and surrender thereof to the Paying Agent and subsequently destroyed in accordance with the customary practices of the Paying Agent. The Paying Agent shall execute a certificate in duplicate describing the Bonds so cancelled and destroyed and shall file an executed counterpart of such certificate with the Issuer.

Section 210. Book-Entry Bonds; Securities Depository. The Issuer and Paying Agent have entered into a DTC Representation Letter with DTC. The Bonds shall initially be registered to Cede & Co., the nominee for the Securities Depository, and no Beneficial Owner will receive certificates representing their respective interests in the Bonds, except in the event the Bond Registrar issues Replacement Bonds as provided in this Section. It is anticipated that during the term of the Bonds, the Securities Depository will make book-entry transfers among its Participants and receive and transmit payment of principal of, premium, if any, and interest on, the Bonds to the Participants until and unless the Bond Registrar authenticates and delivers Replacement Bonds to the Beneficial Owners as described in the following paragraph.

The Issuer may decide, subject to the requirements of the Operational Arrangements of DTC (or a successor Securities Depository), and the following provisions of this section to discontinue use of the system of book-entry transfers through DTC (or a successor Securities Depository):

(a) If the Issuer determines (1) that the Securities Depository is unable to properly discharge its responsibilities, or (2) that the Securities Depository is no longer qualified to act as a securities depository and registered clearing agency under the Securities and Exchange Act of 1934, as amended, or (3) that the continuation of a book-entry system to the exclusion of any Bonds being issued to any Owner other than Cede & Co. is no longer in the best interests of the Beneficial Owners of the Bonds; or

(b) if the Bond Registrar receives written notice from Participants having interests in not less than 50% of the Bonds Outstanding, as shown on the records of the Securities Depository (and certified to such effect by the Securities Depository), that the continuation of a book-entry system to the exclusion of any Bonds being issued to any Owner other than Cede & Co. is no longer in the best interests of the Beneficial Owners of the Bonds, then the Bond Registrar shall notify the Owners of such determination or such notice and of the availability of certificates to Owners requesting the same, and the Bond Registrar shall register in the name of and authenticate and deliver Replacement Bonds to the Beneficial Owners or

their nominees in principal amounts representing the interest of each, making such adjustments as it may find necessary or appropriate as to accrued interest and previous calls for redemption; provided, that in the case of a determination under (a)(1) or (a)(2) of this paragraph, the Issuer, with the consent of the Bond Registrar, may select a successor securities depository in accordance with the following paragraph to effect book-entry transfers.

In such event, all references to the Securities Depository herein shall relate to the period of time when the Securities Depository has possession of at least one Bond. Upon the issuance of Replacement Bonds, all references herein to obligations imposed upon or to be performed by the Securities Depository shall be deemed to be imposed upon and performed by the Bond Registrar, to the extent applicable with respect to such Replacement Bonds. If the Securities Depository resigns and the Issuer, the Bond Registrar or Owners are unable to locate a qualified successor of the Securities Depository in accordance with the following paragraph, then the Bond Registrar shall authenticate and cause delivery of Replacement Bonds to Owners, as provided herein. The Bond Registrar may rely on information from the Securities Depository and its Participants as to the names of the Beneficial Owners of the Bonds. The cost of printing, registration, authentication, and delivery of Replacement Bonds shall be paid for by the Issuer.

In the event the Securities Depository resigns, is unable to properly discharge its responsibilities, or is no longer qualified to act as a securities depository and registered clearing agency under the Securities and Exchange Act of 1934, as amended, the Issuer may appoint a successor Securities Depository provided the Bond Registrar receives written evidence satisfactory to the Bond Registrar with respect to the ability of the successor Securities Depository to discharge its responsibilities. Any such successor Securities Depository shall be a securities depository which is a registered clearing agency under the Securities and Exchange Act of 1934, as amended, or other applicable statute or regulation that operates a securities depository upon reasonable and customary terms. The Bond Registrar upon its receipt of a Bond or Bonds for cancellation shall cause the delivery of Bonds to the successor Securities Depository in an Authorized Denominations and form as provided herein.

Section 211. Nonpresentment of Bonds. If any Bond is not presented for payment when the principal thereof becomes due at Maturity, if funds sufficient to pay such Bond have been made available to the Paying Agent all liability of the Issuer to the Owner thereof for the payment of such Bond shall forthwith cease, determine and be completely discharged, and thereupon it shall be the duty of the Paying Agent to hold such funds, without liability for interest thereon, for the benefit of the Owner of such Bond, who shall thereafter be restricted exclusively to such funds for any claim of whatever nature on his part under this Bond Resolution or on, or with respect to, said Bond. If any Bond is not presented for payment within four (4) years following the date when such Bond becomes due at Maturity, the Paying Agent shall repay, without liability for interest thereon, to the Issuer the funds theretofore held by it for payment of such Bond, and such Bond shall, subject to the defense of any applicable statute of limitation, thereafter be an unsecured obligation of the Issuer, and the Owner thereof shall be entitled to look only to the Issuer for payment, and then only to the extent of the amount so repaid to it by the Paying Agent, and the Issuer shall not be liable for any interest thereon and shall not be regarded as a trustee of such money.

Section 212. Preliminary and Final Official Statement. The Preliminary Official Statement dated October 10, 2016, is hereby ratified and approved.

The Official Statement is hereby authorized to be prepared by supplementing, amending and completing the Preliminary Official Statement, with such changes and additions thereto as are necessary to conform to and describe the transaction. The Mayor and Finance Director of the Issuer are hereby authorized to execute the Official Statement as so supplemented, amended and completed, and the use and public distribution of the Official Statement by the Purchaser in connection with the reoffering of the

Bonds is hereby authorized. The proper officials of the Issuer are hereby authorized to execute and deliver a certificate pertaining to such Official Statement as prescribed therein, dated as of the Issue Date.

The Issuer agrees to provide to the Purchaser within seven business days of the date of the sale of Bonds sufficient copies of the Official Statement to enable the Purchaser to comply with the requirements of the SEC Rule and Rule G-32 of the Municipal Securities Rulemaking Board.

Section 213. Sale of the Bonds. The sale of the Bonds to the Purchaser is hereby ratified and confirmed. The Mayor and Clerk are hereby authorized to execute the official bid form submitted by the Purchaser. Delivery of the Bonds shall be made to the Purchaser on the Issue Date (which shall be as soon as practicable after the adoption of this Bond Resolution), upon payment of the Purchase Price.

ARTICLE III

REDEMPTION OF BONDS

Section 301. Redemption by Issuer.

[**No Redemption of Bonds.** The Bonds shall not be subject to redemption and payment prior to their Stated Maturity.]

[**No Optional Redemption.** The Bonds shall not be subject to optional redemption and payment prior to their Stated Maturity.]

****[Mandatory Redemption.**

(a) 20__ *Term Bonds.* The 20__ Term Bonds shall be subject to mandatory redemption and payment prior to Stated Maturity pursuant to the mandatory redemption requirements of this Section at a Redemption Price equal to 100% of the principal amount thereof plus accrued interest to the Redemption Date. The taxes levied in *Article IV* hereof which are to be deposited into the Debt Service Account shall be sufficient to redeem, and the Issuer shall redeem on September 1 in each year, the following principal amounts of such 20__ Term Bonds:

<u>Principal Amount</u>	<u>Year</u>
\$ _____	20__
_____	20__
_____	20__*

*Final Maturity

(b) 20__ *Term Bonds.* The 20__ Term Bonds shall be subject to mandatory redemption and payment prior to Stated Maturity pursuant to the mandatory redemption requirements of this Section at a Redemption Price equal to 100% of the principal amount thereof plus accrued interest to the Redemption Date. The taxes levied in *Article IV* hereof which are to be deposited into the Debt Service Account shall be sufficient to redeem, and the Issuer shall redeem on September 1 in each year, the following principal amounts of such 20__ Term Bonds:

<u>Principal Amount</u>	<u>Year</u>
\$ _____	20__
_____	20__
_____	20__*

*Final Maturity

At its option, to be exercised on or before the 45th day next preceding any mandatory Redemption Date, the Issuer may: (1) deliver to the Paying Agent for cancellation Term Bonds subject to mandatory redemption on said mandatory Redemption Date, in any aggregate principal amount desired; or (2) furnish the Paying Agent funds, together with appropriate instructions, for the purpose of purchasing any Term Bonds subject to mandatory redemption on said mandatory Redemption Date from any Owner thereof whereupon the Paying Agent shall expend such funds for such purpose to such extent as may be practical; or (3) receive a credit with respect to the mandatory redemption obligation of the Issuer under this Section for any Term Bonds subject to mandatory redemption on said mandatory Redemption Date which, prior to such date, have been redeemed (other than through the operation of the mandatory redemption requirements of this subsection) and cancelled by the Paying Agent and not theretofore applied as a credit against any redemption obligation under this subsection. Each Term Bond so delivered or previously purchased or redeemed shall be credited at 100% of the principal amount thereof on the obligation of the Issuer to redeem Term Bonds of the same Stated Maturity on such mandatory Redemption Date, and any excess of such amount shall be credited on future mandatory redemption obligations for Term Bonds of the same Stated Maturity as designated by the Issuer, and the principal amount of Term Bonds to be redeemed by operation of the requirements of this Section shall be accordingly reduced. If the Issuer intends to exercise any option granted by the provisions of clauses (1), (2) or (3) above, the Issuer will, on or before the 45th day next preceding each mandatory Redemption Date, furnish the Paying Agent a written certificate indicating to what extent the provisions of said clauses (1), (2) and (3) are to be complied with, with respect to such mandatory redemption payment.]

Section 302. Selection of Bonds to be Redeemed.

Bonds shall be redeemed only in an Authorized Denomination. When less than all of the Bonds are to be redeemed and paid prior to their Stated Maturity, such Bonds shall be redeemed in such manner as the Issuer shall determine. Bonds of less than a full Stated Maturity shall be selected by the Bond Registrar in a minimum Authorized Denomination of principal amount in such equitable manner as the Bond Registrar may determine.

In the case of a partial redemption of Bonds by lot when Bonds of denominations greater than a minimum Authorized Denomination are then Outstanding, then for all purposes in connection with such redemption a minimum Authorized Denomination of face value shall be treated as though it were a separate Bond of the denomination of a minimum Authorized Denomination. If it is determined that one or more, but not all, of a minimum Authorized Denomination of face value represented by any Bond is selected for redemption, then upon notice of intention to redeem a minimum Authorized Denomination, the Owner or the Owner's duly authorized agent shall forthwith present and surrender such Bond to the Bond Registrar: (1) for payment of the Redemption Price and interest to the Redemption Date of a minimum Authorized Denomination of face value called for redemption, and (2) for exchange, without charge to the Owner thereof, for a new Bond or Bonds of the aggregate principal amount of the unredeemed portion of the principal amount of such Bond. If the Owner of any such Bond fails to present such Bond to the Paying Agent for payment and exchange as aforesaid, such Bond shall, nevertheless,

become due and payable on the redemption date to the extent of a minimum Authorized Denomination of face value called for redemption (and to that extent only).

Section 303. Notice and Effect of Call for Redemption. In the event the Issuer desires to call the Bonds for redemption prior to maturity, written notice of such intent shall be provided to the Bond Registrar in accordance with K.S.A. 10-129, as amended, not less than 45 days prior to the Redemption Date. The Bond Registrar shall call Bonds for redemption and payment and shall give notice of such redemption as herein provided upon receipt by the Bond Registrar at least 45 days prior to the Redemption Date of written instructions of the Issuer specifying the principal amount, Stated Maturities, Redemption Date and Redemption Prices of the Bonds to be called for redemption. The foregoing provisions of this paragraph shall not apply in the case of any mandatory redemption of Term Bonds hereunder, and Term Bonds shall be called by the Paying Agent for redemption pursuant to such mandatory redemption requirements without the necessity of any action by the Issuer and whether or not the Paying Agent holds moneys available and sufficient to effect the required redemption.

Unless waived by any Owner of Bonds to be redeemed, if the Issuer shall call any Bonds for redemption and payment prior to the Stated Maturity thereof, the Issuer shall give written notice of its intention to call and pay said Bonds to the Bond Registrar and the State Treasurer. In addition, the Issuer shall cause the Bond Registrar to give written notice of redemption to the Owners of said Bonds. Each of said written notices shall be deposited in the United States first class mail not less than 30 days prior to the Redemption Date.

All official notices of redemption shall be dated and shall contain the following information:

- (a) the Redemption Date;
- (b) the Redemption Price;
- (c) if less than all Outstanding Bonds are to be redeemed, the identification (and, in the case of partial redemption of any Bonds, the respective principal amounts) of the Bonds to be redeemed;
- (d) a statement that on the Redemption Date the Redemption Price will become due and payable upon each such Bond or portion thereof called for redemption and that interest thereon shall cease to accrue from and after the Redemption Date; and
- (e) the place where such Bonds are to be surrendered for payment of the Redemption Price, which shall be the principal office of the Paying Agent.

The failure of any Owner to receive notice given as heretofore provided or an immaterial defect therein shall not invalidate any redemption.

Prior to any Redemption Date, the Issuer shall deposit with the Paying Agent an amount of money sufficient to pay the Redemption Price of all the Bonds or portions of Bonds that are to be redeemed on such Redemption Date.

For so long as the Securities Depository is effecting book-entry transfers of the Bonds, the Bond Registrar shall provide the notices specified in this Section to the Securities Depository. It is expected that the Securities Depository shall, in turn, notify its Participants and that the Participants, in turn, will notify or cause to be notified the Beneficial Owners. Any failure on the part of the Securities Depository or a Participant, or failure on the part of a nominee of a Beneficial Owner of a Bond (having been mailed

notice from the Bond Registrar, the Securities Depository, a Participant or otherwise) to notify the Beneficial Owner of the Bond so affected, shall not affect the validity of the redemption of such Bond.

Official notice of redemption having been given as aforesaid, the Bonds or portions of Bonds to be redeemed shall become due and payable on the Redemption Date, at the Redemption Price therein specified, and from and after the Redemption Date (unless the Issuer defaults in the payment of the Redemption Price) such Bonds or portion of Bonds shall cease to bear interest. Upon surrender of such Bonds for redemption in accordance with such notice, the Redemption Price of such Bonds shall be paid by the Paying Agent. Installments of interest due on or prior to the Redemption Date shall be payable as herein provided for payment of interest. Upon surrender for any partial redemption of any Bond, there shall be prepared for the Owner a new Bond or Bonds of the same Stated Maturity in the amount of the unpaid principal as provided herein. All Bonds that have been surrendered for redemption shall be cancelled and destroyed by the Paying Agent as provided herein and shall not be reissued.

In addition to the foregoing notice, the Issuer shall provide such notices of redemption as are required by the Disclosure Undertaking. Further notice may be given by the Issuer or the Bond Registrar on behalf of the Issuer as set out below, but no defect in said further notice nor any failure to give all or any portion of such further notice shall in any manner defeat the effectiveness of a call for redemption if official notice thereof is given as above prescribed:

(a) Each further notice of redemption given hereunder shall contain the information required above for an official notice of redemption plus (1) the CUSIP numbers of all Bonds being redeemed; (2) the date of issue of the Bonds as originally issued; (3) the rate of interest borne by each Bond being redeemed; (4) the maturity date of each Bond being redeemed; and (5) any other descriptive information needed to identify accurately the Bonds being redeemed.

(b) Each further notice of redemption shall be sent at least one day before the mailing of notice to Owners by first class, registered or certified mail or overnight delivery, as determined by the Bond Registrar, to all registered securities depositories then in the business of holding substantial amounts of obligations of types comprising the Bonds and to one or more national information services that disseminate notices of redemption of obligations such as the Bonds.

(c) Each check or other transfer of funds issued for the payment of the Redemption Price of Bonds being redeemed shall bear or have enclosed the CUSIP number of the Bonds being redeemed with the proceeds of such check or other transfer.

The Paying Agent is also directed to comply with any mandatory standards then in effect for processing redemptions of municipal securities established by the State or the Securities and Exchange Commission. Failure to comply with such standards shall not affect or invalidate the redemption of any Bond.]**

ARTICLE IV

SECURITY FOR BONDS

Section 401. Security for the Bonds. The Bonds shall be general obligations of the Issuer payable as to both principal and interest from ad valorem taxes which may be levied without limitation as to rate or amount upon all the taxable tangible property, real and personal, within the territorial limits of

the Issuer. The full faith, credit and resources of the Issuer are hereby irrevocably pledged for the prompt payment of the principal of and interest on the Bonds as the same become due.

Section 402. Levy and Collection of Annual Tax; Transfer to Debt Service Account. The Governing Body shall annually make provision for the payment of principal of, premium, if any, and interest on the Bonds as the same become due by, to the extent necessary, levying and collecting the necessary taxes upon all of the taxable tangible property within the Issuer in the manner provided by law.

The taxes referred to above shall be extended upon the tax rolls in each of the several years, respectively, and shall be levied and collected at the same time and in the same manner as the other ad valorem taxes of the Issuer are levied and collected. The proceeds derived from said taxes shall be deposited in the Bond and Interest Fund, shall be kept separate and apart from all other funds of the Issuer shall thereafter be transferred to the Debt Service Account and shall be used solely for the payment of the principal of and interest on the Bonds as and when the same become due, taking into account any scheduled mandatory redemptions, and the fees and expenses of the Paying Agent.

If at any time said taxes are not collected in time to pay the principal of or interest on the Bonds when due, the Treasurer is hereby authorized and directed to pay said principal or interest out of the general funds of the Issuer and to reimburse said general funds for money so expended when said taxes are collected.

ARTICLE V

ESTABLISHMENT OF FUNDS AND ACCOUNTS DEPOSIT AND APPLICATION OF BOND PROCEEDS

Section 501. Creation of Funds and Accounts. Simultaneously with the issuance of the Bonds, there shall be created within the Treasury of the Issuer the following Funds and Accounts:

- (a) Improvement Fund for General Obligation Improvement Bonds, Series 2016C.
- (b) Debt Service Account for General Obligation Improvement Bonds, Series 2016C (within the Bond and Interest Fund).
- (c) Rebate Fund for General Obligation Improvement Bonds, Series 2016C.

The Funds and Accounts established herein shall be administered in accordance with the provisions of this Bond Resolution so long as the Bonds are Outstanding.

Section 502. Deposit of Bond Proceeds. The net proceeds received from the sale of the Bonds shall be deposited simultaneously with the delivery of the Bonds as follows:

- (a) All accrued interest received from the sale of the Bonds shall be deposited in the Debt Service Account.
- (b) The remaining balance of the proceeds derived from the sale of the Bonds shall be deposited in the Improvement Fund.

Section 503. Application of Moneys in the Improvement Fund. Moneys in the Improvement Fund shall be used for the sole purpose of: (a) paying the costs of the Improvements, in accordance with the plans and specifications therefor approved by the Governing Body and on file in the office of the Clerk, including any alterations in or amendments to said plans and specifications deemed advisable and approved by the Governing Body; (b) paying Costs of Issuance; and (c) transferring any amounts to the Rebate Fund required by this *Article V*.

Upon completion of the Improvements, any surplus remaining in the Improvement Fund shall be deposited in the Debt Service Account.

Section 504. Substitution of Improvements; Reallocation of Proceeds.

(a) The Issuer may elect for any reason to substitute or add other public improvements to be financed with proceeds of the Bonds provided the following conditions are met: (1) the Substitute Improvement and the issuance of general obligation bonds to pay the cost of the Substitute Improvement has been duly authorized by the Governing Body in accordance with the laws of the State; (2) a resolution authorizing the use of the proceeds of the Bonds to pay the Financeable Costs of the Substitute Improvement has been duly adopted by the Governing Body pursuant to this Section; (3) the Attorney General of the State has approved the amendment made by such resolution to the transcript of proceedings for the Bonds to include the Substitute Improvements; and (4) the use of the proceeds of the Bonds to pay the Financeable Cost of the Substitute Improvement will not adversely affect the tax-exempt status of the Bonds under State or federal law.

(b) The Issuer may reallocate expenditure of Bond proceeds among all Improvements financed by the Bonds; provided the following conditions are met: (1) the reallocation is approved by the Governing Body; (2) the reallocation shall not cause the proceeds of the Bonds allocated to any Improvement to exceed the Financeable Costs of the Improvement; and (3) the reallocation will not adversely affect the tax-exempt status of the Bonds under State or federal law.

Section 505. Application of Moneys in Debt Service Account. All amounts paid and credited to the Debt Service Account shall be expended and used by the Issuer for the sole purpose of paying the principal or Redemption Price of and interest on the Bonds as and when the same become due and the usual and customary fees and expenses of the Bond Registrar and Paying Agent. The Treasurer is authorized and directed to withdraw from the Debt Service Account sums sufficient to pay both principal or Redemption Price of and interest on the Bonds and the fees and expenses of the Bond Registrar and Paying Agent as and when the same become due, and to forward such sums to the Paying Agent in a manner which ensures that the Paying Agent will receive immediately available funds in such amounts on or before the Business Day immediately preceding the dates when such principal, interest and fees of the Bond Registrar and Paying Agent will become due. If, through the lapse of time or otherwise, the Owners of Bonds are no longer entitled to enforce payment of the Bonds or the interest thereon, the Paying Agent shall return said funds to the Issuer. All moneys deposited with the Paying Agent shall be deemed to be deposited in accordance with and subject to all of the provisions contained in this Bond Resolution and shall be held in trust by the Paying Agent for the benefit of the Owners of the Bonds entitled to payment from such moneys.

