

A decorative border surrounds the text. It features stylized flames at the top and bottom, a cup of beer on the left, and a burger on the right.

## City Council Meeting

**February 5, 2007**

Dinner will be  
provided by:

### ***Oklahoma Joe's BBQ***

*Wood Smoked Combo:  
Brisket and Pulled Pork  
BBQ Beans, Potato Salad,  
Coleslaw. Bread & Pickles*

COUNCIL COMMITTEE  
February 5, 2007

COUNCIL CHAMBER  
6:00 P.M.

AGENDA

DAVID BELZ

CONSENT AGENDA

COU2006-55

Consider Project SP105: Mission Road/ 83rd Street to 95th Street Micro Surfacing  
Bob Pryzby

POL2004-13

Consider Project: 190708, Tomahawk Storm Drainage Improvements (Nall Avenue to Roe Avenue), Construction Administration Services  
Bob Pryzby

POL2004-13

Consider Project 190708: Tomahawk Storm Drainage (Nall Avenue to Roe Avenue) Construction Agreement  
Bob Pryzby

COU2007-11

Consider SP107: 2007 Street Repair Program  
Bob Pryzby

AGENDA ITEMS

COU2006-57

Consider Special Use Permit for Communications Antenna at 7700 Mission Road  
Charlie Wetzler

COU2007 - 07

Consider 2007 Legislative Agenda  
Barbara Vernon

\* COU2007 -12

Consider Drainage Consultant Selection  
Bob Pryzby

\* COU2007 - 13

Consider 2008 - 2012 CARS Application  
Bob Pryzby

COU2007 - 14

Consider Right Turn Only on Somerset Drive at 83rd Street  
Bob Pryzby

PRESENTATION: Street Infrastructure Rating System  
Bob Pryzby

\*COUNCIL APPROVAL REQUESTED THE SAME EVENING

**COU2006-55 CONSIDER PROJECT SP105: MISSION ROAD: 83<sup>RD</sup>  
STREET TO 95<sup>TH</sup> STREET MICRO SURFACING**

**Background:**

Last year the City of Prairie Village and the City of Leawood agreed to micro-surface Mission Road (83<sup>rd</sup> Street to 95<sup>th</sup> Street). The City of Prairie Village is administering the project and has estimated the cost to be \$179,000. Attached is the Interlocal agreement for construction. Prairie Village Public Works staff will be providing construction administration. The project is not shared 50-50 because there will be pavement repairs prior to micro-surfacing and there is the additional square yards for the east side of Mission Road from 84<sup>th</sup> Terrace to 83<sup>rd</sup> Street that is in Prairie Village.

**Financial Impact:**

Funding is available in the 2007 Public Works Operating Budget. The City of Prairie Village share is \$111,000.00. The remaining \$68,000.00 is to be funded by the City of Leawood.

**Suggested Motion:**

**Move to approve the Interlocal agreement with the City of Leawood for Project SP105: Mission Road: 83<sup>rd</sup> Street to 95<sup>th</sup> Street.**

**AGREEMENT BETWEEN THE CITY OF PRAIRIE VILLAGE, KANSAS AND THE CITY OF LEAWOOD, KANSAS FOR THE PUBLIC IMPROVEMENT OF MISSION ROAD FROM 83<sup>RD</sup> STREET TO 95<sup>TH</sup> STREET.**

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THIS AGREEMENT, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2007, by and between the CITY OF PRAIRIE VILLAGE, KANSAS, and the CITY OF LEAWOOD, KANSAS, each party having been organized and now existing under the laws of the State of Kansas,

WITNESSETH:

WHEREAS, the parties hereto have determined it is in their best interest to make the public improvement to Mission Road from 83<sup>rd</sup> Street to 95<sup>th</sup> Street as such improvement is hereinafter described; and

WHEREAS, K.S.A. 12-2908 authorizes the parties hereto to cooperate in making the public improvement; and

WHEREAS, the governing bodies of each of the parties hereto have determined to enter into this Agreement for the aforesaid public improvement, as authorized and provided by K.S.A. 12-2908 and K.S.A. 68-169; and

WHEREAS, the governing body of the CITY OF PRAIRIE VILLAGE, KANSAS, did approve and authorize its mayor to execute this Agreement by official vote of the body on the \_\_\_\_\_ day of \_\_\_\_\_, 2007.

WHEREAS, the governing body of the CITY OF LEAWOOD, KANSAS, did approve and authorize its mayor to execute this Agreement by official vote of the body on the \_\_\_\_\_ day of \_\_\_\_\_, 2007.

NOW, THEREFORE, in consideration of the above recitals, the mutual covenants and agreements herein contained, and for other good and valuable considerations, the parties hereto agree as follows:

1. PURPOSE OF AGREEMENT. The parties hereto enter into this Agreement for the purpose of constructing the public improvement on Mission Road as heretofore described by performing the following work: The street improvement of Mission Road from 83<sup>rd</sup> Street to 95<sup>th</sup> Street including microsurfacing the existing street and repair of asphalt pavement, pavement markings and other items incidental to the street reconstruction.
2. ESTIMATED COST OF PROJECT.
  - A. The estimated cost of construction for the public improvement covered by this agreement is ONE HUNDRED AND SEVENTY-NINE THOUSAND DOLLARS (\$179,000.00).
  - B. The cost of making the public improvement shall include:
    - (1) Labor and material used in making the public improvement; and
    - (2) Such other expenses which are necessary in making the public improvement, exclusive of the cost of acquiring real property and any improvement thereon for the location of the public improvement. These costs include but are not limited to project administration, construction inspection, material testing and utility relocations.
  - C. The local share of the cost for construction of said public improvement, as described hereinabove, shall be distributed within each CITY as follows:
    - (1) The CITY OF PRAIRIE VILLAGE, KANSAS shall pay 62% of the local share of said public improvement (estimated to be \$111,000.00).

(2) The CITY OF LEAWOOD, KANSAS shall pay 38% of the local share of said public improvement (estimated to be \$68,000.00).

3. FINANCING. THE CITIES OF PRAIRIE VILLAGE, KANSAS, and LEAWOOD, KANSAS, shall pay their portion of the cost with monies budgeted and appropriated funds.

4. PRAIRIE VILLAGE ADMINISTRATION OF PROJECT. It is acknowledged and understood between the parties that since there are two separate cities included within the proposed improvement, one of the cities should be designated as being “in charge” of the project to provide for its orderly design and construction. However, both cities shall have the right of review and comment on project decisions at any time throughout duration of this Agreement, and any subsequent agreements hereto. The public improvement shall be constructed and the job administered by the CITY OF PRAIRIE VILLAGE, KANSAS, acting by and through the Director of Public Works for Prairie Village, Kansas, who shall be the principal public official designated to administer the public improvement; provided, that the Director of Public Works shall, among his several duties and responsibilities, assume and perform the following:

A. Make all contracts for the public improvement, including the responsibility to solicit bids by publication. In the solicitation of bids, the appropriate combination of best bids shall be determined by the aforesaid governing body administering the project, except that the governing body of the CITY OF LEAWOOD, KANSAS reserves the right to reject the successful bidder in the event that the bid price exceeds the engineer’s estimate. If all bids exceed the estimated cost of the public improvement, then either CITY shall have the right to reject the bid. In such case, the project shall rebid at a later date.

- B. Submit to the CITY OF LEAWOOD on or before the 10th day of each month, or as received, estimates of accrued costs of constructing the public improvement for the month immediately preceding the month the statement of costs is received; provided that the CITY OF LEAWOOD shall within thirty (30) days after receipt of a statement of costs as aforesaid, remit their portion of the accrued costs to the CITY OF PRAIRIE VILLAGE as herein agreed.
- C. Upon completion of the public improvement, the Director of Public Works shall submit to the CITY OF LEAWOOD a final accounting of all costs incurred in making the public improvement for the purpose of apportioning the same among the parties as provided herein.
- D. The CITY OF LEAWOOD shall be named as additional insured on all applicable certificates of insurance issued by the contractor for this project.
- E. The CITY OF PRAIRIE VILLAGE shall require performance and completion bonds for the improvement from all contractors and require that all contractors discharge and satisfy any mechanics or materialman's liens that may be filed.
- F. The CITY OF PRAIRIE VILLAGE shall require that any contractor provide a two-year performance and maintenance bond for the Improvement. As Administrator, the CITY OF PRAIRIE VILLAGE will, upon request of LEAWOOD, make any claim upon the maintenance bond or performance bond and require that the contractor fully perform all obligations under the performance and maintenance bonds.
- G. The CITY OF PRAIRIE VILLAGE shall include in contracts for construction a requirement that the contractor defend, indemnify and save PRAIRIE VILLAGE and

LEAWOOD harmless from and against all liability for damages, costs, and expenses arising out of any claim, suit or action for injuries or damages sustained to persons or property by reason of the act or omissions of the contractor and the performance of his or her contract.

5. DURATION AND TERMINATION OF AGREEMENT. The parties hereto agree that this Agreement shall exist until the completion of the aforesaid public improvement, which shall be deemed completed upon certification to each of the parties hereto by the Director of Public Works advising that the public improvement has been accepted by him as constructed; provided that upon the occurrence of such certification by the Director of Public Works, this Agreement shall be deemed terminated and of no further force or effect.
6. PLACING AGREEMENT IN FORCE. The attorney for the administering body described in paragraph 4 hereof shall cause this Agreement to be executed in triplicate. Each party hereto shall receive a duly executed copy of this Agreement for their official records.
7. AMENDMENTS. This Agreement cannot be modified or changed by any verbal statement, promise or agreement, and no modification, change nor amendment shall be binding on the parties unless it shall have been agreed to in writing and signed by both parties.
8. JURISDICTION. This Agreement shall be construed according to the laws of the State of Kansas and may be enforced in any court of competent jurisdiction.



IN WITNESS WHEREOF, the above and foregoing Agreement has been executed in triplicate by each of the parties hereto on the day and year first above written.

**CITY OF PRAIRIE VILLAGE, KANSAS**

By \_\_\_\_\_  
RONALD L. SHAFFER, MAYOR

ATTEST:

\_\_\_\_\_  
JOYCE HAGEN-MUNDY, CITY CLERK

APPROVED AS TO FORM:

\_\_\_\_\_  
CHARLES E. WETZLER, CITY ATTORNEY

**CITY OF LEAWOOD, KANSAS**

By \_\_\_\_\_  
PEGGY J. DUNN, MAYOR

ATTEST:

\_\_\_\_\_  
DEB HARPER, CITY CLERK

APPROVED AS TO FORM:

\_\_\_\_\_  
PATTY BENNETT, CITY ATTORNEY

**POL2004-13 CONSIDER PROJECT: 190708, TOMAHAWK STORM DRAINAGE IMPROVEMENTS (NALL AVENUE TO ROE AVENUE), CONSTRUCTION ADMINISTRATION SERVICES**

**Background:**

Shafer Kline & Warren (SKW) has provided construction administration services for the 2006 Street Resurfacing Program and the City Council has approved them for construction administration services through 2007.

Attached is the agreement for services for Project 190708. The cost was calculated based on a typical fifty-hour workweek and a contract length of eight months. From the experience in 2006 with other City projects, SKW has completed their contracts at less than the contract amount.

**Financial Impact:**

Funds are available in the Capital Infrastructure Program for construction administration services. The Shafer Kline & Warren fee is \$187,000.00. The Johnson County SMAC program will be reimbursing the City for 75% for \$140,300. The City cost will be \$46,700.

**Suggested Motion:**

Move to approve the agreement with Shafer Kline & Warren in the amount of \$187,000.00 for construction administration services for Project 190708.

# AGREEMENT FOR PROFESSIONAL CONSULTANT SERVICES

FOR

## CONSTRUCTION ADMINISTRATION SERVICES

FOR

### PROJECT 190708: TOMAHAWK STORM DRAINAGE IMPROVEMENTS (NALL AVENUE TO ROE AVENUE)

*THIS AGREEMENT*, made at the Prairie Village, Kansas, this 22nd day of January, 2007, 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 Shafer, Kline & Warren, Inc., a Kansas corporation with offices at 11100 W. 91st Street, Overland Park, Kansas 66214, hereinafter called the “Consultant”.

*WITNESSETH, THAT WHEREAS*, the City has determined a need to retain a professional engineering firm to provide Civil Engineering services for the Design of Project 190708: Tomahawk Storm Drainage Improvements (Nall Avenue to Roe Avenue), hereinafter called the “Project”,

*AND WHEREAS* the City is authorized and empowered to contract with the Consultant for the necessary 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 here in this Agreement effective the date first written above.

#### ARTICLE I RESPONSIBILITIES OF THE CITY

The CITY designates Thomas Trienens, Manager of Engineering Services as representative of the CITY with respect to the services to be performed or furnished by the CONSULTANT under this Agreement. Mr. Trienens shall have the authority to transmit instructions, receive information, interpret and define the policies of the CITY, make decisions relevant to the services of the CONSULTANT.

The CITY shall do the following in a timely manner:

1. Make available to the CONSULTANT all existing data and records relevant to the Project, including but not limited to, maps, plans, correspondence, data and previous reports and studies possessed by the CITY.
2. Approve all criteria and information as to the requirements of the CITY for the Project, including objectives and constraints, performance requirements, and budgetary limitations.
3. Review and approve all correspondence transmitted and forms used by the CONSULTANT relative to this Project.
4. Review for approval all submittals such as change orders and payment requests by the CONSULTANT.

**ARTICLE II**  
**RESPONSIBILITIES OF THE CONSULTANT**

The CONSULTANT designates William M. (Mike) Asbury, Director, Construction, who shall direct the professional civil engineering and related construction inspection and administration services in all phases of the Project to which this Agreement applies as hereinafter provided. The CONSULTANT shall serve as the prime professional on this Project and shall work with of the Manager of Engineering Services.

The standard of care for all professional consulting services and related construction inspection and administration 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.

The CONSULTANT shall consult with Manager of Engineering Services and act as CITY's representative. The extent and limitations of the duties, responsibilities and authority of CONSULTANT as assigned herein shall not be modified, except as CONSULTANT may otherwise agree in writing. All of CITY's instructions to Contractor will be issued through CONSULTANT, who shall have authority to act on behalf of CITY in dealings with Contractor to the extent provided in this Agreement, except as otherwise provided in writing.

The CONSULTANT shall conduct a pre-construction meeting, which will include the Manager of Engineering Services, Contractor, utility companies and any appropriate government agency partied with the CITY prior to commencement of Work at the Site.

The CONSULTANT shall coordinate with the Contractor on the taking of digital, pre-construction pictures.

The CONSULTANT shall make visits to the site at intervals appropriate to the various stages of construction, as CONSULTANT deems necessary, in order to observe as an experienced and qualified design professional the progress and quality of the Work. Such visits and observations by CONSULTANT, and the Resident Project Representative, if any, are not intended to be exhaustive or to extend to every aspect of the Work in progress or to involve detailed inspections of the Work in progress beyond the responsibilities specifically assigned to CONSULTANT herein, but rather are to be limited to spot checking, selective sampling, and similar methods of general observation of the Work based on CONSULTANT's exercise of professional judgment as assisted by the Resident Project Representative, if any. Based on information obtained during such visits and such observations, CONSULTANT will determine, in general, if Contractor's work is proceeding in accordance with the Project Manual, and CONSULTANT shall keep CITY informed of the progress of the Work.

The purpose of CONSULTANT's visits to, and representation by the Resident Project Representative, if any, at the Site of the Project, will be to enable CONSULTANT to carry out the duties and responsibilities assigned to and undertaken by CONSULTANT during the Construction Phase. By the exercise of CONSULTANT's efforts as an experienced and qualified design professional, will provide for CITY a greater degree of confidence that the completed Work will conform in general to the Project Manual and that the integrity of the design concept of the completed project as a functioning whole as indicated in the Project Manual has been implemented and preserved by Contractor. CONSULTANT shall not, during such visits or as a result of such observations of Contractor's work in progress, supervise, direct, or have control over the Work, nor shall CONSULTANT have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected by Contractor, for safety precautions and programs incident to the Work, or for any failure of Contractor to comply with Laws and Regulations applicable to Contractor's furnishing and performing the Work. Accordingly, CONSULTANT neither guarantees the performance of any Contractor nor assumes responsibility for any Contractor's failure to furnish and perform its work in accordance with the Project Manual.

The CONSULTANT shall have authority to disapprove or reject Contractor's work while it is in progress if, on the basis of such observations, CONSULTANT believes that such work will not produce a completed project that conforms generally to the Project Manual or that it will prejudice the integrity of the design concept of the completed project as a functioning whole as indicated in the Project Manual.

The CONSULTANT shall issue necessary clarifications and interpretations of the Project Manual as appropriate to the orderly completion of the Work. Such clarifications and interpretations will be consistent with the intent of and reasonably inferable from the Project Manual. CONSULTANT may issue Field Orders authorizing minor variations from the requirements of the Project Manual.

The CONSULTANT shall prepare and recommend Change Orders and Field Orders to CITY, as required.

The CONSULTANT shall review and approve or take other appropriate action in respect to Shop Drawings and Samples and other data which Contractor is required to submit, but only for conformance with the information given in the Project Manual and compatibility with the design concept of the completed project as a functioning whole as indicated in the Project Manual. Such reviews and approvals or other action will not extend to means, methods, techniques, sequences or procedures of construction or to safety precautions and programs incident thereto. CONSULTANT has an obligation to meet any Contractors submittal schedule that has earlier been acceptable to CONSULTANT.

The CONSULTANT shall evaluate and determine the acceptability of substitute or "or-equal" materials and equipment proposed by Contractor.

The CONSULTANT shall require such special inspections or tests of the Work as deemed reasonably necessary, and receive and review all certificates of inspections, tests, and approvals required by Laws and Regulations or the Project Manual. CONSULTANT's review of such certificates will be for the purpose of determining that the results certified indicate compliance with the Project Manual and will not constitute an independent evaluation that the content or procedures of such inspections, tests, or approvals comply with the requirements of the Project Manual. CONSULTANT shall be entitled to rely on the results of such tests.

The CONSULTANT shall render formal written decisions on all claims of CITY and Contractor relating to the acceptability of the Work or the interpretation of the requirements of the Project Manual pertaining to the execution and progress of the Work. In rendering such decisions, CONSULTANT shall be fair and not show partiality to CITY or Contractor and shall not be liable in connection with any decision rendered in good faith in such capacity.

The CONSULTANT shall, based on CONSULTANT's observations as an experienced and qualified design professional and on review of Applications for Payment and accompanying supporting documentation:

1. Review the Contractor's monthly Applications for Payment to determine it represents the work accepted and is mathematically correct. CONSULTANT will provide recommendation for payment to the CITY. Such recommendations of payment will be in writing and will constitute CONSULTANT's representation to CITY, based on such observations and review, that, to the best of CONSULTANT's knowledge, information and belief, the Work has progressed to the point indicated, the quality of such is generally in accordance with the Project Manual (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, to the results of any subsequent tests called for in the Project Manual and to any other qualifications stated in the recommendation), and the conditions precedent to Contractor's being entitled to such payment appear to have been fulfilled in so far as it is CONSULTANT's responsibility to observe the Work. In the case of unit price work, CONSULTANT's recommendations of payment will include final determinations of quantities and classifications of the Work (subject to any subsequent adjustments allowed by the Project Manual). The responsibilities of CONSULTANT are expressly subject to the limitations set forth herein.

2. By recommending any payment, CONSULTANT shall not thereby be deemed to have represented that observations made by CONSULTANT to check the quality or quantity of the Work as it is performed and furnished have been exhaustive, extended to every aspect of the Work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to CONSULTANT in this Agreement and the Project Manual. Neither CONSULTANT's review of the Work for the purposes of recommending payments nor CONSULTANT's recommendation of any payment including final payment will impose on CONSULTANT responsibility to supervise, direct, or control the Work in progress or for the means, methods, techniques, sequences, or procedures of construction or safety precautions or programs incident thereto, or Contractor's compliance with Laws and Regulations applicable to the Work. It will also not impose responsibility on CONSULTANT to make any examination to ascertain how or for what purposes Contractor has used the moneys paid on account of the Contract Price, or to determine that title to any portion of the work in progress, materials, or equipment has passed to CITY free and clear of any liens, claims, security interests, or encumbrances, or that there may not be other matters at issue between CITY and Contractor that might affect the amount that should be paid.

The CONSULTANT shall receive and review maintenance and operating instructions, schedules, and guarantees.

The CONSULTANT shall receive bonds, certificates, or other evidence of insurance not previously submitted and required by the Project Manual, certificates of inspection, tests and approvals, Shop Drawings, Samples and other data approved as provided herein, and the annotated record documents which are to be assembled by Contractor in accordance with the Project Manual to obtain final payment.

CONSULTANT shall transmit to CITY promptly after notice from Contractor that Contractor considers the entire Work ready for its intended use, in company with CITY and Contractor, conduct an inspection to determine if the Work is Complete. If after considering any objections of CITY, CONSULTANT considers the Work Complete, CONSULTANT shall deliver a certificate of Completion to CITY and Contractor.

CONSULTANT shall conduct a final payment inspection to determine if the completed Work of Contractor is acceptable so that CONSULTANT may recommend, in writing, final payment to Contractor. Accompanying the recommendation for final payment, CONSULTANT shall also provide proper notice that the Work is acceptable to the best of CONSULTANT's knowledge, information, and belief and based on the extent of the services provided by CONSULTANT under this Agreement.

The Construction Phase will commence with the execution of the first Construction Agreement for the Project or any part thereof and will terminate upon written recommendation by CONSULTANT for final payment to Contractors.

The CONSULTANT shall not be responsible for the acts or omissions of any Contractor, or of any of their subcontractors, suppliers, or of any other individual or entity performing or furnishing any of the Work. CONSULTANT shall not be responsible for failure of any Contractor to perform or furnish the Work in accordance with the Project Manual.

CONSULTANT shall furnish a Resident Project Representative (RPR), assistants, and other field staff to assist CONSULTANT to provide more extensive observation of Contractor's work by observing progress and quality of the Work. The RPR, assistants, and other field staff may provide full time representation or may provide representation to a lesser degree.

Through such additional observations of Contractor's work in progress and field checks of materials and equipment by the RPR and assistants, CONSULTANT shall endeavor to provide further protection for CITY against defects and deficiencies in the Work.

The duties and responsibilities of the RPR are as follows:

- 1 Attend meetings with Contractor, such as preconstruction conferences, progress meetings, job conferences and other project-related meetings, and prepare and circulate copies of minutes thereof.
- 2 Serve as CONSULTANT's liaison with Contractor, working principally through Contractor's superintendent, assist in providing information regarding the intent of the Project Manual.
- 3 Assist CONSULTANT in serving as CITY's liaison with Contractor when Contractor's operations affect CITY's on-Site operations.
- 4 Assist in obtaining from CITY additional details or information, when required for proper execution of the Work.
- 5 Report to CONSULTANT when clarifications and interpretations of the Project Manual are needed and transmit to Contractor clarifications and interpretations as issued by CONSULTANT.
- 6 Record date of receipt of Samples and approved Shop Drawings.
- 7 Receive Samples, which are furnished at the Site by Contractor, and notify CONSULTANT of availability of Samples for examination.
- 8 Advise CONSULTANT and Contractor of the commencement of any portion of the Work requiring a Shop Drawing or Sample submittal for which RPR believes that the submittal has not been approved by CONSULTANT.
- 9 Consider and evaluate Contractor's suggestions for modifications to Drawings or Specifications and report such suggestions, together with RPR's recommendations, to CONSULTANT. Transmit to Contractor in writing decisions as issued by CONSULTANT.
- 10 Conduct on-Site observations of Contractor's work in progress to assist CONSULTANT in determining if the Work is, in general, proceeding in accordance with the Project Manual.
- 11 Report to CONSULTANT whenever RPR believes that any part of Contractor's work in progress will not produce a completed Project that conforms generally to the Project Manual or will imperil the integrity of the design concept of the completed Project as a functioning whole as indicated in the Project Manual, or has been damaged, or does not meet the requirements of any inspection, test or approval required to be made; and advise CONSULTANT of that part of work in progress that RPR believes should be corrected or rejected or should be uncovered for observation, or requires special testing, inspection or approval.
- 12 Consult with CONSULTANT in advance of scheduled major inspections, tests, and systems startups of important phases of the Work.
- 13 Verify that tests, equipment, and systems start-ups and operating and maintenance training are conducted in the presence of appropriate CITY's personnel, and that Contractor maintains adequate records thereof.
- 14 Observe, record, and report to CONSULTANT appropriate details relative to the test procedures and systems start-ups.
- 15 Accompany visiting inspectors representing public or other agencies having jurisdiction over the Project, record the results of these inspections, and report to CONSULTANT.
- 16 Maintain at the Site orderly files for correspondence, reports of job conferences, reproductions of original Project Manual including all Change Orders, Field Orders, Work Change Directives, Addenda, additional Drawings issued subsequent to the execution of the Contract, CONSULTANT's clarifications and

interpretations of the Project Manual, progress reports, Shop Drawing and Sample submittals received from and delivered to Contractor, and other Project-related documents.

- 17 Prepare a daily report or keep a diary or log book, recording Contractor's hours on the Site, weather conditions, data relative to questions of Change Orders, Field Orders, Work Change Directives, or changed conditions, Site visitors, daily activities, decisions, observations in general, and specific observations in more detail as in the case of observing test procedures; and send copies to CONSULTANT.
- 18 Record names, addresses, fax numbers, e-mail addresses, web site locations, and telephone numbers of all Contractors, subcontractors, and major suppliers of materials and equipment.
- 19 Maintain records for use in preparing Project documentation.
- 20 Upon completion of the Work, furnish original set of all RPR Project documentation to CONSULTANT.
- 21 Furnish to CONSULTANT periodic reports as required of progress of the Work and of Contractor's compliance with the progress schedule and schedule of Shop Drawing and Sample submittals.
- 22 Draft and recommend to CONSULTANT proposed Change Orders, Work Change Directives, and Field Orders. Obtain backup material from Contractor.
- 23 Furnish to CONSULTANT and CITY copies of all inspection, test, and system start-up reports.
- 24 Immediately notify CONSULTANT of the occurrence of any Site accidents, emergencies, acts of God endangering the Work, damage to property by fire or other causes, or the discovery of any Constituent of Concern.
- 25 Review Applications for Payment with Contractor for compliance with the established procedure for their submission and forward with recommendations to CONSULTANT, noting particularly the relationship of the payment requested to the schedule of values, Work completed, and materials and equipment delivered at the Site but not incorporated in the Work.
- 26 During the course of the Work, verify that materials and equipment certificates, operation and maintenance manuals and other data required by the Specifications to be assembled and furnished by Contractor are applicable to the items actually installed and in accordance with the Project Manual, and have these documents delivered to CONSULTANT for review and forwarding to CITY prior to payment for that part of the Work.
- 27 Participate in a Substantial Completion inspection, assist in the determination of Completion and the preparation of lists of items to be completed or corrected.
- 28 Participate in a final inspection in the company of CONSULTANT, CITY, and Contractor and prepare a final list of items to be completed and deficiencies to be remedied.
- 29 Observe whether all items on the final list have been completed or corrected and make recommendations to CONSULTANT concerning acceptance and issuance of the Notice of Acceptability of the Work.

Resident Project Representative shall not:

- 1 Exceed limitations of CONSULTANT's authority as set forth in the Agreement or the Project Manual.
- 2 Undertake any of the responsibilities of Contractor, subcontractors, suppliers, or Contractor's superintendent.



- 3 Advise on, issue directions relative to, or assume control over any aspect of the means, methods, techniques, sequences or procedures of Contractor's work unless such advice or directions are specifically required by the Project Manual.
- 4 Advise on, issue directions regarding, or assume control over safety practices, precautions, and programs in connection with the activities or operations of CITY or Contractor.
- 5 Participate in specialized field or laboratory tests or inspections conducted off-site by others except as specifically authorized by CONSULTANT.
- 6 Accept Shop Drawing or Sample submittals from anyone other than Contractor.
- 7 Authorize CITY to occupy the Project in whole or in part.

The CONSULTANT and RPR are expected to conduct themselves at all times in such a manner as to reflect credit upon themselves and the CITY they represent. It is expected that the CONSULTANT and RPR will be suitably dressed for the work, and they will be clean and neat enough to be a suitable representative of the CITY to the Contractor and the public. The CONSULTANT and RPR will be pleasant, courteous and business-like in meeting the public. It is helpful and considerate to answer questions asked by the public. If the CONSULTANT and RPR cannot clearly answer the question, the CONSULTANT should refer the questioner to the Manager of Engineering Services.

The CONSULTANT and RPR will not engage in controversial activities relative to the project in public, particularly if it involves public speaking, public debate, public media, etc. All written communications intended for publication that relate to the project must be approved by the Manager of Engineering Services.

Keeping accurate records and reports is a very important function of the CONSULTANT. These records are necessary for a number of reasons. Some of the most common reasons for these records and their use as references are as follows:

1. Accounting for quantities for periodic progress payments and extra work under cost plus change order procedures
2. Verify actions and decisions of the CONSULTANT
3. Report job status and site conditions of an accident or liability claim
4. Clarify the continuity of project contract time, such as working days, delays, and weather.
5. Responses to inquiries and complaints
6. Evidence in legal action

The basic reporting medium is the RPR Daily Report. It is a continuing report of the job progress and provides an adequate record of each day's progress and activities. The record of activities should be reported in the sequence that they take place. Each report should be brief but at the same time be complete, clear and factual and include all work accomplished by the Contractor, as well as pertinent related information. The report should answer "who did what, when, where, how and how much". Abbreviations are acceptable as long as their meanings are not confusing and have a common acceptance.

A checklist of items contained in the RPR Daily Report is as follows:

Typical entries for general information -

1. All reports shall show the CITY Project number and title and the CARS or SMAC project number
2. All entries shall be printed in black ink or computer generated
3. Detail the CONSULTANT hours on the jobsite
4. Record weather conditions such as "sunny, temperature, precipitation type and amount (light, moderate, heavy)"

5. Complete the report the same day
6. Label the report using the consecutive numbers
7. Note any written or verbal instructions given to the Contractor
8. Note any non-compliance issued for the job
9. Record any unsatisfactory or non-compliant work and corrective actions taken
10. Report all job incidents involving the public such as injuries, damages to property and equipment, safety conditions
11. Record the type, frequency, results and person providing testing
12. Detail job progress in terms of quantity, distances, stations, and weight as they are appropriate and applicable to project pay items
13. Record any factors adversely affecting progress of the work, such as utility conflict, material delivery, unforeseen conditions, plan changes, poor Contractor management, weather, etc.
14. Record any important visitors to the project and their nature of business
15. Sign and date the report
16. Send copy of report to Manager of Engineering Services

Typical entries for subgrade work –

1. Name of Contractor doing the work
2. Location and results of compaction tests completed and name of the testing laboratory
3. Limits of rough grade, cuts and fills
4. Thickness and type of material placed and compacted
5. Conformance with final grade specifications

Typical entries for curb, gutter, sidewalk and driveway work –

1. Name of Contractor doing the work
2. Station to station limits of forms placed when concrete is not placed the same day
3. Station to station limits of concrete placed, type of concrete and additives, number of cubic yards placed, source of concrete and copy of delivery ticket
4. Type and size of curb and gutter
5. Width and thickness of sidewalk
6. Width and thickness of driveways
7. Number and location of concrete tests for slump, cylinders taken, and name of testing laboratory

Typical entries for paving work –

1. Name of Contractor doing the work
2. Identification of milling, paving and roller equipment used
3. Source and type of material
4. Station to station and width limits of pavement placed, method of laying, material type,, thickness, and weight of material laid based on delivery tickets
5. Number and location of temperature of material at delivery tests, density tests and name of testing laboratory

Typical entries for storm drains –

1. Station to station limits of excavation, pipe laid (including size and type), bedding material, backfill material and compaction method
2. Number and location of structure by type, backfill material and compaction method
3. Location of utility conflicts and resolution
4. Method of restoration, compaction method and density test
5. Method of restoration, sidewalks, lawns
6. Televised inspection, dates and results

A primary responsibility of the CONSULTANT is to have a working knowledge of the controlling regulations, codes and directives dealing with the public convenience, public safety and construction safety. Though jobsite safety is legally the Contractor's responsibility, the CONSULTANT should immediately report all unsafe conditions or practices to the proper authority. The matter of jobsite safety is the Contractor's legal responsibility. However, if in the opinion of the CONSULTANT, the precautions taken by the Contractor are found to be insufficient or inadequate in providing job or public safety at any time, the CONSULTANT shall notify the Manager of Engineering Services.

The CONSULTANT and RPR are expected to wear suitable clothing and protective gear on the jobsite. Hard hats must be worn at all times there is a danger of falling and flying material. Approved reflective vests must be worn for high visibility in close proximity to traffic and moving equipment. Clothing and protective gear should clearly identify the CONSULTANT.

Good housekeeping and sanitary provisions are the responsibility of the Contractor. The Contractor is responsible for public and private property and shall take every reasonable precaution to avoid damage by the construction activities. Throughout all phases of construction, the rubbish and debris on a project shall be held to a minimum and confined to organized disposal and storage areas. Dust nuisance is to be held to a minimum. The Contractor's equipment and construction activities shall not contribute to air pollution by excessively discharging smoke, exhaust and other contaminants in such quantities to be a nuisance and violation of contract. The RPR shall record such unacceptable conditions in the RPR Daily Report.

The responsibility of safe and proper handling of traffic rests with the Contractor. The CONSULTANT shall see that the Contractor provides proper handling of traffic as required by the contract and shall notify the Contractor to correct any potentially dangerous situation that exists. The section of the Manual of Uniform Traffic Control Devices (MUTCD) titled *Work Area Traffic Control Handbook* sets forth the principle and standards in order to provide safe and effective work areas and to warn, control, protect and expedite vehicular and pedestrian traffic through the construction project. The MUTCD by reference is part of the Contractor's construction documents. The CONSULTANT shall refer to this document when monitoring and coordinating traffic handling with the Contractor. The RPR shall record such unacceptable conditions in the RPR Daily Report.

The CONSULTANT and RPR are directed to avail themselves of the *Public Works Inspector' Manual*, latest edition published by the BNi Building News and available through the American Public Works Association. The manual is a complete operational and technical guidebook for inspecting all types of public works construction. The manual is the standard by which the CITY expects the CONSULTANT and RPR to meet and is part of this Agreement.

### ARTICLE III COMPENSATION

The CITY agrees to pay the CONSULTANT, at Hourly Rates, to a Maximum Fee of \$187,000.00 for the scope of services as specified herein unless modified by Change Order. CONSULTANT'S current Hourly Rate Schedule is attached as Exhibit A.

The CONSULTANT may submit an invoice on a monthly basis from an estimate of Services or upon the completion of services. The CONSULTANT shall bill reimbursable expenses, which are beyond all fees for professional services, with a multiplier of 1.05. Reimbursable items shall be as follows:

- a. Final plots and printing for construction or as requested by the CITY except as outlined in the scope of services (printing and plotting for the CONSULTANT's in-house use is not a reimbursable expense)
- b. Project mileage.
- c. Delivery charges.

All billings must be submitted by the fifteenth day of the month for all services rendered in the previous month. The CONSULTANT will invoice the CITY on forms approved by the CITY. All properly prepared invoices will include a documented breakdown of expenses incurred.

Both parties may submit an Engineering Change Order for major changes in scope, character, delays or complexity of Services. The Engineering Change Order may provide for changes in compensation and schedule, either upward or downward. The Engineering Change Order shall be signed by the CITY and the CONSULTANT prior to the CONSULTANT proceeding with any work covered by this Agreement.

#### **ARTICLE IV** **GENERAL PROVISIONS**

**Times for Rendering Services:** The CONSULTANT's services and compensation under this Agreement have been agreed to in anticipation of orderly and continuous progress of the Services through completion. Specific periods of time for rendering services are set forth in Article IV, Time Schedule, in this Agreement, by which time defined services are to be completed. If such periods of time are changed through no fault of the CONSULTANT, the rates and amounts of compensation provided for therein shall be subject to equitable adjustment.

**Opinions of Probable Cost:** In providing opinions of probable cost, the CITY understands that the CONSULTANT has no control over costs or the price of labor, equipment or materials, or over the Contractor's method of pricing, and that the opinions of probable construction costs, if included herein, are to be made based on the CONSULTANT's qualifications and experience. The CONSULTANT makes no warranty, expressed or implied, as to the accuracy of such opinions as compared to bid or actual costs.

**Change in Scope:** The scope of work described in Article I Scope of Services, shall be subject to modification or supplement upon the signing of an Engineering Change Order by the CITY and the CONSULTANT. At the time of such modification of scope, equitable adjustments, agreeable to both parties, shall be made in the time of performance and the compensation to be paid for the services.

In event the CITY consents to, allows, authorizes or approves of changes to the construction documents prepared by the CONSULTANT, and these changes are not approved in writing by the CONSULTANT, the CITY recognizes that such changes and the results thereof are not the responsibility of the CONSULTANT. Therefore, the CITY agrees to release the CONSULTANT from any liability arising from the construction, use, or result of such changes. In addition, the CITY agrees to indemnify and hold the CONSULTANT harmless from any damage, liability or cost arising from such changes.

**Reuse of Documents:** All documents including the plans and specifications provided or furnished by the CONSULTANT pursuant to this Agreement are instruments of service in respect of the Services and the CONSULTANT shall retain an ownership and property interest therein whether or not the Services 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 Services or on any other Services. 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, and 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 there from.

In a similar manner, the CONSULTANT is prohibited from reuse or disclosing any information contained in any documents, plans or specifications relative to the Services without the expressed written permission of the CITY.

**Insurance:** The Consultant shall procure and maintain, at its expense, the following insurance coverage: (a) Workers' Compensation – Statutory Limits, with Employer's Liability limits of \$100,000 each employee, \$500,000 policy limit; (b) Commercial General Liability for bodily injury and property damage liability claims with limits of not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate; (c) Commercial Automobile Liability for bodily injury and property damage with limits of not less than \$1,000,000 each accident for all owned, non-owned and hired automobiles; (d) errors and omissions coverage of not less than \$1,000,000. Deductibles for any of the above coverage shall not exceed \$25,000 unless approved in writing by City. In addition, Consultant agrees to require all consultants and subconsultants 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.

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 insured's as their interest may appear, except that the additional insured requirement shall not apply to Errors and Omissions coverage. Such endorsement shall be ISO CG2010 11/85 or equivalent. "Claims Made" and "Modified Occurrence" forms are not acceptable, except for Errors and Omissions coverage. Each certificate of insurance shall state that such insurance will not be canceled or coverage reduced until after thirty (30) days' unqualified written notice of cancellation or reduction has been given to the City, except in the event of nonpayment of premium, in which case there shall be ten (10) days' unqualified written notice. Subrogation against City and City's Agent shall be waived. Consultant's insurance policies shall be endorsed to indicate that Consultant's insurance coverage is primary and any insurance maintained by City or City's Agent is non-contributing.

Before Consultant performs any portion of the Work, it shall provide City with certificates and endorsements evidencing the insurance required by the Article. Consultant agrees to maintain the insurance required by the 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 insured's thereunder.

If due to the Consultant's neglect act, error or omission, any required item or component of the project is omitted for 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, and 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.

**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. 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).

**Controlling Law:** This Agreement is to be governed by the laws of the State of Kansas.

**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 subconsultants hired by consultant,

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

**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.

**Notices:** Any notice required under this Agreement will be in writing, addressed to the appropriated party at the address which appears on the signature page to this Agreement (as modified in writing from time 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.

**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.

Neither the City nor the Consultant may assign, sublet, or transfer any rights under or 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.

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, KS

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

Ronald L. Shaffer

**CONSULTANT:**

SHAFER, KLINE & WARREN, INC.

By:  \_\_\_\_\_  
Gerald C. Johnson, P.E.

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Principal

Address for giving notices:

CITY of Prairie Village  
7700 Mission Road  
Prairie Village, Kansas, 66208  
913-381-6464

ATTEST:

\_\_\_\_\_  
Joyce Hagen Mundy, CITY Clerk

Address for giving notices:

Shafer, Kline & Warren, Inc.  
11100 W. 91st Street  
Overland Park, Kansas 66214  
913-888-7800

APPROVED BY:

\_\_\_\_\_  
Charles E. Wetzler, CITY Attorney

\\Op-project\Projects\106409-030\Legal\Client Contract\Professional Agreement Consultant Services.doc

## HOURLY RATE SCHEDULE

<u>CLASSIFICATION</u>	<u>HOURLY RATE</u>	<u>CLASSIFICATION</u>	<u>HOURLY RATE</u>
Principal	\$155	Secretarial/Clerical	\$55
Associate	140	Engineering Technician V	100
Engineer V	130	Engineering Technician IV	90
Engineer IV	120	Engineering Technician III	80
Engineer III	110	Engineering Technician II	70
Engineer II	100	Engineering Technician I	60
Engineer I	90	Drafter	45
Landscape Architect IV	120	Construction Observer IV	90
Landscape Architect III	110	Construction Observer III	85
Landscape Architect II	100	Construction Observer II	75
Landscape Architect I	85	Construction Observer I	65
Landscape Design	70	Registered Land Surveyor II	110
Planner IV	120	Registered Land Surveyor I	95
Planner III	110	Survey Crew	150
Planner II	100	Survey Rodperson	45
Planner I	85	Survey Technician V	100
GIS Consultant IV	115	Survey Technician IV	90
GIS Consultant III	100	Survey Technician III	80
GIS Consultant II	85	Survey Technician II	70
GIS Consultant I	70	Survey Technician I	60
Controls Technician II	80	GPS Survey Technician	95
Controls Technician I	60		
Photogrammetrist III	90		
Photogrammetrist II	80		
Photogrammetrist I	70		

**Equipment Costs**

GPS Survey Receiver	\$20
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*Note #1*

*The hourly rate shown for GPS Personnel and Survey Crews includes stakes, flagging, iron bars and other miscellaneous materials.*

*Note #2*

*All reimbursable expenses incurred on a project will be charged at a rate of direct cost plus 10% to cover administrative overhead. Direct cost of passenger car mileage will be at the standard rate established by the Internal Revenue Service and in effect at the time the expense is incurred. Direct cost of survey vehicle mileage will be at the IRS standard passenger car rate, plus 20%. Plotting and reproduction will be charged at \$0.50 per square foot for all media except photographic glossy, which will be charged at \$1.00 per square foot. Color copies will be charged at \$0.80 per 8.5 x 11 sheet and \$1.60 per 11 x 17 sheet. Subcontract expenses will be charged at quoted prices with no markup.*

Effective January 1, 2007



SHAFER, KLINE & WARREN, INC.



# ACORD CERTIFICATE OF LIABILITY INSURANCE

OPID BB  
SHAPE-1

DATE (MM/DD/YYYY)  
12/21/06

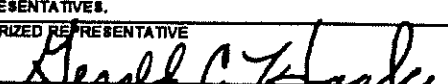
<b>PRODUCER</b> Haake Companies 4650 College Blvd., Suite 300 Overland Park KS 66211 Phone: 913-491-1999 Fax: 913-906-0088		THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.	
<b>INSURED</b> Shafer, Kline & Warren, Inc.; SKW Technical Service Group Inc., Shetlar, Griffith, Shetlar, P.A. Hamilton & Associates, Inc. 2940 Main Street Kansas City MO 64108		<b>INSURERS AFFORDING COVERAGE</b>	<b>NAIC #</b>
		INSURER A: <b>Amerisure Mutual Insurance</b>	
		INSURER B:	
		INSURER C:	
		INSURER D:	
		INSURER E:	

**COVERAGES**

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR ADD'L LTR	INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	X	<b>GENERAL LIABILITY</b> <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> <b>BLANKET CONT. LIAB</b> <input checked="" type="checkbox"/> <b>X.C.U. INCLUDED</b> GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOG	CPP1386817	05/01/06	05/01/07	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
A		<b>AUTOMOBILE LIABILITY</b> <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS <input checked="" type="checkbox"/> \$500 Comp Ded <input checked="" type="checkbox"/> \$500 Coll Ded	CA1386816	05/01/06	05/01/07	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
		<b>GARAGE LIABILITY</b> <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN AUTO ONLY EA ACC AGG \$
A		<b>EXCESS/UMBRELLA LIABILITY</b> <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> DEDUCTIBLE <input checked="" type="checkbox"/> RETENTION \$10,000	CU1386818 (UMBRELLA)	05/01/06	05/01/07	EACH OCCURRENCE \$ 6,000,000 AGGREGATE \$ 6,000,000
A		<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below	C43685533	05/01/06	05/01/07	<input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
A		<b>OTHER</b> LEASED OR RENTED CONTRS. EQUIPMENT.	CPP1386817 INCL THEFT	05/01/06	05/01/07	PER ITEM \$100,000. PER OCC \$1000.DED

**DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS**  
 Project: 190708: Tomahawk Storm Drainage Improvements (Nall Ave. to Roe Ave.) City of Prairie Village is Named as Additional Insured on General Liability but only as their interest appears with respects to work performed by or on behalf of Named Insured.

<b>CERTIFICATE HOLDER</b>  City of Prairie Village, Kansas 3535 Somerset Drive Prairie Village KS 66208	<b>CANCELLATION</b> SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES. AUTHORIZED REPRESENTATIVE 
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# ACORD™ CERTIFICATE OF LIABILITY INSURANCE

09/06/2007

DATE (MM/DD/YY)  
12/21/2006

**PRODUCER**  
Lockton Companies  
444 W 47th Street, Suite 900  
Kansas City Mo 64112-1906  
(816) 960-9000

**INSURED**  
1058114  
SHAFER, KLINE & WARREN, INC.  
11100 W 91ST  
OVERLAND PARK KS 66214

**THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.**

### INSURERS AFFORDING COVERAGE

INSURER A. CNA  
INSURER B (Victor O Schinnerer)  
INSURER C  
INSURER D  
INSURER E

**THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER AND THE CERTIFICATE HOLDER.**

**COVERAGES SHAKLOI PC**

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN. THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS

INSR LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
	<b>GENERAL LIABILITY</b> <input type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC	NOT APPLICABLE			EACH OCCURRENCE \$ XXXXXXXX FIRE DAMAGE (Any one fire) \$ XXXXXXXX MED EXP (Any one person) \$ XXXXXXXX PERSONAL & ADV INJURY \$ XXXXXXXX GENERAL AGGREGATE \$ XXXXXXXX PRODUCTS - COMP/OP AGG \$ XXXXXXXX
	<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS	NOT APPLICABLE			COMBINED SINGLE LIMIT (Per accident) \$ XXXXXXXX BODILY INJURY (Per person) \$ XXXXXXXX BODILY INJURY (Per accident) \$ XXXXXXXX PROPERTY DAMAGE (Per accident) \$ XXXXXXXX
	<b>GARAGE LIABILITY</b> <input type="checkbox"/> ANY AUTO	NOT APPLICABLE			AUTO ONLY - EA ACCIDENT \$ XXXXXXXX OTHER THAN EA ACC \$ XXXXXXXX AUTO ONLY AGG \$ XXXXXXXX
	<b>EXCESS LIABILITY</b> <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> DEDUCTIBLE <input type="checkbox"/> UMBRELLA FORM RETENTION \$	NOT APPLICABLE			EACH OCCURRENCE \$ XXXXXXXX AGGREGATE \$ XXXXXXXX \$ XXXXXXXX \$ XXXXXXXX \$ XXXXXXXX
	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b>	NOT APPLICABLE			WC STATUTORY LIMITS   OTHER E.L. EACH ACCIDENT \$ XXXXXXXX E.L. DISEASE - EA EMPLOYEE \$ XXXXXXXX E.L. DISEASE - POLICY LIMIT \$ XXXXXXXX
A	<b>OTHER PROFESSIONAL LIABILITY</b>	AEH 27 615 57 RR	09/06/2006	09/06/2107	\$1,000,000 PER CLAIM AND AGGREGATE

**DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/EXCLUSIONS ADDED BY ENDORSEMENT/SPECIAL PROVISIONS**  
 RE PROJECT: 190708, TOMAHAWK STORM DRAINAGE IMPROVEMENTS (N.I.I. AVE TO ROE AVE)

**CERTIFICATE HOLDER**  
2748036  
CITY OF PRAIRIE VILLAGE, KANSAS  
3535 SOMERSET DR.  
PRAIRIE VILLAGE KS 66208

**ADDITIONAL INSURED/INSURER LETTERS:**

**CANCELLATION**  
 SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE  


**POL2004-13 CONSIDER PROJECT 190708: TOMAHAWK STORM DRAINAGE (NALL AVENUE TO ROE AVENUE) CONSTRUCTION AGREEMENT**

**Background:**

On January 5, 2007, the City Clerk opened bids for Project 190708: Tomahawk Storm Drainage (Nall Avenue to Roe Avenue). Five bids were received:

Linaweaver Construction	\$2,178,915.25
Pyramid Excavation	\$2,429,765.00
Max Rieke Brothers	\$2,457,234.00
Wiedenmann and Godfrey	\$2,888,888.00
Dennis Johnson	\$2,970,870.00
Engineer's Estimate	\$2,803,553.00

The Engineer has reviewed all bids and no errors were found. Public Works is recommending acceptance of the low bid from Linaweaver Construction for \$2,178,915.25.

**Financial Impact:**

Funding is available in the Capital Infrastructure Program. The Johnson County SMAC program will be reimbursing the City for 75% (\$1,634,200). The City cost will be \$544,715.

**Suggested Motion:**

Move to approve the construction contract with Linaweaver Construction for Project 190708: Tomahawk Storm Drainage (Nall Avenue to Roe Avenue) in the amount of \$2,178,915.25.

**CONSTRUCTION AGREEMENT**  
**BETWEEN**  
**THE CITY OF PRAIRIE VILLAGE, KANSAS**  
**AND**  
**LINAWEAVER CONSTRUCTION, INC.**  
**FOR**  
**PROJECT NO. 190708**  
**TOMAHAWK ROAD**  
**STORM DRAINAGE IMPROVEMENTS**  
**ROE AVENUE TO NALL AVENUE**

**THIS AGREEMENT**, is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2007, by and between the City of Prairie Village, Kansas, hereinafter termed the "City", and Linaweaver Construction Inc, hereinafter termed in this agreement, "Contractor", for the construction and completion of Project, designated, described and required by the Project Manual and Bid proposal, to wit:

**CONTRACT COST:** The City shall pay the Contractor for the performance of the Work embraced in this Contract, and the Contractor will accept in full compensation therefore the sum (subject to adjustment as provided by the Contract) of two million and one hundred and seventy-eight thousand and nine hundred and fifteen and 25/100 dollars (\$2,178,915.25) for all Work covered by and included in the Contract; payment thereof to be made in cash or its equivalent and in a manner provided in the Contract Documents.

**LIQUIDATED DAMAGES:**

The contract is comprised of one large project (sometimes referred to as "Total Project Work") and, in some cases, is partitioned into smaller subprojects referred to in this agreement as "Project Segments." A total completion date shall be set forth for both the Total Project Work and, when applicable, the Project Segments. Liquidated damages shall apply to the Total Completion Date for the Total Project Work (as may be extended under the Contract) and, when applicable, the Total Completion Date for each Project Segment (as may be extended under the Contract), in accordance with this Agreement and the Special Conditions. Liquidated Damages are described in greater detail below and the applicable rates for the subject Project are set forth in the **Special Conditions**, attached hereto and incorporated herein by this reference.

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

Contractor agrees that time is of the essence and any term pertaining to Contractor timely performing so as to achieve Total Completion when required under the Contract is a material provision of this Contract. Further, the parties acknowledge that City's damages in the event of delay are difficult to ascertain and consequently

agree that, in the event and to the extent that actual date of Total Completion is delayed beyond the required date for Total Completion for the Total Project or Project Segments attributable solely or concurrently to (i) an act or omission of Contractor or any of its subcontractors or suppliers, or (ii) in whole or in part, to any other event or condition within the Contractor's reasonable control (and not for reasons solely attributable to City), the Contractor shall be assessed a liquidated damage, and not as a penalty, in the amount set forth in the Special Conditions for each calendar day beyond the applicable Total Completion date. Such amount shall be deducted from any amounts due Contractor under this agreement.

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

Further, the Contractor agrees that, in the event Contractor does not carry out such work at such rates of progress as required by the Construction Schedule, the City may, at its option and without Contractor receiving any additional compensation therefore, require Contractor to increase the number of qualified supervisory personnel and/or workers and the amount of equipment employed in the performance of the Work to such extent as City may deem necessary or desirable. In addition, City, at its option, may supplement Contractor's manpower by entering into contracts with other contractors to perform the Work. All costs that are incurred by City, in this regard, including reasonable attorney's fees, shall be deducted from any sums due Contractor or City may make demand on Contractor for reimbursement of such costs.

## 1. DEFINITIONS:

### 1.1 Following words are given these definitions:

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

**BID DOCUMENTS** shall mean all documents related to submitting a Bid, including, but not limited to, the Advertisement for Bids, Instruction to Bidders, Bid Form, Bid Bond and the proposed Project Manual, including any Addenda issued prior to receipt of Bids.

**BID PROPOSAL** shall mean the offer or proposal of the Bidder submitted on the prescribed form set forth the prices for the work to be performed.

**BONDS** shall mean the bid, maintenance, performance, and statutory or labor and materials payment bonds, together with such other instruments of security as may be required by the Contract Documents.

**CHANGE ORDER** is a written order issued after the Agreement is executed by which the City and the Contractor agree to construct additional items of work, to adjust the quantities of work, to modify the Contract time, or, in lump sum contracts, to change the character and scope of work shown on the Project Manual.

**CITY** shall mean the City of Prairie Village, Kansas, acting through a duly appointed representative.

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

**CONTRACT PRICE** shall be the amount identified in the Construction Agreement between the City and the Contractor as the total amount due the Contractor for total completion of the Work as per the

Contract Documents.

**CONTRACT TIME** shall be the number of calendar days stated in the Contract Documents for the completion of the work or shall be a specific date as designated in the Construction Agreement.

**CONTRACTOR** shall mean the entity entering into the Contract for the performance of the work covered by this Contract, together with his/her duly authorized agents or legal representatives.

**DEFECTIVE WORK** shall mean work, which is unsatisfactorily, faulty or deficient, or not in conformity with the Project Manual.

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

**FIELD ORDER** shall mean a written order issued by the Engineer that orders minor changes in the work, but which does not involve a change in the contract price or contract time.

**FINAL ACCEPTANCE** shall mean the date when the City accepts in writing that the construction of the Work is complete in accordance with the Contract Documents such that the entire Work can be utilized for the purposes for which it is intended and Contractor is entitled to final payment.

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

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

**NOTICE TO PROCEED** shall mean the written notice by the City to the Contractor fixing the date on which the Contract time is to commence and on which the Contractor shall start to perform its obligations under the Contract Documents. Without the prior express written consent of the City, the Contractor shall do no work until the date set forth in the Notice to Proceed.

**PAY ESTIMATE NO. \_\_\_\_ or FINAL PAY ESTIMATE** shall mean the form to be used by the Contractor in requesting progress and final payments, including supporting documentation required by the Contract Documents.

**PLANS** shall mean and include all drawings which may have been prepared by or for the City or submitted by the Contractor to the City during the progress of the Work, all of which show the character and scope of the work to be performed.

**SHOP DRAWINGS** shall mean all drawings, diagrams, illustrations, schedules and other data which are specifically prepared by the Contractor, a Subcontractor, manufacturer, fabricator, supplier or distributor to illustrate some portion of the Work, and all illustrations, brochures, standard schedules, performance charts, instructions, diagrams and other information prepared by a manufacturer, fabricator, supplier or distributor and submitted by the Contractor to illustrate material or equipment for some portion of the work.

**SPECIFICATIONS** shall mean those portions of the Project Manual consisting of written technical descriptions of materials, equipment, construction methods, standards and workmanship as applied to the Work and certain administrative details applicable thereto. They may include, but not necessarily be limited to: design specifications, e.g. measurements, tolerances, materials, inspection requirements and other information relative to the work; performance specifications, e.g., performance characteristics required, if any; purchase description specifications, e.g. products or equipment required by manufacturer, trade name and/or type; provided, however, equivalent alternatives (including aesthetics, warranty and

manufacturer reputation) may be substituted upon written request and written approval thereof by the City.

**SUB-CONTRACTOR** shall mean an individual, firm or corporation having a direct contract with the Contractor or with another subcontractor for the performance of a part of the Work.

**SUBSTANTIAL COMPLETION** shall be defined as being less than 100 percent of the work required that will be completed by a specified date as agreed to in writing by both parties.

**TOTAL COMPLETION** shall be defined as fulfilling 100 percent of the work required in this contract by the date specified herein.

**WORK** shall mean the work to be done to complete the construction required of the Contractor by the Contract Documents, and includes all construction, labor, materials, tools, equipment and transportation necessary to produce such construction in accordance with the Contract Documents.

**UNIT PRICE WORK** shall mean work quantities to be paid for based on unit prices. Each unit price shall be deemed to include the Contractor's overhead and profit for each separately identified item. It is understood and agreed that estimated quantities of times for unit price work are not guaranteed and are solely for the purpose of comparison of bids and determining an initial Contract price. Determinations of actual quantities and classifications of unit price work shall be made by the City.

- 1.2 Whenever any word or expression defined herein, or pronoun used instead, occurs in these Contract Documents; it shall have and is mutually understood to have the meaning commonly given. Work described in words, which so applied have a well-known technical or trade meaning shall be held to refer to such, recognized standards.
- 1.3 Whenever in these Contract Documents the words "as ordered," "as directed", "as required", "as permitted", "as allowed", or words or phrases of like import are used, it is understood that the order, direction, requirement, permission or allowance of the City Engineer is intended.
- 1.4 Whenever any statement is made in the Contract Documents containing the expression "it is understood and agreed", or an expression of like import, such expression means the mutual understanding and agreement of the parties hereto.
- 1.5 The words "approved", "reasonable", "suitable", "acceptable", "properly", "satisfactorily", or words of like effect in import, unless otherwise particularly specified herein, shall mean approved, reasonable, suitable, acceptable, proper or satisfactory in the judgment of the City Engineer.
- 1.6 When a word, term or phrase is used in the Contract, it shall be interpreted or construed, first, as defined herein; second, if not defined, according to its generally accepted meaning in the construction industry; and, third, if there is no generally accepted meaning in the construction industry, according to its common and customary usage.
- 1.7 All terms used herein shall have the meanings ascribed to them herein unless otherwise specified.

**ENTIRE AGREEMENT:**

- 1.1 The Contract Documents, together with the Contractor's Performance, Maintenance and Statutory bonds for the Work, constitute the entire and exclusive agreement between the City and the Contractor with reference to the Work. Specifically, but without limitation, this Contract supersedes all prior written or oral communications, representations and negotiations, if any, between the City and the Contractor. The Contract may not be amended or modified except by a modification as hereinabove defined. These

Contract Documents do not, nor shall they be construed to, create any contractual relationship of any kind between the City and any Subcontractor or remote tier Subcontractor.

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

## 2. INTENT AND INTERPRETATION

- 2.1 The intent of the Contract is to require complete, correct and timely execution of the Work. Any Work that may be required, including construction, labor, materials, tools, equipment and transportation, implied or inferred by the Contract Documents, or any one or more of them, as necessary to produce the intended result, shall be provided by the Contractor for the Contract Price.
- 2.2 All limits stated in the Contract Documents are of the essence of the Contract.
- 2.3 The Contract is intended to be an integral whole and shall be interpreted as internally consistent. What is required by any one Contract Document shall be considered as required by the Contract.
- 2.4 The specification herein of any act, failure, refusal, omission, event, occurrence or condition as constituting a material breach of this Contract shall not imply that any other, non-specified act, failure, refusal, omission, event, occurrence or condition shall be deemed not to constitute a material breach of this Contract.
- 2.5 The Contractor shall have a continuing duty to read, carefully study and compare each of the Contract Documents and shall give written notice to the Engineer of any inconsistency, ambiguity, error or omission, which the Contractor may discover, or should have discovered, with respect to these documents before proceeding with the affected Work. The review, issuance, or the express or implied approval by the City or the Engineer of the Contract Documents shall not relieve the Contractor of the continuing duties imposed hereby, nor shall any such review be evidence of the Contractor's compliance with this Contract.
- 2.6 The City has prepared or caused to have prepared the Project Manual. **HOWEVER, THE CITY MAKES NO REPRESENTATION OR WARRANTY AS TO ACCURACY OR FITNESS FOR PARTICULAR PURPOSE INTENDED OR ANY OTHER WARRANTY OF ANY NATURE WHATSOEVER TO THE CONTRACTOR CONCERNING SUCH DOCUMENTS.** By the execution hereof, the Contractor acknowledges and represents that it has received, reviewed and carefully examined such documents, has found them to be complete, accurate, adequate, consistent, coordinated and sufficient for construction, and that the Contractor has not, does not, and will not rely upon any representation or warranties by the City concerning such documents as no such representation or warranties have been made or are hereby made.
- 2.7 As between numbers and scaled measurements in the Project Manual, the numbers shall govern; as between larger scale and smaller scale drawings, (e.g. 10:1 is larger than 100:1) the larger scale shall govern.
- 2.8 The organization of the Project Manual into divisions, sections, paragraphs, articles (or other categories), shall not control the Contractor in dividing the Work or in establishing the extent or scope of the Work to be performed by Subcontractors.
- 2.9 The Contract Documents supersedes all previous agreements and understandings between the parties, and



renders all previous agreements and understandings void relative to these Contract Documents.

- 2.10 Should anything be omitted from the Project Manual, which is necessary to a clear understanding of the Work, or should it appear various instructions are in conflict, the Contractor shall secure written instructions from the Engineer before proceeding with the construction affected by such omissions or discrepancies.
- 2.11 It is understood and agreed that the work shall be performed and completed according to the true spirit, meaning, and intent of the Contract Documents.
- 2.12 The Contractor's responsibility for construction covered by conflicting requirements, not provided for by addendum prior to the time of opening Bids for the work represented thereby, shall not extend beyond the construction in conformity with the less expensive of the said conflicting requirements. Any increase in cost of work required to be done in excess of the less expensive work of the conflicting requirements will be paid for as extra work as provided for herein.
- 2.13 The apparent silence of the Project Manual as to any detail, or the apparent omission from them of a detailed description concerning any point, shall be regarded as meaning that only the best general practice is to be used. All interpretations of the Project Manual shall be made on the basis above stated.
- 2.14 The conditions set forth herein are general in scope and are intended to contain requirements and conditions generally required in the work, but may contain conditions or requirements which will not be required in the performance of the work under contract and which therefore are not applicable thereto. Where any stipulation or requirement set forth herein applies to any such non-existing condition, and is not applicable to the work under contract, such stipulation or requirement will have no meaning relative to the performance of said work.
- 2.15 Pursuant to K.S.A. No. 16-133, if the Contractor to whom the Contract is awarded is not a resident firm of the State of Kansas, he shall execute and file "Certificate of Appointment of Process of Agent" with the Clerk of the District Court at the Johnson County Courthouse. These forms may be obtained at the Office of the Clerk of the District Court. After execution of the documents, they shall be filed with the Clerk of the District Court. A filing fee of Five Dollars (\$5.00) is required. These certificates are pursuant to the General Statutes of Kansas, and shall be filed prior to the formal execution of the Contract Documents. Failure to comply with these requirements shall disqualify the Contractor for the awarding of this Contract.

### 3. WORK SUPERINTENDENT

- 3.1 The Contractor shall provide and maintain, continually on the site of Work during its progress, an adequate and competent superintendent of all operations for and in connection with the work being performed under this Contract, either personally or by a duly authorized superintendent or other representative. This representative shall be designated in writing at the preconstruction meeting.
- 3.2 The superintendent, or other representative of the Contractor on the Work, who has charge thereof, shall be fully authorized to act for the Contractor, and to receive whatever orders as may be given for the proper prosecution of the work, or notices in connection therewith. Use of Subcontractors on portions of the work shall not relieve the Contractor of the obligation to have a competent superintendent on the work at all times.

- 3.3 The City shall have the right to approve the person who will be the Superintendent based on skill, knowledge, experience and work performance. The City shall also have the right to request replacement of any superintendent.
- 3.4 The duly authorized representative shall be official liaison between the City and the Contractor regarding the signing of pay estimates, change orders, workday reports and other forms necessary for communication and Work status inquiries. Upon Work commencement, the City shall be notified, in writing, within five (5) working days of any changes in the Contractor's representative. In the absence of the Contractor or representative, suitable communication equipment, which will assure receipt of messages within one (1) hour during the course of the workday, will also be required.
- 3.5 The Contractor will be required to contact the Engineer daily to advise whether and/or where the Contractor and/or the Subcontractor's crews will be working that day, in order that the Engineer's representative is able to monitor properly the Work.