Any moneys or investments remaining in the Debt Service Account after the retirement of the Bonds shall be transferred and paid into the Bond and Interest Fund.

Section 506. Application of Moneys in the Rebate Fund.

(a) There shall be deposited in the Rebate Fund such amounts as are required to be deposited therein pursuant to the Federal Tax Certificate. All money at any time deposited in the Rebate Fund shall be held in trust, to the extent required to satisfy the Rebate Amount (as defined in the Federal Tax Certificate), for payment to the United States of America, and neither the Issuer nor the Owner of any Bonds shall have any rights in or claim to such money. All amounts deposited into or on deposit in the Rebate Fund shall be governed by this Section and the Federal Tax Certificate.

(b) The Issuer shall periodically determine the arbitrage rebate, if any, under Code § 148(f) in accordance with the Federal Tax Certificate, and the Issuer shall make payments to the United States of America at the times and in the amounts determined under the Federal Tax Certificate. Any moneys remaining in the Rebate Fund after redemption and payment of all of the Bonds and payment and satisfaction of any Rebate Amount, or provision made therefor, shall be deposited into the Bond and Interest Fund.

(c) Notwithstanding any other provision of this Bond Resolution, including in particular *Article VII* hereof, the obligation to pay arbitrage rebate to the United States of America and to comply with all other requirements of this Section and the Federal Tax Certificate shall survive the defeasance or payment in full of the Bonds.

Section 507. Deposits and Investment of Moneys. Moneys in each of the Funds and Accounts shall be deposited in accordance with laws of the State, in a bank, savings and loan association or savings bank organized under the laws of the State, any other state or the United States: (a) which has a main or branch office located in the Issuer; or (b) if no such entity has a main or branch office located in the Issuer, with such an entity that has a main or branch office located in the county or counties in which the Issuer is located. All such depositories shall be members of the Federal Deposit Insurance Corporation, or otherwise as permitted by State law. All such deposits shall be invested in Permitted Investments as set forth in this Article or shall be adequately secured as provided by the laws of the State. All moneys held in the Funds and Accounts shall be kept separate and apart from all other funds of the Issuer so that there shall be no commingling with any other funds of the Issuer.

Moneys held in any Fund or Account may be invested in accordance with this Bond Resolution and the Federal Tax Certificate in Permitted Investments; provided, however, that no such investment shall be made for a period extending longer than to the date when the moneys invested may be needed for the purpose for which such fund was created. All earnings on any investments held in any Fund or Account shall accrue to and become a part of such Fund or Account; provided that, during the period of construction of the Improvements, earnings on the investment of such funds may, at the discretion of the Issuer, be credited to the Debt Service Account.

ARTICLE VI

DEFAULT AND REMEDIES

Section 601. Remedies. The provisions of the Bond Resolution, including the covenants and agreements herein contained, shall constitute a contract between the Issuer and the Owners of the Bonds. If an Event of Default occurs and shall be continuing, the Owner or Owners of not less than 10% in principal amount of the Bonds at the time Outstanding shall have the right for the equal benefit and protection of all Owners of Bonds similarly situated:

(a) by mandamus or other suit, action or proceedings at law or in equity to enforce the rights of such Owner or Owners against the Issuer and its officers, agents and employees, and to require and compel duties and obligations required by the provisions of the Bond Resolution or by the Constitution and laws of the State;

(b) by suit, action or other proceedings in equity or at law to require the Issuer, its officers, agents and employees to account as if they were the trustees of an express trust; and

(c) by suit, action or other proceedings in equity or at law to enjoin any acts or things which may be unlawful or in violation of the rights of the Owners of the Bonds.

Section 602. Limitation on Rights of Owners. The covenants and agreements of the Issuer contained herein and in the Bonds shall be for the equal benefit, protection, and security of the Owners of any or all of the Bonds, all of which Bonds shall be of equal rank and without preference or priority of one Bond over any other Bond in the application of the funds herein pledged to the payment of the principal of and the interest on the Bonds, or otherwise, except as to rate of interest, date of maturity and right of prior redemption as provided in this Bond Resolution. No one or more Owners secured hereby shall have any right in any manner whatever by his or their action to affect, disturb or prejudice the security granted and provided for herein, or to enforce any right hereunder, except in the manner herein provided, and all proceedings at law or in equity shall be instituted, had and maintained for the equal benefit of all Outstanding Bonds.

Section 603. Remedies Cumulative. No remedy conferred herein upon the Owners is intended to be exclusive of any other remedy, but each such remedy shall be cumulative and in addition to every other remedy and may be exercised without exhausting and without regard to any other remedy conferred herein. No waiver of any default or breach of duty or contract by the Owner of any Bond shall extend to or affect any subsequent default or breach of duty or contract or shall impair any rights or remedies thereon. No delay or omission of any Owner to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or acquiescence therein. Every substantive right and every remedy conferred upon the Owners of the Bonds by this Bond Resolution may be enforced and exercised from time to time and as often as may be deemed expedient. If action or proceedings taken by any Owner on account of any default or to enforce any right or exercise any remedy has been discontinued or abandoned for any reason, or shall have been determined adversely to such Owner, then, and in every such case, the Issuer and the Owners of the Bonds shall be restored to their former positions and rights hereunder, respectively, and all rights, remedies, powers and duties of the Owners shall continue as if no such suit, action or other proceedings had been brought or taken.

ARTICLE VII

DEFEASANCE

Section 701. Defeasance. When any or all of the Bonds, redemption premium, if any, or scheduled interest payments thereon have been paid and discharged, then the requirements contained in this Bond Resolution and the pledge of the Issuer's faith and credit hereunder and all other rights granted hereby shall terminate with respect to the Bonds or scheduled interest payments thereon so paid and discharged. Bonds, redemption premium, if any, or scheduled interest payments thereon shall be deemed to have been paid and discharged within the meaning of this Bond Resolution if there has been deposited

with the Paying Agent, or other commercial bank or trust company located in the State and having full trust powers, at or prior to the Stated Maturity or Redemption Date of said Bonds or the interest payments thereon, in trust for and irrevocably appropriated thereto, moneys and/or Defeasance Obligations which, together with the interest to be earned on any such Defeasance Obligations, will be sufficient for the payment of the principal of or Redemption Price of said Bonds and/or interest accrued to the Stated Maturity or Redemption Date, or if default in such payment has occurred on such date, then to the date of the tender of such payments. If the amount to be so deposited is based on the Redemption Price of any Bonds, no such satisfaction shall occur until (a) the Issuer has elected to redeem such Bonds, and (b) either notice of such redemption has been given, or the Issuer has given irrevocable instructions, or shall have provided for an escrow agent to give irrevocable instructions, to the Bond Registrar to give such notice of redemption in compliance with *Article III* hereof. Any money and Defeasance Obligations that at any time shall be deposited with the Paying Agent or other commercial bank or trust company by or on behalf of the Issuer, for the purpose of paying and discharging any of the Bonds, shall be and are hereby assigned, transferred and set over to the Paying Agent or other bank or trust company in trust for the respective Owners of the Bonds, and such moneys shall be and are hereby irrevocably appropriated to the payment and discharge thereof. All money and Defeasance Obligations deposited with the Paying Agent or such bank or trust company shall be deemed to be deposited in accordance with and subject to all of the provisions of this Bond Resolution.

ARTICLE VIII

TAX COVENANTS

Section 801. General Covenants. The Issuer covenants and agrees that it will comply with: (a) all applicable provisions of the Code necessary to maintain the exclusion from gross income for federal income tax purposes of the interest on the Bonds; and (b) all provisions and requirements of the Federal Tax Certificate. The Mayor and Finance Director are hereby authorized and directed to execute the Federal Tax Certificate in a form approved by Bond Counsel, for and on behalf of and as the act and deed of the Issuer. The Issuer will, in addition, adopt such other ordinances or resolutions and take such other actions as may be necessary to comply with the Code and with all other applicable future laws, regulations, published rulings and judicial decisions, in order to ensure that the interest on the Bonds will remain excluded from federal gross income, to the extent any such actions can be taken by the Issuer.

Section 802. Survival of Covenants. The covenants contained in this Article and in the Federal Tax Certificate shall remain in full force and effect notwithstanding the defeasance of the Bonds pursuant to *Article VII* hereof or any other provision of this Bond Resolution until such time as is set forth in the Federal Tax Certificate.

ARTICLE IX

CONTINUING DISCLOSURE REQUIREMENTS

Section 901. Disclosure Requirements. The Issuer hereby covenants with the Purchaser and the Beneficial Owners to provide and disseminate such information as is required by the SEC Rule and as further set forth in the Disclosure Undertaking, the provisions of which are incorporated herein by reference. Such covenant shall be for the benefit of and enforceable by the Purchaser and the Beneficial Owners.

Section 902. Failure to Comply with Continuing Disclosure Requirements. In the event the Issuer fails to comply in a timely manner with its covenants contained in the preceding section, the Purchaser and/or any Beneficial Owner may make demand for such compliance by written notice to the Issuer. In the event the Issuer does not remedy such noncompliance within 10 days of receipt of such written notice, the Purchaser or any Beneficial Owner may in its discretion, without notice or demand, proceed to enforce compliance by a suit or suits in equity for the specific performance of such covenant or agreement contained in the preceding section or for the enforcement of any other appropriate legal or equitable remedy, as the Purchaser and/or any Beneficial Owner shall deem effectual to protect and enforce any of the duties of the Issuer under such preceding section. Notwithstanding any other provision of this Bond Resolution, failure of the Issuer to comply with its covenants contained in the preceding section shall not be considered an Event of Default under this Bond Resolution.

ARTICLE X

MISCELLANEOUS PROVISIONS

Section 1001. Annual Audit. Annually, promptly after the end of the Fiscal Year, the Issuer will cause an audit to be made of the financial statements of the Issuer for the preceding Fiscal Year by an Independent Accountant. Within 30 days after the completion of each such audit, a copy thereof shall be filed in the office of the Clerk. Such audit shall at all times during the usual business hours be open to the examination and inspection by any taxpayer, any Owner of any of the Bonds, or by anyone acting for or on behalf of such taxpayer or Owner. Upon payment of the reasonable cost of preparing and mailing the same, a copy of any annual audit will, upon request, be sent to any Owner or prospective Owner. As soon as possible after the completion of the annual audit, the Governing Body shall review such audit, and if the audit discloses that proper provision has not been made for all of the requirements of this Bond Resolution, the Issuer shall promptly cure such deficiency.

Section 1002. Amendments. The rights and duties of the Issuer and the Owners, and the terms and provisions of the Bonds or of this Bond Resolution, may be amended or modified at any time in any respect by resolution of the Issuer with the written consent of the Owners of not less than a majority in principal amount of the Bonds then Outstanding, such consent to be evidenced by an instrument or instruments executed by such Owners and duly acknowledged or proved in the manner of a deed to be recorded, and such instrument or instruments shall be filed with the Clerk, but no such modification or alteration shall:

- (a) extend the maturity of any payment of principal or interest due upon any Bond;
- (b) effect a reduction in the amount which the Issuer is required to pay as principal of or interest on any Bond;
- (c) permit preference or priority of any Bond over any other Bond; or
- (d) reduce the percentage in principal amount of Bonds required for the written consent to any modification or alteration of the provisions of this Bond Resolution.

Any provision of the Bonds or of this Bond Resolution may, however, be amended or modified by resolution duly adopted by the Governing Body at any time in any legal respect with the written consent of the Owners of all of the Bonds at the time Outstanding.

Without notice to or the consent of any Owners, the Issuer may amend or supplement this Bond Resolution for the purpose of curing any formal defect, omission, inconsistency or ambiguity herein, to grant to or confer upon the Owners any additional rights, remedies, powers or authority that may lawfully be granted to or conferred upon the Owners, to more precisely identify the Improvements, to reallocate proceeds of the Bonds among Improvements, to provide for Substitute Improvements, to conform this Bond Resolution to the Code or future applicable federal law concerning tax-exempt obligations, or in connection with any other change therein which is not materially adverse to the interests of the Owners.

Every amendment or modification of the provisions of the Bonds or of this Bond Resolution, to which the written consent of the Owners is given, as above provided, shall be expressed in a resolution adopted by the Governing Body amending or supplementing the provisions of this Bond Resolution and shall be deemed to be a part of this Bond Resolution. A certified copy of every such amendatory or supplemental resolution, if any, and a certified copy of this Bond Resolution shall always be kept on file in the office of the Clerk, and shall be made available for inspection by the Owner of any Bond or a prospective purchaser or owner of any Bond authorized by this Bond Resolution, and upon payment of the reasonable cost of preparing the same, a certified copy of any such amendatory or supplemental resolution or of this Bond Resolution will be sent by the Clerk to any such Owner or prospective Owner.

Any and all modifications made in the manner hereinabove provided shall not become effective until there has been filed with the Clerk a copy of the resolution of the Issuer hereinabove provided for, duly certified, as well as proof of any required consent to such modification by the Owners of the Bonds then Outstanding. It shall not be necessary to note on any of the Outstanding Bonds any reference to such amendment or modification.

The Issuer shall furnish to the Paying Agent a copy of any amendment to the Bonds or this Bond Resolution which affects the duties or obligations of the Paying Agent under this Bond Resolution.

Section 1003. Notices, Consents and Other Instruments by Owners. Any notice, consent, request, direction, approval or other instrument to be signed and executed by the Owners may be in any number of concurrent writings of similar tenor and may be signed or executed by such Owners in person or by agent appointed in writing. Proof of the execution of any such instrument or of the writing appointing any such agent and of the ownership of Bonds, if made in the following manner, shall be sufficient for any of the purposes of this Bond Resolution, and shall be conclusive in favor of the Issuer and the Paying Agent with regard to any action taken, suffered or omitted under any such instrument, namely:

(a) The fact and date of the execution by any person of any such instrument may be proved by a certificate of any officer in any jurisdiction who by law has power to take acknowledgments within such jurisdiction that the person signing such instrument acknowledged before such officer the execution thereof, or by affidavit of any witness to such execution.

(b) The fact of ownership of Bonds, the amount or amounts, numbers and other identification of Bonds, and the date of holding the same shall be proved by the Bond Register.

In determining whether the Owners of the requisite principal amount of Bonds Outstanding have given any request, demand, authorization, direction, notice, consent or waiver under this Bond Resolution, Bonds owned by the Issuer shall be disregarded and deemed not to be Outstanding under this Bond Resolution, except that, in determining whether the Owners shall be protected in relying upon any such request, demand, authorization, direction, notice, consent or waiver, only Bonds which the Owners know to be so owned shall be so disregarded. Notwithstanding the foregoing, Bonds so owned which have been pledged in good faith shall not be disregarded as aforesaid if the pledgee establishes to the

satisfaction of the Owners the pledgee's right so to act with respect to such Bonds and that the pledgee is not the Issuer.

Section 1004. Notices. Any notice, request, complaint, demand or other communication required or desired to be given or filed under this Bond Resolution shall be in writing, given to the Notice Representative at the Notice Address and shall be deemed duly given or filed if the same shall be: (a) duly mailed by registered or certified mail, postage prepaid; or (b) communicated via fax, with electronic or telephonic confirmation of receipt. Copies of such notices shall also be given to the Paying Agent. The Issuer, the Paying Agent and the Purchaser may from time to time designate, by notice given hereunder to the others of such parties, such other address to which subsequent notices, certificates or other communications shall be sent.

All notices given by: (a) certified or registered mail as aforesaid shall be deemed duly given as of the date they are so mailed; (b) fax as aforesaid shall be deemed duly given as of the date of confirmation of receipt. If, because of the temporary or permanent suspension of regular mail service or for any other reason, it is impossible or impractical to mail any notice in the manner herein provided, then such other form of notice as shall be made with the approval of the Paying Agent shall constitute a sufficient notice.

Section 1005. Electronic Transactions. The issuance of the Bonds and the transactions related thereto and described herein may be conducted and documents may be stored by electronic means.

Section 1006. Further Authority. The officers and officials of the Issuer, including the Mayor, Finance Director and Clerk, are hereby authorized and directed to execute all documents and take such actions as they may deem necessary or advisable in order to carry out and perform the purposes of this Bond Resolution and to make ministerial alterations, changes or additions in the foregoing agreements, statements, instruments and other documents herein approved, authorized and confirmed which they may approve, and the execution or taking of such action shall be conclusive evidence of such necessity or advisability.

Section 1007. Severability. If any section or other part of this Bond Resolution, whether large or small, is for any reason held invalid, the invalidity thereof shall not affect the validity of the other provisions of this Bond Resolution.

Section 1008. Governing Law. This Bond Resolution shall be governed exclusively by and construed in accordance with the applicable laws of the State.

Section 1009. Effective Date. This Bond Resolution shall take effect and be in full force from and after its adoption by the Governing Body.

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ADOPTED by the Governing Body on October 17, 2016.

(SEAL)

Laura Wassmer, Mayor

ATTEST:

Joyce Hagen Mundy, City Clerk

EXHIBIT A
(FORM OF BONDS)

REGISTERED
NUMBER __

REGISTERED
\$

Unless this certificate is presented by an authorized representative of The Depository Trust Company, a New York Corporation (“DTC”), to the Issuer or its agent for registration of transfer, exchange or payment, and any certificate issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

UNITED STATES OF AMERICA
STATE OF KANSAS
COUNTY OF JOHNSON
CITY OF PRAIRIE VILLAGE
GENERAL OBLIGATION IMPROVEMENT BOND
SERIES 2016C

Interest
Rate:

Maturity
Date: September 1, 20__

Dated
Date: October 31, 2016

CUSIP:

REGISTERED OWNER:

PRINCIPAL AMOUNT:

KNOW ALL PERSONS BY THESE PRESENTS: That the City of Prairie Village, in the County of Johnson, State of Kansas (the “Issuer”), for value received, hereby acknowledges itself to be indebted and promises to pay to the Registered Owner shown above, or registered assigns, but solely from the source and in the manner herein specified, the Principal Amount shown above on the Maturity Date shown above[, unless called for redemption prior to said Maturity Date], and to pay interest thereon at the Interest Rate per annum shown above (computed on the basis of a 360-day year of twelve 30-day months), from the Dated Date shown above, or from the most recent date to which interest has been paid or duly provided for, payable semiannually on March 1 and September 1 of each year, commencing March 1, 2017 (the “Interest Payment Dates”), until the Principal Amount has been paid.

Method and Place of Payment. The principal or redemption price of this Bond shall be paid at maturity [or upon earlier redemption] to the person in whose name this Bond is registered at the maturity [or redemption] date thereof, upon presentation and surrender of this Bond at the principal office of the Treasurer of the State of Kansas, Topeka, Kansas (the “Paying Agent” and “Bond Registrar”). The interest payable on this Bond on any Interest Payment Date shall be paid to the person in whose name this Bond is registered on the registration books maintained by the Bond Registrar at the close of business on

the Record Date(s) for such interest, which shall be the 15th day (whether or not a business day) of the calendar month next preceding the Interest Payment Date. Such interest shall be payable (a) by check or draft mailed by the Paying Agent to the address of such Registered Owner shown on the Bond Register or at such other address as is furnished to the Paying Agent in writing by such Registered Owner; or (b) in the case of an interest payment to Cede & Co. or any Owner of \$500,000 or more in aggregate principal amount of Bonds by electronic transfer to such Owner upon written notice given to the Bond Registrar by such Registered Owner, not less than 15 days prior to the Record Date for such interest, containing the electronic transfer instructions including the bank, ABA routing number and account number to which such Registered Owner wishes to have such transfer directed. The principal [or redemption price of] and interest on the Bonds shall be payable in any coin or currency that, on the respective dates of payment thereof, is legal tender for the payment of public and private debts. Interest not punctually paid will be paid in the manner established in the within defined Bond Resolution.

Definitions. Capitalized terms used herein and not otherwise defined herein shall have the meanings assigned to such terms in the hereinafter defined Bond Resolution.

Authorization of Bonds. This Bond is one of an authorized series of Bonds of the Issuer designated “General Obligation Improvement Bonds, Series 2016C,” aggregating the principal amount of \$[PRINCIPAL AMOUNT] (the “Bonds”) issued for the purposes set forth in the Ordinance of the Issuer authorizing the issuance of the Bonds and the Resolution of the Issuer prescribing the form and details of the Bonds (collectively, the “Bond Resolution”). The Bonds are issued by the authority of and in full compliance with the provisions, restrictions and limitations of the Constitution and laws of the State of Kansas, including K.S.A. 10-101 to 10-125, inclusive, K.S.A. 10-620 *et seq.*, Charter Ordinance No. 28 of the Issuer and Article 12, Section 5 of the Constitution of the State of Kansas, as amended, and all other provisions of the laws of the State of Kansas applicable thereto.

General Obligations. The Bonds constitute general obligations of the Issuer payable as to both principal and interest from ad valorem taxes which may be levied without limitation as to rate or amount upon all the taxable tangible property, real and personal, within the territorial limits of the Issuer. The full faith, credit and resources of the Issuer are hereby irrevocably pledged for the prompt payment of the principal of and interest on the Bonds as the same become due.