#### 4. ENGINEER

- 4.1 It is mutually agreed by and between the parties to this Contract Agreement that the Engineer shall act as the representative of the City and shall observe, as required, the work included herein.
- 4.2 In order to prevent delays and disputes and to discourage litigation, it is further agreed by and between the parties to this Contract that the Engineer shall, in good faith and to the best of its ability, determine the amount and quantities of the several kinds of work which are to be paid for under this Contract; that the Engineer shall determine, where applicable, questions in relation to said Work and the construction thereof; that Engineer shall, where applicable decide questions which may arise relative to the execution of this Contract on the part of said Contractor; that the Engineer's decisions and findings shall be the conditions precedent to the rights of the parties hereto, to any action on the Contract, and to any rights of the Contractor to receive any money under this Contract provided, however, that should the Engineer render any decision or give any direction which, in the opinion of either party hereto, is not in accordance with the meaning and intent of this Contract, either party may file with the Engineer and with the other party, within thirty (30) days a written objection to the decision or direction so rendered and, by such action, may reserve the right to submit the question to determination in the future.
- 4.3 The Engineer, unless otherwise directed or agreed to by the City in writing, will perform those duties and discharge those responsibilities allocated to the Engineer as set forth in this Contract. The Engineer shall be the City's representative from the effective date of this Contract until final payment has been made. The Engineer shall be authorized to act on behalf of the City only to the extent provided in this Contract.
- 4.4 The City and the Contractor shall communicate with each other in the first instance through the Engineer.
- 4.5 The Engineer shall be the initial interpreter of the requirements of the Project Manual and the judge of the performance by the Contractor. The Engineer shall render written graphic interpretations necessary for the proper execution or progress of the Work with reasonable promptness on request of the Contractor.
- 4.6 The Engineer will review the Contractor's Applications for Payment and will certify to the City for payment to the Contractor those amounts then due the Contractor as provided in this Contract. The Engineer's recommendation of any payment requested in an Application for Payment will constitute a representation by Engineer to City, based on Engineer's on-site observations of the Work in progress as an experienced and qualified design professional and on Engineer's review of the Application for Payment

and the accompanying data and schedules that the Work has progressed to the point indicated; that, to the best of the Engineer's knowledge, information and belief, the quality of the Work is in accordance with the Project Manual (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, to the results of any subsequent tests called for in the Project Manual, to a final determination of quantities and classifications for Unit Price Work if such is called for herein, and to any other qualifications stated in the recommendation); and that Contractor is entitled to payment of the amount recommended. However, by recommending any such payment Engineer will not thereby be deemed to have represented that exhaustive or continuous on-site inspections have been made to check the quality or the quantity of the Work beyond the responsibilities specifically assigned to Engineer in the Project Manual or that there may not be other matters or issues between the parties that might entitle Contractor to be paid additionally by the City or the City to withhold payment to Contractor.

- 4.7 The Engineer may refuse to recommend the whole or any part of any payment if, in Engineer's opinion, it would be incorrect to make such representations to City. Engineer may also refuse to recommend any such payment, or, because of subsequently discovered evidence or the results of subsequent inspections or tests, nullify any such payment previously recommended, to such extent as may be necessary in the Engineer's opinion to protect the City from loss because:
- The Work is defective, or completed Work has been damaged requiring correction or replacement,
  - The Contract Price has been reduced by Written Amendment or Change Order,
  - The City has been required to correct defective Work or complete Work in accordance with the Project Manual.
- 4.8 The City may refuse to make payment of the full amount recommended by the Engineer because claims have been made against City on account of Contractor's performance or furnishing of the Work or liens have been filed in connection with the Work or there are other items entitling City to a set-off against the amount recommended, but City must give Contractor written notice (with a copy to Engineer) stating the reasons for such action.
- 4.9 The Engineer will have the authority to reject Work, which is defective or does not conform to the requirements of this Contract. If the Engineer deems it necessary or advisable, the Engineer shall have authority to require additional inspection or testing of the Work for compliance with Contract requirements.
- 4.10 The Engineer will review, or take other appropriate action as necessary, concerning the Contractor's submittals, including Shop Drawings, Product Data and Samples. Such review, or other action, shall be for the sole purpose of determining general conformance with the design concept and information given through the Project Manual.
- 4.11 The Engineer shall have authority to order minor changes in the Work not involving a change in the Contract Price or in Contract Time and consistent with the intent of the Contract. Such changes shall be effected by verbal direction and then recorded on a Field Order and shall be binding upon the Contractor. The Contractor shall carry out such Field Orders promptly.
- 4.12 The Engineer, upon written request from the Contractor shall conduct observations to determine the date of substantial completion and the date of final acceptance. The Engineer will receive and forward to the City for the City's review and records, written warranties and related documents from the Contractor required by this Contract and will issue a final Certificate for Payment to the City upon compliance with the requirements of this Contract.

- 4.13 The Engineer's decisions in matters relating to aesthetic effect shall be final if consistent with the intent of this Contract.
- 4.14 The Engineer will **NOT** be responsible for Contractor's means, methods, techniques, sequences, or procedures or construction, or the safety precautions and programs incident thereto and will not be responsible for Contractor's failure to perform the work in accordance with the Project Manual. The Engineer will not be responsible for the acts or omissions of the Contractor or any Subcontractor or any of its or their agents or employees, or any other person at the site or otherwise performing any of the work except as may otherwise be provided.
- 4.15 Any plan or method of work suggested by the Engineer, or other representatives of the City, to the Contractor, but not specified or required, if adopted or followed by the Contractor in whole or in part, shall be used at the risk and responsibility of the Contractor, and the Engineer and the City will assume no responsibility therefore.
- 4.16 It is agreed by the Contractor that the City shall be and is hereby authorized to appoint or employ, either directly or through the Engineer, such City representatives or observers as the City may deem proper, to observe the materials furnished and the work performed under the Project Manual, and to see that the said materials are furnished, and the said work performed, in accordance with the Project Manual therefore. The Contractor shall furnish all reasonable aid and assistance required by the Engineer, or by the resident representatives for proper observation and examination of the Work and all parts thereof.
- 4.17 The Contractor shall comply with any interpretation of the Project Manual by the Engineer, or any resident representative or observer so appointed, when the same are consistent with the obligations of the Project Manual. However, should the Contractor object to any interpretation given by any subordinate engineer, resident representative or observer, the Contractor may appeal in writing to the City Director of Public Works for a decision.
- 4.18 Resident representatives, observers, and other properly authorized representatives of the City or Engineer shall be free at all times to perform their duties, and intimidation or attempted intimidation of any one of them by the Contractor or by any of its employees, shall be sufficient reason, if the City so decides, to annul the Contract.
- 4.19 Such observation shall not relieve the Contractor from any obligation to perform said work strictly in accordance with the Project Manual.

**5. WORK SCHEDULE:**

- 5.1 The Contractor, within ten (10) calendar days after being instructed to do so in a written notice from the City, shall commence work to be done under this Contract.
- 5.2 The rate of progress shall be such that the Work shall have been completed in accordance with the terms of the Contract Documents on or before the completion date for the construction period named in the contract agreement, subject to any extension or extensions of such time made as hereinafter provided.
- 5.3 The Contractor shall be required to furnish the Engineer with a schedule setting forth in detail (in the critical path method) the sequences proposed to be followed, and giving the dates on which it is expected that portions of the work will be started and completed.

- 5.4 If at any time, in the opinion of the Engineer or City, proper progress is not being maintained; such changes shall be made in the schedule and resubmitted for consideration.
- 5.5 If the Contractor has not completed Work segments and is within a non-performance penalty period, he/she shall not be allowed to undertake a new Work segment until the Work segment in dispute is completed, unless expressly permitted by the City.
- 5.6 The operation of any tool, equipment, vehicle, instrument, or other noise-producing device is prohibited between the hours of 10 PM and 7 AM, Monday through Saturday and 10 PM and 8 AM on Sunday and Holidays. Violation of this requirement is Prima Facia Violation of City Municipal Code 11-202.
- 5.7 No work shall be undertaken on Saturdays, Sundays and Holidays (Christmas, New Years, Martin Luther King's Birthday, President's Day, Memorial Day, Independence Day, Labor Day and Thanksgiving) without the express written approval of the City Engineer. If it is necessary to perform proper care, maintenance, or protection of work already completed or of equipment used, or in the case of an emergency verbal permission may be obtained through the Engineer.
- 5.8 Night work may be established by the Contractor, as a regular procedure, with the written permission of the City; such permission, however, may be revoked at any time by the City if the Contractor fails to maintain adequate equipment for the proper prosecution and control of all operations performed as part of the Work.
- 5.9 The Contractor shall provide 24 hours notice prior to commencing any work to the City Engineer. The Contractor shall communicate immediately any changes in the work schedule to the City Engineer.

## **6. Delays And Extensions Of Time**

- 6.1 In executing the Contract, the Contractor expressly covenants and agrees that, in undertaking the completion of the work within the time herein fixed, he has taken into consideration and made allowances for all of the ordinary delays and hindrances incident to such work, whether growing out of delays in securing materials, workers, weather conditions or otherwise. No charge shall be made by the Contractor for hindrances or delays from any cause during the progress of the Work, or any portion thereof, included in this Contract.
- 6.2 Should the Contractor, however, be delayed in the prosecution and completion of the work by reason of delayed shipment orders, or by any changes, additions, or omissions therein ordered in writing by the City, or by strikes or the abandonment of the work by the men engaged thereon through no fault of the Contractor, or by any act taken by the U.S. Government such as the commandeering of labor or materials, embargoes, etc., which would affect the fabrication or delivery of materials and/or equipment to the work; or by neglect, delay or default of any other contractor of the City, or delays caused by court proceedings; the Contractor shall have no claims for damages or additional compensation or costs for any such cause or delay; but he shall in such cases be entitled to such extension of the time specified for the completion of the work as the City and the Engineer shall award in writing on account of such delays, provided, however, that claim for such extension of time is made by the Contractor to the City and the Engineer in writing within one (1) week from the time when any such alleged cause for delay shall occur.

## **7. ADVERSE WEATHER:**

- 7.1 Extensions of time for adverse weather shall be granted only under the conditions as hereinafter

provided.

- 7.2 For conditions of weather or conditions at the site, so unusual as not to be reasonably anticipated, as determined by the Engineer, an average or usual number of inclement days when work cannot proceed are to be anticipated during the construction period and are not to be considered as warranting extension of time.
- 7.3 Adverse Weather is defined as atmospheric conditions or the impact thereof at a definite time and place, which are unfavorable to construction activities such that they prevent work on critical activities for 50 percent or more of the Contractor's scheduled workday.
- 7.4 Unusually Severe Weather is defined as weather, which is more severe than the adverse weather anticipated for the season, location, or activity involved.
- 7.5 Time Extensions for Unusually Severe Weather:
  - In order for any request for time extension due to unusually severe weather to be valid, the Contractor must document both of the following conditions:
  - The weather experienced at the Work site during the Contract period is more severe than the adverse weather anticipated for the Work location during any given month.
  - The unusually severe weather actually caused a delay to the completion of the Work. The delay must be beyond the control and without fault or negligence by the Contractor.
- 7.6 The following schedule of monthly-anticipated adverse weather delays will constitute the baseline for monthly weather time evaluations. The Contractor's Progress Schedule must reflect these anticipated adverse weather delays in all weather affected activities:

MONTHLY ANTICIPATED ADVERSE WEATHER DELAY  
WORK DAYS BASED ON FIVE (5) DAY WORK WEEK

JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
10	8	7	6	7	7	5	5	5	4	5	9

- 8.7 Upon receipt of the Notice to Proceed, and continuing throughout the Contract, the Contractor shall record on their daily construction report, the occurrence of adverse weather and resultant impact to normally scheduled work.
- 8.8 The number of actual adverse weather delay days shall include days affected by actual adverse weather (even if adverse weather occurred in the previous month), and shall be calculated chronologically from the first to the last day of each month, and be recorded as full workdays.
- 8.9 If the number of actual adverse weather delay days in a given month exceeds the number of days anticipated above, the difference shall be multiplied by 7/5 to convert any qualifying workday delays to calendar days. The resulting number of qualifying lost days shall be added to the Contract Time.
- 8.10 The determination that unusually severe weather occurred does not automatically mean an extension of

time will be granted. The Contractor must substantiate the unusually severe weather delayed work activities on the critical path of the Progress Schedule.

- 8.11 Full consideration for equivalent fair weather workdays shall be given. If the number of actual adverse weather delays in a given month is less than the number of days anticipated as indicated above, the difference shall be multiplied by 7/5 to convert any workday increases to calendar days. The resulting number of qualifying extra days will be accumulated and subtracted from any future month's days lost due to unusually severe weather.
- 8.12 The net cumulative total of extra days/lost days shall not result in a reduction of Contract Time and the Date of Substantial Completion shall not be changed because of unusually favorable weather.
- 8.13 In converting workdays to calendar days, fractions 0.5 and greater shall be rounded up to the next whole number. Fractions less than 0.5 shall be dropped.
- 8.14 The Contractor shall summarize and report all actual adverse weather delay days for each month to the Engineer by the tenth (10th) day of the following month. A narrative indicating the impact of adverse weather conditions on the scheduled critical activities shall be included.
- 8.15 Any claim for extension of time due to unusually severe weather shall be submitted to the Engineer within 7 days of the last day of the commencement of the event giving rise to the delay occurred. Resolution of any claim shall follow the procedures established by the Regulations of the Contract and Special Conditions and as described above.
- 8.16 The Contractor shall include and indicate the monthly-anticipated adverse weather days, listed above, in their Progress Schedule. (Reference Section 3.1.1 for Progress Schedule requirements)
- 8.17 The Contractor shall indicate the approved adverse weather days (whether less or more than the anticipated days) in their monthly Progress Schedule update.

## 9. PAYMENT PROCEDURE:

- 9.1 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the City no later than the time of payment. The Contractor further warrants that upon submittal on the first day of each month of an Application for Payment, all Work for which payments have been received from the City shall be free and clear of liens, claims, security interest or other encumbrances in favor of the Contractor or any other person or entity whatsoever.
- 9.2 Each application for payment must be submitted with Contractor's waiver for period of construction covered by application. Each progress payment will be submitted with executed waivers from the subcontractors or sub-contractors and suppliers for the previous period of construction covered by the previous application. The final payment application must be submitted together with or preceded by final or complete waivers from every entity involved with performance of the work covered by the payment request.
- 9.3 The Contractor will submit waivers on forms, and executed in a manner, acceptable to City.
- 9.4 The Contractor shall promptly pay each Subcontractor out of the amount paid to the Contractor because of such Subcontractor's Work the amount to which such Subcontractor is entitled. In the event the City

becomes informed that the Contractor has not paid a Subcontractor as herein provided, the City shall have the right, but not the duty, to issue future checks in payment to the Contractor of amounts otherwise due hereunder naming the Contractor and such Subcontractor as joint payees. Such joint check procedure, if employed by the City, shall be deemed payment to the Contractor but shall create no rights in favor of any person or entity beyond the right of the named payees to payment of the check and shall not be deemed to commit the City to repeat the procedure in the future.

- 9.5 The Engineer will, upon receipt of a written Application for Payment from the Contractor, review the amount of work performed during the preceding period and the value thereof at the unit prices contracted. From the amounts so ascertained, there shall be deducted ten percent (10%) to be retained until after final completion of the entire work to the satisfaction of the City. The Engineer will submit an estimate each month to the City for payment to the Contractor, except that no amount less than \$500.00 will be submitted unless the total amount of the Contract remaining unpaid is less than \$500.00.
- 9.6 Deductions will be made from progress payments if the Contract includes a provision for a lump sum or a percentage deduction. Lump sum deductions will be that portion of the stated lump sum computed as the ratio that the amount earned bears to the Contract amount. Percentage deductions will be computed at the stated percentage of the amount earned.
- 9.7 No progress payment, nor any use or occupancy of the Work by the City, shall be interpreted to constitute an acceptance of any Work not in strict accordance with this Contract.
- 9.8 The City may decline to make payment, may withhold funds, and, if necessary, may demand the return of some or all of the amounts previously paid to the Contractor, to protect the City from loss because of:
- Defective Work not remedied by the Contractor;
  - Claims of third parties against the City or the City's property;
  - Failure by the Contractor to pay Subcontractors or others in a prompt and proper fashion;
  - Evidence that the balance of the Work cannot be completed in accordance with the Contract for the unpaid balance of the Contract Price;
  - Evidence that the Work will not be completed in the time required for substantial or final completion;
  - Persistent failure to carry out the Work in accordance with the Contract;
  - Damage to the City or a third party to whom the City is, or may be, liable;
  - Evidence that the work is not progressing according to agreed upon schedule by both parties.
- 9.9 In the event that the City makes written demand upon the Contractor for amounts previously paid by the City as contemplated in this subparagraph, the Contractor shall promptly comply with such demand and refund such monies to the City.
- 9.10 Neither the observation by the City or any of the City's officials, employees, or agents, nor any order by the City for payment of money, nor any payment for, or acceptance of, the whole or any part of the work by the City or Engineer, nor any extension of time, nor any possession taken by the City or its employees, shall operate as a waiver of any provision of this Contract, or of any power herein reserved to the City, or any right to damages herein provided, nor shall any waiver of any breach in this Contract be held to be a waiver of any other or subsequent breach.

## 10. COMPLETION AND FINAL PAYMENT



- 10.1 Work completion shall be defined as all elements of the Work or work segment, being complete including all subsidiary items and "punch-list" items.
- 10.2 When all of the Work is finally complete and the Contractor is ready for a final inspection, it shall notify the City and the Engineer thereof in writing. Thereupon, the Engineer will make final inspection of the Work and, if the Work is complete in accordance with this Contract, the Engineer will promptly issue a final Certificate for Payment certifying to the City that the Work is complete and the Contractor is entitled to the remainder of the unpaid Contract Price, less any amount withheld pursuant to this Contract. If the Engineer is unable to issue its final Certificate for Payment and is required to repeat its final inspection of the Work, the Contractor shall bear the cost of such repeat final inspection(s), which cost may be deducted by the City from the Contractor's full payment.
- 10.3 The Contractor shall not be entitled to any payment unless and until it submits to the Engineer its affidavit that all payrolls, invoices for materials and equipment, and other liabilities connected with the Work for which the City, or the City's property might be responsible, have been fully paid or otherwise satisfied; releases and waivers of lien from all Subcontractors and Suppliers of the Contractor and of any and all other parties required by the City; and consent of Surety, if any, to final payment. If any third party fails or refuses to provide a release of claim or waiver of lien as required by the City, the Contractor shall furnish a bond satisfactory to the City to discharge any such lien or indemnify the City from liability.
- 10.4 The City shall make final payment of all sums due the Contractor within thirty days of the later of the Engineer's execution of a final Certificate for Payment.
- 10.5 Acceptance of final payment shall constitute a waiver of all claims against the City by the Contractor except for those claims previously made in writing against the City by the Contractor, pending at the time of final payment, and identified in writing by the Contractor as unsettled at the time of its request for final inspection.

## 11. CLAIMS BY THE CONTRACTOR

- 11.1 All Contractor claims shall be initiated by written notice and claim to the Engineer. Such written notice and claim must be furnished within seven calendar days after occurrence of the event, or the first appearance of the condition, giving rise to the claim.
- 11.2 The Contractor shall diligently proceed with performance of this Contract whether or not there be such a claim pending and the City shall continue to make payments to the Contractor in accordance with this Contract. The resolution of any claim shall be reflected by a Change Order executed by the City, the Engineer and the Contractor.
- 11.3 Should concealed and unknown conditions which could not, with reasonable diligence, have been discovered in the performance of the Work (a) below the surface of the ground or (b) in an existing structure differ materially with the conditions indicated by this Contract, or should unknown conditions of an unusual nature differing materially from those ordinarily encountered in the area and generally recognized as inherent in Work of the character provided by this Contract, be encountered, the Contract Price shall be equitably adjusted by the Change Order upon the written notice and claim by either party made within seven (7) days after the first observance of the condition. As a condition precedent to the City having any liability to the Contractor for concealed or unknown conditions, the Contractor must give the City written notice of, and an opportunity to observe, the condition prior to disturbing it. The failure by the Contractor to make the written notice and claim as provided in this Subparagraph shall constitute a

- waiver by the Contractor of any claim arising out of or relating to such concealed or unknown condition.
- 11.4 If the Contractor wishes to make a claim for an increase in the Contract Price, as a condition precedent to any liability of the City therefore, the Contractor shall give the City written notice of such claim within seven (7) days after the occurrence of the event, or the first appearance of the condition, giving rise to such claim. Such notice shall be given by the Contractor before proceeding to execute any additional or changed Work. The failure by the Contractor to give such notice and to give such notice prior to executing the Work shall constitute a waiver of any claim for additional compensation.
  - 11.5 The City reserves the right to increase or decrease quantities, and alter the details of construction including grade and alignment as the Engineer may consider necessary or desirable, by approved Change Order. Such modifications shall not invalidate the Contract nor release the surety. Unless such alterations and increases or decreases change the total cost of the Work, based on the originally estimated quantities and the unit prices bid, by more than 25 percent, or change the total cost of any major item, based on the originally estimated quantities and the unit price bid, by more than 25 percent, the Contractor shall perform the work altered, increased or decreased, at a negotiated price or prices. (A major item shall mean any bid item, the total cost of which exceeds 12-1/2 percent of the total Contract amount based on the proposed quantity and the contract unit price).
  - 11.6 When the alterations cause an increase or decrease in excess of the 25 percent indicated above, either the Contractor or the Engineer may request an adjustment of the unit price to be paid for the item or items.
  - 11.7 If a mutually agreeable adjustment cannot be obtained, the City reserves the right to terminate the Contract as it applies to the items in question and make such arrangements as may be deemed necessary to complete the Work.
  - 11.8 In connection with any claim by the Contractor against the City for compensation in excess of the Contract Price, any liability of the City for the Contractor's costs shall be strictly limited to direct costs incurred by the Contractor and shall not include standby costs, indirect costs or consequential damages of the Contractor. The City shall not be liable to the Contractor for claims of third parties.
  - 11.9 If the Contractor is delayed in progressing any task which at the time of the delay is then critical or which during the delay becomes critical, as the sole result of any act or neglect to act by the City or someone acting in the City's behalf, or by changes ordered in the Work, unusual delay in transportation, unusually adverse weather conditions not reasonably anticipated, fire or any causes beyond the Contractor's control, then the date for achieving Final Acceptance of the Work shall be extended upon the written notice and claim of the Contractor to the City, for such reasonable time as the City may determine. Any notice and claim for an extension of time by the Contractor shall be made not more than seven calendar days after the occurrence of the event or the first appearance of the condition-giving rise to the claim and shall set forth in detail the Contractor's basis for requiring additional time in which to complete the Work. In the event the delay to the Contractor is a continuing one, only one notice and claim for additional time shall be necessary. If the Contractor fails to make such claim as required in this subparagraph, any claim for an extension of time shall be waived.
  - 11.10 The Contractor shall delay or suspend the progress of the work or any part thereof, whenever so required by written order of the City, and for such periods of time as required; provided, that in the event of such delay or delays or of such suspension or suspensions of the progress of the work, or any part thereof, the time for completion of work so suspended or of work so delayed by such suspension or suspensions shall be extended for a period equivalent to the time lost by reason of such suspension or suspensions; but such

order of the City or Engineer shall not otherwise modify or invalidate in any way, any of the provisions of this Contract. In the event that the work shall be stopped by written order of the City, any expense, which, in the sole opinion and judgment of the City, is caused by the City, shall be paid by the City to the Contractor.

- 11.11 In executing the Contract Documents, the Contractor expressly covenants and agrees that, in undertaking to complete the Work within the time herein fixed, it has taken into consideration and made allowances for all hindrances and delays incident to such work, whether growing out of delays in securing materials or workers or otherwise. No charge shall be made by the Contractor for hindrances or delays from any cause during the progress of the work, or any portion thereof, included in this Contract, except as provided herein.
- 11.12 In addition to the Project Manual particular to Mobilization found elsewhere in this document, additional mobilization shall not be compensable for work outside of the designated areas for work deemed essential by the City. A quantity of work equal to as much as 10% of the total Contract may be required to be performed beyond the boundaries of the designated work areas

## 12. CHANGES IN THE WORK

- 12.1 Changes in the Work within the general scope of this Contract, consisting of additions, deletions, revisions, or any combination thereof, may be ordered without invalidating this Contract, by Change Order or by Field Order.
- 12.2 The Engineer shall have authority to order minor changes in the Work not involving a change in the Contract Price or in Contract Time and consistent with the intent of the Contract. Such changes shall be effected by verbal direction and then recorded on a Field Order and shall be binding upon the Contractor. The Contractor shall carry out such Field Orders promptly.
- 12.3 Any change in the Contract Price resulting from a Change Order shall be by mutual agreement between the City and the Contractor as evidenced by the change in the Contract Price being set forth in the Change Order, and, together with any conditions or requirements related thereto, being initialed by both parties.
- 12.4 If no mutual agreement occurs between the City and the Contractor relative to a change in the Work, the Contractor shall proceed with the work that is the subject of the Change Order, and the change in the Contract Price, if any, shall then be determined by the Engineer on the basis of the reasonable expenditures or savings of those performing, deleting or revising the Work attributable to the change, including, in the case of an increase or decrease in the Contract Price, a reasonable allowance for direct job site overhead and profit. In such case, the Contractor shall present, in such form and with such content to the City, as the Engineer requires, an itemized accounting of such expenditures or savings, plus appropriate supporting data for inclusion in a Change Order. Reasonable expenditures or savings shall be limited to the following: reasonable costs of materials, supplies or equipment, including delivery costs, reasonable costs of labor, including social security, old age and unemployment insurance, fringe benefits required by agreement or custom, and worker's compensation insurance, reasonable rental costs of machinery and equipment exclusive of hand tools, whether rented from the Contractor or others, permit fees, and sales, use or other taxes related to the Work, and reasonable cost of direct supervision and job site field office overhead directly attributable to the change. In no event shall any standby time or any expenditure or savings associated with the Contractor's home office or other non-job site overhead expense be included in any change in the Contract Price. Further, in no event shall the Contractor's overhead expense exceed ten (10%) percent of the reasonable expenditures. Pending final determination

of reasonable expenditures or savings to the City, payments on account shall be made to the Contractor on the Engineer's Certificate for Payment.

- 12.5 If unit prices are provided in the Contract, and if the quantities contemplated are so changed in a proposed Change Order that the application of such unit prices to the quantities of Work proposed would cause substantial inequity to the City or to the Contractor, the applicable unit prices shall be equitably adjusted.
- 12.6 The execution of a Change Order by the Contractor shall constitute conclusive evidence of the Contractor's agreement to the ordered changes in the Work, this Contract as thus amended, the Contract Price and the Contract Time. The Contractor, by executing the Change Order, waives and forever releases any claim including impact against the City for additional time or compensation for matters relating to or arising out of or resulting from the Work included within or affected by the executed Change Order.

### 13. INSURANCE AND HOLD HARMLESS.

- 13.1 The Contractor shall assume full responsibility for the protection of all public and private property, structures, sewers, and utilities, both above and below the ground, along, beneath, above, across or near the site or sites of the work being performed under this Contract, or which are in any manner affected by the prosecution of the Work or the transportation of men/women or materials in connection therewith. Barriers shall be kept placed at all times to protect persons other than those engaged on or about the Work from accident, and the Contractor will be held responsible for all accidents to persons or property resulting from the acts of Contractor or its employees.
- 13.2 To the fullest extent permitted by law, the Contractor shall indemnify, defend, and hold harmless the City, the Engineer, and their agents and employees from and against all claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from the performance of the Work, provided that any such claim, damage, loss or expense (1) is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of property (other than the Work itself) including the loss of use resulting therefrom, and (2) is caused in whole or in part by any intentional or negligent act or omission of the Contractor, any Subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity, which would otherwise exist. **Additionally, the Contractor shall defend, indemnify and save the Board of County Commissioners of Johnson County, Kansas and the City harmless from and against all liability for damages, costs, and expenses arising out of any claim, suit, action or otherwise for injuries and/or damages sustained to persons or property by reason of the acts or omissions of the Contractor, his or her sub-contractors, agents or employees in the performance of this contract.**
- 13.3 All property damaged shall be repaired or replaced to a condition immediately prior to the time of damage, and to the satisfaction of the City.
- 13.4 All loss or damage arising out of the nature of the work to be done, or from the action of the elements, or from floods or overflows, or from ground water, or from unusual obstructions or difficulties, or any other natural or existing circumstances either known or unforeseen, which may be encountered in the prosecution of the said work shall be sustained and borne by the Contractor at its own cost and expense.
- 13.5 The Contractor shall give reasonable notice to the City or owners of public or private property and utilities

when such property is liable to injury or damage through the performance of the Work, and shall make all necessary arrangements with such City or owners relative to the removal and replacement or protection of such property or utilities.

- 13.6 The Contractor shall satisfactorily shore, support, and protect all structures and all pipes, sewers, drains, conduits, and other utility facilities, and shall be responsible for any damage resulting thereto. The Contractor shall not be entitled to any damages or extra compensation because of any postponement, interference, or delay caused by any such structures and facilities being on the line of the Work whether they are shown on the plans or not, specifically including, but not limited to, damages due to delay in utility relocation.
- 13.7 The Contractor shall secure and maintain, throughout the duration of this Contract, insurance from a company authorized to do business in the State of Kansas. Such insurance shall be of such types and in such amounts as may be necessary to protect himself and the interests of the City and agents of the City against all hazards or risks of loss as hereinafter specified including an endorsement covering explosion, collapse, blasting and damage to underground property if applicable as specified in these Contract Documents. The form and limits of such insurance, together with the underwriter thereof in each case, shall be approved by the City, but regardless of such approval, it shall be the responsibility of the Contractor to maintain adequate insurance coverage at all times. Failure of the Contractor to maintain adequate insurance coverage shall not relieve it of any contractual responsibility or obligation. The insurance shall be provided on an occurrence basis and, not claims made basis.
- 13.8 The City and the Engineer shall be a named insured on such policies. Satisfactory certificates of insurance shall be filed with the City prior to starting any construction work on this Contract. The certificates shall state that thirty (30) days written notice will be given to the City before any policy coverage thereby is changed or canceled.
- 13.9 The Contractor shall secure and maintain through the duration of this Contract insurance on an occurrence basis of such types and in such amounts as may be necessary to protect the Contractor and the City and agents of the City against all hazards or risks of loss as hereinafter specified. The form and limits of such insurance, together with the underwriter thereof in each case, shall be approved by the City, but regardless of such approval, it shall be the responsibility of the Contractor to maintain adequate insurance coverage at all times. Failure of the Contractor to maintain adequate coverage shall not relieve it of any contractual responsibility or obligation, including but not limited to, the indemnification obligation.
- 13.10 Satisfactory certificates of insurance shall be filled with the City prior to the Contractor starting any construction work on this Contract. The Certificates shall state that the thirty (30) days written notice will be given to the City before any policy covered thereby is changed or cancelled. Failure by the Contractor to furnish the required insurance within the time specified in the notice of award of the Contract by the City, at the City option, may be the basis for the City exercising its right to terminate the Contract. **The Board of County Commissioners of Johnson County, Kansas shall also be named as an additional insured on all policies of insurance issued to the Contractor and required by the terms of this Agreement.**
- 13.11 The liability limits shall be as stated:
- Worker's Compensation and Employer's Liability: This insurance shall protect the Contractor against all claims under applicable state worker's compensation laws. The Contractor shall also be protected against claims for injury, disease, or death of employees, which, for any reason, may not fall within the

provisions of a worker's compensation law. This policy shall include an "all states" endorsement.

- **Automobile Liability.** This insurance shall be written in comprehensive form and shall protect the Contractor against all claims for injuries to members of the public and damage to property of others arising from the use of motor vehicles, and shall cover operation on and off the site of all motor vehicles licensed for highway use, whether they are owned, non-owned, or hired. Unless otherwise specified, Contractor's insurance shall include the following:

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

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

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

\$2,000,000 combined single limit (on contracts in excess of \$100,000)

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

\$100,000 combined single limit (on contracts of \$10,000 and less)

- **Additional Insurance:** Excess Liability coverage or additional insurance covering special hazards may be required on certain projects. Such additional insurance requirements shall be as specified in Instructions to Bidders or Special Conditions.

## 14. INDEMNITY

- 14.1 For purposes of indemnification requirements as set forth throughout the Contract, the following terms shall have the meaning set forth below:

"The Contractor" means and includes Contractor, all of his/her affiliates and subsidiaries, his/her Subcontractors and material men and their respective servants, agents and employees; and "Loss" means any and all loss, damage, liability or expense, of any nature whatsoever, whether incurred as a judgment, settlement, penalty, fine or otherwise (including attorney's fees and the cost of defense), in connection with any action, proceeding, demand or claim, whether real or spurious, for injury, including death, to any person or persons or damages to or loss of, or loss of the use of, property of any person, firm or corporation, including the parties hereto, which arise out of or are connected with, or are claimed to arise out of or be connected with, the performance of this Contract whether arising before or after the completion of the work required hereunder.

- 14.2 For purposes of this Contract, and without in any way limiting indemnification obligations that may be set forth elsewhere in the Contract, the Contractor hereby agrees to indemnify, defend and hold harmless the City and County from any and all Loss where Loss is caused or incurred or alleged to be caused or incurred in whole or in part as a result of the negligence or other actionable fault of the Contractor, his/her employees, agents, Subcontractors and suppliers.

- 14.3 It is agreed as a specific element of consideration of this Contract that this indemnity shall apply notwithstanding the joint, concurring or contributory or comparative fault or negligence of the City and County or any third party and, further, notwithstanding any theory of law including, but not limited to, a characterization of the City's or County's or any third party's joint, concurring or contributory or comparative fault or negligence as either passive or active in nature.
- 14.4 Nothing in this section shall be deemed to impose liability on the Contractor to indemnify the City or County for Loss when the negligence or other actionable fault the City is the sole cause of Loss.
- 14.5 With respect to the City's or County's rights as set forth herein, the Contractor expressly waives all statutory defenses, including, but not limited to, those under workers compensation, contribution, comparative fault or similar statutes to the extent said defenses are inconsistent with or would defeat the purpose of this section.