Redemption Prior to Maturity. The Bonds are [not] subject to redemption prior to maturity[, as provided in the Bond Resolution].

Book-Entry System. The Bonds are being issued by means of a book-entry system with no physical distribution of bond certificates to be made except as provided in the Bond Resolution. One Bond certificate with respect to each date on which the Bonds are stated to mature or with respect to each form of Bonds, registered in the nominee name of the Securities Depository, is being issued and required to be deposited with the Securities Depository and immobilized in its custody. The book-entry system will evidence positions held in the Bonds by the Securities Depository’s participants, beneficial ownership of the Bonds in authorized denominations being evidenced in the records of such participants. Transfers of ownership shall be effected on the records of the Securities Depository and its participants pursuant to rules and procedures established by the Securities Depository and its participants. The Issuer and the Bond Registrar will recognize the Securities Depository nominee, while the Registered Owner of this Bond, as the owner of this Bond for all purposes, including (i) payments of principal of, and redemption premium, if any, and interest on, this Bond, (ii) notices and (iii) voting. Transfer of principal, interest and any redemption premium payments to participants of the Securities Depository, and transfer of principal, interest and any redemption premium payments to beneficial owners of the Bonds by participants of the Securities Depository will be the responsibility of such participants and other nominees of such beneficial owners. The Issuer and the Bond Registrar will not be responsible or liable for such

transfers of payments or for maintaining, supervising or reviewing the records maintained by the Securities Depository, the Securities Depository nominee, its participants or persons acting through such participants. While the Securities Depository nominee is the owner of this Bond, notwithstanding the provision hereinabove contained, payments of principal of, redemption premium, if any, and interest on this Bond shall be made in accordance with existing arrangements among the Issuer, the Bond Registrar and the Securities Depository.

Transfer and Exchange. EXCEPT AS OTHERWISE PROVIDED IN THE BOND RESOLUTION, THIS GLOBAL BOND MAY BE TRANSFERRED, IN WHOLE BUT NOT IN PART, ONLY TO ANOTHER NOMINEE OF THE SECURITIES DEPOSITORY OR TO A SUCCESSOR SECURITIES DEPOSITORY OR TO A NOMINEE OF A SUCCESSOR SECURITIES DEPOSITORY. This Bond may be transferred or exchanged, as provided in the Bond Resolution, only on the Bond Register kept for that purpose at the principal office of the Bond Registrar, upon surrender of this Bond, together with a written instrument of transfer or authorization for exchange satisfactory to the Bond Registrar duly executed by the Registered Owner or the Registered Owner's duly authorized agent, and thereupon a new Bond or Bonds in any Authorized Denomination of the same maturity and in the same aggregate principal amount shall be issued to the transferee in exchange therefor as provided in the Bond Resolution and upon payment of the charges therein prescribed. The Issuer shall pay all costs incurred in connection with the issuance, payment and initial registration of the Bonds and the cost of a reasonable supply of bond blanks. The Issuer and the Paying Agent may deem and treat the person in whose name this Bond is registered on the Bond Register as the absolute owner hereof for the purpose of receiving payment of, or on account of, the principal or redemption price hereof and interest due hereon and for all other purposes. The Bonds are issued in fully registered form in Authorized Denominations.

Authentication. This Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the hereinafter defined Bond Resolution until the Certificate of Authentication and Registration hereon shall have been lawfully executed by the Bond Registrar.

IT IS HEREBY DECLARED AND CERTIFIED that all acts, conditions, and things required to be done and to exist precedent to and in the issuance of this Bond have been properly done and performed and do exist in due and regular form and manner as required by the Constitution and laws of the State of Kansas, and that the total indebtedness of the Issuer, including this series of bonds, does not exceed any constitutional or statutory limitation.

IN WITNESS WHEREOF, the Issuer has caused this Bond to be executed by the manual or facsimile signature of its Mayor, and attested by the manual or facsimile signature of its Clerk, and its seal to be affixed hereto or imprinted hereon.

CITY OF PRAIRIE VILLAGE, KANSAS

[(Facsimile Seal)]

By: _____ (facsimile)
Laura Wassmer, Mayor

ATTEST:

By: _____ (facsimile)
Joyce Hagen Mundy, City Clerk

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of a series of General Obligation Improvement Bonds, Series 2016C, of the City of Prairie Village, Kansas, described in the within-mentioned Bond Resolution.

Registration Date: _____

Treasurer of the State of Kansas,
Topeka, Kansas
as Bond Registrar and Paying Agent

By: _____

Registration Number: _____

CERTIFICATE OF CLERK

STATE OF KANSAS)
) SS.
COUNTY OF JOHNSON)

The undersigned, Clerk of the City of Prairie Village, Kansas, does hereby certify that the within Bond has been duly registered in my office according to law as of October 31, 2016.

WITNESS my hand and official seal.

(Facsimile Seal)

By: _____ (facsimile)
Joyce Hagen Mundy, City Clerk

CERTIFICATE OF STATE TREASURER

OFFICE OF THE TREASURER, STATE OF KANSAS

RON ESTES, Treasurer of the State of Kansas, does hereby certify that a transcript of the proceedings leading up to the issuance of this Bond has been filed in the office of the State Treasurer, and that this Bond was registered in such office according to law on _____.

WITNESS my hand and official seal.

(Facsimile Seal)

By: _____
Treasurer of the State of Kansas

BOND ASSIGNMENT

FOR VALUE RECEIVED, the undersigned do(es) hereby sell, assign and transfer to

(Name and Address)

(Social Security or Taxpayer Identification No.)

the Bond to which this assignment is affixed in the outstanding principal amount of \$_____, standing in the name of the undersigned on the books of the Bond Registrar. The undersigned do(es) hereby irrevocably constitute and appoint _____ as agent to transfer said Bond on the books of said Bond Registrar with full power of substitution in the premises.

Dated _____

Name

Social Security or
Taxpayer Identification No.

Signature (Sign here exactly as name(s)
appear on the face of Certificate)

Signature guarantee:

By _____

LEGAL OPINION

The following is a true and correct copy of the approving legal opinion of Gilmore & Bell, P.C., Bond Counsel, which was dated and issued as of the date of original issuance and delivery of such Bonds:

GILMORE & BELL, P.C.
2405 Grand Boulevard
Suite 1100
Kansas City, Missouri 64108

(PRINTED LEGAL OPINION)



ADMINISTRATION

Finance Committee Meeting Date: October 5, 2016
Council Meeting Date: October 17, 2016
Committee Meeting Date: October 17, 2016

COU2016-61: Consider Audit Services Contract

RECOMMENDATION

The Selection Committee recommends the City Council approve the audit services agreement with Berberich Trahan & Co., P.A. for the City's 2016 financial statements.

SUGGESTED MOTION

Move that the Council approve the agreement with Berberich Trahan & Co., P.A. to audit the City's 2016 financial statements.

BACKGROUND

KSA 75-1124 requires the City to have an annual audit. In 2012, the City issued a Request for Proposals for auditing services and selected Berberich Trahan & Co., P.A. The firm performed the audits of 2012 - 2015 financial statements.

In August of this year, staff issued a Request for Proposals (RFP) for the Professional Audit Services for the City. The Selection Committee found Berberich Trahan & Co., services to be of high quality and their proposal best fit the needs and philosophy of the City. The engagement is a three (3) year contract with two (2), one (1) year options to renew. Renewal is subject to an annual review and the concurrence of the City Council.

The proposed fee for the 2016 audit is \$24,000, the same cost as the 2015 audit.

The Selection Committee also discussed formalizing an Audit Rotation Policy. Currently, the rotation is included as part of the bid specification. An inquiry was sent out to other cities to see if they have a policy. Below are the responses received to date:

- Gardner - No formal rotation policy
- Johnson County - No formal rotation policy
- Merriam - No formal rotation policy
- Overland Park - No formal rotation policy

FUNDING SOURCE

Funding for the financial statement audit is included in the 2016 budget for the Financial Management Program.

ATTACHMENTS: Agreement with Berberich Trahan & Co., P.A.

PREPARED BY: Lisa Santa Maria, Finance Director Date: October 10, 2016



BERBERICH TRAHAN & CO., P.A.
Certified Public Accountants

October 6, 2016

Mayor and City Council
City of Prairie Village, Kansas
7700 Mission Road
Prairie Village, Kansas 66208

The Objective and Scope of the Audit of the Financial Statements

You have requested that we audit the financial statements of the City of Prairie Village, Kansas (the City), which comprise governmental activities, each major fund and the aggregate remaining fund information as of and for the year ended December 31, 2016 which collectively comprise the basic financial statements. We will also apply certain limited procedures to the required supplementary information in accordance with auditing standards generally accepted in the United States of America and will report on whether supplementary information is fairly stated, in all material respects, in relation to the financial statements as a whole. We are pleased to confirm our acceptance and our understanding of this audit engagement by means of this letter.

Our audit will be conducted with the objective of our expressing an opinion on the financial statements.

The Responsibilities of the Auditor

We will conduct our audit in accordance with auditing standards generally accepted in the United States of America (GAAS) and the "Kansas Municipal Audit and Accounting Guide." Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

Because of the inherent limitations of an audit, together with the inherent limitations of internal control, an unavoidable risk that some material misstatements may not be detected exists, even though the audit is properly planned and performed in accordance with GAAS. Also, an audit is not designed to detect errors or fraud that is immaterial to the financial statements.

An Independently Owned Member
McGLADREY ALLIANCE





Mayor and City Council
City of Prairie Village, Kansas
Page 2

In making our risk assessments, we consider internal control relevant to the City's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. However, we will communicate to you in writing concerning any significant deficiencies or material weaknesses in internal control relevant to the audit of the financial statements that we have identified during the audit.

We will also communicate to the City Council *(a)* any fraud involving senior management and fraud (whether caused by senior management or other employees) that causes a material misstatement of the financial statements that becomes known to us during the audit, and *(b)* any instances of noncompliance with laws and regulations that we become aware of during the audit (unless they are clearly inconsequential).

The Responsibilities of Management and Identification of the Applicable Financial Reporting Framework

Our audit will be conducted on the basis that management and when appropriate, those charged with governance, acknowledge and understand that they have responsibility:

- a. For the preparation and fair presentation of the financial statements in accordance with accounting principles generally accepted in the United States of America;
- b. For the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error; and
- c. To provide us with:
 - (1) Access to all information of which management is aware that is relevant to the preparation and fair presentation of the financial statements such as records, documentation, and other matters;
 - (2) Additional information that we may request from management for the purpose of the audit; and
 - (3) Unrestricted access to persons within the entity from whom we determine it necessary to obtain audit evidence.

As part of our audit process, we will request from management and when appropriate, those charged with governance, written confirmation concerning representations made to us in connection with the audit including among other items:

- a. That management has fulfilled its responsibilities as set out in the terms of this letter; and
- b. That it believes the effects of any uncorrected misstatements aggregated by us during the current engagement and pertaining to the latest period presented are immaterial, both individually and in the aggregate, to the financial statements taken as a whole.



Mayor and City Council
City of Prairie Village, Kansas
Page 3

Management is responsible for identifying and ensuring that the City complies with the laws and regulations applicable to its activities, and for informing us about all known material violations of such laws or regulations. In addition, management is responsible for the design and implementation of programs and controls to prevent and detect fraud, and for informing us about all known or suspected fraud affecting the entity involving management, employees who have significant roles in internal control, and others where the fraud could have a material effect on the financial statements. Management is also responsible for informing us of its knowledge of any allegations of fraud or suspected fraud affecting the entity received in communications from employees, former employees, analysts, regulators, short sellers, or others.

Management is responsible for the preparation of the RSI and supplementary information presented in accordance with accounting principles generally accepted in the United States of America. Management agrees to include the auditor's report on the RSI or supplementary information in any document that contains the RSI or supplementary information and that indicates that the auditor has reported on such RSI or supplementary information. Management also agrees to present the supplementary information with the audited financial statements or, if the supplementary information will not be presented with audited financial statements, to make the audited financial statements readily available to the intended users of the supplementary information no later than the date of issuance of the supplementary information and the auditor's report thereon.

The City Council is responsible for informing us of its views about the risks of fraud within the entity, and its knowledge of any fraud or suspected fraud affecting the entity.

You have informed us that you may issue public debt in the future and that you may include our report on your financial statements in the offering statement. You have further informed us that you do not intend that we be associated with the proposed offering.

We agree that our association with any proposed offering is not necessary, providing the City agrees to clearly indicate that we are not associated with the contents of any such official statement or memorandum. The City agrees that the following disclosure will be prominently displayed in any such official statement or memorandum:

Berberich Trahan & Co., P.A., our independent auditor, has not been engaged to perform, and has not performed, since the date of its report included herein, any procedures on the financial statements addressed in that report. Berberich Trahan & Co., P.A. also has not performed any procedures relating to this official statement.



Mayor and City Council
City of Prairie Village, Kansas
Page 4

Because Berberich Trahan & Co., P.A. will rely on the City and its management to discharge the foregoing responsibilities, the City holds harmless and releases Berberich Trahan & Co., P.A., its directors, and employees from all claims, liabilities, losses, and costs arising in circumstances where there has been a knowing misrepresentation by a member of the City's management which has caused, in any respect, Berberich Trahan & Co., P.A.'s breach of contract or negligence. This provision shall survive the termination of this arrangement for services.

The City's Records and Assistance

If circumstances arise relating to the condition of the City's records, the availability of appropriate audit evidence, or indications of a significant risk of material misstatement of the financial statements because of error, fraudulent financial reporting, or misappropriation of assets, which in our professional judgment, prevent us from completing the audit or forming an opinion, we retain the unilateral right to take any course of action permitted by professional standards, including declining to express an opinion, issue a report, or withdraw from the engagement.

During the course of our engagement, we may accumulate records containing data that should be reflected in the City's books and records. The City will determine that all such data, if necessary, will be so reflected. Accordingly, the City will not expect us to maintain copies of such records in our possession.

The assistance to be supplied by City personnel, including the preparation of schedules and analyses of accounts, has been discussed and coordinated with Lisa Santa Maria, Finance Director. The timely and accurate completion of this work is an essential condition to our completion of the audit and issuance of our audit report.

If, in connection with our audit, you request us to perform accounting services necessary for the preparation of the financial statements (such as maintaining depreciation schedules, drafting the financial statements, etc.), you agree to designate an appropriate individual to oversee the services, make all management decisions involved in those services, evaluate the adequacy and results of the services, and accept responsibility for the results of the services.

Other Relevant Information

From time to time and depending upon the circumstances, we may use third-party service providers to assist us in providing professional services to you. In such circumstances, it may be necessary for us to disclose confidential client information to them. We enter into confidentiality agreements with all third-party service providers and we are satisfied that they have appropriate procedures in place to prevent the unauthorized release of your confidential information to others.



Mayor and City Council
City of Prairie Village, Kansas
Page 5

RSM US LLP will be available to support Berberich Trahan & Co., P.A. by rendering services related to the performance of the engagement. If a situation occurs in connection with the proposed engagement for which we would request the services of RSM US LLP, we will notify you and obtain permission from you before giving access to your records. We will maintain supervision, control and ultimate responsibility for the performance of this engagement.

Berberich Trahan & Co., P.A. is independently owned and operated and assumes full responsibility for the quality of service delivered to our clients. We are responsible for our own client fee arrangements and maintenance of our client relationships.

RSM US Alliance provides its members with access to resources of RSM US LLP. RSM US Alliance member firms are separate and independent businesses and legal entities that are responsible for their own acts and omissions, and each are separate and independent from RSM US LLP. RSM US LLP is the U.S. member firm of RSM International, a global network of independent audit, tax and consulting firms. Members of RSM US Alliance have access to RSM International resources through RSM US LLP but are not member firms of RSM US LLP and RSM International. RSM, the RSM logo and RSM US ALLIANCE are trademarks of RSM International Association or RSM US. The services and products provided by RSM US Alliance are proprietary to RSM US LLP.

Fees, Costs, and Access to Workpapers

Our fees for the audit and accounting services described above are based upon the value of the services performed and the time required by the individuals assigned to the engagement, plus direct expenses. Our fee estimate and completion of our work is based upon the following criteria:

- a. Anticipated cooperation from City personnel
- b. Timely responses to our inquiries
- c. Timely completion and delivery of client assistance requests
- d. Timely communication of all significant accounting and financial reporting matters
- e. The assumption that unexpected circumstances will not be encountered during the engagement



Mayor and City Council
City of Prairie Village, Kansas
Page 6

If any of the aforementioned criteria are not met, then fees may increase. We propose that our fee for this audit engagement, which includes out-of-pocket expenses, will be \$ 24,000. The quoted fee for the year ended December 31, 2016 will be the maximum for the work described in this letter unless the scope of the engagement is changed, the assistance which the City has agreed to furnish is not provided, or unexpected conditions are encountered. No changes will be made in the maximum agreed to amount without discussion with you regarding the proposed change. All other provisions of this letter will survive any fee adjustment. No changes will be made to the fee without discussion with you regarding the proposed change. Interim billings will be submitted as work progresses and as expenses are incurred. Billings are due upon submission.

In accordance with our policy, a finance charge of 1% per month will be applied to balances that are over 60 days old. Payments will be applied first to the accrued finance charges and then to outstanding invoices.

In the event we are requested or authorized by the City or are required by government regulation, subpoena, or other legal process to produce our documents or our personnel as witnesses with respect to our engagement for the City, the City will, so long as we are not a party to the proceeding in which the information is sought, reimburse us for our professional time and expenses, as well as the fees and expenses of our counsel, incurred in responding to such requests.

You have informed us that you intend to prepare a comprehensive annual financial report (CAFR) and submit it for evaluation by the Government Finance Officers Association's Certificate of Achievement for Excellence in Financial Reporting. Our association with the CAFR is to consist of performing a review of the CAFR to insure its readiness for submission.

Claim Resolution

The City and Berberich Trahan & Co., P.A. agree that no claim arising out of services rendered pursuant to this agreement shall be filed more than two years after the date of the audit report issued by Berberich Trahan & Co., P.A. or the date of this arrangement letter if no report has been issued. The City waives any claim for punitive damages. Berberich Trahan & Co., P.A.'s liability for all claims, damages and costs of the City arising from this engagement is limited to the amount of fees paid by the City to Berberich Trahan & Co., P.A. for the services rendered under this arrangement letter.

If any dispute arises among the parties hereto, the parties agree first to try in good faith to settle the dispute by mediation administered by the American Arbitration Association under its Rules for Professional Accounting and Related Services Disputes before resorting to litigation. The costs of any mediation proceeding shall be shared equally by all parties.



Mayor and City Council
City of Prairie Village, Kansas
Page 7

The City and Berberich Trahan & Co., P.A. both agree that any dispute over fees charged by Berberich Trahan & Co., P.A. to the City will be submitted for resolution by arbitration in accordance with the Rules for Professional Accounting and Related Services Disputes of the American Arbitration Association. Such arbitration shall be binding and final. In agreeing to arbitration, we both acknowledge that, in the event of a dispute over fees charged by Berberich Trahan & Co., P.A., each of us is giving up the right to have the dispute decided in a court of law before a judge or jury and instead we are accepting the use of arbitration for resolution.

Reporting

We will issue a written report upon completion of our audit of the City's financial statements. Our report will be addressed to the City Council of the City. We cannot provide assurance that an unmodified opinion will be expressed. Circumstances may arise in which it is necessary for us to modify our opinion, add an emphasis-of-matter or other-matter paragraph(s), or withdraw from the engagement.

This letter constitutes the complete and exclusive statement of agreement between Berberich Trahan & Co, P.A. and the City, superseding all proposals, oral or written, and all other communications, with respect to the terms of the engagement between the parties.

Please sign and return the enclosed copy of this letter to indicate your acknowledgment of, and agreement with, the arrangements for our audit of the financial statements including our respective responsibilities.

Very truly yours,

BERBERICH TRAHAN & CO., P.A.

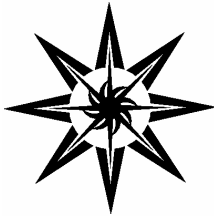
Stacey A. Hammond
Director

SAH:tls
Enclosures

Confirmed on behalf of the City of Prairie Village, Kansas:

Signature

Date



PUBLIC WORKS DEPARTMENT

Council Committee Date: October 17, 2016
Council Meeting Date: October 17, 2016

CONSIDER PURCHASE AND INSTALLATION OF A REPLACEMENT GENERATOR FOR THE POLICE DEPARTMENT BUILDING FROM MARK ONE ELECTRIC, INC

RECOMMENDATION

Staff recommends the City Council approve the purchase and installation of a replacement generator for the Police Department Building from Mark One Electric, Inc. for \$54,724.23.

BACKGROUND

The existing generator at the Police Building is nearing the end of its useful life of 20 years and is in need of replacement. This generator provides the Police Department building with backup power when the main power supply from KCPL shuts off. Backup power to Police Department building is essential and therefore we are recommending replacement with a new generator to ensure quality backup power. The new generator will function essentially the same as the existing one does. We are adding a new feature which will allow for the easy connection to a portable backup generator should the need arise.

Three bids were received for this purchase-

MarkOne Electric, Inc	\$54,724.23
Capital Electric	\$63,068.00
RF Fisher	\$98,135.00

FUNDING SOURCE

This item is included in the Equipment Reserve Fund and adequate funds are available for purchase.

ATTACHMENTS

None

PREPARED BY

Keith Bredehoeft, Public Works Director

October 13, 2016



Council Committee Date: October 17, 2016
Council Meeting Date: October 17, 2016

Consider adoption Ordinance No. 2354 relating to Uses of the Public Right-of-Way

At the October 3, 2016 meeting, Ordinance No. 2353 was adopted amending certain provisions of the City code governing use of the Public Right-of-Way required as a result of the enactment of Senate Substitute for House Bill 2131, which contains what is now known as the Kansas New Wireless Deployment Act (the "Act").

The attached Ordinance No. 2354 supersedes Ordinance No. 2353 and makes a correction and additions to Ordinance No. 2353 as follows:

Correction: The version of Section 13-510(F)(b) which was in the packet at the October 3 meeting was not the final version being recommended by staff. The change is to define "front yard" consistently with the zoning and subdivision regulations.

Additions:

- The addition of definitions for "Application" and "Existing facility" (both from Act) for clarity.
- The definition of "newly constructed facility" as incorporated into 13-510(F), prohibits "newly constructed facilities" in front yards. At the October 3 meeting staff recommended a carve out from this prohibition for antennas on existing or replacement street lights. Since such antennas in some cases also require above ground utility boxes at the base of the poles, staff recommend addition to the exception in (ii) of the "newly constructed facility" definition the following "and any attached utility box which is permitted without a conditional use permit under Sections 19.02.499 and 19.30.055 of the City's Zoning Regulations."

The applicable sections of the Zoning Regulations are attached. Summarized, utility boxes which would be included in the exception (and therefore allowed) have (a) a footprint of 12 square feet or less in area and (i) a pad 2.5 times the area of the utility box footprint or less, or (ii) 32 square feet or less, or (b) have a height of 56 inches or less.

- A new section 12-516(D), which provides how an amended application is to be processed.

Comparison of other Jurisdictions: I reviewed the Prairie Village Right-Of-Way code changes with those of Overland Park, Leawood and Shawnee. A comparison chart is attached. Olathe and Lenexa have not yet amended their right-of-way provisions. I did not have an opportunity to review changes in other cities in Johnson County for inclusion in the comparison chart. Based upon the completed review, I believe that the Prairie

Village provisions are as restrictive as the other cities reviewed, and in the case of the prohibition in front yards, are more restrictive than those cities.

ATTACHMENTS

Ordinance 2354

Marked Version of Ordinance No. 2354 compared to Ordinance No. 2353

Comparison Chart

Sections 19.02.499 and 19.30.055 of the City's Zoning Regulations

PREPARED BY

Catherine P. Logan

City Attorney

October 13, 2016

ORDINANCE NO. 2354

AN ORDINANCE RELATING TO MANAGING THE USE AND OCCUPANCY OF PUBLIC RIGHT-OF-WAY FOR THE CITY OF PRAIRIE VILLAGE, KANSAS; AMENDING AND REPEALING EXISTING PRAIRIE VILLAGE MUNICIPAL CODE SECTIONS 13-503, 13-510, 13-511, 13-512, 13-514, 13-516, 13-518, 13-525, AND 13-528, AND PROVIDING SUBSTITUTE PROVISIONS THEREFOR.

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

SECTION 1. Prairie Village Municipal Code Section 13-503 is hereby amended to read:

- 13-503. DEFINITIONS.** For purposes of this article, the following words and phrases shall have the meaning given herein:
- A. Abandoned Facilities means those facilities owned by the ROW-user that are not in use and will not be utilized by the owner in the future.
 - B. Affiliate means any person controlling, controlled by or under the common control of a service provider.
 - C. Applicant means any person requesting permission to occupy, lease or operate facilities using the right-of-way, or to excavate the right-of-way.
 - D. Application means a request submitted by an applicant to an authority for:
(1) The construction of a new wireless support structure or new wireless facility; (2) the substantial modification of a wireless support structure or wireless facility; or (3) collocation of a wireless facility or replacement of a wireless facility.
 - E. Area of Influence means that area around a street excavation where the pavement and sub-grade is impacted by the excavation and is subject to more rapid deterioration.
 - F. City means the City of Prairie Village, Kansas, a municipal corporation and any duly authorized representative.
 - G. City Engineer means the City Engineer, Prairie Village, Kansas, or the authorized representative.
 - H. Construct means and includes construct, install, erect, build, affix or otherwise place any fixed structure or object, in, on, under, through or above the right-of-way.
 - I. Day means calendar day unless otherwise specified.
 - J. Emergency means a condition that (1) poses a clear and immediate danger to life or health, or of a significant loss of property; or (2) requires immediate repair or replacement in order to restore service to a user.
 - K. Excavate means and includes any cutting, digging, excavating, tunneling, boring, grading or other alteration of the surface or subsurface material or earth in the right-of-way.
 - L. Excavation Fee means the fee charged by the City for each street or pavement cut which is intended to recover the costs associated with

construction and repair activities of the ROW-user and its contractors and/or subcontractors.

- M. Existing facility means a facility that exists at the time an application is filed.
- N. FCC means Federal Communications Commission.
- O. Facility means lines, pipes, irrigation systems, wires, cables, conduit facilities, ducts, poles, towers, vaults, pedestals, boxes, appliances, antennas, transmitters, gates, meters, appurtenances, wireless communication facilities (including but not limited to wireless support structures, small cell facilities, base stations, transmission equipment, distributed antenna systems, and primary equipment enclosures, all as may be defined or described in the Kansas New Wireless Deployment Act, as amended), or other equipment.
- P. Governing Body means the Mayor and the City Council of the City of Prairie Village, Kansas.
- Q. Governmental Entity means any county, township, city, town, village, school district, library district, road district, drainage or levee district, sewer district, water district, fire district or other municipal corporation, quasi-municipal corporation or political subdivision of the State of Kansas or of any other state of the United States and any agency or instrumentality of the State of Kansas or of any other state of the United States.
- R. KCC means the Kansas Corporation Commission.
- S. Newly Constructed Facilities means all facilities other than existing facilities except (i) replacement street lights which meet the City's design criteria, and (ii) antennas on existing or replacement street lights with conduit or cable placed within the pole, and any attached utility box which is permitted without a conditional use permit under Sections 19.02.499 and 19.30.055 of the City Zoning Regulations.
- T. Parkway means the area between a property line and the street curb. Sometimes called boulevard, tree-shelf or snow-shelf.
- U. Pavement means and includes Portland cement concrete pavement, asphalt concrete pavement, asphalt treated road surfaces and any aggregate base material.
- V. Permit and Inspection Fee means the fee charged by the City to recover its cost incurred for right-of-way management; including, but not limited to, costs associated with registering applicants; issuing, processing and verifying right-of-right permit applications; inspecting job sites and restoration of improvements; determining the adequacy of right-of-way restoration; revoking right-of-way permits and, other costs the City may incur in managing the provisions of this Article.
- W. Permittee means any person to whom a right-of-way permit is issued to excavate a right-of-way.
- X. Person means any natural or corporate person, business association or business entity including, but not limited to, a partnership, a sole proprietorship, a political subdivision, a public or private agency of any

kind, a utility, a successor or assign of any of the foregoing, or any other legal entity.

- Y. Public Improvement means any project undertaken by the city for the construction, reconstruction, maintenance, or repair of any public infrastructure, and including without limitation, streets, alleys, bridges, bikeways, parkways, sidewalks, sewers, drainage facilities, traffic control devices, street lights, public facilities, public buildings or public lands.
- Z. Public Lands means any real property of the city that is not right-of-way.
- AA. Public Works Director means the Director of the Public Works Department of the City of Prairie Village, Kansas, or the authorized representative.
- BB. Registration means the application process of a service provider, the approval of the application by the City, and the authorization of the service provider to use any portion of the right-of-way within the city to provide service both within and beyond the city limits.
- CC. Repair means the temporary construction work necessary to make the right-of-way useable.
- DD. Repair and Restoration Costs means those costs associated with repairing and restoring the public right-of-way because of damage caused by the ROW-user and its contractors and/or subcontractors in the right-of-way.
- EE. Restoration means the process by which an excavated right-of-way and surrounding area, including pavement and foundation, is returned to the same condition, or better, than existed before the commencement of the work.
- FF. Right-of-way means the area on, below, or above streets, alleys, bridges, and parkways in which the City has a dedicated or acquired right-of-way interest in the real property.
- GG. Right-of-Way Permit means the authorization to excavate for the construction, installation, repair or maintenance of any type of facility within the right-of-way.
- HH. Routine Service Operation means a work activity that makes no material change to the facilities and does not disrupt traffic.
- II. ROW-user means a person, its successors and assigns, that uses the right-of-way for purposes of work, excavation, provision of services, or to install, construct, maintain, repair facilities thereon, including, but not limited to, landowners and service providers. A ROW-user shall not include ordinary vehicular or pedestrian traffic or any governmental entity that has entered into an interlocal agreement pursuant to K.S.A. 12-2901 et seq. with the City regarding the use and occupancy of the City's right-of-way.
- JJ. Service means a commodity provided to a person by means of a delivery system that is comprised of facilities located or to be located in the right-of-way, including, but not limited to, gas, telephone, cable television, Internet services. Open video systems, wireless services, alarm systems, steam, electric, water, telegraph, data transmission, petroleum pipelines, or sanitary sewerage.

- KK. Service Provider means any person owning, possessing or having an interest in facilities in the right-of-way that are used for the provisions of a service for or without a fee; provided, that this definition shall also include persons owning, possessing or having an interest in facilities in the right-of-way that are used by, may be used by or are intended for use by another person, in whole or in part, to provide a service for or without a fee, regardless of whether the actual facility owner provides any service as defined herein.
- LL. Street means the pavement and sub-grade of a City residential, collector or arterial roadway.

SECTION 2. Prairie Village Municipal Code Section 13-510 is hereby amended to read:

13-510. USE OF THE RIGHT-OF-WAY.

- A. The ROW-user's use of the right-of-way shall in all matters be subordinate to the City's use or occupation of the right-of-way. Without limitation of its rights, the City expressly reserves the right to exercise its governmental powers now and hereafter vested in or granted to the City.
- B. The ROW-user shall coordinate the placement of facilities in a manner that does not interfere with a Public Improvement and does not compromise the public health, safety, or welfare, as reasonably determined by the City. Where placement is not regulated, the facilities shall be placed with adequate clearance from such public improvements so as not to impact or be impacted by such public improvement as defined in the City's "Manual of Infrastructure Standards" available in the office of the Public Works Director. Such Standards shall be competitively neutral and not unreasonable or discriminatory.
- C. The ROW-users shall consider any request made by the City concerning placement of facilities in private easements in order to limit or eliminate future street improvement relocation expenses.
- D. All facilities shall be located and laid so as not to disrupt or interfere with any pipes, drains, sewers, irrigation systems, or other structures or public improvements already installed. In addition, the ROW-user shall, in doing work in connection with its facilities, avoid, so far as may be practicable, disrupting or interfering with the lawful use of right-of-way or other public lands of the City.
- E. All facilities of the ROW-user shall be placed so that they do not interfere with the use of right-of-way and public lands. The City, through its Public Works Director, shall have the right to consult and review the location, design and nature of the facility prior to its being installed.
- F. All newly-constructed facilities shall be located underground. The ROW-user shall comply with all requirements of the City relating to underground facilities. This requirement may be waived by the Public Works Director at his or her discretion for safety concerns, or some other good cause under the condition that does not cause discrimination among ROW-users. If this requirement is waived, the facilities shall be located as directed by the Public Works Director, including, but not limited to,

requirements regarding location, height, breakaway design, and clear zones. Provided, however, the height of a facility will not exceed, or cause any existing facility to exceed, the lesser of:

- (a) thirty-five (35) feet for residential or collector streets or forty-five (45) feet for arterial streets; and
- (b) sixty-six (66) inches above the height of existing street light poles along the right-of-way surrounding the facility.

Above ground facilities shall comply with the Manual of Infrastructure Standards and all applicable zoning regulations, including but not limited to design, size, height, setbacks, screening and landscaping, and illumination, and be located in a manner that does not compromise the public health, safety, or welfare. No newly-constructed above ground facilities shall be located in any front yard, as determined by applicable zoning or subdivision regulations.

- G. The ROW-user shall not interfere with the facilities of the other ROW-users without their permission. If and when the City requires or negotiates to have a service provider cease using its existing poles and to relocate its facilities underground, all other service providers using the same poles shall also relocate their facilities underground at the same time, except transmission equipment, as defined in 47 CFR 1.40001. Provided, any such relocations shall be subject to the appeal process contained in Section 13-528, as amended.
- H. The Public Works Director may assign specific corridors within the right-of-way, or any particular segment thereof as may be necessary, for each type of facility that is currently or, pursuant to current technology, the Public Works Director expects will someday be located within the right-of-way. All right-of-way permits issued by Public Works Director shall indicate the proper corridor for the ROW-user's facilities. Any ROW-user whose facilities are currently in the right-of-way in a position at a variance with the designated corridors shall, no later than at the time of next reconstruction or excavation of the area where its facilities are located, move the facilities to its assigned position within the right-of-way, unless this requirement is waived by Public Works Director for good cause shown, upon consideration of such factors as the remaining economic life of the facilities, public health, safety, or welfare, user service needs and hardship to the ROW-user.
- I. If, in the preparation and planning of a right-of-way project, the Public Works Director deems it appropriate for a conduit to be constructed along, across or under the right-of-way, the Public Works Director shall contact all appropriate ROW-users for their input on the planning and design of such conduit. If a ROW-user desires to construct, maintain or operate facilities along such right-of-way, the Public Works Director may require the ROW-user to use such conduit, and to contribute to the expense of such conduit, provided, however, the ROW-user's use of the conduit is reasonable and appropriate under the circumstances.

- J. All earth, materials, sidewalks, paving, crossings, utilities, other public improvements or improvements of any kind damaged or removed by the ROW-user shall be fully repaired or replaced promptly by the ROW-user at its sole expense and to the reasonable satisfaction of the City. Upon determination by the Public Works Director that such repair or replacement is a public safety matter, all such repair or replacement shall be commenced within twenty-four (24) hours of notice from the City, or the Public Works Director may direct the city to make such repair or replacement and bill the ROW-user for the City cost. The Public Works Director has the authority to inspect the repair or replacement of the damage, and if necessary, to require the ROW-user to do any necessary additional work.
- K. All technical standards governing construction, reconstruction, installation, operation, testing, use, maintenance, and dismantling of a ROW-user's facilities in the right-of-way shall be in accordance with the Manual of Infrastructure standards and all applicable federal, state and local law and regulations, including those promulgated by national trade associations commonly associated with the service provided by the ROW-user. It is understood that the standards established in this paragraph are minimum standards and the requirements established or referenced in this article may be in addition to or stricter than such minimum standards. A ROW-user shall not construct or reconstruct any of its facilities located upon, over, under or within the City right-of-way without first having submitted in writing a description of its planned improvement to the Public Works Director and having received a permit for such improvement. The Public Works Director may require that any drawings, plans and/or specifications submitted be certified by a Kansas registered professional engineer stating that such drawings, plans and/or specifications comply with all applicable technical codes, rules and regulations, unless such plans are based directly on nationally recognized codes, which are appropriately cited, and attested to on the plans by the signature of an authorized official of the organization applying for the permit.
- L. The ROW-user shall cooperate promptly and fully with the City and take all reasonable measures necessary to provide accurate and complete on-site information regarding the nature and horizontal and vertical location of its facilities located within the right-of-way, both underground and overhead, when requested by the City or its authorized agent for a public improvement. Such location and identification shall be at the sole expense of the ROW-user without any expense to the City, its employees, agents, or authorized contractors.

SECTION 3. Prairie Village Municipal Code Section 13-511 is hereby amended to read:

13-511. FACILITY RELOCATION.

- A. The ROW-user shall promptly remove, relocate or adjust any facilities located in the right-of-way as directed by the City for a public

improvement or when reasonably required by the City by reason of public health, safety and welfare. Such removal, relocation, or adjustment shall be performed by the ROW-user at the ROW-user's sole expense without expense to the City, its employees, agents, or authorized contractors and shall be specifically subject to rules, regulations and schedules of the City pertaining to such. The ROW-user shall proceed with relocations at due diligence upon notice by the City to begin relocation.

- B. The ROW-user shall promptly remove, relocate or adjust any facilities located in private easement, as directed by the City, for a public improvement, at City expense, by moving such facilities to areas within the expanded right-of-way or within remaining private easements or remaining portions of such easements not condemned by nor disclaimed to the City to avoid conflict with City construction and improvements. The ROW-user shall disclaim those parts of its easements which lie within the expanded right-of-way. Should the City, in the future, elect to require the ROW-user to again relocate its facilities to other areas within the expanded right-of-way, the cost of any such future relocation shall be borne by the City.
- C. As soon as working drawings are available for public improvements which will require the ROW-user to relocate its facilities, the city shall provide the ROW-user with written notice of relocations and the anticipated bid letting date of said improvement. The ROW-user shall respond with any conflicts and a proposed construction schedule within thirty (30) days.
- D. Following notice by the City in the form of the delivery of final design plans for such public improvements, the ROW-user shall remove, and relocate its facilities in accordance with the mutually agreed upon schedule, provided the project is not delayed by adverse weather conditions and other factors beyond the control of the ROW-user. The ROW-user shall certify to the City, in writing, that its facilities have been relocated or adjusted to clear construction in accordance with project plans provided by the City.
- E. Any damages suffered by the City, its agents or its contractors to the extent caused by ROW-user's failure to timely relocate or adjust its facilities, or failure to properly relocate or adjust such facilities, shall be borne by the ROW-user.
- F. In the event the ROW-user is required to move its facilities in accordance with this section, any ordinary right-of-way permit fee shall be waived.
- G. It is the intent of this section for both the City and the ROW-user to cooperate with one another so that the need for facility relocation is minimized and, when required and feasible, relocations may be completed prior to receipt of bids by the City for a public improvement.
- H. In the event that a ROW-user is required to move its facilities for a private benefit, the ROW-user shall not bear the cost of the relocation or adjustment to the extent of such private benefit, and the ROW-user shall not be obligated to commence the relocation or adjustment until receipt of funds for such relocation or adjustment.

SECTION 4. Prairie Village Municipal Code Section 13-512 is hereby amended to read:

13-512. PROTECTION OF THE PUBLIC.

- A. It shall be the responsibility of the ROW-user to take adequate measures to protect and defend its facilities in the right-of-way from harm and damage.
- B. The City shall not be liable for any damage to or loss of any of the ROW-user's facilities within the right-of-way as a result of or in connection with any construction, excavation, grading, filling or work of any kind, including public improvements by or on the behalf of the City, except to the extent caused by the negligent, willful, intentional, or malicious acts or omissions of the City.
- C. The ROW-user shall be responsible to the City and its agents, representatives, and authorized contractors for all damages suffered by them including, but not limited to delay damages, repair costs, down time, construction delays, penalties or other expenses of any kind arising out of the failure of the ROW-user to timely perform any of its obligations under this article to the extent caused by the acts or omissions of the ROW-user.
- D. The City or its authorized contractors shall be responsible for taking reasonable precautionary measures including calling for facility locations when constructing its public improvements.
- E. Any ROW-user who for any purpose makes or causes to be made any excavation in, upon, under, through or adjoining any street, sidewalk, alley or other right-of-way, and shall leave any part or portion thereof open, or shall leave any part or portion thereof disrupted with rubbish, building or other material during construction and/or the night time, shall cause the same to be enclosed with good substantial and sufficient barricades or drums equipped with the appropriate type warning lights and orange safety fencing material which is properly secured around the excavation or the disruption.
- F. Whenever a ROW-user shall excavate the full width of any street, sidewalk, alley, driveway approach or other right-of-way, it shall be its duty to maintain an adequate passage for vehicles and pedestrians across or around the excavation until it is refilled as specified.
- G. Any excavation left open overnight on any thoroughfare or collector type street shall be securely covered. The ROW-user assumes the sole responsibility for maintaining proper barricades, plates, safety fencing and/or lights as required from the time of opening of the excavation until the excavation is surfaced and opened for travel.
- H. The Public Works Director, upon the review and approval of a plan and details for trimming trees in the right-of-way, may grant permission by permit to any ROW-user to trim trees upon and overhanging the right-of-way so as to prevent such trees from coming in contact with the facilities of the ROW-user.
- I. In the event the ROW-user severely disturbs or damages the root structure of any tree in the right-of-way to the detriment of the health and safety of the tree, the ROW-user will be required to remove and replace the tree at the ROW-user's cost. Further, in review of the ROW-user's plan, Public

Works Director, in his or her discretion, may require the ROW-user to directionally bore around any tree in the right-of-way.