## 15. SUCCESSORS AND ASSIGNS

- 15.1 The City and Contractor bind themselves, their successors, assigns and legal representatives to the other party hereto and to successors, assigns and legal representatives of such other party in respect to covenants, agreements and obligations contained in this Contract.
- 15.2 The Contractor shall not assign or sublet the work, or any part thereof, without the previous written consent of the City, nor shall it assign, by power of attorney or otherwise, any of the money payable under this Contract unless by and with the like written consent of the City. In case the Contractor assigns all, or any part of any moneys due or to become due under this Contract, the instrument of assignment shall contain a clause substantially to the affect that it is agreed that the right of the assignee in and to any moneys due or to become due to the Contractor shall be subject to all prior liens of all persons, firms and corporations for services rendered or materials supplied for the performance of the Work called for in this Contract.
- 15.3 Should any Subcontractor fail to perform in a satisfactory manner, the work undertaken, its subcontract shall be immediately terminated by the Contractor upon notice from the City. Performing in an unsatisfactory manner is defined as consistently having more than 10% of work unacceptable. The Contractor shall be as fully responsible to the City for the acts and omissions of the subcontractors, and of persons either directly or indirectly employed by them, as Contractor is for the acts and omissions of persons directly employed. Nothing contained in this Contract shall create any contractual relations between any Subcontractor and the City, nor shall anything contained in the Contract Documents create any obligation on the part of the City to pay or to see to the payment of any sums due any Subcontractor.
- 15.4 The Contractor shall not award subcontracts which total more than forty-five (45%) of the Contract Price and shall perform within its own organization work amounting to not less than fifty-five percent (55%) of the total Contract Price. Approval by the City of any Subcontractor shall not constitute a waiver of any right of the City to reject defective work, material or equipment not in compliance with the requirements of the Contract Documents. The Contractor shall not make any substitution for any Subcontractor accepted by the City unless the City so agrees in writing.
- 15.5 The Contractor shall not subcontract, sell, transfer, assign or otherwise dispose of the Contract or any portion thereof without previous written consent from the City. In case such consent is given, the Contractor, shall be permitted to subcontract a portion thereof, but shall perform with his/her own

organization work amounting to not less than fifty five (55%) of the total Contract Price. No subcontracts, or other transfer of Contract, shall release the Contractor of its liability under the Contract and bonds applicable thereto.

- 15.6 The Contractor shall cause appropriate provisions to be inserted in all subcontracts relative to the Work to bind Subcontractors to the Contractor by the terms of the Contract Documents insofar as applicable to the work of the Subcontractor and to give the Contractor the same power to terminate any Subcontract as the City has to terminate the Contractor under any provisions of the Contract Documents.
- 15.7 Prior to the City's approval of the Contract bid, the successful bidder shall submit to the City for acceptance, a list of names of all Subcontractors proposed for portions of the work and shall designate which work each is to perform.
- 15.8 The City shall, prior to the City's approval of the Contract bid, notify the successful bidder, in writing, if the City, after due investigation, has reasonable objection to any Subcontractor on such list, and the Contractor shall substitute a Subcontractor acceptable to the City at no additional cost to the City or shall be allowed to withdraw his/her Bid, and the City shall either re-bid the Work or accept the next best lowest and responsible bidder. The failure of the City to make objection to a Subcontractor shall constitute an acceptance of such Subcontractor but shall not constitute a waiver of any right of the City to reject defective work, material or equipment not in conformance with the requirements of the Project Manual.

## 16. NON-DISCRIMINATION LAWS

- 16.1 The Contractor further agrees that the Contractor shall abide by the Kansas Age Discrimination in Employment Act (K.S.A. 44-1111 et seq.) and the applicable provision of the Americans With Disabilities Act (42 U.S.C. 1201 et seq.) as well as all other federal, state and local laws, ordinances and regulations applicable to this Work and furnish any certification required by any federal, state or local governmental agency in connection therewith.
- 16.2 In all solicitations or advertisements for employees, the Contractor shall include the phrase, "equal opportunity employer", or similar phrase to be approved by the Kansas Human Rights Commission (Commission);
- 16.3 If the Contractor fails to comply with the manner in which the Contractor reports to the Commission in accordance with the provisions of K.S.A. 44-1031 and amendments thereto, the Contractor shall be deemed to have breached the present contract and it may be cancelled, terminated or suspended, in whole or in part, by the contracting agency;
- 16.4 If the Contractor is found guilty of a violation of the Kansas Act Against Discrimination under a decision or order of the Commission which has become final, the Contractor shall be deemed to have breached the present Contract and it may be cancelled, terminated or suspended, in whole or in part, by the contracting agency; and
- 16.5 The Contractor shall include the provisions of this section in every subcontract or purchase order so that such provisions will be binding upon such Subcontractor or vendor.
- 16.6 The provisions of this section shall not apply to a contract entered into by a Contractor who employs fewer than four employees during the terms of such contract; or whose contracts with the City



cumulatively total \$5,000 or less during the fiscal year of the City.

#### 17. RELATIONS WITH OTHER CONTRACTORS:

- 17.1 The Contractor shall cooperate with all other contractors who may be performing work on behalf of the City, and workers who may be employed by the City, or any other entity on any work in the vicinity of the Work to be done under this Contract, and the Contractor shall so conduct his/her operations as to interfere to the least possible extent with the work of such contractors or workers. The Contractor shall be responsible for any injury or damage, that may be sustained by other contractors, workers, their work or employees of the City, because of any fault or negligence on the Contractor's part, and shall, at his/her own expense, repair or pay for such injury or damage. If the work of the Contractor is delayed because of any acts or omissions of any other Contractor or Contractors, the Contractor shall have no claim against the City on that account other than for an extension of time.
- 17.2 When two or more Contracts are being executed at one time in such manner that work on one Contract may interfere with that on another, the City shall decide which Contractor shall progress at which time.
- 17.3 Other projects the Contractor may have to coordinate with may include, but are not limited to:
- Project # 190709 - 83<sup>rd</sup> Street/Delmar/Fontana Storm Drainage Project
  - Project # 190718 - 2007 Storm Drainage Program
  - Project # 190860 - 2007 Street Resurfacing Program
  - Project # 190862 - 75<sup>th</sup> Street Resurfacing (Nall Avenue to Mission Road)
  - Project # 190863 - 2007 Street Repair Program
  - Project # SP105 - 2007 Crack Seal/Slurry Seal/Micro Surfacing Program
  - Project # 191017 - 2007 Concrete Repair Program
  - Project # 191018 - 2007 Line Striping Program
- 17.4 When the territory of one Contract is the necessary or convenient means of access for the transportation or movement of workers, materials, or appliances required for the execution of another Contract, such privileges of access or any other responsible privilege may be granted by the City to the Contractor so desiring, to the extent such may be reasonably necessary.
- 17.5 Upon execution of the Contract, the Contractor shall furnish the City, in writing, the names of persons or entities proposed by the Contractor to act as a Subcontractor on the Work. The City shall promptly reply to the Contractor, in writing, stating any objections the City may have to such proposed Subcontractor. The Contractor shall not enter into a Subcontract with a proposed Subcontractor with reference to whom the City has made timely objection. The Contractor shall not be required to Subcontract with any party to whom the Contractor has objection.

#### 18. RIGHT OF CITY TO TERMINATE

- 18.1 If the Contractor persistently or repeatedly refuses or fails to prosecute the Work in a timely manner, or supply enough properly skilled workers, supervisory personnel or proper equipment or materials, or if it fails to make prompt payment to Subcontractors or for materials or labor, or persistently disregards laws, ordinances, rules, regulations or orders of any public authority having jurisdiction, or if this Contract is assigned by Contractor without authorization or if Contractor is adjudged as bankrupt, or if a general assignment of assets be made for the benefit of creditors; or if a receiver is appointed, or otherwise is

guilty of a substantial violation of a provision of this Contract, then the City may by written notice to the Contractor, without prejudice to any right or remedy, terminate the employment of the Contractor and take possession of the site and of all materials, equipment, tools, construction equipment and machinery thereon owned by the Contractor and may finish the Work by whatever methods it may deem expedient. In such case, the Contractor and its surety shall be liable to the City for all excess cost sustained by the City because of such prosecution and completion including any additional legal, engineering or bid-letting costs therefore. In such case, the Contractor shall not be entitled to receive further payment. In the event the Contractor is found in a court of law to have been wrongfully terminated for cause, then such termination shall be deemed a termination for convenience and the Contractor shall be compensated as provided herein.

- 18.2 The City, within its sole discretion, may elect to terminate the Contract with the Contractor for convenience upon three (3) days written Notice to Contractor. In the event of such termination, Contractor shall cease immediately all operations and shall be compensated for all work performed as of the date of termination in accordance with the terms of payment in this contract. Contractor shall not be entitled to any anticipatory profits of other costs other than direct costs of demobilization.

**19. MISCELLANEOUS:**

- 19.1 The Contractor warrants to the City that all labor furnished to progress the Work under the Contract will be competent to perform the tasks undertaken, that the product of such labor will yield only first-class results, that materials and equipment furnished will be of good quality and new unless otherwise permitted by this Contract, and that the Work will be of good quality, free from faults and defects and in strict conformance with the Project Manual. All Work not conforming to these requirements may be considered defective.
- 19.2 The Contractor shall obtain and pay for all permits, fees and licenses necessary or ordinary for the Work. The Contractor shall comply with all lawful requirements, including federal and state laws, City and County laws and ordinances and building codes, applicable to the Work and shall give and maintain copies of all notices required by applicable law pertaining to the Work.
- 19.3 Both the business address of the Contractor given in the Bid or proposal upon which this Contract is founded, and the Contractor's Office near the Work, is hereby designated as the places to which all notices, letters, and other communications to the Contractor may be mailed or delivered. The delivering at either of the above named addresses, or depositing in any mailbox regularly maintained by the Post Office, of any notice, letter or other communication so addressed to the Contractor, and the date of said service shall be the date of such delivery or mailing. Such addresses may be changed at any time by an instrument in writing, executed by the Contractor, presented, and delivered to the Engineer and to the City. Nothing herein contained shall be deemed to preclude or render inoperative the service of any notice, letter, or communication upon the Contractor personally.
- 19.4 It is mutually agreed by and between the parties to this Contract that all royalties and fees for and in connection with patents, or patent infringement, claims for materials, articles, apparatus, devices or equipment (as distinguished from processes) used in or furnished for the work shall be included in the Contract amount and the Contractor shall satisfy all demands that may be made at any time for such, and the Contractor shall at its cost and expense, defend any and all suits or proceedings that may be instituted at any time against the City for infringement or alleged infringement of any such patents involved in the work, and Contractor shall pay any award of damages.

- 19.5 The right of general administration of the City shall not make the Contractor an agent of the City, and the liability of the Contractor for all damages to persons, firms, and corporations, arising from the Contractor's execution of the Work, shall not be lessened because of such general administration, but as to all such persons, firms, and corporations, and the damages, if any, to them or their property. The Contractor herein is an independent Contractor in respect to the work.
- 19.6 For a period of time, from the inception of the Contract to three (3) years from the date of final payment under the Contract, the Contractor and subcontractors shall maintain books, accounts, ledgers, invoices, drafts, pages and other records pertaining to the performance of this Contract. At all reasonable times during this period these records shall be available within the State of Kansas at a field or permanent business office for inspection by authorized representatives of the City or of any other agency, which has contributed funds in connection with the Contract or to which the City is obligated to make such inspections available. In addition, this requirement shall be included in all subcontracts entered into in connection with this Contract.
- 19.7 Titles, subheadings used herein, and other Contract Documents are provided only as a matter of convenience and shall have no legal bearing on the interpretation of any provision of the Contract Documents.
- 19.8 No waiver of any breach of this Contract shall be construed to be a waiver of any other subsequent breach.
- 19.9 Should any provision of this Agreement or other Contract Documents be determined to be void, invalid, unenforceable or illegal for whatever reason, such provision(s) shall be null and void; provided, however, that the remaining provisions of this Agreement and/or the other Contract Documents shall be unaffected thereby and shall continue to be valid and enforceable.
- 19.10 The Contractor shall keep fully informed of all existing and current regulations of the City, and County, State, and National Laws, which in any way limit or control the actions or operations of those engaged upon the work, or affecting materials supplied, to or by them. The Contractor shall at all times observe and comply with all ordinances, laws, and regulations, and shall protect and indemnify the City and the City's officers and agents against any claims or liability arising from or based on any violation of the same.
- 19.11 Nothing contained in these Project Manual shall create, or be interpreted to create, privity or any other contractual agreement between the City and any person or entity other than the Contractor.
- 19.12 Duties and obligations imposed by the Contract Documents, rights, and remedies available hereunder shall be in addition to and not a limitation of duties, obligations, rights and remedies otherwise imposed or available by law.
- 19.13 No action or failure to act by the City, Engineer or Contractor shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval or acquiescence in a breach hereunder, except as may be specifically agreed in writing.
- 19.14 Contractor specifically acknowledges and confirms that: 1.) he/she has visited the site, made all inspections he deems appropriate and has read and fully understands the Contract Documents, including all obligations and responsibilities undertaken by he as specified herein and in other Contract Documents and knowingly accepts the same; 2.) he/she has furnished copies of all Contract

Documents to his/her insurance carrier(s) and his/her surety(ies); and 3.) his/her insurance carrier(s) and surety(ies) agree to be bound as specified herein, in the Contract Documents and in the insurance policy(ies) and bonds as to liability and surety coverage.

19.15 It is specifically agreed between the parties executing this Agreement that the Contract Documents are not intended to create any third party beneficiary relationship nor authorize anyone not a party to this Agreement to maintain a suit for personal injuries or property damage pursuant to the terms or provisions of this Agreement. The duties, obligations and responsibilities of the parties to this Agreement with respect to third parties shall remain as imposed by law.

19.16 This agreement is entered into, under and pursuant to, and is to be construed and enforceable in accordance with the laws of the State of Kansas.

**WITNESSETH:**

*WHEREAS, the City has caused to be prepared, approved and adopted a Project Manual describing construction materials, labor, equipment and transportation necessary for, and in connection with, the construction of a public improvement, and has caused to be published an advertisement inviting sealed Bid, in the manner and for the time required by law; and*

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

*WHEREAS, the City, in the manner prescribed by law, has publicly opened, examined and canvassed the Bids submitted, and as a result of such canvass has determined and declared the Contractor to be the lowest and best responsible bidder for the construct of said public improvements, and has duly awarded to the said Contractor a contract therefore upon the terms and conditions set forth in this Agreement for the sum or sums named in the Bid attached to, and made a part of this Agreement; and*

*WHEREAS, the Contractor has agreed to furnish at its own cost and expense all labor, tools, equipment , materials and transportation required to construct and complete in good, first class and workmanlike manner, the Work in accordance with the Project Manual; and*

*WHEREAS, this Agreement, and other Contract Documents on file with the City Clerk of Prairie Village, Kansas, all of which Contract Documents form the Contract, and are as fully a part thereof as if repeated verbatim herein; all work to be to the entire satisfaction of the City or City's agents, and in accordance with the laws of the City, the State of Kansas and the United States of America; and*

*WHEREAS, in consideration of the compensation to be paid the Contractor, and of the mutual agreements herein contained, the parties hereto have agreed and hereby agree, the City for itself and its successors, and the Contractor for itself, himself, herself or themselves, its, his/her, hers or their successors and assigns, or its, his/her, hers or their executors and administrators, as follows:*

*IN WITNESS WHEREOF, the City, has caused this Agreement to be executed in its behalf, thereunto duly authorized, and the said Contractor has executed five (5) counterparts of this Contract in the prescribed form and manner, the day and year first above written.*

**CITY OF PRAIRIE VILLAGE**

**LINAWEAVER CONSTRUCTION, INC.**

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

By Mark Linaweaver  
(signed)

Ronald L. Shaffer

Mark Linaweaver  
(typed name)

Mayor

Assistant Vice President  
(typed title)

City of Prairie Village

Linaweaver Construction, Inc.  
(typed company name)

7700 Mission Road

719 E. Gilman Road  
(typed address)

Prairie Village, Kansas, 66208

Lansing, KS 66043  
(typed city, state, zip)

913-351-3474  
(typed telephone number)

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

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

SEAL

ATTEST:

APPROVED BY:

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

\_\_\_\_\_  
City Attorney, Charles Wetzler

(If the Contract is not executed by the President of the Corporation or general partner of the partnership, please provide documentation, which authorizes the signatory to bind the corporation or partnership. If a corporation, the Contractor shall furnish the City a current certificate of good standing, dated within ten (10) days of the date of this Contract.)

**PERFORMANCE BOND**

**KNOW ALL MEN BY THESE PRESENTS** that we, the undersigned Linaweaver Construction, Inc., hereinafter referred to as the "Contractor", and Merchants Bonding Company (Mutual), a Corporation organized under the laws of the State of IA, and authorized to transact business in the State of Kansas as Surety, are held firmly bound unto the City of Prairie Village, Kansas, hereinafter referred to as "City", in the penal sum of Two million one hundred seventy eight thousand nine hundred fifteen & 25/100\* **DOLLARS (\$2,178,915.25)**, lawful money of the United States of America, for the payment of which sum, well and truly to be made, we bind ourselves and our heirs, executors, administrators, successors, and assigns, jointly and severally, by these presents:

**THE CONDITION OF THE FOREGOING OBLIGATION IS SUCH THAT:**

**WHEREAS**, the above bonded Contractor has, on the \_\_\_ day of \_\_\_\_\_, 20\_\_\_, entered into a written Contract with the aforesaid City for furnishing all materials, equipment, tools, superintendence, labor and other facilities and accessories for the construction of certain improvements as designated, defined and described in the said Contract and the Conditions thereof, and in accordance with the Specifications and Plans therefore; a copy of said Contract being attached hereto and made a part hereof.

**NOW, THEREFORE**, if the said Contractor shall and will, in all particulars, well, duly and faithfully observe, perform and abide by each and every covenant, condition and part of the said Contract, and the Conditions, Specifications, Plans and other Contract Documents thereto attached or, by reference, made a part thereof, according to the true intent and meaning in each case, and if said Contractor shall replace all defective parts, material and workmanship for a period of two years after acceptance by the City, then this obligation shall be and become null and void; otherwise it shall remain in full force and effect;

**PROVIDED FURTHER**, if said Contractor fails in any particular to duly and faithfully observe, perform and abide by each and every covenant, condition, and part of the said Contract and the Conditions, Specifications, Plans and other Contract Documents, thereto attached, or, by reference made a part thereof, according to the true intent and meaning in each case, or if said Contractor shall fail to replace all defective parts, material and workmanship for a period of two years after acceptance by the City then the surety will pay the costs to complete the project and/or the costs to repair any defective parts for the period of two years after acceptance, and any other damages incurred by the owner in procuring completion and/or repair, such amount not exceeding the amount of this obligation, together with interest as provided by law.

**PROVIDED FURTHER**, that if the said Contractor fails to duly pay for any labor, materials, sustenance's, provisions, provender, gasoline, lubricating oils, fuel oils, greases, coal, equipment and tools consumed or used in said work, groceries and foodstuffs, and all insurance premiums, compensation ;liability and otherwise, or any other supplies or materials used or consumed by such Contractor or his, their, or its subcontractors in performance of the Work contracted to be done, the Surety will pay the same in any amount not exceeding the amount of this obligation, together with interest as provided by law;

**PROVIDED, FURTHER**, that the said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract, or the Work to be performed thereunder, or the specifications accompanying the same, shall in any way affect this obligation on this

bond and it does hereby waive notice of any change, extension of time, alteration or addition to the terms of the Contract, or to the work, or to the Specifications.

IN TESTIMONY WHEREOF, the said Contractor has hereunto set his hand, and the said Surety has caused these presents to be executed in its name, and its corporate seal to be hereunto affixed by its attorney-in-fact duly authorized thereunto so to do at \_\_\_\_\_ on this, the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**CONTRACTOR** Linweaver Construction, Inc.

**SURETY COMPANY** Merchants Bonding Company (Mutual)

BY: Mark Linn  
(SEAL)

BY: D. S. Salavitch  
(SEAL) Dvaid S. Salavitch, attorney in fact

Assist. V.P.  
(Official Title)

Attorney-in-Fact  
Countersignature not required per K.S.A. 2002  
BY: Amended KSA 40-246, effective July 1, 1996.  
(State Representative)

(Accompany this bond with Attorney-in-Fact's authority form the Surety Company certified to include the date of the bond)

# Merchants Bonding Company

(Mutual)

## POWER OF ATTORNEY

Know All Persons By These Presents, that the MERCHANTS BONDING COMPANY (MUTUAL), a corporation duly organized under the laws of the State of Iowa, and having its principal office in the City of Des Moines, County of Polk, State of Iowa, hath made, constituted and appointed, and does by these presents make, constitute and appoint

David S. Salavitch

of Lee's Summit and State of Missouri its true and lawful Attorney-in-Fact, with full power and authority hereby conferred in its name, place and stead, to sign, execute, acknowledge and deliver in its behalf as surety any and all bonds, undertakings, recognizances or other written obligations in the nature thereof, subject to the limitation that any such instrument shall not exceed the amount of:

**TWO MILLION FIVE HUNDRED THOUSAND (\$2,500,000.00) DOLLARS**

and to bind the MERCHANTS BONDING COMPANY (MUTUAL) thereby as fully and to the same extent as if such bond or undertaking was signed by the duly authorized officers of the MERCHANTS BONDING COMPANY (MUTUAL), and all the acts of said Attorney-in-Fact, pursuant to the authority herein given, are hereby ratified and confirmed.

This Power-of-Attorney is made and executed pursuant to and by authority of the following Amended Substituted and Restated By-Laws adopted by the Board of Directors of the MERCHANTS BONDING COMPANY (MUTUAL) on November 16, 2002.

ARTICLE II, SECTION 8 - The Chairman of the Board or President or any Vice President or Secretary shall have power and authority to appoint Attorneys-in-Fact, and to authorize them to execute on behalf of the Company, and attach the Seal of the Company thereto, bonds and undertakings, recognizances, contracts of indemnity and other writings obligatory in the nature thereof.

ARTICLE II, SECTION 9 - The signature of any authorized officer and the Seal of the Company may be affixed by facsimile to any Power of Attorney or Certification thereof authorizing the execution and delivery of any bond, undertaking, recognizance, or other suretyship obligations of the Company, and such signature and seal when so used shall have the same force and effect as though manually fixed.

In Witness Whereof, MERCHANTS BONDING COMPANY (MUTUAL) has caused these presents to be signed by its President and its corporate seal to be hereto affixed, this 16th day of January, 2006.



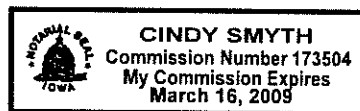
MERCHANTS BONDING COMPANY (MUTUAL)

By *Larry Taylor*  
President

STATE OF IOWA  
COUNTY OF POLK ss.

On this 16th day of January, 2006, before me appeared Larry Taylor, to me personally known, who being by me duly sworn did say that he is President of the MERCHANTS BONDING COMPANY (MUTUAL), the corporation described in the foregoing instrument, and that the Seal affixed to the said instrument is the Corporate Seal of the said Corporation and that the said instrument was signed and sealed in behalf of said Corporation by authority of its Board of Directors.

In Testimony Whereof, I have hereunto set my hand and affixed my Official Seal at the City of Des Moines, Iowa, the day and year first above written.

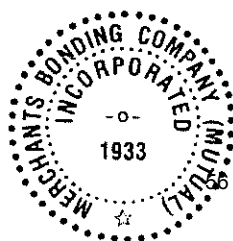


*Cindy Smyth*  
Notary Public, Polk County, Iowa

STATE OF IOWA  
COUNTY OF POLK ss.

I, William Warner, Jr., Secretary of the MERCHANTS BONDING COMPANY (MUTUAL), do hereby certify that the above and foregoing is a true and correct copy of the POWER-OF-ATTORNEY executed by said MERCHANTS BONDING COMPANY (MUTUAL), which is still in full force and effect and has not been amended or revoked.

In Witness Whereof, I have hereunto set my hand and affixed the seal of the Company on this \_\_\_\_\_ day of \_\_\_\_\_



*William Warner Jr.*  
Secretary



**MAINTENANCE BOND**

Bond Number KSC46813

Bond \_\_\_\_\_

**KNOW ALL MEN BY THESE PRESENTS:**

That we, Linaweaver Construction, Inc., as Principal and Merchants Bonding Company (Mutual),  
as Surety, are held and firmly bound unto the City of Prairie Village, Kansas, in the full and just sum of  
Two million one hundred seventy eight thousand nine hundred fifteen & 25/100\* (\$2,178,915.25) for the payment of which, well and truly to be made,  
we, and each of us, bind ourselves, our heirs, executors and assigns, themselves, and its successors and  
assigns, jointly and severally, firmly by these presents.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

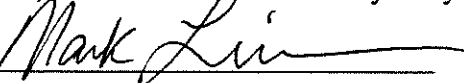
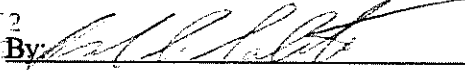
The Conditions of this obligation are such that Principal Linaweaver Construction, Inc. upon  
completion of the Contract for street improvements, dated \_\_\_\_\_ which is  
incorporated herein by reference, and upon acceptance by the City of Prairie Village, Kansas, in  
accordance with the approved Contract Documents, Plans and Specifications, with no unacceptable  
deviations thereof, has agreed to guarantee the construction and installation, including all materials and  
workmanship, for the period of two years beginning on the date the City so accepts said work, said date  
being the formal acceptance date.

The said Surety, for value received, hereby stipulates and agrees that no changes, extension of time,  
alteration or addition to the terms of the Contract to the work to be performed thereunder, or the  
specifications accompanying the same, shall in any way affect its obligation on this bond, and it does  
hereby waive notice of any such change, extension of time, alteration or addition to the terms of the  
contract or to the specifications. Surety further agrees that any person to whom there is due any sum for  
labor or material furnished, as herein before stated, or said person's assigns, may bring action on this  
bond for the recovery of said indebtedness; PROVIDED, that no action shall be brought on said bond  
after twenty-four months from the completion of said public improvements.

**NOW, THEREFORE**, if said Principal shall guarantee and maintain the work referred to above in  
accordance with the Contract for a period of two (2) years from date of formal acceptance, then this  
obligation shall be null and void, otherwise to remain in full force and effect.

**PROVIDED FURTHER**, that if said Principal fails to duly and faithfully guarantee and maintain said  
work, the Surety will pay for the same in any amount not exceeding the amount of this obligation,  
together with interest as provided by law.

Signed, sealed and delivered the day and year first above written

By:  Countersigned: \_\_\_\_\_  
Countersignature not required per H.B. 2072  
By:  By: \_\_\_\_\_  
Kansas Resident Agent Attorney-in-Fact, David S. Salavitch

Power of Attorney attached.

# Merchants Bonding Company

(Mutual)

## POWER OF ATTORNEY

Know All Persons By These Presents, that the MERCHANTS BONDING COMPANY (MUTUAL), a corporation duly organized under the laws of the State of Iowa, and having its principal office in the City of Des Moines, County of Polk, State of Iowa, hath made, constituted and appointed, and does by these presents make, constitute and appoint

David S. Salavitch

of Lee's Summit and State of Missouri its true and lawful Attorney-in-Fact, with full power and authority hereby conferred in its name, place and stead, to sign, execute, acknowledge and deliver in its behalf as surety any and all bonds, undertakings, recognizances or other written obligations in the nature thereof, subject to the limitation that any such instrument shall not exceed the amount of:

**TWO MILLION FIVE HUNDRED THOUSAND (\$2,500,000.00) DOLLARS**

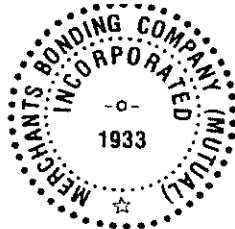
and to bind the MERCHANTS BONDING COMPANY (MUTUAL) thereby as fully and to the same extent as if such bond or undertaking was signed by the duly authorized officers of the MERCHANTS BONDING COMPANY (MUTUAL), and all the acts of said Attorney-in-Fact, pursuant to the authority herein given, are hereby ratified and confirmed.

This Power-of-Attorney is made and executed pursuant to and by authority of the following Amended Substituted and Restated By-Laws adopted by the Board of Directors of the MERCHANTS BONDING COMPANY (MUTUAL) on November 16, 2002.

ARTICLE II, SECTION 8 - The Chairman of the Board or President or any Vice President or Secretary shall have power and authority to appoint Attorneys-in-Fact, and to authorize them to execute on behalf of the Company, and attach the Seal of the Company thereto, bonds and undertakings, recognizances, contracts of indemnity and other writings obligatory in the nature thereof.

ARTICLE II, SECTION 9 - The signature of any authorized officer and the Seal of the Company may be affixed by facsimile to any Power of Attorney or Certification thereof authorizing the execution and delivery of any bond, undertaking, recognizance, or other suretyship obligations of the Company, and such signature and seal when so used shall have the same force and effect as though manually fixed.

In Witness Whereof, MERCHANTS BONDING COMPANY (MUTUAL) has caused these presents to be signed by its President and its corporate seal to be hereto affixed, this 16th day of January, 2006.



MERCHANTS BONDING COMPANY (MUTUAL)

By

*Larry Taylor*

President

STATE OF IOWA  
COUNTY OF POLK ss.

On this 16th day of January, 2006, before me appeared Larry Taylor, to me personally known, who being by me duly sworn did say that he is President of the MERCHANTS BONDING COMPANY (MUTUAL), the corporation described in the foregoing instrument, and that the Seal affixed to the said instrument is the Corporate Seal of the said Corporation and that the said instrument was signed and sealed in behalf of said Corporation by authority of its Board of Directors.

In Testimony Whereof, I have hereunto set my hand and affixed my Official Seal at the City of Des Moines, Iowa, the day and year first above written.



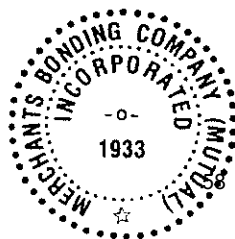
*Cindy Smyth*

Notary Public, Polk County, Iowa

STATE OF IOWA  
COUNTY OF POLK ss.

I, William Warner, Jr., Secretary of the MERCHANTS BONDING COMPANY (MUTUAL), do hereby certify that the above and foregoing is a true and correct copy of the POWER-OF-ATTORNEY executed by said MERCHANTS BONDING COMPANY (MUTUAL), which is still in full force and effect and has not been amended or revoked.

In Witness Whereof, I have hereunto set my hand and affixed the seal of the Company on this \_\_\_\_\_ day of \_\_\_\_\_



*William Warner Jr.*

Secretary

Bond No ksc46813

**STATUTORY BOND**

**KNOW ALL MEN BY THESE PRESENTS:** That we Linaweaver Construction, Inc. as Contractor, and Merchants Bonding Company (Mutual) with General Offices in the City of Des Moines, IA, and authorized to transact business in the State of Kansas, as surety, are held and firmly bound unto the CITY OF PRAIRIE VILLAGE, KANSAS, and the STATE OF KANSAS, in the penal sum of Two million one hundred seventy eight thousand nine hundred fifteen & 25/100\* DOLLARS (\$2,178,915.25) lawful money of the United States of America, plus any change orders in excess thereof as approved by the City, for the payment of which sum well and truly to be made, we bind ourselves and our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents:

**THE CONDITION OF THE FOREGOING OBLIGATION IS SUCH THAT:**

**WHEREAS**, the said Contractor has on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, entered into a Contract with the City of Prairie Village, Kansas for furnishing all tools, equipment, materials and supplies, performing all labor and constructing public improvements described in the said Contract, all in accordance with specifications and other contract documents on file in the office of City Clerk, City Hall, 7700 Mission Road, Prairie Village, Kansas.

**NOW, THEREFORE**, if the said Contractor or the Subcontractors of the Contractor shall pay all indebtedness incurred for supplies, materials or labor furnished, or equipment used or consumed in connection with, or in or about the construction or making of, the improvements described in the above-mentioned Contract Documents, including gasoline, lubricating oils, fuel oils, greases, coal and similar items used or consumed directly in furtherance of such public improvement, this obligation shall be void; otherwise, it shall remain in full force and effect.

The said Surety, for value received, hereby stipulates and agrees that no changes, extension of time, alteration or additions to the terms of the Contract to the work to be performed there under, or the specifications accompanying the same, shall in any way affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Contract or to the Specifications.

The said Surety further agrees that any person to whom there is due any sum for labor or material furnished, as hereinbefore stated, or said person's assigns, may bring action on this bond for the recovery of said indebtedness; PROVIDED that no action shall be brought on said bond after six months from the completion of said public improvements.

**IN TESTIMONY WHEREOF**, the said Contractor has hereunto set his hand, and the said Surety has caused these presents to be executed in its name, and its corporate seal to be hereunto affixed, by its attorney-in-fact duly authorized hereunto so to do, at \_\_\_\_\_ on this, the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Linaweaver Construction, Inc.