- J. Upon the appropriate request of any person having satisfied City procedure and ordinances, the ROW-user shall remove, raise, or lower its facilities temporarily to permit the moving of houses or other structures. The expense of such temporary removal, raising or lowering shall be paid by the person requesting the same, and the ROW-user may require such payment in advance. The ROW-user must be given not less than fifteen (15) days written notice from the person detailing the time and location of the moving operations, and not less than twenty-four (24)-hours advance notice from the person advising of the actual operation.
- K. The Public Works Director may cause to be removed any encroachment in the Right-of-Way that creates a hazard to public health, safety, or welfare, and the cost of such removal and restoration of the right-of-way shall be borne by the ROW-user.

SECTION 5. Prairie Village Municipal Code Section 13-514 is hereby amended to read:

13-514. ABANDONED AND UNUSABLE FACILITIES.

- A. A ROW-user owning abandoned facilities in the right-of-way must either:
 - 1. Remove its facilities and replace or restore any damage or disturbance caused by the removal at its own expense. The Public Works Director may allow underground facilities or portions thereof remain in place if the public works director determines that it is in the best interest of public health, safety, or welfare to do so. At such time, the City may take ownership and responsibility of such vacated facilities left in place; or
 - 2. Provide information satisfactory to the city that the ROW-user's obligations for its facilities in the right-of-way have been lawfully assumed by another authorized ROW-user; or
 - 3. Submit to the City a proposal and instruments for transferring ownership of its facilities to the city. If the ROW-user proceeds under this section, the City may, at its option purchase the equipment, require the ROW-user, at its own expense, to remove it, or require the ROW-user to post a bond in an amount sufficient to reimburse the City for reasonable anticipated costs to be incurred to remove the facilities.
- B. Facilities of a ROW-user who fails to comply with this section, and whose facilities remain unused for two (2) years, shall be deemed to be abandoned after the City has made a good faith effort to contact the ROW-user, unless the City receives confirmation that the ROW-user intends to use the facilities. Abandoned facilities are deemed to be a nuisance. The City may exercise any remedies or rights it has at law or in equity, including, but not limited to,
 - 1. abating the nuisance,
 - 2. taking possession and ownership of the facility and restoring it to a useable function, or

3. requiring the removal of the facility by the ROW-user.

SECTION 6. Prairie Village Municipal Code Section 13-516 is hereby amended to read:

13-516

PERMIT APPLICATIONS.

- A. Application for a right-of-way permit shall be submitted to the Public Works Director either by the ROW-user or by the person who will do the work and/or excavation in the right-of-way. Before an application may be submitted, the applicant must attend a pre-application meeting with designated City staff, unless waived by the Public Works Director.
- B. Right-of-way applications shall contain and be considered complete only upon receipt of the following:
 1. Compliance with verification of registration;
 2. Submission of a completed permit application form, including all required attachments and scaled drawings showing the location and area of the proposed project and the location of all existing and proposed facilities at such location;
 3. A traffic control plan;
 4. Payment of all money due to the city for permit fees and costs, for prior excavation costs, for any loss, damage or expense suffered by the City because of the applicant's prior excavations of the right-of-way or for any emergency actions taken by the City, unless the payment of such money is in dispute and timely appealed as provided hereafter.
- C. All applications shall be processed within the timeframes required by state and federal law.
- D. In the event Applicant modifies a proposed application, the modified application will be considered a new application subject to commencement of a new application review period; provided that the Applicant and the City may enter into a mutually agreeable tolling agreement allowing the City to request additional submittals and additional time as may be reasonably necessary for review of the modified application.
- D. If an applicant has submitted an application for a permit for the installation, construction, maintenance, or repair of multiple facilities, that applicant may not submit another application for a permit for the installation, construction, maintenance, or repair of multiple facilities until the first application has been approved or denied. This provision may be waived by the Public Works Director.

SECTION 7. Prairie Village Municipal Code Section 13-518 is hereby amended to read:

13-518.

RIGHT-OF-WAY PERMIT FEES.

- A. The right-of-way permit fee and other appropriate fees, including but not limited to inspection fees, excavation fees, pole attachment fees, and franchise fees, shall be recommended by the Public Works Director, approved by the governing body and listed in the Schedule of Fees

maintained in the City Clerk's office, as such Schedule may be amended from time to time. An application shall not be deemed submitted unless the right-of-way permit fee is paid. The right-of-way permit fee shall be subject to all state and federal fee limitations.

- B. Fees paid for a right-of-way permit, which is subsequently revoked by the Public Works Director, are not refundable.
- C. Except as provided for in an emergency situation, when a ROW-user is found to have worked or is working in the right-of-way without having obtained a permit, the fee for the permit will be double the amount had the ROW-user obtained a permit prior to beginning work.
- D. The City may also charge and collect any necessary repair and restoration costs.

SECTION 8. Prairie Village Municipal Code Section 13-525 is hereby amended to read:

13-525. DENIAL OF PERMIT.

- A. The Public Works Director may deny a permit or prohibit the use or occupancy of a specific portion of the right-of-way to protect the public health, safety and welfare, to prevent interference with the safety and convenience of ordinary travel over the right-of-way, or when necessary to protect the right-of-way and its users. The Public Works Director, at his or her discretion, may consider all relevant factors including but not limited to:
 - 1. The extent to which the right-of-way space where the permit is sought is available;
 - 2. The competing demands for the particular space in the right-of-way;
 - 3. The availability of other locations in the right-of-way or in other right-of-way for the facilities of the applicant;
 - 4. The applicability of any ordinance or other regulations, including City zoning regulations, that affect location or other standards for facilities in the right-of-way;
 - 5. The degree of compliance of the applicant with the terms and conditions of its franchise, this article, and other applicable ordinances and regulations;
 - 6. The degree of disruption to surrounding communities and businesses that will result from the use of that part of the right-of-way;
 - 7. The balancing of costs of disruption to the public and damage to the right-of-way, against the benefits to that part of the public served by the construction in the right-of-way;
 - 8. Whether the applicant maintains a current registration with the City.
 - 9. Whether the issuance of a right-of-way permit for the particular dates and/or time requested would cause a conflict or interferes with an exhibition, celebration, festival, or any other event. In exercising this discretion, the Public Works Director shall be

- guided by the safety and convenience of anticipated travel of the public over the right-of-way.
10. Whether the application complies with the Manual of Infrastructure Standards.
 11. The adverse impact of the facilities or the facilities' proposed location on any reasonable public interest necessitated by public health, safety, or welfare.
- B. Notwithstanding the above provisions, the Public Works Director may in his or her discretion issue a right-of-way permit in any case where the permit is necessary to:
1. Prevent substantial economic hardship to a user of the applicant's service;
 2. Allow such user to materially improve the service provided by the applicant.
- C. Any denial of a wireless communications antenna, tower, or related facilities shall, in accordance with federal and state law, be made in writing and supported by substantial evidence contained in a written record issued contemporaneously with said decision.

SECTION 9. Prairie Village Municipal Code Section 13-528 is hereby amended to read:

13-528. APPEALS PROCESS.

- A. Whenever a person shall deem themselves aggrieved by any decision or action taken by the Public Works Director, the person may file an appeal to the Governing Body within ten (10) calendar days of the date of notice of such decision or action. Provided, this section shall not apply to any person who is availing themselves of the appeal provisions set forth in K.S.A. 66-2019(h)(6), as amended.
- B. The persons shall be afforded a hearing on the matter before the Governing Body within thirty (30) days of filing the appeal.
- C. In cases of applicability or interpretation of the rules, the Governing Body may revoke such decision or action taken by the Public Works Director.
- D. In cases where compliance with such decision or action taken by the Public Works Director would cause undue hardship, the Governing Body may extend the time limit of such decision or action, or may grant exceptions to, or waive requirements of, or grant a variance from the specific provisions of rules. The Governing Body shall give due consideration to the purposes of the rules in preserving public safety and convenience, integrity of public infrastructure, and the operational safety and function of the public right-of-way.
- E. Pending a decision by the Governing Body, the order of the Public Works Director shall be stayed, unless the public works director determines that such action will pose a threat to public safety or the integrity of the public infrastructure.
- F. If a person still deem themselves aggrieved after the appeal to the Governing Body, such person shall have thirty (30) days after the effective

date of the Governing Body's final decision to institute an action in the District Court of Johnson County, Kansas.

Section 10. Ordinance No. 2353 and all other ordinances and parts thereof that are inconsistent with any provision of this Ordinance are hereby repealed.

Section 11. This Ordinance shall take effect and be in force from and after its passage, approval and publication as provided by law.

PASSED by the City Council of the City of Prairie Village, Kansas on October 17, 2016.

APPROVED:

Laura Wassmer, Mayor

ATTEST:

Joyce Hagen Mundy, City Clerk

APPROVED AS TO LEGAL FORM:

Catherine P. Logan, City Attorney

ORDINANCE NO. ~~2353~~2354

AN ORDINANCE RELATING TO MANAGING THE USE AND OCCUPANCY OF PUBLIC RIGHT-OF-WAY FOR THE CITY OF PRAIRIE VILLAGE, KANSAS; AMENDING AND REPEALING EXISTING PRAIRIE VILLAGE MUNICIPAL CODE SECTIONS 13-503, 13-510, 13-511, 13-512, 13-514, 13-516, 13-518, 13-525, AND 13-528, AND PROVIDING SUBSTITUTE PROVISIONS THEREFOR.

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

SECTION 1. Prairie Village Municipal Code Section 13-503 is hereby amended to read:

- 13-503. DEFINITIONS.** For purposes of this article, the following words and phrases shall have the meaning given herein:
- A. Abandoned Facilities means those facilities owned by the ROW-user that are not in use and will not be utilized by the owner in the future.
 - B. Affiliate means any person controlling, controlled by or under the common control of a service provider.
 - C. Applicant means any person requesting permission to occupy, lease or operate facilities using the right-of-way, or to excavate the right-of-way.
 - D. Application means a request submitted by an applicant to an authority for:
(1) The construction of a new wireless support structure or new wireless facility; (2) the substantial modification of a wireless support structure or wireless facility; or (3) collocation of a wireless facility or replacement of a wireless facility.
 - E. ~~D.~~ Area of Influence means that area around a street excavation where the pavement and sub-grade is impacted by the excavation and is subject to more rapid deterioration.
 - F. ~~E.~~ City means the City of Prairie Village, Kansas, a municipal corporation and any duly authorized representative.
 - G. ~~F.~~ City Engineer means the City Engineer, Prairie Village, Kansas, or the authorized representative.
 - H. ~~G.~~ Construct means and includes construct, install, erect, build, affix or otherwise place any fixed structure or object, in, on, under, through or above the right-of-way.
 - I. ~~H.~~ Day means calendar day unless otherwise specified.
 - J. ~~I.~~ Emergency means a condition that (1) poses a clear and immediate danger to life or health, or of a significant loss of property; or (2) requires immediate repair or replacement in order to restore service to a user.
 - K. ~~J.~~ Excavate means and includes any cutting, digging, excavating, tunneling, boring, grading or other alteration of the surface or subsurface material or earth in the right-of-way.
 - L. ~~K.~~ Excavation Fee means the fee charged by the City for each street or pavement cut which is intended to recover the costs associated with

construction and repair activities of the ROW-user and its contractors and/or subcontractors.

- M. ~~E.~~ Existing facility means a facility that exists at the time an application is filed.
- N. ~~L.~~ FCC means Federal Communications Commission.
- O. ~~M.~~ Facility means lines, pipes, irrigation systems, wires, cables, conduit facilities, ducts, poles, towers, vaults, pedestals, boxes, appliances, antennas, transmitters, gates, meters, appurtenances, wireless communication facilities (including but not limited to wireless support structures, small cell facilities, base stations, transmission equipment, distributed antenna systems, and primary equipment enclosures, all as may be defined or described in the Kansas New Wireless Deployment Act, as amended), or other equipment.
- P. ~~N.~~ Governing Body means the Mayor and the City Council of the City of Prairie Village, Kansas.
- Q. ~~O.~~ Governmental Entity means any county, township, city, town, village, school district, library district, road district, drainage or levee district, sewer district, water district, fire district or other municipal corporation, quasi-municipal corporation or political subdivision of the State of Kansas or of any other state of the United States and any agency or instrumentality of the State of Kansas or of any other state of the United States.
- R. ~~P.~~ KCC means the Kansas Corporation Commission.
- S. ~~Q.~~ Newly Constructed Facilities means all ~~new~~ facilities other than existing facilities except (i) replacement street lights which meet the City's design criteria, and (ii) antennas on existing or replacement street lights with conduit or cable placed within the pole, and any attached utility box which is permitted without a conditional use permit under Sections 19.02.499 and 19.30.055 of the City Zoning Regulations.
- T. ~~R.~~ Parkway means the area between a property line and the street curb. Sometimes called boulevard, tree-shelf or snow-shelf.
- U. ~~S.~~ Pavement means and includes Portland cement concrete pavement, asphalt concrete pavement, asphalt treated road surfaces and any aggregate base material.
- V. ~~T.~~ Permit and Inspection Fee means the fee charged by the City to recover its cost incurred for right-of-way management; including, but not limited to, costs associated with registering applicants; issuing, processing and verifying right-of-right permit applications; inspecting job sites and restoration of improvements; determining the adequacy of right-of-way restoration; revoking right-of-way permits and, other costs the City may incur in managing the provisions of this Article.
- W. ~~U.~~ Permittee means any person to whom a right-of-way permit is issued to excavate a right-of-way.
- X. ~~V.~~ Person means any natural or corporate person, business association or business entity including, but not limited to, a partnership, a sole proprietorship, a political subdivision, a public or private agency of any

kind, a utility, a successor or assign of any of the foregoing, or any other legal entity.

- Y. ~~W.~~ Public Improvement means any project undertaken by the city for the construction, reconstruction, maintenance, or repair of any public infrastructure, and including without limitation, streets, alleys, bridges, bikeways, parkways, sidewalks, sewers, drainage facilities, traffic control devices, street lights, public facilities, public buildings or public lands.
- Z. ~~X.~~ Public Lands means any real property of the city that is not right-of-way.
- AA. ~~Y.~~ Public Works Director means the Director of the Public Works Department of the City of Prairie Village, Kansas, or the authorized representative.
- BB. ~~ZZ.~~ Registration means the application process of a service provider, the approval of the application by the City, and the authorization of the service provider to use any portion of the right-of-way within the city to provide service both within and beyond the city limits.
- CC. ~~AA.~~ Repair means the temporary construction work necessary to make the right-of-way useable.
- DD. ~~BB.~~ Repair and Restoration Costs means those costs associated with repairing and restoring the public right-of-way because of damage caused by the ROW-user and its contractors and/or subcontractors in the right-of-way.
- EE. ~~CC.~~ Restoration means the process by which an excavated right-of-way and surrounding area, including pavement and foundation, is returned to the same condition, or better, than existed before the commencement of the work.
- FF. ~~DD.~~ Right-of-way means the area on, below, or above streets, alleys, bridges, and parkways in which the City has a dedicated or acquired right-of-way interest in the real property.
- GG. ~~EE.~~ Right-of-Way Permit means the authorization to excavate for the construction, installation, repair or maintenance of any type of facility within the right-of-way.
- HH. ~~FF.~~ Routine Service Operation means a work activity that makes no material change to the facilities and does not disrupt traffic.
- II. ~~GG.~~ ROW-user means a person, its successors and assigns, that uses the right-of-way for purposes of work, excavation, provision of services, or to install, construct, maintain, repair facilities thereon, including, but not limited to, landowners and service providers. A ROW-user shall not include ordinary vehicular or pedestrian traffic or any governmental entity that has entered into an interlocal agreement pursuant to K.S.A. 12-2901 et seq. with the City regarding the use and occupancy of the City's right-of-way.
- JJ. ~~HH.~~ Service means a commodity provided to a person by means of a delivery system that is comprised of facilities located or to be located in the right-of-way, including, but not limited to, gas, telephone, cable television, Internet services. Open video systems, wireless services, alarm

systems, steam, electric, water, telegraph, data transmission, petroleum pipelines, or sanitary sewerage.

KK. H.Service Provider means any person owning, possessing or having an interest in facilities in the right-of-way that are used for the provisions of a service for or without a fee; provided, that this definition shall also include persons owning, possessing or having an interest in facilities in the right-of-way that are used by, may be used by or are intended for use by another person, in whole or in part, to provide a service for or without a fee, regardless of whether the actual facility owner provides any service as defined herein.

LL. JJ.Street means the pavement and sub-grade of a City residential, collector or arterial roadway.

SECTION 2. Prairie Village Municipal Code Section 13-510 is hereby amended to read:

13-510. USE OF THE RIGHT-OF-WAY.

- A. The ROW-user's use of the right-of-way shall in all matters be subordinate to the City's use or occupation of the right-of-way. Without limitation of its rights, the City expressly reserves the right to exercise its governmental powers now and hereafter vested in or granted to the City.
- B. The ROW-user shall coordinate the placement of facilities in a manner that does not interfere with a Public Improvement and does not compromise the public health, safety, or welfare, as reasonably determined by the City. Where placement is not regulated, the facilities shall be placed with adequate clearance from such public improvements so as not to impact or be impacted by such public improvement as defined in the City's "Manual of Infrastructure Standards" available in the office of the Public Works Director. Such Standards shall be competitively neutral and not unreasonable or discriminatory.
- C. The ROW-users shall consider any request made by the City concerning placement of facilities in private easements in order to limit or eliminate future street improvement relocation expenses.
- D. All facilities shall be located and laid so as not to disrupt or interfere with any pipes, drains, sewers, irrigation systems, or other structures or public improvements already installed. In addition, the ROW-user shall, in doing work in connection with its facilities, avoid, so far as may be practicable, disrupting or interfering with the lawful use of right-of-way or other public lands of the City.
- E. All facilities of the ROW-user shall be placed so that they do not interfere with the use of right-of-way and public lands. The City, through its Public Works Director, shall have the right to consult and review the location, design and nature of the facility prior to its being installed.
- F. All newly-constructed facilities shall be located underground. The ROW-user shall comply with all requirements of the City relating to underground facilities. This requirement may be waived by the Public Works Director at his or her discretion for safety concerns, or some other good cause under the condition that does not cause discrimination among

ROW-users. If this requirement is waived, the facilities shall be located as directed by the Public Works Director, including, but not limited to, requirements regarding location, height, breakaway design, and clear zones. Provided, however, the height of a facility will not exceed, or cause any existing facility to exceed, the lesser of:

- (a) thirty-five (35) feet for residential or collector streets or forty-five (45) feet for arterial streets; and
- (b) sixty-six (66) inches above the height of existing street light poles along the right-of-way surrounding the facility.

Above ground facilities shall comply with the Manual of Infrastructure Standards and all applicable zoning regulations, including but not limited to design, size, height, setbacks, screening and landscaping, and illumination, and be located in a manner that does not compromise the public health, safety, or welfare. No newly-constructed above ground facilities shall be located ~~directly in front of any single family home (or in front of where a single family home could be constructed, in the case of a vacant lot), provided that if the Public Works Director deems it necessary or appropriate, such facilities may be located in the front yard, at or along the property line between two adjacent properties~~ in any front yard, as determined by applicable zoning or subdivision regulations.

- G. The ROW-user shall not interfere with the facilities of the other ROW-users without their permission. If and when the City requires or negotiates to have a service provider cease using its existing poles and to relocate its facilities underground, all other service providers using the same poles shall also relocate their facilities underground at the same time, except transmission equipment, as defined in 47 CFR 1.40001. Provided, any such relocations shall be subject to the appeal process contained in Section 13-528, as amended.
- H. The Public Works Director may assign specific corridors within the right-of-way, or any particular segment thereof as may be necessary, for each type of facility that is currently or, pursuant to current technology, the Public Works Director expects will someday be located within the right-of-way. All right-of-way permits issued by Public Works Director shall indicate the proper corridor for the ROW-user's facilities. Any ROW-user whose facilities are currently in the right-of-way in a position at a variance with the designated corridors shall, no later than at the time of next reconstruction or excavation of the area where its facilities are located, move the facilities to its assigned position within the right-of-way, unless this requirement is waived by Public Works Director for good cause shown, upon consideration of such factors as the remaining economic life of the facilities, public health, safety, or welfare, user service needs and hardship to the ROW-user.
- I. If, in the preparation and planning of a right-of-way project, the Public Works Director deems it appropriate for a conduit to be constructed along, across or under the right-of-way, the Public Works Director shall contact all appropriate ROW-users for their input on the planning and design of

such conduit. If a ROW-user desires to construct, maintain or operate facilities along such right-of-way, the Public Works Director may require the ROW-user to use such conduit, and to contribute to the expense of such conduit, provided, however, the ROW-user's use of the conduit is reasonable and appropriate under the circumstances.