Merchants Bonding Company (Mutual)

CONTRACTOR

SURETY COMPANY

BY: Mark Liu (SEAL)

BY: David S. Salavitch (SEAL)

BY: \_\_\_\_\_  
Attorney-in-Fact

David S. Salavitch, attorney in fact  
Countersignature not required per H.D. 2002  
BY: \_\_\_\_\_  
Amended KSA 40-246, effective July 1, 1996.  
Kansas Agent

# Merchants Bonding Company

(Mutual)

## POWER OF ATTORNEY

Know All Persons By These Presents, that the MERCHANTS BONDING COMPANY (MUTUAL), a corporation duly organized under the laws of the State of Iowa, and having its principal office in the City of Des Moines, County of Polk, State of Iowa, hath made, constituted and appointed, and does by these presents make, constitute and appoint

David S. Salavitch

of Lee's Summit and State of Missouri its true and lawful Attorney-in-Fact, with full power and authority hereby conferred in its name, place and stead, to sign, execute, acknowledge and deliver in its behalf as surety any and all bonds, undertakings, recognizances or other written obligations in the nature thereof, subject to the limitation that any such instrument shall not exceed the amount of:

**TWO MILLION FIVE HUNDRED THOUSAND (\$2,500,000.00) DOLLARS**

and to bind the MERCHANTS BONDING COMPANY (MUTUAL) thereby as fully and to the same extent as if such bond or undertaking was signed by the duly authorized officers of the MERCHANTS BONDING COMPANY (MUTUAL), and all the acts of said Attorney-in-Fact, pursuant to the authority herein given, are hereby ratified and confirmed.

This Power-of-Attorney is made and executed pursuant to and by authority of the following Amended Substituted and Restated By-Laws adopted by the Board of Directors of the MERCHANTS BONDING COMPANY (MUTUAL) on November 16, 2002.

ARTICLE II, SECTION 8 - The Chairman of the Board or President or any Vice President or Secretary shall have power and authority to appoint Attorneys-in-Fact, and to authorize them to execute on behalf of the Company, and attach the Seal of the Company thereto, bonds and undertakings, recognizances, contracts of indemnity and other writings obligatory in the nature thereof.

ARTICLE II, SECTION 9 - The signature of any authorized officer and the Seal of the Company may be affixed by facsimile to any Power of Attorney or Certification thereof authorizing the execution and delivery of any bond, undertaking, recognizance, or other suretyship obligations of the Company, and such signature and seal when so used shall have the same force and effect as though manually fixed.

In Witness Whereof, MERCHANTS BONDING COMPANY (MUTUAL) has caused these presents to be signed by its President and its corporate seal to be hereto affixed, this 16th day of January, 2006.



MERCHANTS BONDING COMPANY (MUTUAL)

By

*Larry Taylor*

President

STATE OF IOWA  
COUNTY OF POLK ss.

On this 16th day of January, 2006, before me appeared Larry Taylor, to me personally known, who being by me duly sworn did say that he is President of the MERCHANTS BONDING COMPANY (MUTUAL), the corporation described in the foregoing instrument, and that the Seal affixed to the said instrument is the Corporate Seal of the said Corporation and that the said instrument was signed and sealed in behalf of said Corporation by authority of its Board of Directors.

In Testimony Whereof, I have hereunto set my hand and affixed my Official Seal at the City of Des Moines, Iowa, the day and year first above written.



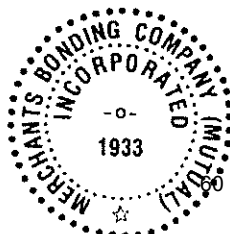
*Cindy Smyth*

Notary Public, Polk County, Iowa

STATE OF IOWA  
COUNTY OF POLK ss.

I, William Warner, Jr., Secretary of the MERCHANTS BONDING COMPANY (MUTUAL), do hereby certify that the above and foregoing is a true and correct copy of the POWER-OF-ATTORNEY executed by said MERCHANTS BONDING COMPANY (MUTUAL), which is still in full force and effect and has not been amended or revoked.

In Witness Whereof, I have hereunto set my hand and affixed the seal of the Company on this \_\_\_\_\_ day of \_\_\_\_\_, 2006.



*William Warner Jr.*

Secretary

**COU2007-11 CONSIDER PROJECT SP107: 2007 STREET REPAIR PROGRAM**

**Background:**

On January 2007, the City Clerk opened bids for Project SP107: 2007 Street Repair Program. This program consists of repairs to deteriorated asphalt pavement. Three bids were received:

Musselman & Hall Contractors	\$ 78,890.00
McAnany Construction	\$122,320.00
Holland Construction	\$171,816.60
Engineer's Estimate	\$186,142.00

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

**Financial Impact:**

Funding is available in the Public Works Operating Budget.

**Suggested Motion:**

Move to approve the construction contract with Musselman and Hall Contractors Inc. for Project SP107: 2007 Street Repair Program for \$78,890.00 using funds in the Public Works Operating Budget.

**Issue: Prairie Village Legislative Priorities****Background:**

During the last Council Committee meeting, Council members agreed it is important to communicate with legislators at the County and State level. You also agreed you would like to establish Prairie Village legislative priorities for State representatives to consider as they deliberate on these issues during the 2007 session.

Staff tried to coordinate a breakfast meeting with the City's representatives on a Saturday in February but it was not possible to get them together because of other commitments. On each Saturday two or three were able to attend for at least a portion of the time but we were not able to find a Saturday when all could attend. In the past we have tried to commit them to a January or February date in November or December, they have always refused to do that until they receive the session calendar in January. It is difficult to bring them all together because they have so many other invitations from larger groups of constituents.

Kay Wolf said it is too late to have much of an impact on priorities now. She suggested we mail the Priorities to the delegation this year but plan to do something else next year. When we talked, Kay had just come from a lunch meeting scheduled for the Johnson County Delegation every week. She said cities, school districts, the County and others sponsor one of the weekly luncheons as a way to meet members of the delegation and speak to them about the issues important to their organizations. Today Lenexa, Overland Park, their Chambers of Commerce and the County co-sponsored the event. Kay suggested Prairie Village join with other cities and the Chamber as sponsors next year. This is something we could research and add to the budget for next year.

The attached document includes priorities that were on the 2006 Legislative Program for Prairie Village. Each priority issue statement is followed by a list of the cities and governmental groups using this in their Legislative programs for 2007. The second page has a list of priorities others are using that you could consider. Again, those using the priorities are listed after each issue.

## 2007 Legislative Priorities --- DRAFT

### EXISTING PRAIRIE VILLAGE PRIORITIES

**State Funding of Public Education** – The City of Prairie Village supports legislation that would remove or raise school districts’ local option budget cap – the limit on money a district can raise through taxes above its basic state aid. The City does not oppose a state tax increase to fund public education.

*This is a listed 2007 priority for: Shawnee and JOCO.*

**Municipal Revenue** – The City of Prairie Village supports legislation that preserves existing municipal revenue sources, including state aid, or provides authority for local option municipal revenue enhancement.

*This is a listed 2007 priority for: Mission, Olathe and LKM.*

**Unfunded State Mandates** – The City of Prairie Village opposes legislation that imposes additional state mandated functions, activities, or practices on units of local government.

*This is a listed 2007 priority for: Shawnee, Mission, Olathe, LKM and JOCO.*

**Spending Limitations and Tax Lids** – The City of Prairie Village opposes legislation imposing limits to either taxing or spending by local governments. Consistent with the concept of Home Rule authority, local governing bodies most appropriately make local taxing and spending decisions.

*This is a listed 2007 priority for: Shawnee, Mission, Olathe, LKM and JOCO.*

**Franchises and Franchise Fees** – The City of Prairie Village encourages the Kansas Congressional Delegation and the Kansas Legislature to protect the ability of cities to manage their rights-of-way and impose franchise fees regarding telecommunications and cable companies.

*This is a listed 2007 priority for: Shawnee, Olathe, MARC, LKM, and JOCO.*

**Eminent Domain** – The City of Prairie Village supports legislation which continues to allow for the use of eminent domain for economic and community development purposes, including blight remediation, without seeking legislative approval.

*This is a listed 2007 priority for: Shawnee, Olathe, LKM, and JOCO.*

## LEGISLATIVE PRIORITIES TO CONSIDER FOR 2007

(1) **Public Infrastructure Systems** – Support legislation for regional public infrastructure systems including mass transportation and security needs.

*2007 priority for Mission, Olathe, MARC and LKM.*

(2) **Public Notices** – Support legislation that gives cities the right to publish public notices and records electronically on their websites as opposed to in a commercial print media publication.

*2007 priority for Olathe. PV spent approximately \$2,500 on public notices in 2006.*

(3) **Ballot Taxing Authority** – Support legislation that limits non-elected bodies from placing tax issues on a ballot for public approval.

*2007 priority for Olathe.*

(4) **Homeland Security** - support giving local governments maximum flexibility over use of monies and resources for Homeland Security.

*2007 priority for Shawnee, Mission, LKM and JOCO.*

(5) **Veterans Preference** - Support changing KSA 73-201 regarding Veteran's preference in hiring and promotion to be revised to apply only to initial employment, and that all promotions thereafter should be based upon merit.

*2007 priority for MARC*

### Public Infrastructure

LKM, Olathe and MARC support improvements in and additions to public infrastructure in a number of ways including mass transportation. Pertaining to transportation, they state "We support the continued ability of cities to establish transportation development districts in order to provide for the transportation infrastructure needs in the community. The City of Mission examines infrastructure in their legislative agenda from another perspective; that of security. They state "We support increased federal and state funding to assist local communities with their water and wastewater infrastructure, and associated security needs (City of Mission, 2007 Agenda)."

### Homeland Security

"First responders at the local level serve as the front line defense in the prevention and response to terrorism and other security risks. Local governments should be granted maximum flexibility and discretion over implementation of monies and strategies regarding homeland security. Cities must be active participants in the decision making process and the implementation strategies must promote cooperative efforts between federal, state, and local government. The federally mandated NIMS training for municipal employees further reinforces the need for planning at the local level, and the necessity of local level responders in having available resources.



## **COU2007-12 CONSIDER DRAINAGE CONSULTANT SELECTION**

### **Background:**

The Selection Committee of Ruth Hopkins, David Belz and Tom Trienens have completed the solicitation process for selecting a Drainage Consultant for the 2008 Drainage Repair Program.

Initially, nine consultants submitted proposals. The committee selected three firms for oral interviews. Two firms, HNTB and GBA, were chosen to submit a cost estimate for typical drainage work.

After review and discussion with Bob Pryzby, GBA was selected and is recommended for approval. Upon City Council acceptance of the committee selection, a specific design agreement will be prepared and submitted for City Council approval.

### **Financial Impact:**

There is no financial impact at this time.

### **Suggested Motion:**

**Move to accept the recommendation of the Selection Committee to retain GBA to provide drainage design services for the 2008 Drainage Repair Program.**

## COU2007-13 CONSIDER 2008-2012 CARS APPLICATION

### Background:

In order to receive CARS funds, the City must annually submit an application containing a list of streets and the estimated costs. The following streets are recommended for the five-year CARS program, 2008-2012. The Public Works Department compiled the list based on the pavement condition. The work will include where necessary full depth pavement repair, curb and gutter replacement, sidewalk repair, and milling/overlaying the pavement.

Program Year	Street Segment	Limits	Total Estimated Construction Cost	Prairie Village Cost
2008	75 <sup>th</sup> Street	Belinder Avenue to Stateline Road	\$780,000	\$390,000
2008	Roe Avenue	91 <sup>st</sup> Street to Somerset Drive	\$788,000	\$394,000
		<b>Total</b>	<b>\$1,568,000</b>	<b>\$784,000</b>
2009	Roe Avenue	83 <sup>rd</sup> Street to Somerset Drive	\$694,000	\$347,000
2009	Roe Avenue	North City Limit to 67 <sup>th</sup> Street	\$694,000	\$347,000
		<b>Total</b>	<b>1,388,000</b>	<b>\$694,000</b>
2010	Somerset Drive	Roe Avenue to Nall Avenue	\$934,000	\$467,000
2010	Somerset Drive	83 <sup>rd</sup> Street to Delmar	\$380,000	\$190,000
		<b>Total</b>	<b>\$1,314,000</b>	<b>\$657,000</b>
2011	75 <sup>th</sup> Street	Belinder Avenue to Mission Road	\$1,336,000	\$668,000
		<b>Total</b>	<b>\$1,336,000</b>	<b>\$668,000</b>
2012	Somerset Drive	83 <sup>rd</sup> Street to Mission Road	\$481,000	\$240,500
2012	83 <sup>rd</sup> Street	Roe Avenue to Somerset Drive	\$281,000	\$140,500
2012	Mission Road	63 <sup>rd</sup> Street to 67 <sup>th</sup> Street *	\$702,000	\$175,500
		<b>Total</b>	<b>\$1,464,000</b>	<b>\$556,500</b>

It should be noted that the City submits an application annually and can revise future year requests. Design costs are not shown.

\*City of Mission Hills to participate 50%.

### Financial Impact:

Funding for the 2008 Program will be presented in the 2008 Budget Request.

### Suggested Motion:

**RECOMMEND THE APPROVAL OF THE 2008-2012 APPLICATION  
FOR THE CITY OF PRAIRIE VILLAGE.**

**\*COUNCIL ACTION REQUESTED THIS EVENING**

## M E M O R A N D U M

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TO: Mayor and City Council Members  
FROM: Bob Pryzby  
DATE: January 24, 2007  
RE: Somerset Drive at 83<sup>rd</sup> Street Right Turn Only  
CC: Barbara Vernon, City Administrator  
Charles Grover, Police Chief

Later this spring, Project 190708 will provide for construction on the storm drain project on 83<sup>rd</sup> Street from Delmar Street to Somerset Drive and then south on Somerset Drive to the culvert under the office parking lot. There is a west lane on Somerset Drive running south from 83<sup>rd</sup> Street that terminates at about 400 feet from the intersection. The construction will be in this lane.

I have discussed with the Police Department about removing this lane after construction and creating more lawn area. This lane is used by a vehicles that are proceeding south on Somerset Drive crossing 83<sup>rd</sup> Street who then have to squeeze into the left lane on Somerset Drive that continues south. By removing the lane, the west lane on Somerset Drive approaching 83<sup>rd</sup> Street will become a Right Turn Lane Only, which is what the majority of vehicles do.

The purpose of this memo is to advise you of this change, as I want to make the change before construction by installing the Right Turn Only signage required by MUTCD.

**COUNCIL MEETING AGENDA  
CITY OF PRAIRIE VILLAGE  
Monday, February 5, 2007  
7:30 p.m.**

- I. CALL TO ORDER**
- II. ROLL CALL**
- III. PRESENTATION OF COLORS – BOY SCOUT TROOP 381**
- IV. PLEDGE OF ALLEGIANCE**
- V. PUBLIC PARTICIPATION**
- VI. ACKNOWLEDGMENT OF DR ERIN FLOOD P.A. AS A NEW BUSINESS OWNER.**
- VII. CONSENT AGENDA**

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

**By Staff:**

- 1. Approve Regular Council Meeting Minutes – January 16, 2007
- 2. Approve the purchase from Shawnee Mission Ford one Ford F250 3/4 Ton Pickup Truck for \$22,117.00 and approve the disposal of Truck 1464 by auction upon receipt of replacement truck.

**By Committee:**

- 3. Approve a rate change for off-duty contractual services performed by public safety officers to \$39.14 per hour, upon appropriate notification to private entities that contract with the Police Department for such services. (Council Committee of the Whole Minutes – January 16, 2007)
- 4. Approve the agreement with participating agencies for the establishment and maintenance of an ALERT/ETAC system. (Council Committee of the Whole Minutes – January 16, 2007)
- 5. Rescind City Council Policy #340 entitled "Police Reserve Unit." (Council Committee of the Whole Minutes – January 16, 2007)
- 6. Amend the City fee schedule establishing a fee of \$1 per document for each document provided on CD or disk. (Council Committee of the Whole Minutes – January 16, 2007)
- 7. Approve the City covering the entire cost of registration for Council participation in the Johnson County Leadership Northeast Program. (Council Committee of the Whole Minutes – January 16, 2007)

**VIII. COMMITTEE REPORTS**

**COU2007-12 Consider Drainage Consultant Selection – Bob Pryzby**

**COU2007-13 Consider 2008 -2012 CARS Application – Bob Pryzby**

**Prairie Village Arts Council – David Belz**

Requesting permission and funds from contingency to sponsor a juried art show in October

- IX. OLD BUSINESS**
- X. NEW BUSINESS**
- XI. ANNOUNCEMENTS**
- XII. ADJOURNMENT**

**If any individual requires special accommodations -- for example, qualified interpreter, large print, reader, hearing assistance -- in order to attend the meeting, please notify the City Clerk at 381-6464, Extension 4616, no later than 48 hours prior to the beginning of the meeting.**

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

# **CONSENT AGENDA**

**CITY OF PRAIRIE VILLAGE, KS**

**Monday, February 5, 2007**

**COUNCIL  
CITY OF PRAIRIE VILLAGE  
January 16, 2007  
-Minutes-**

The City Council of Prairie Village, Kansas, met in regular session on Tuesday, January 16, 2007, at 7:30 p.m. in the Council Chambers of the Municipal Building.

**ROLL CALL**

Mayor Ron Shaffer called the meeting to order and roll call was taken with the following Council members present: Al Herrera, Bill Griffith, David Voysey, Michael Kelly, Andrew Wang, Laura Wassmer, Pat Daniels, Charles Clark, Wayne Vennard and David Belz.

Also present were: Barbara Vernon, City Administrator; Charles Grover, Chief of Police; Bob Pryzby, Public Works Director; Doug Luther, Assistant City Administrator; and Joyce Hagen Mundy, City Clerk.

Mayor Shaffer led all present in the Pledge of Allegiance.

**PUBLIC PARTICIPATION**

Cleo Simmonds, 2902 West 71<sup>st</sup> Terrace, addressed the City Council representing the Sister City Committee. He stated the retirement of Chief Grover is a dual loss for the City of Prairie Village and acknowledged the leadership, commitment and passion Alyce Grover brought to the City as the Chair of the Sister City Committee. She has been instrumental in its growth and continuing efforts to establish a sister city relationship. On behalf of the committee he expressed thanks and appreciation for all that Alyce has given and meant to the committee and noted she will be greatly missed.

Michael Kelly read a letter written by Ruth Hopkins, former Council Liaison to the Sister City Committee to be included in these minutes as an attachment expressing her appreciation and acknowledging the vital part Alyce Grover has played in the development of the Sister City Committee/Program in Prairie Village. Michael Kelly, current Council Liaison to the committee, expressed his gratitude for Alyce's genuine leadership, always acting in the best interest of the City and the committee.

Mayor Shaffer acknowledged receipt of Alyce's resignation from the committee and added his thanks for her leadership and work for the City through the Sister City Committee.

David Belz noted he had advised those persons present to address the "no smoking" issue that they could be heard during that discussion under Old Business.

Mayor Shaffer, seeing no one else to address the Council at this time, closed public participation.

### **SPECIAL PRESENTATION**

Mayor Shaffer asked Michael Kelly to introduce the Special Presentation listed on the agenda by Gary Nussbaum.

Michael Kelly stated he had spoken with Mr. Nussbaum and learned of actions, he and other Prairie Village residents had taken to assist the hurricane relief efforts in Louisiana through his church and felt it would be beneficial for the Council to hear about their work.

Gary Nussbaum, 2917 West 75<sup>th</sup> Street, traveled twice to Slidell, Louisiana with a group from Colonial Presbyterian Church assisting both with cleanup efforts and with rebuilding efforts. He shared slides of what they encountered in Slidell, what they were able to do and the continued need for assistance to rebuild that community. Mr. Nussbaum noted that more than 3,000 volunteers have traveled to the area in the past year from more than 20 states since FEMA and the federal agencies have left to assist with the rebuilding of the community.

Mayor Shaffer thanked Mr. Nussbaum for sharing his experiences and information.

### **CONSENT AGENDA**

David Belz moved the approval of the Consent Agenda for Tuesday, January 16, 2007 :

1. Approve Regular Council Meeting Minutes - January 2, 2007
2. Approve Claims Ordinance 2634
3. Ratify the Mayor's appointment of Patrick Delaney as Chairman of the Civil Service Commission and the reappointment of David H. Lillard to another three-year term expiring in January, 2010 on the Civil Service Commission.
4. Approve amendments to Personnel Policy 1065 entitled "Deferred Compensation Plan"
5. Approve Project SP105: 2007 Crack Seal/Slurry Seal/Microsurfacing Program bid award to Musselman & Hall Contractors in the amount of \$263,000.00
6. Approve the construction contract with Holiday Contracting, Inc. for Project 191019: Canterbury Street Sidewalk Improvements in the amount of \$90,400.00
7. Authorize the Mayor to execute a Letter of Participation with the Mid America Regional Council First Suburbs Coalition Remodeling Loan Program



8. Approve a mentoring program for new council members with the mentor designate being the person elected as Council President - City Council Policy CP032 entitled "Council Mentoring Program"
9. Approve the 2007 Learn to Swim contract with the Johnson County Park & Recreation District as written
10. Approve the 2007 Facility Use Agreement with Johnson County Parks and Recreation with an increase in the water exercise fee to \$9.00 per hour
11. Approve the 2007 Day Camp Agreement with Johnson County Park & Recreation District with an increase in the daily shelter rental fee to \$20 per day and an increase in the daily pool entrance fee to \$4.50
12. Approve the 2007 agreement with British Soccer for use of City facilities (Meadowlake Park) for soccer camps with an increase in fees to \$11 per participant for a three-hour camp
13. Approve the 2007 agreement with Challenger Sports for use of City facilities (Meadowlake Park) for sports camps and increase the fee to \$11 per participant

A roll call vote was taken with the following members voting "aye": Herrera, Griffith, Voysey, Wassmer, Daniels, Clark, Vennard and Belz.

## COMMITTEE REPORTS

### **Smoke Free Workplace Task Force**

David Belz reported at a meeting in December the City Council directed him to reconvene the Smoke Free Workplace Task Force to consider the recently adopted "no smoking" ordinance adopted by the City of Overland Park. This ordinance was the result of a collaboration of work of the Kansas Restaurant Association and Clean Air, Kansas City. The primary differences to the ordinance already adopted by the City is it calls for everyone to go "smoke free" on January 1, 2008 and includes a "smoke free area" within 10 feet of the entrance. The City's current ordinance will become effective 60 days after the six adjacent cities to Prairie Village have adopted similar ordinances.

Mr. Belz noted the committee met last Wednesday and recommends the City Council proceed with an ordinance similar to the one adopted by Overland Park. However, he noted there has not been sufficient time for the City Attorney to review the proposed ordinance, so no action is being requested this evening. He is simply reporting the findings of the committee as directed.

Mayor Shaffer asked if the task force had any concern with the lack of action by Kansas City, Missouri and the effect of the Mayoral race would have on this issue. Mr. Belz responded there was concern expressed that at this time there is no ordinance in place, however,

committee members felt a specific date of adoption would be beneficial to the businesses in helping them prepare for the change.

Al Herrera asked what the vote was on the recommendation. Mr. Belz responded there was not an actual vote, but there was unanimous consensus among those present to go forth with the new ordinance.

Al Herrera stated he is concerned with the lack of action by Kansas City, Missouri. He does not know why Prairie Village has to follow other cities and does not feel the City needs to do so. He does not see employee's leaving Prairie Village establishments to work in "smoke free" workplaces elsewhere. Mr. Herrera stated the City should let dollars dictate how a business operates and noted the City depends on revenue from its restaurants and bars. It has been stated the ordinance is to prevent people from getting sick. Mr. Herrera sees the ordinance as a means to chip away at the freedom of individuals and small business owners. He would like to see this issue addressed by a vote of the people and is against proceeding with the newly proposed ordinance.

Brian Schorgl, Owner/Manager of O'Neill's at 95<sup>th</sup> & Mission Road, addressed the Council with his concerns. At an industry conference more than 15 years ago, owners were advised that "no smoking" regulations would eventually be adopted. He does not see "smoking" vs. "no smoking" as the issue. The issue is to protect businesses during the implementation of these regulations. For that reason, he was a member of the initial Task Force which adopted an ordinance that was fair to all and protected the interests of businesses within the City. Mr. Schorgl gave historical examples of other similar situations where items were not available in Kansas so residents traveled to Missouri to purchase these items. Mr. Schorgl stated that study after study has demonstrated that after the initial change 3 to 5% of business is lost, if Missouri does not adopt similar regulations, another 3-5% of business will be lost to Missouri establishments. Business owners and employees can not absorb a 10% loss in business

Ed Nelson, Owner of the Blue Moose and member of the Task Force, reported there were three persons at the short meeting held on Wednesday. Two supported the proposed regulations and he opposed them. Mr. Nelson stated the initial task force was well represented

and did a significant amount of investigation and study of the issue and from that developed, what he feels, is a quality ordinance.

Mr. Nelson stated the impact of education in the area of health has been demonstrated with the removal of "transfat" from food both on grocery shelves and in restaurants. People do speak with their dollars. Mr. Nelson noted the Blue Moose has a very large family component and yet he has not received any complaints on smoke, noting there are designated smoking and no smoking areas. He agreed with Mr. Schorgl that a 10% reduction in bar business will have a huge impact of general revenue and tips. Mr. Nelson said he felt it would be a disservice to the Prairie Village businesses to go forward with the new ordinance.

David Belz explained he was directed to convene the task force and report back in January. Not wanting to meet during the holidays, the date of January 10<sup>th</sup> was selected and information was distributed to members several weeks in advance of the meeting. He had no control over the number of members attending and very limited options on a meeting date.

Bill Griffith noted it is being said there is a huge public outcry for "smoke free" environments but he has yet to see the people express this outcry with their feet and/or dollars; however, he noted they will be getting that opportunity if some areas go smoke free and others do not. He stated he is opposed to the regulation, feeling this is an economic issue that will take care of itself in time. He has opposed it at every level; however, noted at least, the original ordinance adopted by the City gives some protection to its businesses.

Michael Kelly felt this issue was raised because there was agreement between the Kansas Restaurant Association and Clean Air, Kansas City. David Belz stated that was also his assumption.

Al Herrera stated with only three people attending the meeting this action should be stopped now. David Belz stated he was directed to report in January and he has.

Ed Nelson advised the Council the Kansas Restaurant Association is not an organization that votes on matters as a City Council does. The former president of the association was trying to find a compromise with Clean Air. What you have is a former president giving his opinion on an issue. The current president has a totally different opinion.

Charlene Stackhouse, owner of the Key Hole Tavern in the City of Mission, addressed the Council. Ms Stackhouse stated she does not see this as a health issue, but an issue of the small businessman slowly and surely loosing his rights. Ms Stackhouse reviewed the process followed by the City of Mission in considering this issue. She advised the Council of the tremendous amount of revenue gained by Cities though the sale of liquor. Tobacco and alcohol are both legal substances and does not see how they can be banned. She urged the Council to strongly consider the impact on businesses, noting a majority of eating establishments are smoke free. The City of Mission voted the smoking ban down and she asked the Council to be fair to its businesses and do likewise.

Nicole Brown, representing the Johnson County Health Department, addressed some of the comments and questions raised. Ms Brown stated Kansas City, Missouri is currently convening a Task Force to address this issue and she expects it to begin meeting by the end of this month. The agreement between the Kansas Restaurant Association and Clean Air of Kansas City came about at the request of Overland Park Mayor Carl Gerlach to bring parties together in his community. Earlier, ETC conducted a random survey of over 2000 Johnson County residents on this issue with a response of more than 50%. The overwhelming direction given by the residents was in support of smoke free environments. Ms Brown stated she would make a copy of the results of that survey available to the City.

Laura Wassmer asked if the survey separated those individuals only going out to eat vs. those going to bars. She noted that perhaps the issue could be addressed through the use of time frames, i.e. no smoking prior to 9 p.m. Ms Brown stated the survey did distinguish between restaurants and bars. She also noted a lot of the odor can be removed by proper ventilation. Ms Wassmer suggested the time constraints be considered as a compromise to address concerns voiced.

Andrew Wang asked if the Task Force has the authority to instruct the City Attorney to work on a new ordinance. Al Herrera argued there was not a majority of the task force present to take any action. David Belz stated the Task Force was reconvened as directed. Bill Griffith stated it is time to move forward. David Voysey agreed that due diligence was given to the

direction of the council. Ms. Wassmer questioned the expenditure of legal funds for a review of the ordinance. Mr. Griffith responded the Council needs to be able to clearly consider an ordinance in writing and noted as this would be a rewrite of an existing ordinance, he did not anticipate its review would take a great deal of Mr. Wetzler's time. Mayor Shaffer directed Mr. Wetzler to review and prepare a draft ordinance.

Louie Riederer, owner of Johnny's, stated there is an ordinance in place that the Task Force created and to change it now does not make sense.

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

On behalf of the Council Committee of the Whole, David Belz moved the City Council approve a Video Service Provider Agreement with AT&T Kansas and to confirm and ratify the notification letter to AT&T written by the City Administrator and dated January 3, 2007. The motion was seconded by Wayne Vennard and passed unanimously.

### **OLD BUSINESS**

David Belz moved, pursuant to KSA 75-4319(b)(2) and (b)(6), that the Governing Body recess into Executive Session for a period not to exceed thirty minutes for the purpose of discussing with the City Attorney, a legal matter pertaining to litigation and preliminary discussions relating to the acquisition of real property. The motion was seconded by Bill Griffith and passed unanimously. The Council meeting was recessed into executive session at 9:00 p.m.

Mayor Shaffer reconvened the City Council meeting at 9:30 p.m.

### **NEW BUSINESS**

#### **Snow Event**

Bob Pryzby, Director of Public Works, reported on the work of his staff during the recent snow/ice event. Public Works crews worked split 12-hour shifts from 7 a.m. Friday, January 12<sup>th</sup> to 5 p.m. Monday, January 15<sup>th</sup>. During the 680 man-hours of work, crews traveled 4,980 miles spreading 810 tons of salt. Mr. Pryzby noted this is the first time since 2000 that he can see the

back of the salt barn and said he would be ordering more salt to ensure coverage for the remaining winter months. The Public Works Service line contained no calls of complaint and he has received positive e-mails from residents on the City's response to the storm. Mayor Shaffer asked Mr. Pryzby to share his and the Council's appreciation for their excellent work with his staff.

## ANNOUNCEMENTS

Mayor Shaffer noted this is the last meeting for Chief of Police Charles Grover and reminded all Council members of Chief Grover's retirement reception to be at the Homestead Country Club on February 3<sup>rd</sup> from 7-10 p.m., with presentations at 8 p.m. Please RSVP if you plan to attend.

Mayor Shaffer encouraged Council members to attend City Hall Day at the Capitol on Thursday, January 25<sup>th</sup>. He noted this is an excellent opportunity to meet and talk with state legislators and others regarding concerns and pending legislation.

Mayor Shaffer acknowledged three Prairie Village residents in the news, noting an article in the Ingram's Magazine by Jim Bernard, a member of the City's Park & Recreation Committee; an article by former Prairie Village Council member, Terry Frederick - now serving as the Chairman of WaterOne; and an article acknowledging a contribution to the Shawnee Mission Educational Foundation by Mr. & Mrs. Charles Clark. Mr. Clark noted the Foundation funds programs that can not be funded through the regular operating budget and urged others to consider making donations. He noted his wife was a former high school math teacher and their contribution was designated toward math education programs.

The Northeast Johnson County Chamber State of the Cities address will be presented on Thursday, February 15<sup>th</sup> at the Overland Park Marriott with the lunch and program beginning at noon. Mayor Shaffer encouraged Council members to attend.

Michael Kelly will be participating in the upcoming Leadership Northeast Program.

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

Prairie Village Arts Council	01/17/2007	7:00 p.m.
Board of Code Appeals	01/22/2007	6:00 p.m.
Environmental Recycle Committee	01/24/2007	7:00 p.m.
VillageFest Committee	01/25/2007	7:00 p.m.

Board of Code Appeals	01/29/2007	6:00 p.m.
Council Committee of the Whole	02/05/2007	6:00 p.m.
Council	02/05/2007	7:30 p.m.

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The Prairie Village Arts Council is pleased to feature a watercolor on cloth exhibit by Rebecca Darrah in the R.G. Endres Gallery during the month of January.

Don't forget the employee appreciation dinner on February 9<sup>th</sup> at the New Theatre Restaurant.

The annual large item pick-up has been scheduled with Deffenbaugh for April 28<sup>th</sup>.

Donations to the Holiday Tree Fund are still being accepted. As of January 8th the Holiday Tree Fund has received \$8,582.13. The funds will be used to assist Prairie Village families and Senior Citizens needing help to pay their heating and electric bills during the cold winter months, as well as with home maintenance throughout the year. Your tax-deductible contributions are appreciated.

Holiday tree recycling will be available from December 23<sup>rd</sup> through January 22<sup>nd</sup> at Harmon, Franklin, Porter and Meadowlake Parks.

The 50<sup>th</sup> Anniversary books, Prairie Village Our Story, and Prairie Village Gift Cards continue to be sold to the public.

#### ADJOURNMENT

With no further business to come before the Council, the meeting was adjourned at 9:40 p.m.