- J. All earth, materials, sidewalks, paving, crossings, utilities, other public improvements or improvements of any kind damaged or removed by the ROW-user shall be fully repaired or replaced promptly by the ROW-user at its sole expense and to the reasonable satisfaction of the City. Upon determination by the Public Works Director that such repair or replacement is a public safety matter, all such repair or replacement shall be commenced within twenty-four (24) hours of notice from the City, or the Public Works Director may direct the city to make such repair or replacement and bill the ROW-user for the City cost. The Public Works Director has the authority to inspect the repair or replacement of the damage, and if necessary, to require the ROW-user to do any necessary additional work.
- K. All technical standards governing construction, reconstruction, installation, operation, testing, use, maintenance, and dismantling of a ROW-user's facilities in the right-of-way shall be in accordance with the Manual of Infrastructure standards and all applicable federal, state and local law and regulations, including those promulgated by national trade associations commonly associated with the service provided by the ROW-user. It is understood that the standards established in this paragraph are minimum standards and the requirements established or referenced in this article may be in addition to or stricter than such minimum standards. A ROW-user shall not construct or reconstruct any of its facilities located upon, over, under or within the City right-of-way without first having submitted in writing a description of its planned improvement to the Public Works Director and having received a permit for such improvement. The Public Works Director may require that any drawings, plans and/or specifications submitted be certified by a Kansas registered professional engineer stating that such drawings, plans and/or specifications comply with all applicable technical codes, rules and regulations, unless such plans are based directly on nationally recognized codes, which are appropriately cited, and attested to on the plans by the signature of an authorized official of the organization applying for the permit.
- L. The ROW-user shall cooperate promptly and fully with the City and take all reasonable measures necessary to provide accurate and complete on-site information regarding the nature and horizontal and vertical location of its facilities located within the right-of-way, both underground and overhead, when requested by the City or its authorized agent for a public improvement. Such location and identification shall be at the sole expense of the ROW-user without any expense to the City, its employees, agents, or authorized contractors.

SECTION 3. Prairie Village Municipal Code Section 13-511 is hereby amended to read:

13-511. FACILITY RELOCATION.

- A. The ROW-user shall promptly remove, relocate or adjust any facilities located in the right-of-way as directed by the City for a public improvement or when reasonably required by the City by reason of public health, safety and welfare. Such removal, relocation, or adjustment shall be performed by the ROW-user at the ROW-user's sole expense without expense to the City, its employees, agents, or authorized contractors and shall be specifically subject to rules, regulations and schedules of the City pertaining to such. The ROW-user shall proceed with relocations at due diligence upon notice by the City to begin relocation.
- B. The ROW-user shall promptly remove, relocate or adjust any facilities located in private easement, as directed by the City, for a public improvement, at City expense, by moving such facilities to areas within the expanded right-of-way or within remaining private easements or remaining portions of such easements not condemned by nor disclaimed to the City to avoid conflict with City construction and improvements. The ROW-user shall disclaim those parts of its easements which lie within the expanded right-of-way. Should the City, in the future, elect to require the ROW-user to again relocate its facilities to other areas within the expanded right-of-way, the cost of any such future relocation shall be borne by the City.
- C. As soon as working drawings are available for public improvements which will require the ROW-user to relocate its facilities, the city shall provide the ROW-user with written notice of relocations and the anticipated bid letting date of said improvement. The ROW-user shall respond with any conflicts and a proposed construction schedule within thirty (30) days.
- D. Following notice by the City in the form of the delivery of final design plans for such public improvements, the ROW-user shall remove, and relocate its facilities in accordance with the mutually agreed upon schedule, provided the project is not delayed by adverse weather conditions and other factors beyond the control of the ROW-user. The ROW-user shall certify to the City, in writing, that its facilities have been relocated or adjusted to clear construction in accordance with project plans provided by the City.
- E. Any damages suffered by the City, its agents or its contractors to the extent caused by ROW-user's failure to timely relocate or adjust its facilities, or failure to properly relocate or adjust such facilities, shall be borne by the ROW-user.
- F. In the event the ROW-user is required to move its facilities in accordance with this section, any ordinary right-of-way permit fee shall be waived.
- G. It is the intent of this section for both the City and the ROW-user to cooperate with one another so that the need for facility relocation is minimized and, when required and feasible, relocations may be completed prior to receipt of bids by the City for a public improvement.

- H. In the event that a ROW-user is required to move its facilities for a private benefit, the ROW-user shall not bear the cost of the relocation or adjustment to the extent of such private benefit, and the ROW-user shall not be obligated to commence the relocation or adjustment until receipt of funds for such relocation or adjustment.

SECTION 4. Prairie Village Municipal Code Section 13-512 is hereby amended to read:

13-512. PROTECTION OF THE PUBLIC.

- A. It shall be the responsibility of the ROW-user to take adequate measures to protect and defend its facilities in the right-of-way from harm and damage.
- B. The City shall not be liable for any damage to or loss of any of the ROW-user's facilities within the right-of-way as a result of or in connection with any construction, excavation, grading, filling or work of any kind, including public improvements by or on the behalf of the City, except to the extent caused by the negligent, willful, intentional, or malicious acts or omissions of the City.
- C. The ROW-user shall be responsible to the City and its agents, representatives, and authorized contractors for all damages suffered by them including, but not limited to delay damages, repair costs, down time, construction delays, penalties or other expenses of any kind arising out of the failure of the ROW-user to timely perform any of its obligations under this article to the extent caused by the acts or omissions of the ROW-user.
- D. The City or its authorized contractors shall be responsible for taking reasonable precautionary measures including calling for facility locations when constructing its public improvements.
- E. Any ROW-user who for any purpose makes or causes to be made any excavation in, upon, under, through or adjoining any street, sidewalk, alley or other right-of-way, and shall leave any part or portion thereof open, or shall leave any part or portion thereof disrupted with rubbish, building or other material during construction and/or the night time, shall cause the same to be enclosed with good substantial and sufficient barricades or drums equipped with the appropriate type warning lights and orange safety fencing material which is properly secured around the excavation or the disruption.
- F. Whenever a ROW-user shall excavate the full width of any street, sidewalk, alley, driveway approach or other right-of-way, it shall be its duty to maintain an adequate passage for vehicles and pedestrians across or around the excavation until it is refilled as specified.
- G. Any excavation left open overnight on any thoroughfare or collector type street shall be securely covered. The ROW-user assumes the sole responsibility for maintaining proper barricades, plates, safety fencing and/or lights as required from the time of opening of the excavation until the excavation is surfaced and opened for travel.
- H. The Public Works Director, upon the review and approval of a plan and details for trimming trees in the right-of-way, may grant permission by permit to any ROW-user to trim trees upon and overhanging the right-of-

way so as to prevent such trees from coming in contact with the facilities of the ROW-user.

- I. In the event the ROW-user severely disturbs or damages the root structure of any tree in the right-of-way to the detriment of the health and safety of the tree, the ROW-user will be required to remove and replace the tree at the ROW-user's cost. Further, in review of the ROW-user's plan, Public Works Director, in his or her discretion, may require the ROW-user to directionally bore around any tree in the right-of-way.
- J. Upon the appropriate request of any person having satisfied City procedure and ordinances, the ROW-user shall remove, raise, or lower its facilities temporarily to permit the moving of houses or other structures. The expense of such temporary removal, raising or lowering shall be paid by the person requesting the same, and the ROW-user may require such payment in advance. The ROW-user must be given not less than fifteen (15) days written notice from the person detailing the time and location of the moving operations, and not less than twenty-four (24)-hours advance notice from the person advising of the actual operation.
- K. The Public Works Director may cause to be removed any encroachment in the Right-of-Way that creates a hazard to public health, safety, or welfare, and the cost of such removal and restoration of the right-of-way shall be borne by the ROW-user.

SECTION 5. Prairie Village Municipal Code Section 13-514 is hereby amended to read:

13-514. ABANDONED AND UNUSABLE FACILITIES.

- A. A ROW-user owning abandoned facilities in the right-of-way must either:
 - 1. Remove its facilities and replace or restore any damage or disturbance caused by the removal at its own expense. The Public Works Director may allow underground facilities or portions thereof remain in place if the public works director determines that it is in the best interest of public health, safety, or welfare to do so. At such time, the City may take ownership and responsibility of such vacated facilities left in place; or
 - 2. Provide information satisfactory to the city that the ROW-user's obligations for its facilities in the right-of-way have been lawfully assumed by another authorized ROW-user; or
 - 3. Submit to the City a proposal and instruments for transferring ownership of its facilities to the city. If the ROW-user proceeds under this section, the City may, at its option purchase the equipment, require the ROW-user, at its own expense, to remove it, or require the ROW-user to post a bond in an amount sufficient to reimburse the City for reasonable anticipated costs to be incurred to remove the facilities.
- B. Facilities of a ROW-user who fails to comply with this section, and whose facilities remain unused for two (2) years, shall be deemed to be abandoned after the City has made a good faith effort to contact the ROW-user, unless the City receives confirmation that the ROW-user intends to

use the facilities. Abandoned facilities are deemed to be a nuisance. The City may exercise any remedies or rights it has at law or in equity, including, but not limited to,

1. abating the nuisance,
2. taking possession and ownership of the facility and restoring it to a useable function, or
3. requiring the removal of the facility by the ROW-user.

SECTION 6. Prairie Village Municipal Code Section 13-516 is hereby amended to read:

13-516 PERMIT APPLICATIONS.

- A. Application for a right-of-way permit shall be submitted to the Public Works Director either by the ROW-user or by the person who will do the work and/or excavation in the right-of-way. Before an application may be submitted, the applicant must attend a pre-application meeting with designated City staff, unless waived by the Public Works Director.
- B. Right-of-way applications shall contain and be considered complete only upon receipt of the following:
 1. Compliance with verification of registration;
 2. Submission of a completed permit application form, including all required attachments and scaled drawings showing the location and area of the proposed project and the location of all existing and proposed facilities at such location;
 3. A traffic control plan;
 4. Payment of all money due to the city for permit fees and costs, for prior excavation costs, for any loss, damage or expense suffered by the City because of the applicant's prior excavations of the right-of-way or for any emergency actions taken by the City, unless the payment of such money is in dispute and timely appealed as provided hereafter.
- C. All applications shall be processed within the timeframes required by state and federal law.
- D. In the event Applicant modifies a proposed application, the modified application will be considered a new application subject to commencement of a new application review period; provided that the Applicant and the City may enter into a mutually agreeable tolling agreement allowing the City to request additional submittals and additional time as may be reasonably necessary for review of the modified application.
- D. If an applicant has submitted an application for a permit for the installation, construction, maintenance, or repair of multiple facilities, that applicant may not submit another application for a permit for the installation, construction, maintenance, or repair of multiple facilities until the first application has been approved or denied. This provision may be waived by the Public Works Director.

SECTION 7. Prairie Village Municipal Code Section 13-518 is hereby amended to read:

13-518. RIGHT-OF-WAY PERMIT FEES.

- A. The right-of-way permit fee and other appropriate fees, including but not limited to inspection fees, excavation fees, pole attachment fees, and franchise fees, shall be recommended by the Public Works Director, approved by the governing body and listed in the Schedule of Fees maintained in the City Clerk's office, as such Schedule may be amended from time to time. An application shall not be deemed submitted unless the right-of-way permit fee is paid. The right-of-way permit fee shall be subject to all state and federal fee limitations.
- B. Fees paid for a right-of-way permit, which is subsequently revoked by the Public Works Director, are not refundable.
- C. Except as provided for in an emergency situation, when a ROW-user is found to have worked or is working in the right-of-way without having obtained a permit, the fee for the permit will be double the amount had the ROW-user obtained a permit prior to beginning work.
- D. The City may also charge and collect any necessary repair and restoration costs.

SECTION 8. Prairie Village Municipal Code Section 13-525 is hereby amended to read:

13-525. DENIAL OF PERMIT.

- A. The Public Works Director may deny a permit or prohibit the use or occupancy of a specific portion of the right-of-way to protect the public health, safety and welfare, to prevent interference with the safety and convenience of ordinary travel over the right-of-way, or when necessary to protect the right-of-way and its users. The Public Works Director, at his or her discretion, may consider all relevant factors including but not limited to:
 - 1. The extent to which the right-of-way space where the permit is sought is available;
 - 2. The competing demands for the particular space in the right-of-way;
 - 3. The availability of other locations in the right-of-way or in other right-of-way for the facilities of the applicant;
 - 4. The applicability of any ordinance or other regulations, including City zoning regulations, that affect location or other standards for facilities in the right-of-way;
 - 5. The degree of compliance of the applicant with the terms and conditions of its franchise, this article, and other applicable ordinances and regulations;
 - 6. The degree of disruption to surrounding communities and businesses that will result from the use of that part of the right-of-way;

7. The balancing of costs of disruption to the public and damage to the right-of-way, against the benefits to that part of the public served by the construction in the right-of-way;
 8. Whether the applicant maintains a current registration with the City.
 9. Whether the issuance of a right-of-way permit for the particular dates and/or time requested would cause a conflict or interferes with an exhibition, celebration, festival, or any other event. In exercising this discretion, the Public Works Director shall be guided by the safety and convenience of anticipated travel of the public over the right-of-way.
 10. Whether the application complies with the Manual of Infrastructure Standards.
 11. The adverse impact of the facilities or the facilities' proposed location on any reasonable public interest necessitated by public health, safety, or welfare.
- B. Notwithstanding the above provisions, the Public Works Director may in his or her discretion issue a right-of-way permit in any case where the permit is necessary to:
1. Prevent substantial economic hardship to a user of the applicant's service;
 2. Allow such user to materially improve the service provided by the applicant.
- C. Any denial of a wireless communications antenna, tower, or related facilities shall, in accordance with federal and state law, be made in writing and supported by substantial evidence contained in a written record issued contemporaneously with said decision.

SECTION 9. Prairie Village Municipal Code Section 13-528 is hereby amended to read:

13-528. APPEALS PROCESS.

- A. Whenever a person shall deem themselves aggrieved by any decision or action taken by the Public Works Director, the person may file an appeal to the Governing Body within ten (10) calendar days of the date of notice of such decision or action. Provided, this section shall not apply to any person who is availing themselves of the appeal provisions set forth in K.S.A. 66-2019(h)(6), as amended.
- B. The persons shall be afforded a hearing on the matter before the Governing Body within thirty (30) days of filing the appeal.
- C. In cases of applicability or interpretation of the rules, the Governing Body may revoke such decision or action taken by the Public Works Director.
- D. In cases where compliance with such decision or action taken by the Public Works Director would cause undue hardship, the Governing Body may extend the time limit of such decision or action, or may grant exceptions to, or waive requirements of, or grant a variance from the specific provisions of rules. The Governing Body shall give due consideration to the purposes of the rules in preserving public safety and

convenience, integrity of public infrastructure, and the operational safety and function of the public right-of-way.

- E. Pending a decision by the Governing Body, the order of the Public Works Director shall be stayed, unless the public works director determines that such action will pose a threat to public safety or the integrity of the public infrastructure.
- F. If a person still deem themselves aggrieved after the appeal to the Governing Body, such person shall have thirty (30) days after the effective date of the Governing Body's final decision to institute an action in the District Court of Johnson County, Kansas.

Section 10. ~~All Ordinance No. 2353 and all other~~ ordinances and parts thereof that are inconsistent with any provision of this Ordinance are hereby repealed.

Section 11. This Ordinance shall take effect and be in force from and after its passage, approval and publication as provided by law.

PASSED by the City Council of the City of Prairie Village, Kansas on October ~~31~~17, 2016.

APPROVED:

Laura Wassmer, Mayor

ATTEST:

Joyce Hagen Mundy, City Clerk

APPROVED AS TO LEGAL FORM:

Catherine P. Logan, City Attorney

Sections Amended	PV ROW Changes adopted 10-3-16	OP ROW Changes adopted 9-19-16	Leawood ROW Changes adopted 9-19-16	Shawnee ROW Changes adopted 9-26-16	Olathe ROW Changes NOT YET ADOPTED	Lenexa ROW Changes NOT YET ADOPTED
“Facility” Defined	Adds “wireless communications facilities” with references to included definitions of components thereof in new Act	Adds “wireless communications facilities”	Adds “wireless communications facilities”	Adds “wireless communications facilities” and definition of small cell facility		
	13-503(M)					
Use of ROW	Prohibits (replaces term “minimize”) interfere with Public Improvement and adds language “not compromise public health, safety and welfare” [standard allowed by new Act] 13-510(B)	Same as PV	Already similar to OP and PV as amended - was not amended	Same as PV and OP		

	<p>PV ROW Changes adopted 10-3-16</p>	<p>OP ROW Changes adopted 9-19-16</p>	<p>Leawood ROW Changes adopted 9-19-16</p>	<p>Shawnee ROW Changes adopted 9-26-16</p>	<p>Olathe ROW Changes NOT YET ADOPTED</p>	<p>Lenexa ROW Changes NOT YET ADOPTED</p>
<p>Underground Requirement for newly constructed facilities</p>	<p>Newly Constructed Facilities shall be located underground. "Newly constructed facilities" excludes replacement street lights and antennas on existing or replacement street lights with conduit inside pole. 13-503(Q). Note clean up item that the definition exclusion does not include vaults and utility boxes which may be associated with the antennas excepted above. Waiver by Public Works Director for good cause. 13-510(F)</p>	<p>No change to existing provision that "newly constructed facilities" underground "whenever reasonably possible"</p>	<p>No change to existing provision that "newly constructed facilities" underground "whenever reasonably possible"</p>	<p>No change to existing provision that "newly constructed facilities" underground "whenever reasonably possible"</p>		
		<p>Same</p>	<p>Same</p>	<p>Same</p>		

Above Ground Regulations	PV 13-510(F)							
Compliance with specified standards of the Public Works Director or City Engineer	Added	Added	Already included	Added				
Compliance with zoning	Added	Added	Not specified in section amended	Added				
Located in a manner that does not compromise the public health, safety or welfare	Added	Added	Already included	Added				
Breakaway Design required	Added	Not specified (although may be specified by applicable standards)	Not specified (although may be specified by applicable standards)	Not specified (although may be specified by applicable standards)				

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	PV ROW Changes adopted 10-3-16	OP ROW Changes adopted 9-19-16	Leawood ROW Changes adopted 9-19-16	Shawnee ROW Changes adopted 9-26-16	Olathe ROW Changes NOT YET ADOPTED	Lenexa ROW Changes NOT YET ADOPTED
Clear Zones required	Added	Location as directed by City Engineer	Already included	Location as directed by Director of Public Works		
Height Limits	Height as specified by Public Works Director not to exceed: 35' residential or collector streets 45' arterial streets 66" above height of existing street light poles along that portion of ROW	Height as specified by City Engineer	Same as PV	Height as specified by Public Works Director not to exceed: 60' with some temporary and permanent exceptions, including electric power lines rated at or above "feeder" line class, telecable lines rated at or above "trunk" line, poles used exclusively for street lighting or traffic control, electric substations and related equipment.		
Prohibited in any front yards	Added	Not specified in ROW Code	Not specified in ROW Code	Not specified in ROW Code		

	<p>PV ROW Changes adopted 10-3-16</p>	<p>OP ROW Changes adopted 9-19-16</p>	<p>Leawood ROW Changes adopted 9-19-16</p>	<p>Shawnee ROW Changes adopted 9-26-16</p>	<p>Olathe ROW Changes NOT YET ADOPTED</p>	<p>Lenexa ROW Changes NOT YET ADOPTED</p>
<p>City Self Help</p>	<p>Public Works Director may have encroachments in ROW creating hazard to public health, safety and welfare removed at cost of ROW user. 13-513(K)</p>	<p>Same</p>	<p>Already included</p>	<p>Same</p>		

	<p>PV ROW Changes adopted 10-3-16</p>	<p>OP ROW Changes adopted 9-19-16</p>	<p>Leawood ROW Changes adopted 9-19-16</p>	<p>Shawnee ROW Changes adopted 9-26-16</p>	<p>Olathe ROW Changes NOT YET ADOPTED</p>	<p>Lenexa ROW Changes NOT YET ADOPTED</p>
<p>Application for use of ROW Procedures</p>	<p>Preapplication meeting Adds timelines for processing If application is for multiple facilities, applicant may not submit a second application until the current application is approved or denied 13-516 Permit fees subject to state and federal. 13-518</p>	<p>Same</p>	<p>Not in section amended</p>	<p>More detailed than PV, OP and Leawood, most provisions incorporate the Act into the Ordinance. Adds some provisions not in Act, which contemplate further timelines if an application is rejected and resubmitted. Still under study by PV staff and legal counsel</p>	<p>Modified applications are considered new application [added to PV]</p>	

	<p>PV ROW Changes adopted 10-3-16</p>	<p>OP ROW Changes adopted 9-19-16</p>	<p>Leawood ROW Changes adopted 9-19-16</p>	<p>Shawnee ROW Changes adopted 9-26-16</p>	<p>Olathe ROW Changes NOT YET ADOPTED</p>	<p>Lenexa ROW Changes NOT YET ADOPTED</p>
<p>Denial relevant factors include</p>	<p>Zoning regulations Applicant maintain a current registration with City Applicant's compliance with "Manual of Infrastructure Standards" Adverse impact necessitated by public health, safety or welfare 13-525(4),(8),(10) and (11)</p>	<p>Same</p>	<p>Not in section amended</p>	<p>Same</p>		

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19.30.050 Appeals of Conditional Use Permits.

Any person, official or governmental agency dissatisfied with the Planning Commission's decision on any Conditional Use Permit application may bring an action in the District Court to determine the reasonableness of any such decision. Such appeals must be filed in the District Court within thirty (30) calendar days after the date that the decision of the Planning Commission was made.

19.30.055 Specifically Listed Conditional Uses.

The following uses may be permitted by conditional use permit:

- A. Temporary use of land for commercial or industrial purposes; provided that any building or structure constructed thereon which is not otherwise permitted in the district in which such land is situated, and any stored equipment or material shall be removed upon the date of expiration of the conditional use permit, which permit shall be valid for not more than two years, but may be renewable after public hearing;
- B. Off-street parking lots and parking structures;
- C. Drive-up, drive-through or drive-in services in the C-0, C-1, and C-2 Districts. Such permit shall not be approved unless the following conditions and procedures are met:
 - a. The access, circulation and stacking pattern of vehicles using such facility shall be reviewed and approved by the city's traffic engineers prior to Planning Commission approval of plans.
 - b. Alcoholic or cereal malt beverages shall not be sold or otherwise dispensed at such facility.
 - c. A conditional use permit for drive-up, drive-through or drive-in food services shall be approved only for premises located in Districts C-1 and C-2.
- D. Satellite dish antennas, with a diameter of one meter or greater and those not permitted in Section 19.34.040 (D); and non commercial transmitting and receiving antennas and towers; (Ord. 1899, Sec. I, 1996; Ord. 1909, Sec. I, 1997; Ord. 2249, Sec. III, 2012)
- E. Property Maintenance Facilities. Buildings, structures and premises for property maintenance facilities, and uses;
- F. Portable carts, booths and stands or other similar facilities used for retail sales of merchandise.
- G. Utility boxes that have a footprint larger than twelve (12) square feet in area, a pad greater than 2.5 times the area of the utility box footprint or greater than 32 square feet; or have a height of more than fifty-six (56) inches. (Ord. 2029 Sec. IV, 2002; Ord. 2225, Sec. III, 2010)

Chapter 19.02 – Definitions

19.02.460 Structural Alterations.

"Structural alterations" means any change in the supporting members of a building, such as bearing walls or partitions, columns, beams or girders, or any structural change in the roof, but not including extension or enlargement.

19.02.465 Structure.

"Structure" means anything constructed or erected, which requires location on the ground or attached to something having a location on the ground, including but not limited to advertising signs, billboards, and poster panels; but exclusive of customary fences, boundary or retaining walls, or utility poles.

19.02.470 Subdivider.

"Subdivider" means a person, firm or corporation undertaking the subdivision or resubdividing of a tract or parcel of land.

19.02.472 Temporary Political Sign.

"Temporary political sign" means a sign relating to a candidate, political party, ballot issue, or other political issue to be voted upon in any public election, or relating to the expression or communication of constitutionally protected speech, other than commercial speech. (Ord. 1944, Sec. 1, 1998)

19.02.475 Terrace.

"Terrace" means the standard designation established by the uniform street naming system for numbered east-west streets located between numbered streets.

19.02.480 Theater, motion picture.

"Motion picture theater" means a building or part of a building devoted to the showing of motion pictures on a paid admission basis.

19.02.485 Theater, outdoor drive-in.

"Outdoor drive-in theater" means an open lot or part thereof, with its appurtenant facilities, devoted primarily to the showing of motion pictures or theatrical productions, on a paid admission basis, to patrons seated in automobiles or on outdoor seats.

19.02.490 Townhouse.

"Townhouse" means a building containing more than one dwelling unit with such dwelling units being separated by common walls as opposed to one unit being over another.

19.02.495 Truck.

"Truck" includes tractor and trailer trucks, or any motor vehicle, which carries truck license.

19.02.499 Utility Box.

Any cabinet, pedestal, box, building or other equipment enclosure used for public utility services, public service corporations, or telecommunications providers including any associated equipment such as condensing units and generators. Traffic signal controllers shall not be considered utility boxes. Utility boxes with a footprint smaller than one and one half square foot, a pad of two square feet or less, and a height of 36" or less are exempt from this definition. Utility racks and open trellis-type structures for mounting equipment are not permitted. All equipment must be placed within a cabinet or enclosed structure that has an acceptable aesthetic design and has break away capability for safety. (Ord. 2190, Sec. II, 2009)

All existing utility boxes are nonconforming structures and have all rights granted by Chapter 19.40 "Nonconformities". Utility boxes are exempt from Section 19.40.015B Enlargement, Repair and

Maintenance and Section 19.40.015C Damage, Destruction and Demolition, and may be replaced provided that the replacement box is generally the same size as or smaller than the original utility box. This determination will be made by City staff. (Ord. 2029, Sec. I, 2002; Ord. 2190, Sec. II, 2009)

19.02.500 Variance.

"Variance" means variation from a specific provision of this title as applied to a specific piece of property or structure.

19.02.502 Wall, Retaining

A wall which may be constructed of wood, stone, brick, concrete, block or similar materials designed or built to retain soil or other materials from slumping, sliding or falling. (Ord. 2247, Sec. II, 2011)

19.02.503 Wall, Solid

A free standing structure, which is for the purpose of blocking a view or providing privacy; providing aesthetics; preventing intrusion, escape or trespass; or redirecting a person's direction of travel. A solid wall generally is constructed of brick, stone, concrete, block or similar materials or materials that are similar in appearance. (Ord. 2247, Sec. II, 2011)

19.02.505 Wellness Center.

"Wellness Center" means a single purpose or dual-purpose facility for providing therapy or fitness services on an individual basis rather than on a group basis, by appointment for services such as physical therapy, weight lifting, massage therapy, and fitness exercises. Each masseuse/masseur shall be licensed in accordance with the requirements of the Municipal Code.

19.02.515 Yard.

"Yard" means an open space at grade between a building and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided herein. In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard or the depth of a rear yard, the least horizontal distance between the lot line and the building or structure shall be used. Where lots abut a street that is designated a traffic artery on the thoroughfare plan, all yards abutting said street shall be measured from a line one-half the proposed right-of-way width from the centerline, or from the lot line, whichever provides the greater setback. On other lots, all yards abutting a street shall be measured from a line twenty-five feet from the centerline, or from the lot line, whichever provides the greater setback. Minimum front, side and rear yards are established within each zoning district.

19.02.520 Yard, Front.

"Front Yard" means an unoccupied, open space, except as hereinafter provided, between the front street line of the lot and the wall of the building or structure nearest the street on which the lot fronts and the line of that wall extended to the side lines of the lot. The minimum depth of the front yard shall be determined by measuring the distance between the point of the wall of the building or the structure nearest the street and the front street line of the lot. The front yard of a corner lot shall be adjacent to that street on which the lot has its least dimension unless otherwise specified by the Building Official.

If the corner lot consists of all of more than two platted parcels of land each of whose least dimensions is on the same street as the other lots in the block, then the location of the front yard of this lot shall be on the same street as the other lots unless otherwise specified by the Building Official.

If a corner lot consists entirely of unplatted land or a combination of platted and unplatted land, the front yard shall be on that street on which there fronts the greater number of lots, whether platted or unplatted unless otherwise specified by the Building Official.



PLANNING COMMISSION

Council Meeting Date: October 17, 2016

PC2016-127 Consider Replat of Prairie Village, Lots 17 & 18, Block 55

RECOMMENDATION

Approve Resolution 2016-06 approving the replat of PRAIRIE VILLAGE, Lot 17 and west 5 feet Lot 18, Block 55 subject to the conditions of approval required by the Planning Commission.

BACKGROUND

On October 4, 2016, the Planning Commission considered the replat of Lot 17 and the western 5 feet of Lot 18, Block 55 of the Prairie Village subdivision to allow for the vacation of the western 5 feet of a 10 foot utility easement along the east lot line. The existing building encroaches into this easement. The applicant has contacted the utility companies and each has provided written confirmation that there are no facilities located within this easement and that they have no interest in the easement nor an objection to its being vacated. Similarly the Prairie Village Public Works Department has reviewed the request and also has no facilities in the easement. However, Public Works has requested that a 5 foot easement remain on the property line. This has been done by vacating the 5 foot westernmost portion of the easement and leave the 5 foot easternmost portion of the easement.

The Planning Commission approved PC2016-127 for the Replat of PRAIRIE VILLAGE, Lot 17 and western 5 feet of Lot 18, Block 55 and recommended the Governing Body for acceptance of easements for the proposed replat, subject to the following conditions:

1. The vacation only of the western 5 feet of the utility easement on the boundary of Lot 17 and Lot 18, and that the eastern 5' be held in place as designated on the plat;
2. That the Governing Body accept the replat and vacation of the easement;
3. That the certificate of survey provided with this application dated 8/18/16 be filed with the County.

ATTACHMENTS

Planning Commission Minutes of October 4 (Draft)
Proposed Resolution
Survey

PREPARED BY

Joyce Hagen Mundy
City Clerk/Planning Commission Secretary

DATE: October 12, 2016

**EXCERPT FROM
PLANNING COMMISSION MINUTES
October 4, 2016**

**PC2016-127 Request for Vacation of Easement on Replat of Lot 17
5012 West 70th Street**

Joe Elder, 2705 West 51st Terrace, addressed the Commission regarding the requested easement vacation. Mr. Elder noted corrections in the staff report referencing the location of the requested easement. The second line under comments should read: There is currently a 10' easement down the **east** (not west) lot line. The last line in the paragraph should also reference the "**east** (not west) property boundary." The first condition in the recommendation for approval should read: "The vacation of only the western 5' of the **east** utility easement on the boundary of Lot 17 and Lot 18, and that the eastern 5' be held in place as designated on the plat." Mr. Brewster noted the retention of the eastern 5' has been requested by Public Works.

Mr. Elder asked if the vacation needed action by the Governing Body, noting they are anxious to begin the project before the weather changes. Mr. Brewster replied the vacation is a two part process and is not final until the Governing Body accepts the vacation of the easement. This is required by statute. It was noted their next meeting would be Monday, October 17th. Mr. Elder asked if a special meeting could be held prior to that date. He was advised the Mayor would need to request a special meeting.

Patrick Lenahan moved the Planning Commission approve PC2016-127 recommending the vacation request/replat of Prairie Village Lot 17 and West 5 feet of Lot 18, Block 55 with the following conditions.

1. The vacation of only the western 5 feet of the east utility easement on the boundary of Lot 17 and Lot 18, and that the eastern 5 feet be held in place as designated on the plat.
2. That the Governing Body accept the replat and vacation of the easement.
3. That the certificate of survey provided with this application dated 8/26/16 be filed with the County.

The motion was seconded by James Breneman and passed unanimously.

RESOLUTION NO. 2016-06

A RESOLUTION APPROVING THE REPLAT OF LOT 17 AND THE WESTERN 5 FEET OF LOT 18, BLOCK 55 OF PRAIRIE VILLAGE , A SUBDIVISION OF LAND IN THE CITY OF PRAIRIE VILLAGE, JOHNSON COUNTY, KANSAS

Whereas, George Gilchrist is the owner of Lot 17 and the west 5 feet of Lot 18, Block 55 of PRAIRIE VILLAGE, a subdivision of land in the City of Prairie Village, Johnson County, Kansas.

Whereas, on October 4, 2016, the Prairie Village Planning Commission approved the replat of this lot vacating the western 5 feet of a 10 foot utility easement along the east lot line.

Whereas, the utility easement to be vacated is the 5 foot westernmost portion of the easement and leaving the 5 foot easternmost portion of the easement and which is more specifically shown on Exhibit "A" attached hereto.

Whereas, there are no utilities existing in said easement and disclaimers have been obtained from all utilities operating in the City of Prairie Village, Kansas.

Whereas, the vacation of said easement is necessary to permit the construction of a residence on said Lot 17.

Whereas, the Governing Body accepted the replat of Lot 17 with designated right-of-ways and easements.

Whereas, this resolution and certificate of survey dated 8/16/2016 will be filed and recorded with Johnson County.

Now therefore, be it resolved that the Governing Body of the City of Prairie Village, Kansas adopt Resolution 2016-06 approving the replat of PRAIRIE VILLAGE, Lot 17 and western 5 feet Lot 18, Block 55 subject to the conditions of approval required by the Planning Commission.

ADOPTED THIS 17TH DAY OF OCTOBER, 2016.

By: _____
Laura Wassmer, Mayor

ATTEST:

Joyce Hagen Mundy, City Clerk

CERTIFICATE OF SURVEY

DATE 5/18/16

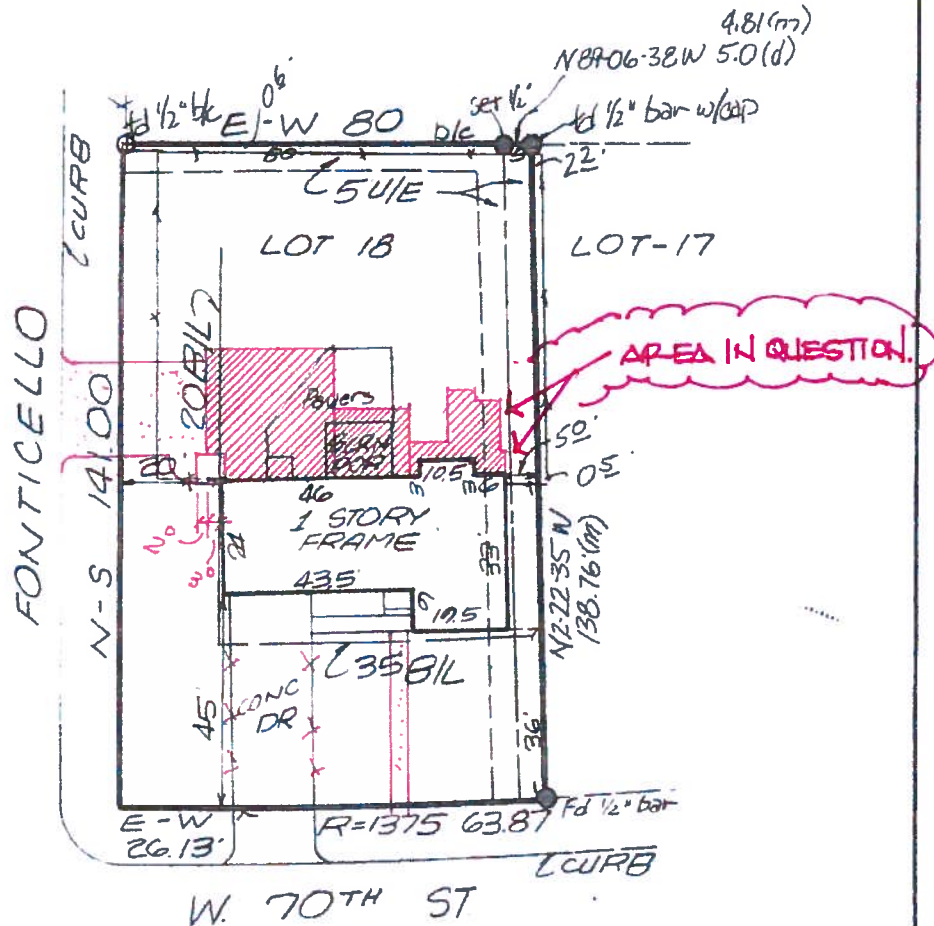
ORDERED BY: Chris Castrop

RESIDENTIAL SURVEYS, INC.
 7133 West 80th Street, Suite 210
 Overland Park, KS 66204
 Phone: (913) 381-4488
 Fax: (913) 381-3048

FOR: George Gilchrist
 5012 W. 70th Street
 Prairie Village, Kansas

JOB NO. 2926.75

DESCRIPTION: Lot 17, and the West 5 feet of Lot 18, measured on the front and rear lines of said Lot 18, Block 55, PRAIRIE VILLAGE, a subdivision in the City of Prairie Village, Johnson County, Kansas, according to the recorded plat thereof.



I hereby certify that a survey of the above described property has been made under my supervision and the results are as shown herein.

Note: No title report furnished. Not responsible for unplatted eas'ts.

5/18/16

MAYOR'S ANNOUNCEMENTS

Monday, October 17, 2016

Committee meetings scheduled for the next two weeks:

Environment/Recycle Committee	10/26/2016	5:30 p.m.
Council Committee of the Whole	11/06/2016	6:00 p.m.
City Council	11/06/2016	7:30 p.m.

=====

The Prairie Village Arts Council is pleased to present the 10th annual State of the Arts Exhibit in the R.G. Endres Gallery during the month of October. The artist reception will be from 6 to 8 p.m. on Friday, October 14th.

The 32nd Annual Prairie Village Peanut Butter Week in support of Harvesters Food Bank will be held October 10 - 16, 2016. Support the drive through donations at City Hall or at your local church or school.

Save the Date - The Northeast Johnson County Chamber of Commerce Annual Gala will be held on Saturday, November 19th.

INFORMATIONAL ITEMS
October 17, 2016

1. Planning Commission Agenda - November 1, 2016
2. Planning Commission Minutes - October 13, 2016
3. PV Arts Council Minutes - September 7, 2016
4. PV Arts Council Minutes - September 19, 2016
5. Park & Recreation Committee Minutes - September 14, 2016
6. Proclamation
7. Mark Your Calendar

**PLANNING COMMISSION AGENDA
CITY OF PRAIRIE VILLAGE
TUESDAY, NOVEMBER 1, 2016
7700 MISSION ROAD
7:00 P.M.**

I. ROLL CALL

II. APPROVAL OF PC MINUTES - OCTOBER 4, 2016

III. PUBLIC HEARINGS

**PC2016-06 Request for Rezoning of Homestead Estates from R-1a (Single Family Residential) to RP-1a (Planned Single Family Residential)
Applicant: Cory Childress, Evan-Talon Homes**

IV. NON-PUBLIC HEARINGS

**PC2016-126 Request for Monument Sign Approval
5300 West 86th Street
Current Zoning: R-1a
Applicant: Robin Norman with STAR Signs**

**PC2016-128 Request for Replat of Prairie Ridge
5201 West 77th Street
Current Zoning: R-1a
Applicant: Phelps Engineering**

**PC2016-129 Request for Site Plan Approval for 8' Fence
6810 Roe Avenue
Current Zoning: R-1a
Applicant: David & Elaine Reuter**

V. OTHER BUSINESS

Discussion - 2017 Meeting & Application Submittal Schedule

VI. ADJOURNMENT

Plans available at City Hall if applicable
If you cannot be present, comments can be made by e-mail to
Cityclerk@Pvkansas.com

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

PLANNING COMMISSION MINUTES
September 13, 2016

ROLL CALL

The Planning Commission of the City of Prairie Village met in regular session on Tuesday, September 13, 2016 in the Municipal Building Council Chambers at 7700 Mission Road. Chairman Nancy Wallerstein called the meeting to order at 7:00 p.m. with the following members present: Gregory Wolf, Melissa Brown, Jonathan Birkel, and Jeffrey Valentino.

The following persons were present in their advisory capacity to the Planning Commission: Chris Brewster, City Planning Consultant; Wes Jordan, Assistant City Administrator, Mitch Dringman, Building Official, Serena Schermoly, Council Liason, and Meghan Buom, Deputy City Clerk

APPROVAL OF MINUTES

Gregory Wolf moved for the approval of the minutes of the Planning Commission for August 3, 2016 as submitted. The motion was seconded by Jonathan Birkel and passed by a vote of 4 to 1 with Nancy Wallerstein abstaining.

PUBLIC HEARINGS

There were no Public Hearings scheduled before the Planning Commission.

NON PUBLIC HEARINGS

**PC2016-123 Request for Monument Sign Approval
6510 Mission Road**

Staff stated that this item will be continued for the submittal of additional information.

Gregory Wolf moved PC2016-123 be continued to the October Planning Commission meeting. The motion was seconded by Melissa Brown and passed unanimously.

**PC2016-124 Request for Planned Unit Exception
7878 Howe Circle**

**Current Zoning: RP-1b
Applicant: Craig & Julie Mahurin**

Craig & Julie Mahurin, 7878 Howe Circle presented their request for an exception to the platted footprint to expand an existing sunroom located at the southeast portion of the building nearest the intersection of 79th Street and Howe Circle. The addition would expand the current sunroom by about 50% and result in an approximately 7' x 13' extension of the footprint. Due to the angle of the lot and building this would extend the depth of the footprint by about 5' closer to 79th Street than the existing corner (at the

furthest encroaching corner), resulting in that corner being 8' from the lot line on 79th Street.

Mr. Mahurin stated that the Mission Pines Home Owners Association has granted its conditional approval, pending the City's approval.

Chris Brewster provided history on the Mission Pines development that was rezoned to RP-1b in 1986. This rezoning was based on specific proposed plan for the lots, buildings and open spaces, and a final plat was approved in March 1987 indicating the building setbacks based on the footprints of proposed buildings. It was originally conceived as a 35 lot development, but was eventually reduced to 25 lots through the final plan approvals, resulting in approximately 7,492 square feet per dwelling (the R-1B base is 6,000 square feet, so the deviations in the plan dealt mainly with lot orientation, building lines, and internal access and circulation.) Between 1987 and 1989 several exceptions and adjustments to the plan were approved to deal with the specifics of lot lines, easements, fences and decks that differed from the exact locations of the platted building footprints. In 2013 the Planning Commission approved a plan exception to allow a slightly larger building and different building configuration on Lot 35 (southwestern most lot on corner of Mission and 79th Street). There are no other records of exceptions or other deviations from the plan.