Joyce Hagen Mundy  
City Clerk

## **CONSIDER PURCHASE OF REPLACEMENT PICKUP TRUCK**

### **Background:**

The 2007 Public Works Operating Budget provides for the replacement of Truck 1464. This is 1997 Ford ¾-ton pickup truck that originally cost \$17,276.75 with 69,172 miles, and used by the field personnel.

Public Works staff utilized the MARC Purchasing Council master bid for purchasing the vehicle, thereby affording the City of the group purchasing power of MARC.

### **Financial Impact:**

The 2007 Budget line item is \$23,000.00 for replacing Truck 1464. The replacement cost is \$22,117.00.

### **Suggested motion:**

Move to approve the purchase from Shawnee Mission Ford one Ford F250 3/4-Ton Pickup Trucks for \$22,117.00 and to approve the disposal of Truck 1464 by auction upon receipt of replacement truck.



**COUNCIL COMMITTEE OF THE WHOLE  
JANUARY 16, 2007**

The Council Committee of the Whole met on Tuesday, January 16, 2007 at 6:00 p.m. The meeting was called to order by Council President David Belz with the following members present: Mayor Shaffer, Al Herrera, Bill Griffith, David Voysey, Michael Kelly, Andrew Wang, Laura Wassmer, Pat Daniels, Charles Clark and Wayne Vennard. Staff members present: Barbara Vernon, City Administrator; Charles Wetzler, City Attorney; Charles Grover, Chief of Police; Bob Pryzby, Director of Public Works; Doug Luther, Assistant City Administrator; Stephen Horner, Assistant City Attorney and Joyce Hagen Mundy, City Clerk.

Bill Griffith moved the approval of the Consent Agenda for Tuesday, January 16, 2007:

- **Approve a rate change for off-duty contractual services performed by public safety officers to \$39.14 per hour, upon appropriate notification to private entities that contract with the Police Department for such services.**

**COUNCIL ACTION NEEDED  
CONSENT AGENDA**

The motion was voted on and passed unanimously.

**COU2007-06 Consider Video Service Provider Agreement with AT&T**

Steve Horner, Assistant City Attorney, stated AT&T will be providing a video service that will be packaged with their telephone and internet services. Last Spring, Senate Bill 449 was adopted creating the Video Competition Act, which exempts video service providers from the state cable franchise act and allows them to provide video service without acquiring a local franchise. Instead, the video service provider must obtain a state-wide franchise or certification from the KCC. Then, before providing service within the City, the provider must provide notice to the City and enter into an agreement with the City. The language of the agreement is taken directly from Senate Bill 449. The Council is being asked to approve the agreement at this time.

According to the Video Competition Act, the City may request in writing a video service provider fee for video services provided by AT&T within the City. In order to give timely notice of the City's desire to collect such a fee on AT&T's service as is done with Time-Warner cable video services, staff has sent a letter to AT&T reserving the City's right to collect 5% of gross revenues from this service. The Council is being asked to ratify this notice.

Mr. Horner reviewed the conditions of the Video Competition Act with the committee. He noted the language of the Act is very restrictive on cities. The City can, however, require the provider to comply with certain predefined

customer service requirements, and staff will go ahead and send such a demand. The provider is also required to implement an informal process to handle City and customer inquiries; however, the new statute only requires the provided to respond "as it deems appropriate". Mr. Horner noted the City would probably be hearing from Time-Warner once AT&T begins to provide service.

Al Herrera made the following motion which was seconded by Wayne Vennard and passed unanimously:

**RECOMMEND THE CITY COUNCIL APPROVE A VIDEO SERVICE PROVIDER AGREEMENT WITH AT&T KANSAS AND RATIFY THE NOTIFICATION LETTER TO AT&T WRITTEN BY THE CITY ADMINISTRATOR AND DATED JANUARY 3, 2007**

**COUNCIL ACTION TAKEN  
1/16/2007**

**COU2006-57 Consider Special Use Permit for Communications Antenna at 7700 Mission Road**

Barbara Vernon stated the City Attorney has notified her he is still in negotiation with the attorney for Cingular Wireless and asks the Council to continue this item to the next Council Committee of the Whole.

Council President David Belz stated it would so be continued.

**COU2007-10 Consider Recognition of Prairie Village families with service Personnel in Iraq, Afghanistan or other dangerous areas**

Michael Kelly presented a program to recognize Prairie Village families with service personnel in Iraq, Afghanistan or other danger zones. The proposal follows the concept of the WWII memorial recognizing service members.

The proposal calls for the placement of a star with the family member's name in a visible place at City Hall. The Star would remain on the wall until the family member returns home. When the family member returns home, the star would be given to the family along with a certification of appreciation from the Mayor.

The stars could be made of cast iron or some other material and measure approximately five inches. The star would have raised dimensions and bear the family members' name in the center. The stars would be placed in a prominent location at City Hall with the star cluster headed with the title "Prairie Village in Service".

Mr. Kelly feels this would be an appropriate way for the City to recognize those Prairie Village families with members serving abroad and demonstrate our appreciation for their efforts in our behalf.

Chief Grover stated from a parent perspective, with a child who has served in danger zones, he feels it is a good idea.

Bill Griffith stated his only concern is the difficulty of determining whether an individual has been deployed or not. Mr. Kelly stated it would be the family's responsibility to notify the City and request a star.

Wayne Vennard asked if there was any estimate of the cost. Mr. Kelly noted the cost would depend of the type of material used for the star. If cast iron were used for the star, he estimated a cost of \$100 per star, but noted the use of other materials such as epoxy or wood would cost less.

David Voysey asked how many people he expected to participate. Mr. Kelly responded, based on the city's population, between 20 and 30.

Laura Wassmer asked where he was considering displaying the stars. Mr. Kelly noted possible locations including the front entry way between the doors or on the wall outside the Council Chamber. Ms Wassmer responded she like the idea and would like to see more details on cost and participation numbers.

Pat Daniels stated he has three nephews serving in danger zones although they are not Prairie Village residents and would be happy to work with Mr. Kelly on this project. He does not feel a \$100 star is needed, it is the symbol and the recognition the City is giving that matters.

David Belz confirmed a consensus among the Council to proceed with gathering more information on this program and noted Mr. Daniels would assist Mr. Kelly in that effort.

### **COU2007-03 Consider Cooperative Agreement for Alert/ETAC System**

Chief Grover stated computers have allowed law enforcement agencies to hare criminal justice information. Kansas City, Missouri was instrumental in forming the ALERT system that is still used by almost all agencies in the metro area. However, this system is very limited.

In 2006, fourteen chief executives of major law enforcement agencies in the Kansas City metro area began to study information systems. A system used in the metropolitan area of St. Louis was researched. The foundation of this system is to share and maintain information from the data bases of individual police agencies throughout the metro area.

A cooperative agreement has been prepared for the establishment and maintenance of an ALERT/ETAC System involving 14 cities. The funding has been established on a tier system based on the size of the city with Prairie Village being in the third tier.

During the 2007 Public Safety budget hearing the anticipated change in the ALERT/ETAC system was discussed and the City Council placed \$6,850 in the budget for the first year's funding of the system.

Andrew Wang asked what the impact would be on adjacent cities that are not included in the agreement. Chief Grover responded that he expects all area cities will participate in the system down the line. Some cities are dispatching through Johnson County, who is a participating member. He feels within five years this will be a two-state system, not merely a metropolitan system.

Pat Daniels asked if there were any Homeland Security Issues. Chief Grover responded they have received almost \$400,000 of federal funding toward the establishment of this regional system to improve programs.

David Voysey asked if the \$6,850 will be the on-going actual cost. Chief Grover responded it is about as close an estimate as possible at this time. Mr. Voysey asked if the annual commitment would start July 1, 2007 or now. Chief Grover responded the agreement is going to the 14 agencies for approval and some time in February or March, when all agreements have been signed an invoice would be issued.

Wayne Vennard made the following motion, which was seconded by David Voysey and passed unanimously:

**RECOMMEND THE CITY COUNCIL APPROVE THE AGREEMENT  
WITH PARTICIPATING AGENCIES FOR THE ESTABLISHMENT  
AND MAINTENANCE OF AN ALERT/ETAC SYSTEM  
COUNCIL ACTION REQUIRED  
CONSENT AGENDA**

**COU2007-04 Consider Rescinding Council Policy #340-Police Reserve Unit**  
Chief Grover stated for many years the Prairie Village Police Department had a police reserve program that was used to supplement police manpower. The use of such reserve officers became complicated in the mid 1990's due to liability, training and CAELA standards issues. The unit was disbanded in 1996; however, the Council Policy related to this was never rescinded by the City Council.

Mayor Shaffer asked if other communities still had volunteer reserves. Chief Grover responded some do but they are primarily ride-along programs. Other

agencies that have them require them to have the same training as their commissioned officers.

David Voysey asked if the Chief could foresee returning to the use of reserve officers. Chief Grover responded he could not, noting CAELA requires all officers to have the same level of training and noting the liability potential with the use of reserve officers.

Charles Clark made the following motion, which was seconded by David Voysey and passed unanimously:

**RECOMMEND THE CITY COUNCIL RESCIND CITY COUNCIL  
POLICY #340 ENTITLED "POLICE RESERVE UNIT".  
COUNCIL ACTION REQUIRED  
CONSENT AGENDA**

**COU2007-09 Consider Fee for Electronic Documents**

Doug Luther stated the City policy permits the City to charge for providing copies of public records. If records are readily available, the records custodian does not typically charge a fee. However, when fulfilling a request requires staff time to locate and photocopy records, a fee is charged. The current fee is 50 cents/page for the first 10 pages, and 10 cents/page thereafter. If significant staff time is required, the requestor is also charged for the cost of the employee's time to conduct the research.

The current fee schedule assumes the records will be provided on paper. However, changes in technology now allow public documents to be provided in a variety of forms and staff proposes the fee schedule be amended to address electronic copies. Mr. Luther stated he contacted other cities and found that most do not have policies in place yet addressing this. The proposed fee is \$1 per document for each document provided on cd or disk to offset the cost of the disk.

Bill Griffith questioned the proposed fee. Mr. Luther responded if the document is readily available no fee is generally charged; however, if significant copies or research needs to be done the fee is charged.

Wayne Vennard asked how much research time is involved. Mr. Luther responded usually not a great deal, the most common requests are for copies of minutes. He noted the number of requests has decreased as more and more information is now available on-line such as the City's municipal code. Mr. Vennard asked what format the information would be given. Mr. Luther responded on a cd as a PDF file.

Michael Kelly asked what kind of document imaging system is used by the City. Mr. Luther stated the City uses the Laser fiche Document Imaging System which allows for search of documents by word text as well as other means.

David Voysey made the following motion, which was seconded by Andrew Wang and passed unanimously:

**RECOMMEND THE CITY COUNCIL AMEND THE CITY FEE  
SCHEDULE ESTABLISHING A FEE OF \$1 PER DOCUMENT  
FOR EACH DOCUMENT PROVIDED ON CD OR DISK  
COUNCIL ACTION REQUIRED  
CONSENT AGENDA**

**COU2007-07 Consider Prairie Village Legislative Program for 2007**

Barbara Vernon stated for several years the Governing Body met with the City's state legislators at a breakfast meeting early in the session. At these meetings state representatives presented their priorities and explained their committee assignments. The Council then presented their legislative priorities with a request that representatives support them.

Three years ago these breakfast meetings were discontinued by the Council. A Legislative Program was adopted by the Council and mailed to representatives in 2004, 2005 and 2006. Mrs. Vernon reviewed a composite of 2007 priorities established by other cities in the area for consideration by the Council.

Traditional priorities listed by the City have been

- State Funding of Public Education
- Municipal Revenue
- Unfunded Mandates
- Spending Limitations and Tax Lids
- Eminent Domain

Mrs. Vernon stated she's been advised Franchises and Franchise Fees will not be an issue this year, but will be significant next year with lobbying going on to reduce or eliminate these.

Mr. Daniels, Mr. Voysey and Mr. Griffith spoke in support of having written identified priorities on record. Council President David Belz directed Mrs. Vernon to prepare a draft of 2007 Legislative Priorities for review at the next meeting.

Mrs. Vernon asked if the Council wanted to host a breakfast for the Legislators.

Bill Griffith acknowledged it is difficult to schedule a time when most of the Council can attend as well as the representatives; however, he feels it is worth the effort especially this year when all of the legislative delegation has changed since the last breakfast gathering was held. It is important to give them the opportunity to share what they feel is important and for the Council to talk with them on the City's priorities.

Wayne Vennard suggested possibly a Sunday evening gathering rather than Saturday morning.

Pat Daniels suggested coordinating the gathering with other cities to minimize the requests on the representatives' time.

David Belz asked if it could be done in conjunction with the scheduled work session on January 29<sup>th</sup>. Mrs. Vernon replied the Council will not have adopted their 2007 Legislative Priorities by that time.

Bill Griffith asked staff to set a Saturday date and try to get as many people to attend as possible. David Belz agreed. Mrs. Vernon stated she would try to arrange for a meeting in early February.

#### **COU2007-08 Consider Budget Goals and Guidelines for 2008**

Barbara Vernon stated Department Staff are currently preparing the 2006 Annual Report, which will be presented to the Council the first meeting in March. They will then begin preparations for the 2008 budget, which will be based on goals established by the City Council. The Council goals for the 2007 budget were based on the Community Vision Statement adopted in 2000 and were generally the same as those adopted for the 2006 budget.

Mrs. Vernon asked for direction from the Council as to their goals for the 2008 budget. Laura Wassmer felt the Village Vision Report will have a large impact on their goals. Mrs. Vernon noted the several steps that will take place before the adoption of Village Vision including public input and felt because of timing, they would be better reflected in the 2009 budget. She feels it is best to come back to the Community Vision Statement adopted in 2000 for the 2008 budget.

The Council discussed the past goals and their applicability to the 2008 budget.

#### **Maintain a "sense of place" and a "sense of community"**

- Continue effective communication with constituents.

- Sponsor community events

- Continue planning & redevelopment projects that improve the community

Laura Wassmer noted ward meetings will be more important than ever. Mrs. Vernon reminded the Council that money has been budgeted in 2007 for each ward to have a meeting. All the above goals were accepted.

#### **Maintain financial strength of the City**

- Ensure a strong economy for the City

- Continue conservative approach to budgeting

- Project Fund Balance of 20% at yearend

- Manage City investments of temporarily idle funds

- Maintain mill rate for 2008 at the 2007 level

## Increase City controlled revenue sources by CPI

Wayne Vennard stated he does not feel maintaining the mill levy should be a goal. Laura Wassmer noted she would increase it for compelling reasons. Bill Griffith noted the city's current fund balance is at approximately 30% instead of the needed 20% so there is potential funding for new programs without increasing the mill levy.

David Belz agreed with Ms Wassmer and Mr. Griffith that the goal should be to maintain the mill levy unless there is a compelling reason to increase it.

Mrs. Vernon noted that sales has been flat and suggested eliminating the goal to increase revenue sources. Mr. Griffith noted the goal is for city controlled revenue sources which he sees as fees and charges that are under the control of the City. The City can not directly control sales tax revenue.

### **Continue public service levels**

- Continue effective police protection

- Maintain Capital Improvement budget at a minimum of \$3 million

- Improve and maintain other City-owned property

- Continue park development and recreation programs

Bill Griffith asked if the CIP budget of \$3 included grant funding or only city funding and how long the budget has been at \$3 million. Mrs. Vernon replied it has been at \$3 million as a minimum for many years. Mr. Griffith stated he felt that number needs to step up with inflation and be figured on city funding only.

Charles Clark noted the impact of increased asphalt costs on recently bid projects.

Laura Wassmer suggested this goal not be set with a dollar amount, but based on maintaining an established infrastructure condition rating.

Bill Griffith noted there are several types of infrastructure, not only paving. He would like to see the dollar amount based on a reasonable basis for maintaining infrastructure at a specified level and not kept at \$3 million.

Laura Wassmer noted this may need more discussion and asked Mr. Pryzby to present his condition rating structure presentation to the Council again.

David Belz stated the optimum word is "minimum". He would like to see it based more on a philosophy than a dollar amount.

Mrs. Vernon stated she would work with Mr. Pryzby to come up with a number based on the comments made.



Laura Wassmer noted redevelopment was not included in the goals and asked the goal of **Encourage Redevelopment** be added.

Pat Daniels stated he feels the Village Vision will have a greater significance than it is being given. Barbara Vernon agreed that it will be a major focus next year as the 2009 budget is developed.

#### **Johnson County Leadership Northeast Program**

Wayne Vennard noted this is an excellent program which the city currently covers one-half of the \$600 cost for Council members to attend. He would like to see all council members attend and the City to cover the entire cost.

Laura Wassmer agreed noting it was one of the best programs she has participated in providing her with a greater understanding of the resources of the area and enabling her to make beneficial contact with several other council members.

Andrew Wang asked if there was a specific reason for the 50/50 split. Staff responded it has simply been past practice. Mrs. Vernon noted when staff attend the City covers the entire cost as it does for other conferences.

Wayne Vennard made the following motion, which was seconded by Laura Wassmer and passed unanimously:

**RECOMMEND THE CITY COVER THE ENTIRE COST OF  
REGISTRATION FOR COUNCIL PARTICIPATION IN THE  
JOHNSON COUNTY LEADERSHIP NORTHEAST PROGRAM  
COUNCIL ACTION REQUIRED  
CONSENT AGENDA**

#### **Thoughts on the Future**

Bill Griffith stated he has been known to chastise other governmental agencies for not planning ahead and having budget/project overruns. He asked the Police Chief and Public Works Director to look into the future and advise the Council what they project for significant improvements needed in facilities, equipment, infrastructure, etc.

#### **Comments by Chief Charles Grover**

When the Public Safety Center was built, additional staff were anticipated; however, currently all of the office spaces are filled. If another program is developed, there will no office space to house the personnel. The women's locker room was recently expanded. General common spaces were satisfactory.

The current radio system installed in 1992-94 is operating fine, but a number of newer systems are being developed to add interoperability due to 9/11. Also, Sprint/Nextel is currently buying 800 frequencies from the FCC in a process

called rebanding. Thus, many public safety agencies are anticipating moves to the 700 MHz frequencies. Overland Park and Kansas City, Missouri are currently moving forward on planning a 700 MHz system and the Board of Johnson County Commissioners recently approved funding for a 700 MHz system. Chief Grover noted for the City to join the county's system would cost approximately \$1 million.

The projected time line for the County system originally was to be 2010 for Public Safety agencies. However, recently movement to new 700 MHz systems has been accelerating. In the next three to five years, the city's current system will be 15-18 years old and the city may need a new radio system. The cost of purchasing a system of our own in the future will be prohibitive; the City will need to join someone. Chief Grover stated he has been discussing the upcoming radio issues with Barbara Vernon for almost a year and his staff continues to attend meetings where the future of radio systems in the Kansas City area is being discussed. Currently, there is not enough solid information to make an informed decision on this topic, but one thing that may be required is for the Council to start setting up a reserve account for this future major expenditure. He noted funds received from rebanding with Sprint/Nextel could be used to purchase individual radios for future system use. This is the most significant change he foresees for the City's Public Safety Department.

#### **Bob Pryzby, Director of Public Works**

The municipal building is out of office space. He was hoping the possible renovation of the community center would consider additional meeting rooms for the judges, municipal court and Council. Structurally the municipal building is fine.

The Community Center is not one of the best constructed city facilities and the City will be faced in the not too distant future with razing the building. Public Works Building B (crew quarters) is the old Medac Building and is not in good shape. It has had water damage over the years and action will need to be taken on it in the future. Building A (main office) has no empty office space available. Mr. Pryzby stated he has considered adding an "L" addition to the building and demolishing Building B.

In regards to Park & Recreation, he stated that 2007 Capital Infrastructure Program allocated funds for future repairs on the pool and hoped to continue this allocation. He noted the lap pool is the oldest pool in the complex and the starting blocks used by the swim team should not be used because of the water depth. He regularly hears comments on winterizing the pool, which would increase operating and maintenance costs. He does not see any significant changes to the other parks unless there is a strong push for more activities such as splash facilities, ice rink, climbing rocks, etc.

His primary concern is the city's inability to depend on CARS funding because the entitlement formula considers population and street miles, both of which have a decreasing effect on the CARS funds received. A recent review of streets

indicated that the City will not be able to do all the projected streets because of the lack of CARS funding.

He does not see any major equipment expenditures, until the street sweeper is replaced in 7-8 years.

#### **Adjournment**

Council President David Belz adjourned the meeting at 7:30 p.m.

David Belz  
Council President

**VIDEO SERVICE PROVIDER AGREEMENT**

Southwestern Bell Telephone. L.P. d/b/a AT&T Kansas ("AT&T") was granted authorization by the state of Kansas on October 25, 2006 to provide video service in Prairie Village, Kansas ("Prairie Village") and hereby executes this agreement with Prairie Village.

AT&T will begin providing video service in Prairie Village on or after December 26, 2006.

AT&T may be contacted by the city of Prairie Village at (913) 676-1519.

AT&T may be contacted by its video service customers at (800) 288-2020.


AT&T agrees to update this contact information with Prairie Village within 15 calendar days in the event that such contact information changes.

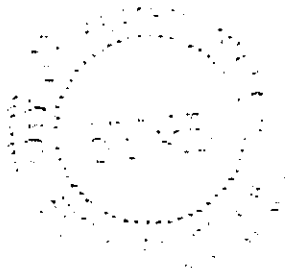
AT&T acknowledges and agrees to comply with Prairie Village's local right of way ordinance to the extent the ordinance is applicable to AT&T and not contrary to state and federal laws and regulations. AT&T hereby reserves the right to challenge the lawfulness or applicability of such ordinance to AT&T.

By entering into this agreement, neither Prairie Village's nor AT&T's present or future legal rights, positions, claims, assertions or arguments before any administrative agency or court of law are in any way prejudiced or waived. By entering into the agreement, neither Prairie Village nor AT&T waive any rights, but instead expressly reserve any and all rights, remedies and arguments Prairie Village or AT&T may have at law or equity, without limitation, to argue assert and/or take any position as to the legality or appropriateness of any present or future laws, ordinances and/or rulings.

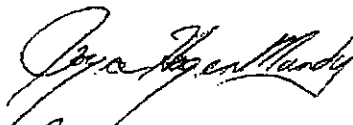
**WHEREFORE, pursuant to Kansas SB 449 of 2006, this Video Service Provider Agreement is hereby filed with the city clerk of the city of Prairie Village and is effective upon filing.**

Signed: December 6, 2006

  
David D. Kerr  
President - AT&T Kansas



RECEIVED DECEMBER 7, 2006

  
PRAIRIE VILLAGE CITY CLERK



THE CITY OF PRAIRIE VILLAGE *Star of Kansas*

January 3, 2007

AT&T Kansas  
220 E. 6th Street  
Suite 500  
Topeka, KS 66603

Attention: Chris Carroll

Dear Chris:

Please accept this letter as the City's written notice instructing AT&T to calculate and pay the City a video service provider fee (per Senate Bill No. 449 New Sec. 4. (b)). Said video service provider fee shall be calculated in the amount of 5% of gross revenues, as defined by the new Statute.

The person designated to receive payments is the City Clerk. Other notices and information should be directed to the Mayor with copies to the City Administrator.

Sincerely,

A handwritten signature in cursive script that reads "Barbara Vernon".

Barbara Vernon  
City Administrator

**COOPERATIVE AGREEMENT FOR THE ESTABLISHMENT AND MAINTENANCE  
OF ALERT/ALERT/ETAC SYSTEM**

THIS AGREEMENT is made effective the \_\_\_\_\_ day of \_\_\_\_\_, 2006, among the Participating Agencies defined in Section I authorized by the Governing Body thereof to enter into this Agreement as of the effective date and who are signatories hereto on or before such date.

WITNESSETH:

WHEREAS, this Agreement is entered into pursuant to the authority of K.S.A. 12-2908;  
and

WHEREAS, the parties to this Agreement recognize that the lack of communication among law enforcement agencies has historically created an enormous impediment to solving criminal cases; and

WHEREAS, the parties desire to cooperate in the establishment and maintenance of a data warehouse, called Metro Kansas City Emerging Threat Analysis Capability, which incorporates Board of Police Commissioners of Kansas City, Missouri's ALERT system hereinafter referred to as "ALERT/ETAC," for the purposes of sharing criminal history record information and other criminal justice information, in an effort to establish communication among law enforcement agencies without regard to jurisdictional boundaries to maximize the ability of all Participating Agencies to solve criminal cases.

NOW THEREFORE, in consideration of the mutual agreements herein, these parties agree as follows:

**I. PARTIES – PARTICIPATING AGENCIES**

This Cooperative Agreement is entered into among the entities listed below – collectively referred to as "Participating Agency" or "Participating Agencies" - that have been authorized by their respective Governing Bodies to enter into this Agreement and who are signatories hereto on or before \_\_\_\_\_, 2006:

CITY OF OVERLAND PARK, KANSAS  
CITY OF LENEXA, KANSAS  
CITY OF OLATHE, KANSAS  
CITY OF SHAWNEE, KANSAS  
UNIFIED GOVERNMENT OF KANSAS CITY, KANSAS  
CITY OF LEAWOOD, KANSAS  
CITY OF PRAIRIE VILLAGE, KANSAS  
CITY OF LAWRENCE, KANSAS  
CITY OF LEAVENWORTH, KANSAS  
BOARD OF POLICE COMMISSIONERS OF KANSAS CITY, MISSOURI  
CITY OF INDEPENDENCE, MISSOURI

CITY OF NORTH KANSAS CITY, MISSOURI  
COUNTY OF JACKSON COUNTY, MISSOURI  
COUNTY OF JOHNSON COUNTY, KANSAS

## II. PURPOSE

The general purpose of this Agreement is to facilitate the parties' desire to cooperate in the establishment and maintenance of a data warehouse for the purpose of sharing criminal history record information and other criminal justice information (hereinafter "ALERT/ETAC Information") among law enforcement agencies across jurisdictional boundaries by formalizing the organization, composition and nature of the relationships among Participating Agencies.

## III. ORGANIZATIONAL STRUCTURE/EXECUTIVE BOARD

- A. **Nature of the Organization.** The ALERT/ETAC is an institutionalized, financially self-sustaining, cooperative partnership of state and local governments which is not intended to, and shall not, be deemed to have any independent legal status.
- B. **Organizational Control: Executive Board.** Overall organizational control of the ALERT/ETAC shall be vested in an Executive Board which shall be comprised of one representative of each of the Participating Agencies that are parties to this Agreement at the time action is to be taken by the Executive Board. The Executive Board shall act by a majority vote. The Executive Board shall meet as determined necessary by the Executive Board, but at least twice annually, to perform the functions and duties contemplated by this Agreement. The times, dates and subject matter shall be fixed by the Executive Board. The meetings shall be conducted in accordance with the Kansas Open Meetings Act. The Executive Board shall adopt rules and regulations for the proper conduct of its business. The Executive Board shall comply with all existing and applicable state laws, federal laws, rules and regulations, including Kansas Open Records Act and any applicable provisions of the Kansas Cash Basis Law.
- C. **Addition of User Agencies.** The Executive Board may act to authorize other local governments to participate in the sharing of ALERT/ETAC Information established and maintained by the ALERT/ETAC, and as managed by this Agreement. These entities shall be referred to as "User Agency" or "User Agencies." The Executive Board shall require and determine the initial capital contribution required of such User Agency, if any, and the annual fee to be paid by such User Agency for its participation in the ALERT/ETAC. The capital contribution and annual fee shall be proportionately determined based on population, the effective date of any User Agreement, and the initial capital contribution and annual fee paid by the Participating Agencies. The Executive Board shall determine the form, term and content of any agreement to be executed by the User Agency.

**D. General Treasurer Agency and Special Purpose Administration Agencies.**

1. The Executive Board shall appoint and authorize from the Participating Agencies, one Agency, which shall, with its consent and to the extent necessary to effectuate the mission and purpose of the ALERT/ETAC, act as the General Treasurer Agency for the ALERT/ETAC by:
  - i. Executing applications, certifications, and otherwise administering financial grants on behalf of and/or in support of the ALERT/ETAC as may be available to ALERT/ETAC or the Participating Agencies;
  - ii. Soliciting, accepting, inventorying and receiving property to be held in the name of the General Treasurer Agency for the collective benefit of the ALERT/ETAC Participating Agencies during the period of the ALERT/ETAC's existence, and thereafter to equitably distribute or dispose of said property pursuant to the directives of the then Executive Board, or, in the absence of any such directive, following the dissolution of the ALERT/ETAC, pursuant to such principles as the General Treasurer Agency deems equitable; and
  - iii. Engaging in such other activities relating to the financial operations of the ALERT/ETAC as the Executive Board may authorize.
2. In addition to the appointment of the General Treasurer Agency, the Executive Board may also select and authorize any other Participating Agency to act as a Special Purpose Administrative Agency when circumstances so require, or when the then selected General Treasurer Agency is either unwilling or unable to perform its specified required functions such as assisting with an annual audit of all accounts, funds, and property utilized by the ALERT/ETAC.

**E. Daily Operational Control.** The daily operational control, management, supervision of and responsibility for operations of the ALERT/ETAC system shall be vested in Board of Police Commissioners of Kansas City, Missouri (hereinafter "BOPC"). BOPC shall:

1. Submit an annual report to the Executive Board regarding the operations, activities and inventory of the ALERT/ETAC.
2. Coordinate and control any contacts with and respond to inquiries from members of the media.
3. Coordinate with the General Treasurer Agency the purchase of such property, equipment, supplies or materials as are necessary for operations of the ALERT/ETAC.
4. Maintain, in coordination with the General Treasurer Agency, an annual inventory of all property used, held by or on behalf of the ALERT/ETAC, which inventory is to be submitted annually to the Executive Board.



5. Perform such other functions and duties as are reasonably related to the successful operation of the ALERT/ETAC as may be subscribed and authorized by the Executive Board.
6. Facilitate the incorporation of the current ALERT system into the ALERT/ETAC system and relinquish organizational control over ALERT to the Executive Board of ALERT/ETAC. BOPC will become the operational organization for the ALERT/ETAC system and will maintain daily operational control as provided herein.
7. The Executive Board may, as it deems appropriate, create policies, procedures, practices and/or rules affecting the day-to-day operations of the ALERT/ETAC. All Participating Agencies, to the extent applicable to them, agree to follow and comply with said policies, procedures, practices and/or rules created by the Executive Board.

F. **Initial Commitment of Resources**. The Participating Agencies shall make an initial commitment of resources to ALERT/ETAC, in the amounts set forth in Appendix A attached hereto. The initial commitment shall be payable to ALERT/ETAC on or before the \_\_\_ day of \_\_\_\_\_, 2006.

G. **Commitment of Resources**. The purchase of property, equipment, supplies or materials in excess of \$5,000 in value, or any purchase, obligation, or encumbrance that exceeds \$5,000 in value shall first be authorized by the Executive Board, when such purchase, obligation, or encumbrance is related to assets, funds or obligations of the ALERT/ETAC. The Executive Board, or any agent or employee thereof, shall comply with the Kansas Cash Basis law and is not authorized to and shall not incur a financial obligation or create indebtedness in excess of funds on hand and unencumbered by any other commitment.

H. **Annual Commitment of Resources**. It is anticipated that the continued maintenance of the ALERT/ETAC will require additional annual contributions of capital by Participating Agencies, and any authorized User Agency, beginning with the renewal date of July 1, 2007. The Executive Board shall determine the appropriateness, necessity, and extent of the required annual contributions, and advise Participating and User Agencies of the amount and manner in which the sum was determined, on or before April 1 of each calendar year during which this Agreement shall renew. The annual contribution of a Participating or User Agency shall be paid on or before July 1 of each calendar year during which this Agreement shall be renewed.

#### IV. IMMUNITY

To the extent permitted by law, the parties hereto shall enjoy immunity from liability in the process of providing cooperation under this Agreement. Nothing in this Agreement should be construed to in any way limit immunities available to the parties.

#### V. EFFECTIVE DATE/DURATION/TERMINATION

- A. This Agreement shall become effective upon execution by all Participating Agencies listed in Section I above.
- B. This Agreement shall be effective for a term of one (1) year from the effective date of July 1, 2006. This Agreement shall then automatically renew for a term of one year among those Participating Agencies who pay the annual contribution fee in the amount determined by the Executive Board on or before July 1<sup>st</sup> of the renewal year term. This automatic renewal shall continue for the duration of the ALERT/ETAC.

This Agreement shall not automatically renew and shall then expire at the end of the then current term as to any Participating Agency that fails to appropriate and pay the annual contribution fee in the amount determined by the Executive Board on or before July 1<sup>st</sup> of the renewal year term, or that has otherwise provided notice of its intent to terminate the Agreement as provided in Paragraph C, below. Any Participating Agency that fails to pay the annual contribution fee or that provides notice of intent to terminate shall have no rights or obligations after such termination under this Agreement and the terms of this Agreement shall automatically be modified to the exclusion of such Participating Agency to this Agreement. The Participating Agency shall be responsible for those obligations accrued while a Participating Agency to this Agreement.