Mr. Brewster stated the Prairie Village zoning ordinance provides a Planned Zoning District option to regulate development through distinct alternative means from the typical standards and processes that would otherwise apply. [Chapter 19.24] The most comparable base district development standards apply, except to the extent they are altered by a specific plan as provided in that chapter. The Planned Zoning District Statement of Objectives provides the following: [19.24.010]

"The use of the planned zoning procedures is intended to encourage efficient development and redevelopment of small tracts, innovative and imaginative site planning, conservation of natural resources and minimum waste of land."

Among the stated objectives is a commitment to develop land according to approved plans in terms of "concept[s], intensity of use, aesthetic levels and quality of open space." [19.24.010.B.] One of the significant objectives of the planned district is to "[allow deviations in yard requirements, setbacks and relationships of buildings." [19.24.010.C.] The standard for approval of these deviations is to implement a plan with amenities or conditions that are equal or higher quality of development than will be obtained under the general development standards. Overall the objectives specify innovation and greater amenity in exchange for relief from conventional development standards.

This property was approved, platted and developed according to such a plan, and that plan fixed the original building footprints as the setback lines for the property. Among the most significant deviations were the lot sizes and building setbacks which resulted in an overall concept that staggered lots and angled buildings with a unique orientation, implementing an "enclave style" development. In exchange for smaller, more private

spaces on the individual lots and two common “courtyards” at the center of each pod, and both the small private spaces and these large pods were richly landscaped.

The Planned District Procedures do provide some flexibility from approval of the original plan and build out of that plan. While it is reasonably interpreted that this is intended to account for adjustments that are often needed between concept approval and construction, these criteria are helpful in evaluation post-construction adjustments as owner/occupants needs change. Section 19.24.040 allows for the following after plan approval in Planned Zoning districts:

“Variations between the preliminary and final plans, which do not in the judgment of the Planning Commission, violate or exceed the above seven criteria, shall be approved by the Planning Commission in its administrative role.”

The seven referenced criteria area:

- A. It does not substantially vary from the concept agreed to at the time of rezoning.
- B. It does not increase the density or intensity of residential uses more than 5%.
- C. It does not increase the floor area of nonresidential buildings by more than ten percent.
- D. It does not increase the area covered by buildings or pavement by more than 10%.
- E. It does not increase the height of a building by one or more stories or four or more feet.
- F. It does not involve changes in ownership patterns or stages of construction that differ from the concept, its architectural harmony or quality, or impose substantially greater loads on the streets and neighborhood facilities.
- G. It does not vary from any specific development criteria adopted with the rezoning.

According to AIMS data, the existing building footprint is 40% of the lot. The proposed addition (7' x 13' expansion of sun room), will increase the coverage to just under 42%. Other lots in this plan area range in size from 3,704 square feet to 8,415 square feet, with the most typical lot size in the range of 4,000 to 6,000 square feet. This lot is at the smaller end of the range. Building coverages vary widely based on the configurations and sizes of lots, from 31% to 55% with the most typical coverage in the range of 40% to 50%.

The setbacks on the interior of the project vary widely based on the individual lot configurations and building patterns. The setbacks on the perimeter of the property are typically 12' to 15' and primarily only projecting corners due to the building orientation. There are three instances of approximately 9' to 12' in the south and east portion of the project (on 79th Street and on Mohawk Drive) and one instance of 6' in the southwest portion of the project (the corner lot on Mission Road). The proposed addition is on the corner oriented away from any existing building, and will be located 8' from the lot line on 79th street at the closest corner.

The plat indicates an easement located on the rear side of these properties (along 79th Street) for KCP&L. Although this is generally a private property matter outside of the right-of-way, the City requested that the applicant demonstrate that this will not be an

issue. The applicant has supplied a disclaimer and release of this easement from KCP&L.

Mr. Brewster noted that If the Planning Commission finds favorably on the above seven considerations, and otherwise does not feel that this proposed application negatively impacts the Planned Zoning Concept for RP-1B as specifically approved for this property, it may grant an exception to the plan, and specifically the building lines associated with this lot. If granted, staff recommends the following conditions be included in the approval:

- That the applicant shall use the same materials and colors used in the construction of the existing dwellings.
- That all construction must continually but independently meet any applicable private restrictions, processes and approval criteria, including the Mission Pines Home Owners Associations requirements and any easement limitations, exceptions or waivers for easements on the property.
- The exception should be recorded with the Johnson County Records and Tax Administration.

Melissa Brown asked for clarification on the KCP&L easement release. Mr. Brewster confirmed that KCP&L has granted the release.

Jonathan Birkel asked if the addition would require removal of trees or landscaping. The applicant stated that it would not require more than trimming.

Gregory Wolf moved the Planning Commission approve PC2016-124 granting an exception to the planned building lines for 7878 Howe Circle subject to the following conditions: 1) That the applicant shall use the same materials and colors used in the construction of the existing dwellings; 2) That all construction must continually but independently meet any applicable private restrictions, processes and approval criteria, including the Mission Pines Home Owners Associations requirements and any easement limitations, exceptions or waivers for easements on the property and 3) The exception should be recorded with the Johnson County Records and Tax Administration. The motion was seconded by Jeffery Valentino and passed unanimously.

PC2016-125 Request for Monument Sign Approval
5300 West 94th Terrace
Current Zoning: C-0
Applicant: Charles Payne, Image 360

Charles Payne, 3637 Main Street, Kansas City, MO, presented the proposed monument sign for the multi-tenant office building at 5300 West 94th Terrace.

The proposed sign meets all of the applicable sign standards:

- The proposed height is 4.5' (below the 5' maximum)
- The proposed area is 12.5 s.f. (below the 20 square feet maximum)

- The proposed location is more than 12' from the curb, more than 3' from the front property line, and 5' from the adjacent side property line.
- The proposed sign is built on a brick base incorporating materials similar to the principal building on the site.

Mr. Payne noted the proposed sign is comparable to monument signs located on other property in the vicinity. He stated that the sign will be lighted internally with LED.

Mr. Brewster noted that the fragmented ownership of other office buildings within the area does not facilitate a uniform sign plan for all properties on 94th Terrace in association with this application, four other monument signs do exist. None of them exhibit strong uniformity, however there are some similarities:

- Three of the four include either a brick structure or a brick base matching the brick of the buildings (though not all buildings have the same brick, the brick is very similar among buildings)
- All meet the size and location standards of subsection M. noted above.
- Two of the four have letters mounted on the brick, while two of the four are sign panels (one on a brick base as is proposed here, one in a wood frame.)
- Three are not illuminated, and one is. The illuminated sign is white letters in a dark panel cabinet.

Mr. Brewster stated the location of the sign is in a larger landscape area, so it does not require any specific landscape base (as would be required for monument signs with less than 3' of landscape area around it). However, the applicant is proposing to remove an existing tree to locate the sign. There are several trees along the frontage of this lot and adjacent lots that begin to form a "street edge," and the tree proposed to be removed is not a significant contributor to this landscape affect. Further, this tree appears to be in poor health. While the overall streetscape would benefit greatly if the remaining trees were truly "street trees" and future trees were located in the tree lawn, none currently are. No other location for a replacement tree would appear to have a significant effect on either the streetscape or the screening of the parking area.

Gregory Wolf moved the Planning Commission approve PC2016-125 approving the proposed monument sign for 5300 West 94th Terrace subject to the following conditions: 1) that the exact location of the monument sign be specified and confirmed to be at least 5' from the side property line, and at least 3' from both the sidewalk and the parking area (3' of landscape clearance on all sides and 2) that this monument sign shall be the only monument sign permitted for this multi-tenant building and lot, and the it shall be the owner's responsibility to allocate sign space among tenants of the building. The motion was seconded by Melissa Brown and passed unanimously.

OTHER BUSINESS

Wes Jordan shared introductory information with the Planning Commission related to the Countryside East Overlay District. An information packet was left on the dais for Commissioners to review prior to the next meeting. The Overlay was approved by the Planning Commission in 2012. Mr. Jordan shared that during the review of Prairie

Village building standards earlier in 2016, Countryside East was approached about removing the overlay in favor of the Prairie Village standards. No change was made at that time. Because of the overlay, City staff is in the position of being required to approve plans that don't meet the Prairie Village requirements.

Jonathan Birkel serves as a Planning Commission representative on the Country Side East appeals board shared an example of how the standards differ from Prairie Village. He also shared that the area is zoned R1-a which could lead to increased teardown opportunities.

Mitch Dringman provided an overview of how the Countryside East appeals board operates. The board consists of two homes association representative and a Planning Commission representative. If the appeal is denied, the applicant would come before the Planning Commission for a second appeal. Four appeals have come before the appeals board with no denials.

Jeffery Valentino inquired about incorporating these changes into the second phase of the building standards. Mr. Jordan stated that at this time, phase two is on hold as City staff evaluates how the first phase impacts the community.

Nancy Wallerstein asked Commissioners to review the materials for future discussion.

ADJOURNMENT

With no further business to come before the Commission, Chairman Nancy Wallerstein adjourned the meeting at 7:35 p.m.

Nancy Wallerstein
Chairman

Prairie Village Arts Council
Wednesday, September 7, 2016
5:30 pm
Prairie Village City Hall - 7700 Mission Road
Multi-Purpose Room

Meeting Minutes

The Prairie Village Arts Council met at 5:30 p.m. in the Multi-Purpose Room. Members present: Dan Andersen (chair), Ada Koch, Julie Flanagan, Betsy Holliday, Al Guarino, Julie Hassel, Art Weeks, and Stephen LeCerf. Also present was Wes Jordan (Assistant City Administrator), Eric Mikkelson (Council Liaison) and Annette Hadley, applicant for appointment consideration.

Minutes - The August minutes were approved as submitted.

Financial Report - Wes Jordan provided a budget report (attached) that provided the following fund balances: *RG Endres Gallery* - \$6,704.60 and *Municipal Arts* - \$21,932.35 for a total of \$28,636.95.

Council Report - Councilman Mikkelson provided an overview of the following items:

- Sale of alcohol for the State of the Arts was approved by the Council.
- 2017 Budget approved for same, and in some cases improved City services without raising the mill levy.
- Solid Waste contract was approved with Republic Services for 10 years - the extended contract will save residents nearly \$97,000 per year.
- Approved Bond issue to purchase the street lights from KCP&L.
- Meadowbrook Development and Park Update

Exhibits/Receptions

July Exhibit (The Seniors Group) - update provided by Stephen LeCerf who was the curator for the event.

August Exhibit (Mary Ann Coonrod & Cookie Cave) - update provided by Art Weeks who was the curator for the event. The Arts Council also discussed methods to improve coordination of the monthly exhibits and decided to create an over view letter and/or checklist to provide to each artist.

September Exhibit (Gary Cadwallader & Jodi Harch) - Stephen LeCerf is the curator for this event and provided examples of advertisements he created and posted to promote this event throughout the community. Ada Koch, Julie Flanagan. Becky Holliday, and Art Weeks indicated they would be able to help staff this event.

State of the Arts - Dan Andersen gave an update that 49 pieces of art have been accepted from 82 artist submissions. Dan also suggested continuation of discussion for this event to a separate meeting on September 19, 2016.

Ongoing Business

Email Capture and SOTA Voting - Dan Andersen provided an update on both items and explained the website is now operational to handle voting for the People's Choice Award during the State of the Arts Event - to include voting on I-pads during the event.

Art Inventory - Ada Koch gave an update that an experienced appraiser estimated the cost to appraise City-owned art could range from \$4,700 to \$5,200. The Arts Council decided to look for other options due to the price point and Dan Andersen volunteered to contact some resources he has worked with in the past to reduce costs.

FOTA - Julie Flanagan provided an update to efforts to recruit more artists to this event through ongoing publicity that will be instituted during the next few months. The first of those efforts will be 4 X 6 cards that she designed and will be distributed at Jazz Fest.

Jazz Fest Booth Schedule/Job Assignments

- Julie Flanagan provided an update to the new banner that will be on display.
- Julie Hassel said that Shawnee Mission Audi has agreed to donate a one-week rental (valued at \$850.00) of a Q-7 sedan for a raffle item. The exact cost of each ticket is expected to be approximately 5 dollars.
- Al Guarino said that Roasterie Coffee had donated coffee with the purchase of 600 12-ounce cups for \$100.00. The Council decided the price point should be \$2.00 per cup.
- Caricature Artist - The Council authorized \$700 for a contractual agreement. The price point for renderings will be determined prior to the event.
- Shawnee Mission East Art Club will volunteer for free face painting.
- Art Exhibit - City-owned art will be on display. Dan Andersen anticipated a 30 X 10 tent with side coverage would be needed in addition to tent space needed for other Art Council items & displays.
- Promotional and "give away" items will include ducks, tattoos, glow in the dark wrist bracelets, foam light wands, and blow up saxophones.
- The Arts Council authorized an additional \$1,000 for marketing and event expenses for Jazz-Fest. The total authorized amount will now be \$2,200.

Adjournment – The meeting was adjourned at 8:50 p.m.

Prairie Village Arts Council
Monday, September 19, 2016
5:30 pm
Prairie Village City Hall - 7700 Mission Road
Multi-Purpose Room

Meeting Minutes

The Prairie Village Arts Council met at 5:40 p.m. in the Multipurpose Room. Members present: Art Weeks, Betsy Holliday, Ada Koch, Stephen LeCerf, and Dan Andersen, chair.

Minutes - The September 7th minutes were approved as submitted.

Jazzfest - The group proceeded with an evaluation of the Arts Council's participation in the September 10th Jazz Fest. Everyone agreed that the Art Exhibit Tent, put together by Ada Koch and Julie Flanagan, was a resounding success; many Jazz Fest participants coming in through the back entrance stopped, admired the art, and commented on how much they enjoyed our exhibit. The car raffle did not get as much traffic, principally because we didn't have enough time to advertise, and nothing was said about it from the stage. Coffee sales were very good (thank you Al Guarino). Dan commented that not only did we make money on the coffee, we have enough left over to last us two years! Julie Flanagan's "make and take" table and the Shawnee Mission East face painters were a big hit with the children. The caricatures lady was also popular, but not enough to recoup our expenditure. Having caricatures will be re-evaluated for next year's Jazz Fest.

SOTA - Dan stated that 82 artists had applied. Our projected income from entry fees at \$40 per, is \$3,000. Forty-nine pieces have been selected, which will be delivered to City Hall between noon and 5:00 on Monday, October 3rd. Art Weeks and Betsy Holliday will be there to receive the art. That evening, Wayne Wilkes will be hanging and labeling the show. Dan encourages all other Arts Council members to be present to assist. A motion to vote on the approval of our budgeted \$4,000 to include valet parking was seconded and passed. Dan explained that because of the ongoing construction of the new City Hall/Police Department entrance which blocks the front doors to City Hall, this year's SOTA is going to be completely different. The entrance is going to be through the handicap entrance door. There will be a lit 20x20 tent by the two handicap parking spaces as one enters the driveway to City Hall. People arriving will be offered free valet parking and a free glass of wine. Inside, tables and a cash bar will be set up in council chambers. Ada Koch offered to make a sign for the bar stating: "Drink Sales Support the Prairie Village Arts Council." Food will be catered, and instead of a buffet, there will be light hors d'oeuvres, passed on trays. There will be a coffee and water table in addition to the cash bar in the council chambers.

Next Meeting - October 12th at 5:30 p.m.

Adjournment - The meeting was adjourned at 6:55 p.m.

PARKS AND RECREATION COMMITTEE

September 14, 2016

6:30 PM

City Hall

MINUTES

The Parks and Recreation Committee met at 6:30 PM at City Hall. In attendance: Chairman Terrence Gallagher, Vice-Chair Shelia Myers, Dianne Pallanich, Lauren Wolf, Keith Novorr, Matthew Geary, Elizabeth Johnson, Kevin Letourneau, Peggy Couch, and Clarence Munsch. Staff: Alley Williams and James Carney.

Mr. Gallagher called the meeting to order at 6:30 PM.

Public Participation

- There was no public participation.

Consent Agenda

1. Minutes from May 11, 2016

It was moved and seconded to approve the minutes from the May 11, 2016 meeting. The motion passed unanimously.

Reports

1. Public Works Report

Mr. Carney provided and reviewed a list of the park improvements and maintenance related accomplishments since the Committee had its walkthrough in May.

2. Recreation Report

Ms. Williams provided an overview of the pool season and stated, overall, staffing was stronger this season compared to last season. However, lifeguard availability continues to be a challenge at the end of the season. She mentioned at the October meeting the 2016 Annual Recreation report will be presented so the Committee can begin discussing any changes to the pool membership structure. The pool improved security by having four cameras placed at strategic locations in the complex. Ms. Williams also informed the committee the second dog swim had 155 dogs and that Skateboarding 101 was doing very well.

3. Chairperson's Report

Mr. Gallagher reported things are moving positively with Meadowbrook. He asked staff to continue to monitor port-a-potties to ensure they're being taken care of by the contractor.

New Business

1. Harmon Park Study

Mr. Gallagher asked to shuffle the agenda to allow Ms. Brooke Morehead to make a presentation on Village Square. Ms. Morehead discussed how she was on the Jazz Fest Committee and the success that event is having. However, each year they have to recreate Harmon Park with a stage and all the equipment. She talked about having a permanent

amphitheater to host Jazz Fest and other events throughout the year. Ms. Morehead reviewed a conceptual study for Harmon Park. Her goal is a low maintenance operation that could be a revenue source for the City. Mr. Novorr was curious what the proposed capacity would be and Ms. Morehead responded it could be all different capacities but at least able to accommodate Jazz Fest. Mr. Gallagher mentioned the City Council approved \$50,000 for a study and that he hopes Ms. Morehead could come back with more information in the future.

2. Parks Five-Year Capital Plan

Mr. Gallagher informed the Committee that they've been charged with coming up with the next five-year plan based on the Master Plan and other things the Committee wants to improve. He said he would then take the draft list to the Mayor, Mr. Bennion, and Mr. Bredehoeft to begin getting estimates for the projects. Some of the bigger projects include historic signage, increasing lighting at all parks, and creating a new Master Plan. There was discussion on how the plan would coincide with Village Square and, if it were to proceed, the desire to see a comprehensive plan for Harmon Park that included more updates to the pool. The Committee discussed options of the draft list and approved its presentation to City Council.

3. Tennis Reservation Policy

Mr. Gallagher reminded the Committee that the City Clerk had already reviewed the policy with them and that nothing had changed since then. However, official Committee approval was required in order for it to be taken to City Council. It was moved and seconded to approve the policy. The motion passed unanimously.

4. Pool Fee Review Kick Off

Mr. Gallagher mentioned that at the next meeting the Committee would have the 2016 Annual Recreation Report to begin discussing the pool fees. The Committee asked Ms. Williams to bring some information to the next meeting to have an informed discussion on the current structure and see if any changes are necessary.

Old Business

- No old business was discussed.

General Inquiry

- There were no general inquiries.

Information Items

- October 12, 2016 - Next Committee meeting will be at 6:30 PM at City Hall in the Council Chambers.

Adjournment - Meeting was adjourned at 7:45 PM.

CITY OF PRAIRIE VILLAGE

Whereas, the government of Prairie Village, Kansas, celebrates our local small businesses and the contributions they make to our local economy and community; according to the United States Small Business Administration, there are currently 28.8 million small businesses in the United States, they represent 99.7 percent of all businesses with employees in the United States, are responsible for 63 percent of net new jobs created over the past 20 years, and

Whereas, small businesses employ over 49 percent of all businesses with employees in the United States; and

Whereas, 89 percent of consumers in the United States agree that small businesses contribute positively to the local community by supplying jobs and generating tax revenue; and

Whereas, 87 percent of consumers in the United States agree that small businesses are critical to the overall economic health of the United States; and

Whereas, 93 percent of consumers in the United States agree that it is important for people to support the small businesses that they value in their community; and

Whereas, Prairie Village, Kansas supports our local businesses that create jobs, boost our local economy and preserve our neighborhoods; and

Whereas, advocacy groups as well as public and private organizations across the country have endorsed the Saturday after Thanksgiving as Small Business Saturday.

Now, Therefore, I, Laura Wassmer, Mayor of Prairie Village, Kansas do hereby proclaim, November 26, 2016, as:

SMALL BUSINESS SATURDAY

And urge the residents of our community, and communities across the country, to support small businesses and merchants on Small Business Saturday and throughout the year.

IN WITNESS THEREOF, I hereunto set my hand and cause the Seal of the City of Prairie Village, Kansas to be affixed this 14th day of September, 2016.



Mayor Laura Wassmer

City Clerk

Date

**Council Members
Mark Your Calendars
October 3, 2016**

October 2016	State of Arts in the R.G. Endres Gallery
October 8 - 10	League of Kansas Municipalities Conference, Overland Park
October 10 - 16	Prairie Village Peanut Butter Week
October 14	State of the Arts Reception in the R.G. Endres Gallery
October 17	City Council Meeting
November 2016	Jeff Foster, Jonathan Crabtree & Louanne Hein in the R.G. Endres Gallery
November 7	City Council Meeting
November 19	Northeast Johnson County Chamber Gala
November 21	City Council Meeting
November 24-25	City Offices Closed for Thanksgiving Holiday
December 2016	Chris Willey in the R.G. Endres Gallery
December 5	City Council Meeting
December 9	Mayor's Holiday Volunteer Party
December 19	City Council Meeting
December 26	City offices closed for the Christmas Holiday