- C. Any Participating Agency may terminate its relationship with the ALERT/ETAC and withdraw from this Agreement at any time by written notification to the current chair of the Executive Board at least 30 days prior to withdrawal. Upon termination a terminated agency's information shall remain in the system and the terminated agency shall forfeit interest in any contributions made and any interest in any money and/or property that may be acquired by ALERT/ETAC. The terminated agency will have no right to participate in the division of that money and/or property in the event of the dissolution of ALERT/ETAC.

## VII. MODIFICATIONS AND AMENDMENTS

This Agreement may not be modified or amended except by written consent of the Governing Body of each Participating Agency at the time of such modification or amendment.

## VIII. MISCELLANEOUS PROVISIONS

- A. Headings Irrelevant. The paragraph headings and numbering in this Agreement are inserted for convenience only and shall not affect the meaning or interpretation of the terms of this Agreement.
- B. No Third Party Rights. Nothing in the Agreement is intended to confer or does confer any rights, duties or obligations on any person other than the Participating Agencies.

- C. Settlement of Disagreements/Disputes. Disagreements and disputes among Participating Agencies arising under or relating to this Agreement shall be resolved by consultation by and between the affected Agencies or, in the event an agreement cannot be reached, through the Executive Board. Disagreements and disputes will not be referred to any court or to any other person or entity for settlement.
  
- D. Severability. If any portion of this Agreement is declared invalid by a court of competent jurisdiction, this Agreement shall be construed as if such portion had never existed, unless such construction would constitute a substantial deviation from the intent of the Participating Agencies as reflected in this Agreement.
  
- E. Execution. This Agreement may be executed simultaneously in several counterparts, each of which shall be deemed to be an original and all of which shall constitute but one and the same instrument.

This Agreement shall be in full force and effect and the parties have hereunto set their hands this \_\_\_ day of \_\_\_\_\_, 2006.

\_\_\_\_\_

\_\_\_\_\_  
Notary Public

My Commission Expires:

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Notary Public

My Commission Expires:

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**PRAIRIE VILLAGE ARTS COUNCIL  
"STATE OF THE ARTS" EXHIBITION PROGRAM PROPOSAL  
OCTOBER, 2007  
R.G. ENDRES GALLERY**

**Program Summary:**

The Prairie Village Arts Council seeks to sponsor a signature event in October, 2007 entitled "State of the Arts." This event would be a juried exhibition sponsored by the Prairie Village Arts Council and would occur throughout the month in the Municipal Offices' R.G. Endres Gallery.

The exhibition would be administered similar to other juried art shows, such as the Prairie Village Art Fair, Johnson County ArtsFest, and private gallery exhibitions.

The exhibit will have the following goals:

1. Attract high-quality art and artists to the Gallery.
2. Increase awareness of the Municipal Offices' R.G. Endres Gallery in the metropolitan and regional arts communities.
3. Establish a "signature event" for the R.G. Endres Gallery.

Generally, the show would proceed as follows:

1. The Prairie Village Arts Council would issue a Call for Artists.
2. Entries would be juried by art professional(s) who would select individual pieces for the exhibit. Approximately 40 pieces would be included in the show.
3. Selected pieces would be on display in the Municipal Offices' R.G. Endres Gallery during October, 2007.
4. In early October, an opening reception would be held to introduce the art and artists to the community.

In order to begin preparations for this exhibit, the Prairie Village Arts Council is seeking approval from the City Council in a number of areas, including:

- Additional financial support for the show.
- Authorization to charge a non-refundable entry.
- Authorization of a Gallery Commission to be applied to the purchase price of any piece sold while on display at this event.
- Authorization for the Prairie Village Arts Council to solicit corporate sponsorship for the event.

**Background:**

The Municipal Offices underwent significant renovation in 1996 after the Police Department moved into the Public Safety Center. As part of the renovation efforts, gallery space was created in the hallways of the Municipal Offices through the installation of track lighting and a channel cable system for hanging art. Upon completion, the space was named the R.G. Endres Gallery in honor of Robert G. Endres, a long-serving member and former chairman of the Prairie Village Arts Council.

For ten years, the Gallery has been attracting talented local and regional artists in a series of monthly exhibits. Prairie Village Arts Council members are instrumental in seeking out artists, and the Gallery is often booked up to one year in advance. Over the years, the Gallery has hosted local favorites such as Jim Hamil, Graham Porter, and Jack O'Hara. The Gallery has also hosted exhibits featuring students from Shawnee Mission East and the Kansas City Art Institute. The Gallery is also the annual host of exhibits by the Johnson County Senior Arts Council and the MidAmerica Pastel Society's Small Painting Show.

The next logical step in the Gallery's development is the creation of a signature event such as a juried exhibition. The exhibition will continue to establish the Gallery as a premier location for local and regional artists to exhibit their work, and will increase the Gallery's visibility in the arts community.

Arts Council members have discussed hosting a juried exhibition for the past several months, prepared a program budget, and are willing to obtain financial support from corporate sponsors in order to make "State of the Arts" a successful event for both the City and the Prairie Village Arts Council.

**Art Selection Process**

Selecting high-quality art is a critical first-step in a successful exhibit. A competitive selection process, coupled with the Prairie Village Arts Council's experience in hosting art exhibits will provide appropriate measures to provide a high quality product for the exhibition and guard against inappropriate selections for display in the exhibit.

The selection process will be managed by the Prairie Village Arts Council. The Arts Council will take an active role in soliciting entries from qualified artists and select well-respected members of the local arts community to judge entries. The selection process would be structured as follows:

1. Call for Artists - The Arts Council would issue a call for artists. The call would be widely circulated within the local and regional arts community, providing background information about the exhibit. Artists would be allowed a maximum of two submissions and only one piece per artist would be accepted for the exhibition.



2. **Juried Selection Process** - A jury led by local artist(s) would review submissions and select pieces for display.
3. **Installation** - After delivery to the City but prior to installation, all entries will be reviewed. Upon approval, pieces will be installed.
4. **Right to Remove** - Before a piece is installed in the Gallery, the Artist will agree to, among other things, the right of the City to remove the piece prior to the end of the exhibit if it poses a risk to people or property, or is deemed inappropriate for public display. This process has been used for the past several years for other Gallery exhibits and has worked very well.

### **Exhibit Awards**

As with any competition, prizes need to be awarded. The Prairie Village Arts Council plans on awarding prizes worth a total of \$2,000 during the "State of the Arts" exhibition. Awards will be selected by the jury. The Arts Council plans to obtain corporate sponsorships for these prizes, and has already received a \$500 commitment from one local business.

### **Exhibit Sales**

Pieces of art in the Municipal Offices' Gallery are often sold while on display. To date, the Arts Council has not charged a gallery commission. However, artists often provide donations to the Arts Council through the Prairie Village Municipal Foundation, which are greatly appreciated.

Given the unique circumstances of "State of the Arts" the Prairie Village Arts Council believes it would be appropriate to charge a Gallery commission for any work sold while on display during the exhibition. The Arts Council recommends a gallery commission of 15%. These funds would be retained by the Arts Council for use in future arts programming.

### **Project Funding**

As the attached budget indicates, the Prairie Village Arts Council estimates it will cost \$6,500 to sponsor the exhibition. It is anticipated that \$4,500 of this amount will be offset through entry fees and corporate sponsorships, \$700 will come from Prairie Village Arts Council funds in the Municipal Foundation, and \$1,300 will come from the Arts Council's 2007 Operating Budget.

In order to begin planning for this exhibition, the Arts Council is requesting a transfer of \$4,500 from the General Fund Contingency for this program. This amount will be offset by entry fees and sponsorships, resulting in no net impact on the City budget.

### **Project Expenses**

The attached budget identifies how costs for this exhibition would be allocated. As you will see, the primary costs for the exhibition are prize money and publicity.

### **Request of the City Council**

In order to allow the Prairie Village Arts Council to move forward with planning for the "State of the Arts" exhibition, the Arts Council requests the City Council approve the following:

- Authorize the Prairie Village Arts Council to sponsor a juried art show in the Municipal Offices' R.G. Endres Gallery in October, 2007.
- Authorize the Prairie Village Arts Council to solicit corporate donations and sponsorships in connection with a juried show in the Municipal Offices' R.G. Endres Gallery in October, 2007.
- Approve establishing an entry fee of \$25 per artist.
- Authorize a Gallery Commission of 15% to be charged against the sale of any art sold while on display during the "State of the Arts" exhibition. Commission revenues will go toward the Municipal Foundation's Endres Gallery sub-account.
- Approve a transfer of \$4,500 from the General Fund Contingency to the Prairie Village Arts Council's 2007 budget in account 1-6-41-5167.

**PRAIRIE VILLAGE ARTS COUNCIL  
JURIED SHOW COST ESTIMATES**

<b>Description</b>	<b>Revenue</b>	<b>Expenditure</b>	<b>Comments</b>
Entry Fees	\$ 2,500		100 artists @ \$25 each
Private Donations			
Prize Money	\$ 2,000	\$ 2,000	Prizes to be provided by Corporate Sponsors
Jury Costs		\$ 500	
Reception costs		\$ 500	Food & Drink -- non-alcoholic
Call for Artists Costs		\$ 800	Exhibit announcement and application materials
Reception invitations		\$ 800	Invitations to select list -- personalized
Advertising		\$ 800	KC Star, Pitch, etc. plus some posters
Exhibit Announcements		\$ 800	
Gallery Handouts		\$ 300	
Transportation Costs -- return art to artists		\$ -	Artist Responsibility
<b>Total</b>	<b>\$ 4,500</b>	<b>\$ 6,500</b>	
<b>Net Impact on PVAC Budget</b>		<b>\$ 2,000</b>	

**PRAIRIE VILLAGE ARTS COUNCIL  
17 JANUARY, 2007  
MINUTES**

The Prairie Village Arts Council met at 7:00 pm in the City Council Chambers. Members present: Randy Kronblad, Chairman, David Belz, Bob Endres, and Pam Marshall. Also present: Doug Luther.

**Minutes**

Committee members approved the 15 November, 2006 minutes as submitted.

**Council Report**

Mr. Belz reported that the Prairie Village City Council has agreed to enter into a 50 year lease with the City of Leawood to permit the construction of the "porch lights" sculpture/monument on the traffic island at Somerset and Lee Blvd. The City Council has also required that there be no signage on the traffic island and that, if an identification plaque is installed, it must identify the City of Prairie Village in some way. He said the lease will be discussed by the Leawood City Council in February or March.

**Financial Report**

Mr. Luther said that the 2006 books are not yet closed, and a year-end report should be available for the next meeting.

**December exhibit/reception**

The reception for Marearl Denning was very well attended and many pieces were sold. She has indicated that she would like to exhibit in the Gallery in 2008.

**January exhibit/reception**

Attendance for the reception for Rebecca Darrah was very light, largely due to inclement weather.

**February exhibit/reception**

Mr. Luther reported that Ted DeFeo has cancelled the February exhibit due to health reasons. Attempts were made to move Mr. DeFeo's exhibit to later in the year were made, but were unsuccessful. Ms. Darrah has agreed to keep her work on display through the end of February. Mr. DeFeo said he will try to exhibit in 2008.

**Shooting Stars**

The Shooting Stars banquet will be on Sunday, April 29<sup>th</sup>. The Arts Council's 2007 budget contains \$500 in funding from the Municipal Foundation for a contribution to Shooting Stars. Committee members directed Mr. Luther to send a \$500 contribution to the program.

### **Juried Show Proposal**

Mr. Kronblad reported that the juried show subcommittee met in December and reviewed a draft proposal for the show. Mr. Luther said that the Arts Council needs to obtain City Council approval of several items in order to move forward with planning for the show. These items are:

- Financial support
- Authorization to charge an entry fee
- Authorization to charge a gallery commission
- Authorization to solicit corporate sponsorships

The total cost of the show would be approximately \$6,500, and the Arts Council would expect to generate \$4,500 in revenue to support the show through entry fees and corporate sponsorships.

Committee members reviewed and approved the draft proposal. Mr. Belz said he would present it as a committee report at the 5 February City Council meeting.

### **Sculpture Garden**

Mr. Kronblad said that the sculpture garden committee met last week and reviewed a draft proposal. Committee members felt that, because this would be a large project with a high cost, it should be incorporated into the City's Capital Improvement program. The committee plans to include a request in the 2008 program for funding to begin work on a sculpture garden.

There being no further business, the meeting adjourned.

Randy Kronblad  
Chairman

## MAYOR'S ANNOUNCEMENTS

Monday, February 5, 2007

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

Board of Zoning Appeals	02/06/2007	6:30 p.m.
Planning Commission	02/06/2007	7:00 p.m.
Municipal Foundation	02/12/2007	5:45 p.m.
Sister City	02/12/2007	7:00 p.m.
Police Pension Board of Trustees	02/13/2007	4:00 p.m.
Park and Recreation Committee	02/14/2007	7:00 p.m.
Council Committee of the Whole (Tuesday)	02/20/2007	6:00 p.m.
City Council (Tuesday)	02/20/2007	7:30 p.m.

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The Prairie Village Arts Council is pleased to feature a watercolor on cloth exhibit by Rebecca Darrah in the R.G. Endres Gallery during the month of February.

The State of the County Address will be Tuesday, March 27, 2007 at the Ritz Charles, 9000 W 137<sup>th</sup> Street, Overland Park from 11:30 a.m. to 1:15 p.m. If 8 people attend the City will purchase a table. Please RSVP to Jeanne.

The annual large item pick-up has been scheduled with Deffenbaugh for April 28<sup>th</sup>.

The City offices will be closed February 19<sup>th</sup> in observance of President's Day.

Donations to the Holiday Tree Fund are still being accepted. The funds will be used to assist Prairie Village families and Senior Citizens needing help to pay their heating and electric bills during the cold winter months, as well as with home maintenance throughout the year. Your tax-deductible contributions are appreciated.

**Prairie Village Gift Cards are on sale at the Municipal Building.** This is a great way to encourage others to "Shop Prairie Village."

The 50<sup>th</sup> Anniversary books, Prairie Village Our Story, are being sold to the public.

**INFORMATIONAL ITEMS**  
**February 5, 2007**

1. City Administrator's Report - February 1, 2007
2. Memorandum - From Bob Pryzby - Semi-Annual Report on American with Disabilities Act (ADA) Activities
3. Board of Zoning Appeals Agenda - February 6, 2007
4. Planning Commission Agenda - February 6, 2007
5. Prairie Village Supplemental Retirement Plan Advisory Board Minutes - December 18, 2006
6. Planning Commission Actions - January 2, 2007
7. Prairie Village Municipal Foundation Minutes - January 8, 2007
8. Sister City Committee Minutes - January 8, 2007
9. Park and Recreation Committee Minutes - January 10, 2007
10. Prairie Village Smoke Free Workplace Task Force Minutes - January 10, 2007
11. Sculpture Garden Sub-Committee Minutes - January 11, 2007
12. Prairie Village Environmental/Recycle Committee Minutes - January 24, 2007
13. VillageFest 2007 Committee Minutes - January 25, 2007
14. Upcoming Housing Tour in Charlotte, North Carolina - May 9-11, 2007
15. Prairie Village Employee Noteworthy
16. Mark Your Calendars
17. Committee Agenda

**CITY ADMINISTRATOR'S REPORT**  
**February 1, 2007**

**Public Works:**

Bob Pryzby prepared detailed reports for each of the storms in January. As he told you, PW crews used most of the salt in the storage barn so they have been contacting suppliers trying to buy enough to make it through the next few weeks.

The first storm started January 12th at approximately 7:00 a.m., crews finished working January 15th at 5:00 p.m. It began with a light mist which turned to ice and ended with three-quarters of an inch of snow. Total direct cost for keeping City streets clear was \$94,435, more than half the cost was labor (\$55,388). The remarkable thing about this storm was there were only four service requests related to the storm and we received several emails and notes complimenting the good work done by the Public Works crews.

The second storm began as snow on January 20th at approximately 2:00 p.m. The accumulation of over four inches was removed from the streets by 3:00 p.m. the next day. Total cost for this event was \$31,502. Because this was primarily a snow event, it was not necessary to use as much material as in the previous event, labor costs were 75% of the total for this storm. There were only three requests for service as a result of this storm.

**State Legislation:**

During the recent City Hall Day at the Capitol and the first Johnson County Legislative Breakfast, elected officials talked about the Eminent Domain bill enacted last year. The legislation, with an effective date of July 1, 2007, limits the ability of cities to use eminent domain for economic development. With a few exceptions, use of eminent domain where property is later transferred to another private property owner must have the approval of the Legislature. The Bill contained no provision for cities to acquire blighted properties then transfer the property to another owner for redevelopment without seeking legislative approval. This Bill was adopted with the understanding that the issue of a definition of blight would be addressed this year. The challenge is finding a definition that is acceptable, the concern from some Johnson County representatives is that opening the legislation makes it possible to change it in other ways unacceptable to Johnson County or its cities.

Several Bills focus on reducing the tax burden on older citizens. One Bill would increase the number of seniors eligible for the Homestead Refund Program by increasing the income and assets thresholds. Another Bill, which appears to be on a fast track, is one that would allow taxpayers to subtract Social Security benefits from federal adjusted gross income when computing Kansas income tax liability. A Senate Bill would amend the Kansas Constitution to prohibit valuation increases on single-family residential real property owned by and the principal place of residence of a Kansas resident 65 years of age or older.



**Personnel**

Several months ago the Council retained SBD to prepare a comprehensive compensation study, including both salary and benefits paid by the City for employees. When the 2007 budget was prepared, \$47,250 was added to the salary line item as an estimate of the cost for implementation of the program. The implementation cost we budgeted was based on a salary study prepared by staff before SBD was hired. The staff estimate used only regional comparisons; results were lower than the SBD study which was based on regional and national comparisons. The result of the study and implementation approved by the City Council is a shortage of more than \$30,000 in 2007 budgeted personnel costs. The good news is, because of employee turnover combined with lengthy hiring processes, the City normally has budget remaining at yearend in the Personnel category. In 2006 the budget exceeded actual personnel expenditures by almost \$400,000, which was more than in the past. In 2005 the total personnel budget remaining at yearend was less than \$300,000. Because we expect to have a balance remaining in the Personnel category at yearend, we will not request a Contingency Fund transfer to cover the salary increases caused by implementation of the new plan.

**Legal Issue - Update:**

The City Attorney recently informed members of the Governing Body that action had been filed by the plaintiff in the sign ordinance case for legal fees and damages. He said the City's insurance carrier was reviewing the files to determine whether the City's coverage would provide defense and indemnity for the City. St. Paul Travelers responded that the Public Entity Management Liability policy held by the City provides \$1 million per occurrence coverage with a \$5,000 deductible which applies to both expenses and indemnity. They will defend all defendants against this lawsuit under a full and express reservation of rights to deny coverage and withdraw from defense if it is later determined they have no obligation to indemnify the City.

**Zoning Issue:**

Three years ago a representative of Cingular came to the City requesting approval to locate antennae on the water tower in McCrum Park (owned by Water One) and lease space in the park for an equipment building. After receiving approval from the Park Committee, the Legislative/Finance Committee said they would recommend a lease to the Council in the amount of \$2,000 per month if the Special Use Permit was approved by Planning Commission and Council. The company withdrew the request because of the cost. They returned the next year willing to accept the lease cost. After meetings with the neighbors, Planning Commission and City Council, they asked the Planning Commission to continue (table) their application. The application has been in this status since that time. Last week the Cingular representative called requesting the application be withdrawn from the Planning Commission agenda, they plan to file a new application for another site in the area.

Last month the City was informed another applicant may submit an application for a Special Use Permit for antennae on the water tower in McCrum Park with a smaller building inside the fence owned by Water One. This plan would not reduce the size of the park as the first plan had done.

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**M E M O R A N D U M**

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**TO:** Mayor and City Council Members  
**FROM:** Bob Pryzby  
**DATE:** January 24, 2007  
**RE:** Semi-Annual Report on American with Disabilities Act (ADA) Activities

This report will cover my activities as ADA Coordinator from July through December 2006.

Communications during this period:

- Resolved a complaint that a portable toilet service truck was obstructing an accessible parking space in a City park. The accessible parking space was relocated.
- Intervened with a utility about prompter repairs to sidewalks removed during utility work. Advised this utility and other utilities to make quicker repairs to sidewalks in accordance with ADA.

Other activities during this period:

- 2006 Concrete Repair Project – Replaced 58 accessible sidewalk ramps, 3,951 square yards of sidewalks, and removed 367 trip hazards.

During this period, I spent 35.0 hours specifically on ADA matters.

**BOARD OF ZONING APPEALS  
CITY OF PRAIRIE VILLAGE, KANSAS**

**AGENDA**

**TUESDAY, FEBRUARY 6, 2007**

**6:30 P.M.**

**COUNCIL CHAMERS**

- I. ROLL CALL**
- II. APPROVAL OF MINUTES - October 3, 2006**
- III. ACTION ITEM**
  - BZA2007-01 Request for a Variance from P.V.M.C. 19.08.020**
  - Front Yard Setback reduction from 30 feet to 10 feet**
  - 2002 West 71<sup>st</sup> Terrace**
  - Zoning: R-1b**
  - Applicant: Jeff House, DJ Builders, LLC**
- IV. NEW BUSINESS**
- V. OLD BUSINESS**
- VI. ADJOURNMENT**

**\*\*Council members may be present at this meeting\*\***

If you can not be present, comments can be made by e-mail to  
[Cityclerk@Pvkansas.com](mailto:Cityclerk@Pvkansas.com)

PLANNING COMMISSION AGENDA  
CITY OF PRAIRIE VILLAGE  
MUNICIPAL BUILDING - 7700 MISSION ROAD  
TUESDAY, FEBRUARY 6th  
COUNCIL CHAMBERS  
7:00 P. M.

I. ROLL CALL

II. APPROVAL OF PC MINUTES - January 2, 2007

III. PUBLIC HEARINGS

PC2005-05 Tabled Request for Special Use Permit for  
Wireless Communication Antenna  
69<sup>th</sup> Terrace & Roe (McCrum)  
Applicant: Curtis Holland for Cingular Wireless  
HAS WITHDRAWN THIS APPLICATION

IV. NON-PUBLIC HEARINGS

V. OTHER BUSINESS

Discussion Multi-Family Housing/Mixed Use Development Districts

VI. ADJOURNMENT

Plans available at City Hall if applicable

If you can not be present, comments can be made by e-mail to  
[Cityclerk@Pvkansas.com](mailto:Cityclerk@Pvkansas.com)

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

**PRAIRIE VILLAGE SUPPLEMENTAL RETIREMENT PLAN  
ADVISORY BOARD**

**December 18, 2006**

**Minutes**

The Supplemental Retirement Plan Advisory Board met December 18, 2006. Present and presiding: Chairman Charles Clark. Members present: Wayne Vennard and Bob Pryzby. Staff and consultants present: Lance Zimmerman representing M&I, Brian Johnston with Lathrop and Gage, Barbara Vernon and Doug Luther.

**Amended and Restated Supplemental Pension Benefit Plan**

Lance Zimmerman said the daily valuation in section 1.16 still lists December 31st and the valuation date. That section along with sections 3.06 and 9.11 should be changed to state balances are being valued daily with daily allocation also being performed by M&I. Brian Johnston said he would make those changes throughout the document to make it a daily valuation and allocation.

Bob Pryzby and Lance Zimmerman suggested the following:

- ❖ definitions be placed in alphabetical order.
- ❖ add definition for “common law” employee, “leased” employee and “annualized monthly base”.
- ❖ the document reference the 1981 starting date of the Plan.
- ❖ explain accounting date
- ❖ simplify first paragraph of page 3
- ❖ include definition of “indirectly pays”
- ❖ define benefit hours excluded and address compensating time
- ❖ check 5.02 and 1.23c for conflict
- ❖ 6.03 should indicate three methods
- ❖ 6.06 accrued benefit either a or b
- ❖ need escheat provision
- ❖ Page 20 7.01 comma annualized compensation
- ❖ Page 24 should be “his”
- ❖ Page 26 list of information “as needed”

Lance made other technical change recommendations which Brian will incorporate in the new document.

Board members suggested the group meet in January to review annual performance for 2006 and the final draft of the Amended/Restated Pension Plan.

**Planning Commission Actions**  
**Tuesday, January 2, 2007**

**PC2006-18 Request for Conditional Use Permit for Communication Utility Box at  
5600 West 78<sup>th</sup> Street**

The Planning Commission approved the installation of the VRAD utility box in a utility easement and the replacement of the SAI box on the west side of Reeds Road between 77<sup>th</sup> Terrace and 78<sup>th</sup> Street and granted a Conditional Use Permit subject to the following conditions:

1. That the applicant maintain the landscaping and replace any plant materials that die so that the integrity of the landscape screening is maintained throughout the life of the project.
2. That the applicant shall meet with the neighbors and revise the landscape plan to include some evergreens and more ornamental trees, and resubmit it to staff for review and approval.
3. That the applicant install the landscaping immediately after installation of the utility box.
4. That the Conditional Use be approved for an indefinite period of time.
5. That should the utility boxes become obsolete and not functional they shall be removed from the site within six months.

**PC2007-01 Request for a Conditional Use Permit for a Communication Utility Box to  
be located at 9100 Roe Avenue**

The Planning Commission approved the installation of the VRAD utility box and replacement of the SAI box at 9100 Roe Avenue and granted a Conditional Use Permit subject to the following conditions:

1. That the applicant maintain the landscaping and replace any plant materials that die so that the integrity of the landscape screening is maintained throughout the life of the project; and parkway between the curb and sidewalk along Roe
2. That the applicant revise the landscape plan to address screening from the east and submit it to staff for review and approval.
3. That the applicant install the landscaping immediately after installation of the utility box.
4. That the Conditional Use be approved for an indefinite period of time.
5. That should the equipment boxes become obsolete and not functional they shall be removed from the site within six months.

**PC2007-02 Request for a Conditional Use Permit for a Communication Utility Box to  
be located at 7718 Mission Road**

The Planning Commission approved the installation of the VRAD utility box and replacement of the SAI box in the easement at 7718 Mission Road (the Municipal Center) and granted a Conditional Use Permit subject to the following conditions:

1. That the conditional use be approved for the VRAD utility box and the replacement of the SAI box at the location as shown on the plans.
2. That the applicant maintain the landscaping and replace any plant materials that die so that the integrity of the landscape screening is maintained throughout the life of the project.

3. That the applicant review the landscape plan and add more ground level plants to screen the utility boxes and submit the plan to staff and the Tree Board for review and approval.
4. That the applicant install the landscaping immediately after installation of the utility boxes.
5. That the Conditional Use be approved for an indefinite period of time.
6. That should the equipment boxes become obsolete and not functional they shall be removed from the site within six months.
7. That the existing Scotch Pine trees be protected during construction, and any plants that are damaged be replaced by the applicant.

**PC2007-03 Request for a Conditional Use Permit for a Communication Utility Box to be located at 7554 Booth Drive**

The Planning Commission approved the installation of the VRAD utility box and relocation of the existing SAI box in a rear yard utility easement at 7554 Booth Drive and granted a Conditional Use Permit subject to the following conditions:

1. That the applicant consider relocate the SAI box from the intersection of 76<sup>th</sup> Street and Booth Drive to the rear property line easement adjacent to the VRAD box and restore the current site of the SAI box to its original condition.
2. That the applicant maintain the landscaping and replace any plant materials that die so that the integrity of the landscape screening is maintained throughout the life of the project.
3. That the applicant revise the proposed landscape plan to include some evergreen plants and prepare a landscape plan for the SAI box location if it remains. The revised landscape plan will be submitted to staff for review and approval.
4. That the applicant install the landscaping immediately after installation of the utility box.
5. That the Conditional Use be approved for an indefinite period of time.
6. That should the equipment boxes become obsolete and not functional they shall be removed from the site within six months.
7. That the applicant protect the existing plants during construction and replace any that are damaged.
8. That should the equipment boxes become obsolete and not functional they shall be removed from the site within six months.
9. That the applicant protects the existing plants during construction and replaces any that are damaged.

**PC2007-04 Request for a Conditional Use Permit for a Communication Utility Box to be located at 5402 West 77<sup>th</sup> Street**

The Planning Commission approved the installation of the VRAD utility box in the right-of-way at 5402 West 77<sup>th</sup> Street and granted a Conditional Use Permit subject to the following conditions:

1. That the applicant maintain the landscaping and replace any plant materials that die so that the integrity of the landscape screening is maintained throughout the life of the project.
2. That the applicant install the landscaping as shown on the plan immediately after installation of the utility box.
3. That the Conditional Use be approved for an indefinite period of time.
4. That should the equipment boxes become obsolete and not functional they shall be removed from the site within six months.

**PC2007-05 Request for a Conditional Use Permit for a Communication Utility Box to be located at 5620 West 81<sup>st</sup> Street**

The Planning Commission approved the installation of the VRAD utility box in an easement and replacement of the SAI box in the right-of-way at 5620 West 81<sup>st</sup> Street and granted a Conditional Use Permit subject to the following conditions:

1. That the applicant maintain the landscaping and replace any plant materials that die so that the integrity of the landscape screening is maintained throughout the life of the project.
2. That the applicant incorporate some evergreens into the landscape plan and submit a revised plan to staff for review and approval.
3. That the applicant install the landscaping immediately after installation of the utility box.
4. That the Conditional Use be approved for an indefinite period of time.
5. That should the equipment boxes become obsolete and not functional they shall be removed from the site within six months.
6. The applicant resubmit site and landscape plans for this location reflecting the actual site and landscaping for approval by staff.

**PC2007-06 Request for a Conditional Use Permit for a Communication Utility Box to be located at 3500 West 79<sup>th</sup> Street**

The Planning Commission approved the installation of the VRAD utility box the right-of-way at 3500 West 79<sup>th</sup> Street in an easement and replacement of the SAI box not to exceed 65" in height and granted a Conditional Use Permit subject to the following conditions:

1. That the applicant maintain the landscaping and replace any plant materials that die so that the integrity of the landscape screening is maintained throughout the life of the project.
2. That the applicant install the landscaping as shown on the plan immediately after installation of the utility box.
3. That the Conditional Use be approved for an indefinite period of time.
4. That should the equipment boxes become obsolete and not functional they shall be removed from the site within six months.



# PRAIRIE VILLAGE MUNICIPAL FOUNDATION

January 8, 2007

## Minutes

The Prairie Village Municipal Foundation met January 8, 2007. Present and presiding: President Bill Nulton. Members present: Mayor Ron Shaffer, Charles Clark, Diana Ewy Sharp, A.J. LoScalzo, Mary Engelken, Marcia Jacobs, Bill Rose, Doris Wieggers and Barbara Vernon.

Bill Nulton thanked all members who helped make the Holiday Tree lighting at Corinth Shopping Center a success.

### **Approval of October 30, 2006 minutes**

A motion to approve minutes of the October 30 meeting as amended (adding the names of Bill Nulton and Diana Ewy Sharp to the list of those volunteering to help with the tree lighting event) made by Marcia Jacobs and seconded by Mary Engelken passed with a unanimous vote.

### **Future Direction of the Foundation**

Committee members agreed the first step is to adopt a logo to be used on all information published about the Foundation. Ron Shaffer said he will contact Austin Harmon to see if he will accept that project.

The logo should present visually some ideas from the City logo but not be similar to the Prairie Village star. The committee is striving for a new direction with more professional material to solicit funding and generally increase visibility of the Foundation. The Foundation has been helping Prairie Village residents since 1981.

If Austin cannot take on the project, Sara Harken (73rd Terrace) will be asked to consider doing it. A.J. LoScalzo said she could talk to Randy Knight about it also. Doris suggested only one person at a time be approached about the project.

Committee members discussed preparing a professional brochure or advertising piece. They agreed it is important to have something to distribute, with names of the Board members and mission of the organization. A card that can be carried in a shirt pocket was also suggested.

There was also general agreement that a web page be part of the City's home page. This could emphasize that individuals can make private donations to the Foundation for projects, art work and other items the City cannot afford. Bill Rose volunteered to develop a draft for a web page. Charles Clark said the purposes of the Foundation are

broad enough to cover a variety of requests and, before a gift is accepted, it must be approved by the Foundation Board.

It was suggested that the City's web page include information about applying for assistance through Johnson County Utility Assistance and Home Repair Programs. Every issue of Village Voice should have a section about the Foundation with frequently asked questions about this type of assistance.

Members would like to develop a photo board of previous projects sponsored by the Foundation – "Your Municipal Foundation Funds at Work". Suggestions included the Tex Mount rock at Porter Park, the Skatepark, two rose gardens, benches in Franklin Park, Municipal Building art gallery and the lighted Holiday trees. Staff will prepare a list of projects and pictures for committee review at the next meeting.

Cost of a logo, photo board and some advertising pieces can be financed by the undesignated funds of \$3,200.

### **Franklin Park Gazebo**

A.J. LoScalzo said Bob Pryzby told her he would have to have architectural drawings of the gazebo before he can estimate a cost of construction. Ron Shaffer volunteered to work with Bob to develop dimensions.

### **Holiday Tree Program**

Suggestions for improving the event included:

- Start earlier next year

- More cookies

- Work with Santa to be there on time

- Schedule to coincide with date of the Center's open house.

### **Next meeting**

The next meeting will be February 12, 2007 at 5:45pm. Subject matter will be planning for Foundation involvement with VillageFest and the Holiday Tree programs as well as a continuing discussion on further direction of the Foundation.

Bill Nulton  
President

## **SISTER CITY COMMITTEE**

**January 8, 2007**

### **Minutes**

#### **Call to Order**

Chairperson Cindy Dwigans, called the meeting to order. Present: Bob McGowan, Cleo Simmonds, Alyce Grover, Alexandra Thompson, Hildegard Knopp, Jim Hohensee, and Carol Mosher. Staff: Barbara Vernon.

Cindy introduced Carol Mosher, a former member of the Sister City Committee who moved out of the City, Carol has now returned to Prairie Village and would like to be reappointed to the committee. Committee members welcomed her and suggested she download the volunteer application from the City's home page, complete it and submit it to the City Clerk's office.

Cindy announced that Alyce Grover is moving away from Prairie Village. She has been an active member of the committee and she will be missed. Cindy presented her with a card and gift certificate from members of the committee.

Alyce said this has been a good experience for her, she will miss the group and the plans that are being made. She expressed appreciation her for the gift.

#### **Approve December 2006 Minutes**

Cleo Simmonds moved approval of minutes of the December 2006 meeting. Bob McGowan seconded the motion with was passed with a unanimous vote.

#### **Dessert Reception for Shawnee Mission East International Students**

Ali Thompson said there are fifteen international students at Shawnee Mission East this year. They have a regular group meeting each month, the next will be February 7th. Ali will ask to be included on the agenda to speak to the students about the reception.

Michael Kelly volunteered to attend the meeting with Ali.

Cleo and Michael agreed to make arrangements for refreshments, committee members authorized expenditure of up to \$200 for the refreshments, soda, water and gift bags. Ali will prepare the invitations. She estimated she will mail 86 invitations to students, parent families, mayor, council and committee members.

Barbara Vernon will contact the City's public information officer, Doug Luther, about asking the Star reporter to write a feature article on the event and the students.

### **Update on Communications with Germany**

Cindy distributed a letter of interest, developed by Bob McGown and Jim Hohensee, that the committee will send to Germany. There was some question about whether the letter should be in German but most committee members agreed most German people are familiar with the English language or have translators. After reviewing the letter, committee members agreed to send the letter in English to Lord Mayor Andreas Bausiwine after it is signed by the Mayor, Michael and Cindy and the City seal is applied.

### **Update of Communications with Dolyna**

Cleo distributed a list of Challenges, Benefits, Expectations, Resources and Assets the committee should consider before making a final decision about establishing a Sister City relationship with Dolyna. He said he sent correspondence to Oleksandr Kizyma, who has been corresponding with him, as a way to keep communication open.

Bob said he thinks the committee needs to attempt to determine its expectations. He is discovering more and more resources within this County and region.

Jim said many of the questions posed in the list Bob prepared could be applied to any potential Sister City. A good Sister City relationship needs to be ongoing and have community support. Cindy said when she and Alyce attended the Kansas City dedication of the tea garden, several former KC Mayors were there because they have a relationship with the KC's Japanese Sister City. She said we need to develop a relationship like that for and with our citizens. Their support should include a willingness to travel to the City to nurture and grow the relationship;

Cleo said he is concerned about the committee's expectations about a Sister City relationship. He said we don't know if the level of support in Prairie Village or in Dolyna is adequate to sustain the relationship if there is a change in government. If there is no core support, the project will fail. Michael said the project needs a group of people who will buy in to the idea and sustain it. Bob replied the core has to go beyond a government core. Ali asked how a core interest group can be identified. Cindy suggested an article in the Village Voice might be effective. If Ukrainian members could be encouraged to join the group, the interest would broaden to that community who might provide host homes and interpreters. Jim said he would like to involve his Scouts in exchanges with Scouts in other countries.

It was suggested the committee consider fund raising as a means of increasing awareness and interest.

Michael suggested the group wait to see what kind of response is received to Cleo's letter. The letter of response should question the level of interest in Dolyna and if they have identified a core group.

Alyce suggested an article about the Sister City group should be included in the Village Voice mentioning that the committee is considering cities in Ukraine and in Germany. That might generate interest in either or both of the areas.

Cindy said she would like to have cross-cultural exchanges but it is important to meet before determining which area would provide this type of interaction. Michael suggested the group talk to Ukrainians here to find out more about the community of Dolyna. Ali agreed and suggested it might be possible to obtain feedback from persons at the Ukrainian foundation. Cleo said he will continue to seek resources for information about Ukraine.

Cindy asked about creature comforts available in Dolyna. The area has become a ski resort for that part of the country so facilities are available in the area. It was suggested the committee talk to people about what other Sister City groups are doing. Cleo said Prairie Village visitors would be treated as official guests.

Cindy said if a Ukrainian delegation comes to Prairie Village it will be important to plan activities and visits and to provide home hosts. Cleo said they may not want home hosts, that is something we would need to determine before the visit.

Michael said he doesn't know what could prevent these visits from happening. He asked what the committee can do to get the process moving. Cindy suggested that we draw on the resources of other Sister City committees in the KC area. She will investigate an appropriate person to share their city's experiences with us at a future committee meeting. Alyce said correspondence is the key. She suggested members be assigned to develop relationships with those interested in the other cities.

Ali suggested it might be easier to start at the school level. Jim agreed and added churches and Scout groups would be interested. Alyce said they had established a pen pal relationship between the former sister city and students at St. Ann's. She said the Shawnee Mission School District was not interested in the program but senior citizen communities might be interested. Michael said he will talk with Brighton Gardens to find out if they are interested. Cindy asked about the primary religion in Dolyna. Michael said they are primarily Orthodox which is similar to the Catholic religion. Michael said he will check with St. Ann's to see if they are interested in a pen pal relationship with Dolyna. Jim said he will check with the Scouts. Bob asked how the language difference is managed. Ali said pen pals use English, send pictures, stickers, art work, communicating through a variety of expression. She suggested sending Easter decorations because that is a huge holiday in Ukraine.

Cindy asked Cleo to express the committee's interest in a pen pal exchange in his next communication with Dolyna. Michael said he has sent emails to one of the Dolyna officials, and received a response.

Committee members agreed it is important to prepare formal communication packets with the community profile and other information about Prairie Village and the metropolitan area.

### **Presentation to Council**

A presentation will be made at the March 5, 2007 Council meeting to explain recent efforts with Germany and Ukraine. Alyce said it is important to maintain Council support by keeping them informed about what is happening in the committee and how that benefits the City. They need to know about the Exchange event with students. Cindy asked committee members to speak to show public interest. Cleo questioned if it will be effective to do it now based on the little we know now. Michael suggested showing pictures of the event with the students. He wants the Council to see the passion of committee members to have a Sister City. Jim said all members should attend.

### **2007 Sister City International Meeting**

Cindy said in the past one member of the committee was selected to attend the annual International Sister City meeting. She said last year the Mayor authorized Michael Kelly to attend also using the City general budget. Michael said members need to be consistent in attendance to establish relationships, he suggested the budget be increased to allow three members to attend. Alyce agreed, adding that when more people attend, more than one session can be covered. Cindy said in 2008 the conference will be in Kansas City so all members may be able to attend and also volunteer.

### **Other business**

None

### **Preview of next month's meeting**

Cleo said several people on the committee have mentioned knowing people from Ukraine. Jim said his friend is too shy to attend the meeting to speak about the country. Cindy suggested more than one person be invited to attend the April meeting.

Cindy said the Olathe Sister City group always has a presentation about a country at their monthly meetings.

Alyce suggested the foreign film series be re-started. Jim will look into legal issues involved in showing films.

The next meeting will be February 12, 2007

### **Adjournment**

A motion to adjourn moved by Alyce Grover and seconded by Bob McGowan was approved unanimously.

Cindy Dwigans  
Chair

**PARK AND RECREATION COMMITTEE**  
**January 10, 2007**

The Park and Recreation Committee met January 10, 2007 at 7:00 p.m. Present and presiding, Chairperson Diana Ewy Sharp. Members present: Vice-Chairperson Ruth Hopkins, Diane Mares, Shelly Trewolla, Zachary Hardy, James Bernard, Jr., Peggy Couch, Clarence Munsch, Kathy Peterson and A.J. LoScalzo. Also present: Mike Helms, Barbara Vernon, Jeanne Koontz and Bob Pryzby.

**PUBLIC PARTICIPATION**

Margaret Thomas, Environmental Committee Chairperson, presented the proposed Schliffke Park Sign to the committee. She stated the sign will contain generic information about plants and animals, the stream bank stabilization, and the background of the project. She stated the sign will be tilted, not straight up and down and will be located on the bridge not in the park.

Jim Bernard, Jr. asked what the sign would be made of. Bob Pryzby stated it will be the same material used for the sign at Santa Fe Park. It will be a hard material/board with UV protected ink and there will be a sealed plate over it. Margaret Thomas stated the sign can be pulled out of the holder and replaced.

Peggy Couch asked how much the sign will cost. Margaret Thomas said City Council approved \$2,600 and so far everything has been donated by Patty Banks and Associates. She stated there will be a cost for the stock photos.

Diana Ewy Sharp asked if formal approval is needed. Diane Mares asked if pictures of the stream could be used on the sign. Bob Pryzby and Clarence Munsch stated they believe some of the pictures on the sign are of the stream.

The following motion was made by Shelly Trewolla, seconded by Kathy Peterson, and approved by a unanimous vote:

**PARK & RECREATION COMMITTEE SUPPORTS THE DESIGN  
FOR THE SCHLIFFKE PARK SIGN.**

**CONSENT AGENDA**

Ruth Hopkins moved for approval of the Consent Agenda. Jim Bernard, Jr. seconded the motion which was approved. Minutes of the November 8, 2006 meeting were approved.

**REPORTS**

1. Public Works Report

Bob Pryzby stated they are still picking up leaves and are getting close to the end. The spring fertilizer has arrived. He said he is beginning to purchase replacement mowers.

Diana Ewy Sharp acknowledged and thanked Mike Helms for his work on the Tree Lighting. Bob Pryzby stated they will pull the plugs tomorrow on the lights before the storm hits.

## **OLD BUSINESS**

### **1. Update on Committee Plan**

Diana Ewy Sharp stated she took the plan to the Council Committee of the Whole with two recommendations. The first recommendation was for the Infrastructure/Condition Analysis/Master Plan. The committee came to a consensus to hold off on this until the Village Vision is ready. The second recommendation was to explore partnerships with private and governmental entities. The committee approved it and Craig Doty is working on it. The other recommendations are on hold until the Village Vision is approved.

## **NEW BUSINESS**

### **1. Email from David Bealby requesting a lawn bowling mound**

Peggy Couch asked what it would require to create a lawn bowling mound. Bob Pryzby stated he has had experience with bocce ball courts and lawn bowling mounds; they are very different things. He is not completely sure which one Mr. Bealby wants. Mr. Pryzby said lawn bowling is played on short grass like the green on a golf course. The mound is 80 feet by 100 feet. It needs drainage and would have to be mowed every couple of days. This is much more expensive than a bocce ball court. He said there have been requests for a bocce ball court in the past.

Diana Ewy Sharp asked if there is room. Bob Pryzby said the bocce ball court would fit by the basketball court near the Community Center.

Kathy Peterson said Bob should talk to Mr. Bealby to clarify which he is requesting. She would also like to find out how many people want this. Bob will check into this request.

### **2. Discussion of 2008 Operating Budget and Capital Infrastructure Program requests**

Bob asked the committee to begin thinking about the 2008 budget and bring their ideas on what to include or eliminate to the next meeting.



Diane Mares asked what happened with the street light idea. Bob Pryzby stated it was dropped.

Clarence Munsch mentioned some swimming program requests: underwater sound system, stroke starting system, kickboards, and meet software. Barbara Vernon stated the kickboards and software have already been purchased. Clarence Munsch also mentioned adding a second diving well when the pool gets revamped.

Diana Ewy Sharp asked when the City will need to look at revamping the pool complex. Bob Pryzby stated we need to look seriously at the lap pool. Jim Bernard, Jr. asked if it would require a rebuild. Bob Pryzby stated the starter blocks required deeper water than available with existing pool, and a couple of the corners in the pool appear to be sinking. It has also been suggested to winterize the lap pool. Diana Ewy Sharp said the idea was brought up last time. Bob Pryzby said it did not progress very far.

Clarence Munsch also requested on site storage for all the equipment during the off season. Bob Pryzby stated there is plenty of room currently in the storage room behind the filter house bathrooms.

Diana Ewy Sharp asked the committee to think about their recommendations as they relate to the Committee's Plan.

Peggy Couch asked if we are scheduled to get the climbing rock. Mike Helms stated it has arrived.

### 3. Discussion of City Park Signs change

Bob Pryzby asked the committee if they want to replace the park signs and if so what they would want them to look like. He asked if they would want them to match the city entrance signs. Diane Mares said it would be nice to replace them. Clarence Munsch said he would like something similar and consistent with the city entrance signs.

Bob Pryzby stated he has a concern about the city entrance signs being replicated in parks and confusing people. A.J. LoScalzo said people get used to seeing the same sign and do not read it. She stated it could be good to have a different sign in each park.

Bob Pryzby said most of the signs have a medium blue frame with a blue background and white letters. He said the new city entrance sign is made out of stone with black coloring.

Diana Ewy Sharp stated consistency is needed if you are trying to build a sense of community and Prairie Village identity. Zach Hardy said common materials or

styles would be nice. Ruth Hopkins stated the small brick signs for one of the homes associations on Nall look nice. Shelly Trewolla suggested doing something on either side of the walkway or an entryway.

Diana Ewy Sharp asked if the committee wants to pursue this.

Jim Bernard, Jr. asked if the existing signs need to be changed. Bob Pryzby said they are the same as the existing entrance signs; they need to be changed. Diana Ewy Sharp said she will put this on the agenda for a future meeting.

4. Discussion of McCrum Park and WaterOne tower painting

Bob Pryzby stated McCrum Park was inspected by KS Department of Wildlife and Parks and passed gloriously. Ruth Hopkins asked what they look for. Bob Pryzby read their list of items to examine.

Bob Pryzby said WaterOne is looking at repainting their tower this year. It has a lot of lead-based paint. WaterOne wants to encapsulate the tower and will be going outside the present fence line to do this. They will come to a meeting when they get their plans together. Mr. Pryzby stated it will probably be best to close the park down.

Diane Mares asked how long it would take. Bob Pryzby said it will take about 2-3 months. Diana Ewy Sharp asked if we could get them to paint something on the tower. Bob Pryzby said the committee could suggest it.

5. Discussion of fountain replacement at 69<sup>th</sup> Street, El Monte Street, and Oxford Road

Bob Pryzby said the Homes Association should send a letter agreeing to turn the fountain over to the City. They are concerned about the City tearing the fountain down. The Homes Association currently pays insurance for the statues. Bob Pryzby stated he met with the Arts Council and they are impressed with what the committee has done. He would like to put a title on each statue.

Diana Ewy Sharp asked which City fountains are in need of repair. Bob Pryzby stated Carroll, 87<sup>th</sup> St, and 71<sup>st</sup> and Cherokee.

Bob Pryzby stated the replacement will not happen in 2007.

6. Request for use of Swimming Pool – Johnson County – Barbara Vernon

Barbara Vernon reported Johnson County Parks and Recreation District has provided swim lessons for the Learn to Swim program at the Prairie Village pool since 2003. The County provides both swim instructors and lifeguards at no cost

to the City. Prairie Village is the only City in the County that does not provide lifeguard services for the swim lesson program.

The following motion was made by Diane Mares, seconded by Clarence Munsch, and approved with a unanimous vote:

**RECOMMEND APPROVAL OF THE 2007 LEARN TO SWIM CONTRACT AS WRITTEN.**

**COUNCIL ACTION TAKEN 1/16/07**

Barbara Vernon reported Johnson County Parks & Recreation District also has administered 3 aquatics programs in the past at the Prairie Village pool. Johnson County does the registration and the City provides the pool and advertising. She recommended fees for the Water Exercise (16+) and (50+) classes increase from \$8.00/hr to \$9.00/hr. The fee for the Master Swim Workouts can remain at \$19.00/per participant/month because they were recently increased.

Peggy Couch asked why the City charges for water exercise classes but not for swim lessons. Barbara Vernon stated it is historical. The Council and Park and Recreation Committee have always been committed to children learning to swim. Diane Mares suggested the City may charge for the water exercise classes because our lifeguards are being used.

Shelly Trewolla asked where the exercise classes take place. Barbara Vernon said they use the lap pool and the adult pool.

The following motion was made by Peggy Couch, seconded by Diane Mares, and approved with a unanimous vote:

**RECOMMEND APPROVAL OF THE 2007 POOL USE AGREEMENT WITH AN INCREASE IN THE WATER EXERCISE FEE TO \$9.00 PER HOUR.**

**COUNCIL ACTION TAKEN 1/16/07**

Barbara Vernon reported the City of Prairie Village contracts with Johnson County Parks and Recreation District to provide a summer day camp in Harmon Park. The day camp uses the pavilion and the playground area. The children who do not have a pool pass are also offered a discounted daily pool entrance fee of \$3.50 per person per day. The pool entrance fee stated in the contract will need to be revised as the City Council earlier approved a day camp fee at the pool of \$4.50. The daily use fee has been the same for the past several years and could be adjusted from \$19 to \$20 per day to reflect the cost of living.

Peggy Couch asked if they leave the park in nice condition. Barbara Vernon said they leave it in good condition.

The following motion was made by Diane Mares, seconded by Shelly Trewolla, and approved with a unanimous vote:

**RECOMMEND APPROVAL OF THE 2007 DAY CAMP AGREEMENT WITH JOHNSON COUNTY PARK AND RECREATION DISTRICT WITH AN INCREASE IN THE DAILY SHELTER RENTAL FEE TO \$20 AND AN INCREASE IN THE DAILY POOL ENTRANCE FEE TO \$4.50.**

**COUNCIL ACTION TAKEN 1/16/07**

7. Request for use of ball fields – British Soccer and Challenger Sports – Barbara Vernon

Barbara Vernon reported the City has received a contract with British Soccer, a division of Challenger Sports, to provide instructional soccer camps in Prairie Village during the summer. The 2007 request is for five camps during two one-week periods. The camp is fully run by the British Soccer organization. The City's only commitment is to advertise the camp in the Park and Recreation brochure and to maintain the fields. It is recommended the fee increase from \$10 to \$11 per participant for a 3 hour camp. The fee can stay at \$5 per participant for a 1 ½ hour camp. Barbara Vernon recommended approval of the agreement.

Diane Mares asked if the fee for the 1 ½ hour camp should increase to \$5.50. Barbara Vernon stated the City tries to avoid odd amounts for fees. This is why the City normally increases the fees every other year.

Diane Mares said in the past there was discussion about whether the City was charging the same price to all people using the fields. She asked if this had been taken care of. Barbara Vernon said all of the teams are being charged the same price now.

The following motion was made by Diane Mares, seconded by Shelly Trewolla, and approved with a unanimous vote:

**RECOMMEND COUNCIL APPROVE THE 2007 AGREEMENT WITH BRITISH SOCCER FOR THE USE OF CITY FACILITIES FOR SOCCER CAMPS WITH AN INCREASE IN FEES TO \$11 FOR A THREE-HOUR CAMP.**

**COUNCIL ACTION TAKEN 1/16/07**

Barbara Vernon also reported Challenger Sports was requesting use of Meadowlake Park for two flag football camps for youth. The City has contracted with Challenger Sports in the past, to provide instructional sports camps in Prairie Village during the summer. The camps are fully run by the Challenger Sports organization. The City advertises the camps in the Park and Recreation brochure and provides use of the park space. It is recommended the fee increase from \$10 to \$11 per participant for a 3 hour camp. They do not have a 1 ½ hour camp.

Diane Mares asked how these camps differ from the Lacrosse teams that approached the committee about use of the parks. Barbara Vernon said Challenger Sports and British Soccer are day camps not teams that will practice throughout the year.

The following motion was made by Diane Mares, seconded by Shelly Trewolla, and approved with a unanimous vote:

**RECOMMEND COUNCIL APPROVE THE 2007 AGREEMENT WITH CHALLENGER SPORTS FOR THE USE OF CITY FACILITIES FOR SPORTS CAMPS AND INCREASE THE FEE TO \$11 PER PARTICIPANT.**

**COUNCIL ACTION TAKEN 1/16/07**

**INFORMATION ITEMS**

Diana Ewy Sharp asked if there was a report from the Sculpture Garden Sub-Committee. Jim Bernard, Jr. stated there is a meeting tomorrow night.

Diana Ewy Sharp asked if the Municipal Foundation had anything to report regarding the proposed gazebo project in Franklin Park. A.J. LoScalzo replied no.

The meeting was adjourned at 7:55 pm.

Diana Ewy Sharp  
Chairperson

**PRAIRIE VILLAGE SMOKE FREE WORKPLACE TASK FORCE**  
**10 January, 2007**  
**Minutes**

The task force met at 7:00 pm in the Prairie Village Community Center. Members present: David Belz, Chairman, Ed Nelson, and Dr. Diana Dark. Also present, Doug Luther and Nicole Brown.

Mr. Belz reported that the City Council has asked the task force to re-evaluate the City's smoke free workplace ordinance which was adopted last year in light of the adoption of smoking bans in other cities in the area.

Ms. Brown reported, that, in the past several months, Leawood and Overland Park have adopted ordinances which would prohibit smoking in restaurants and bars beginning on 2 January, 2008. A similar ban went into effect in Olathe in November, 2006. Unincorporated Johnson County adopted a smoking ban last week, and the cities of Independence and Lee's Summit adopted smoking bans in response to ballot initiatives in these communities.

The issue is currently under consideration in Kansas City, Missouri and other cities in Johnson County.

Dr. Dark said that Sen. Wyszog has also asked the Kansas Legislature's Judiciary committee to consider a statewide smoking ban.

Mr. Nelson said that he strongly disagrees with restaurant smoking bans. While he personally does not like smoking, it is a matter of choice for customers, employees, and business owners. The government should not regulate this matter and let people decide for themselves.

Mr. Nelson said he is concerned that, if Prairie Village adopts a smoking ban and Kansas City, MO does not, his smoking customers will go to Kansas City. While this may not be a major issue for Overland Park and Olathe businesses, Prairie Village is very close to the state line.

Committee members noted that, if Prairie Village adopted regulations similar to Overland Park, smoking would still be permitted on outdoor patios at restaurants.

They also noted that smoking would be prohibited within 10 feet of the entrance to a building.

Mr. Nelson said that he understands that a metro-wide smoking ban will eventually occur in the area. However, until the cities with competing businesses

surrounding Prairie Village adopt bans, his business and others in Prairie Village will be at a competitive disadvantage.

Committee members agreed that an implementation date of 2 January, 2008 will give business owners time to adjust their business plans to achieve compliance with the new ordinance.

Committee members agreed to recommend the City Council revise the current smoking ordinance to reflect the regulations recently adopted by Overland Park, including:

- Banning smoking in restaurants and bars beginning on 2 January, 2008.
- Banning smoking within 10 feet of building entrances.
- Permitting smoking on outdoor patios.

Mr. Belz said he would report the committee's decision to the City Council at the 16 January, 2006 City Council meeting.

There being no further business, the meeting adjourned:

David Belz  
Chairman

SCULPTURE GARDEN SUB-COMMITTEE  
THURSDAY, 11 JANUARY, 2007  
MINUTES

The Sculpture Garden sub-committee met at 7:00 pm in the Public Works Conference Room. Members present: Bill Rose, Chairman, Jim Bernard, Randy Kronblad, Doug Sharp, Kathy Peterson, and Bob Endres. Also present: Barbara Vernon, Doug Luther, and Bob Pryzby.

Committee members approved minutes from the 25 October, 2006 meeting as submitted.

Committee members reviewed a draft program outline.

Mr. Bernard asked if the intent is for the sculpture garden to feature art from a wide range of artists, or just student artists. Committee members that, at least in its initial stages, the garden would emphasize student art. However, committee members agreed that, as time progresses, the City should have the option of obtaining artists for the garden from venues other than schools.

Committee members discussed what would occur if a sculpture sold while on display in the garden. Mr. Luther said that the Prairie Village Arts Council requires artists to leave all art on display throughout the exhibition. If a piece is sold, it would remain until the exhibit closes. He envisioned a similar approach would be used in the sculpture garden.

Committee members discussed funding alternatives. Mrs. Peterson said that, based on her research and experience in this area, it will be very difficult for the City to obtain grant funding for a sculpture garden. Prairie Village's demographics do not make the City attractive to grant-giving agencies. However, it may be possible to raise funds from private sources. Nonetheless, she said that the City should not expect grant funding or private donations to cover a significant amount of the project cost.

Mr. Rose stated that, before the sub-committee could approach private donors, it would be important to obtain a commitment from the City Council to use the land on the Municipal Campus for a sculpture garden. Mrs. Peterson agreed, noting that this was a necessary first step in the skatepark process.

Committee members noted that there may be some concerns with the location of the garden. Some council members have mentioned that Prairie Park might be a good location for a sculpture garden. Committee members agreed that the Municipal Campus is the most logical location for the garden.



Mrs. Vernon said that there may be concerns with relocating Prairie Boy. Mr. Kronblad said it might be possible to design the garden around Prairie Boy if this would pose a major obstacle to obtaining support for the sculpture garden.

Committee members noted that construction cost estimates vary widely, and that an engineering design is necessary to obtain firm construction costs. Mr. Pryzby said design costs typically run 8-12% of construction costs, so design services could cost approximately \$25,000 -- \$30,000.

Committee members discussed several options for approaching the City Council to request funding.

Committee members agreed that a project this size should be integrated into the City's Capital Improvement Program, and that the 2008 CIP would be presented to the City Council in May. At that time, the committee could either request the entire amount, or suggest a phased funding program with design fees budgeted for 2008 with construction in 2009.

Committee members added that it would be helpful to have both a site plan and illustration or rendering of the garden for presentation to the City Council.

Committee members agreed to meet again in March to review a revised site plan and prepare for presentation to the City Council.

There being no further business, the meeting adjourned.

Bill Rose  
Chairman

# MUNICIPAL OFFICES SCULPTURE GARDEN PROGRAM PROPOSAL AND OUTLINE

## DRAFT

### Program Summary:

The Sculpture Garden subcommittee is requesting the City Council consider developing a sculpture garden on the Municipal Campus. The garden would be a permanent addition to the City's park system. However, the sculptures on display would change annually featuring the work of local artists, particularly college-age students from institutions such as the Kansas City Art Institute and the University of Kansas. Sculptures displayed in the garden would be selected based on a competitive process sponsored by the Prairie Village Arts Council and Park & Recreation Committee. Great care would be taken to obtain art that is aesthetically pleasing, intellectually challenging, and appropriate for public display.

The sculpture garden would improve the visual appeal of the Municipal Campus and complement the Municipal Offices R.G. Endres Gallery. From a public art perspective, the sculpture garden would provide increased exposure to the arts for Prairie Village residents and others visiting the Municipal Campus.

This program proposal and outline is designed to provide City Council members with a deeper understanding of both the process required to construct a sculpture garden and the steps which would be taken to select art for display in the garden.

### Background:

In April, the City Council reviewed a conceptual design for a sculpture garden on the Municipal Campus. Shortly thereafter, an ad-hoc committee was formed with representatives from the Prairie Village Arts Council and Park & Recreation Committee. This committee developed a revised conceptual design and obtained cost estimates from two local construction firms.

Members of the committee believe there would be strong interest in a sculpture garden in Prairie Village and would like to proceed with fundraising efforts and the development of a formal design of a sculpture garden. The subcommittee is seeking approval from the City Council, along with funding, to continue their efforts in this direction.

### Sculpture Garden Location

The proposed sculpture garden would be located on the north side of the Municipal Campus, inside the circular driveway and parking area. This location is visible to traffic on Mission Road and accessible to parking spaces provided on the campus. This location would not interfere with the portions of the campus grounds needed to host the City's annual VillageFest celebration.

There are also some practical benefits to locating a sculpture garden the Municipal Campus. Doing so would nicely complement the Municipal Offices' R.G. Endres Gallery, provide increased security for the art on display, and enhance the campus-type atmosphere of the site.

### **Sculpture Garden Features**

The Municipal Offices Sculpture Garden would contain eight pedestals of varying heights upon which sculptures would be securely mounted. The sculptures would be of such size that they would be visible from vehicles passing the Municipal Campus on Mission Road.

The garden would feature a paved oval walkway with access from the Municipal Offices parking lot. Another walkway on the east side of the garden would make the garden accessible to pedestrians traveling on the Mission Road sidewalk in front of the Municipal Campus.

The center of the garden would include a water feature such as a reflecting pool or fountain.

Seating would be available on benches strategically located throughout the garden.

The entire site would be heavily landscaped to provide a serene, park-like setting throughout the year.

### **Art Selection Process**

The City Council has had several discussions about how sculptures would be selected for display in the garden, and has expressed concerns that art displayed in an outdoor sculpture garden needs to be appropriate for public display. A competitive selection process, coupled with the Prairie Village Arts Council's experience in hosting art exhibits in the Municipal Offices' R.G. Endres Gallery for the past ten years, will provide appropriate measures to guard against inappropriate selections for display in the garden.

The selection of sculptures for display in the garden will be a combined effort between the Prairie Village Arts Council, the Park & Recreation Committee, members of the local arts community, and, in the case of student artists, art instructors. The selection process would be structured as follows:

1. **Call for Artists** - The Prairie Village Arts Council would issue a call for artists. Initially, the garden would seek to encourage exhibits from student artists from institutions such as the University of Kansas and the Kansas City Art Institute. Over time, artists representing a cross-section of the arts community could be represented in the garden. The call would provide background information about the garden and the type of work the City is seeking to display.
2. **Juried Selection Process** - When samples are submitted, a three member jury comprised of representatives from the Prairie Village Arts Council, the Park & Recreation Committee, and a representative from the local arts community would review submissions and select pieces for display. In student exhibitions, the arts community representative would be an art instructor.
3. **Installation** - After delivery to the City but prior to installation, members of the jury will review the submissions. Upon the jury's approval, pieces will be installed in the garden.
4. **Right to Remove** - Before a sculpture is installed in the garden, the Artist will execute a loan agreement with the City establishing, among other things, the right of the City to remove the sculpture prior to the end of the exhibit if the sculpture poses a risk to people or property, or is deemed inappropriate for public display. A similar process has been used to address concerns with art displayed in the Municipal Offices' Gallery for nearly ten years, and the process has worked very well.

### **Art Sales**

It is likely that art placed on display in the garden would be sold. As is the current practice with pieces on display in the R.G. Endres Gallery, the City would require any work on display to remain throughout the term of the exhibit. The City does not currently charge a commission on work sold while on display in City facilities. However, Arts Council would encourage artists to make donations to the Municipal Foundation to help support arts programming in Prairie Village

### **Project Funding**

The Sculpture Garden subcommittee recognizes that the creation of a new park will require a significant investment in both time and resources. Preliminary conversations with local construction firms indicate a construction cost for the proposed conceptual design of \$100,000 -- \$300,000.

Initial research into alternative funding sources indicates that it may be difficult to obtain grant funding for a sculpture garden. However, it may be possible to solicit private donations to help offset a portion of construction costs. However, it is not likely that these contributions would significantly reduce the overall cost to the City of constructing and maintaining a sculpture garden.

There would also be ongoing costs to sponsor the annual exhibits and provide regular maintenance to the sculpture garden for items such as minor repairs, landscaping, etc.

### **Request of the City Council**

The Sculpture Garden sub-committee is requesting that the City Council include the design and construction of a sculpture garden in the 2008 Capital Improvement Program.

Draft

**PV Environmental/Recycle Committee**  
**Minutes of the January 24, 2007 meeting**

Next meeting is February 28, 2007 at 7 p.m.

Members present: Margaret Thomas, Toby Grotz, Anne-Marie Hedge, Pete Jarchow, Mary Helen Korbelik, Don Landes, Mary Montello, Diane Mooney, Bob Pierson, Lisa Riggin, Kathy Riordan, Kristin Riott, Linda Smith, Polly Swafford, Penny Mahon. Council Representative(s) present: Doug Luther. SME Student Representative(s) present: Dylan Lehrbaum. Visitor(s) present: Savannah DUBY, SME Environmental Club.

Margaret T opened the meeting at 7:00 p.m. Introduction of members and visitors. The minutes were approved. Margaret T announces a climate change talk by David Orr on 1/31 in Lawrence and asks interested persons to contact her. She also reminded us to mark April 14 on our calendars for Step It Up events.

SME Environmental Club: Dylan L and Savannah D presented information and a proposal on behalf of the SME Environmental Club. The SME club will once again gather used sneakers for recycling which will be displayed at Earth Fair. They reported that good shoes are reused through the services of Planet Aid and unusable sneakers are sent to Nike to have their rubber soles removed for recycling. Donations will be collected at SME near the front office. Doug L offered to get the Earth Fair information out through other venues since the Village Voice will not be available to us. He will help Dylan and Savannah get the information to the KC Star and on the PV website.

The SME Environmental Club also wishes to sponsor an Environmental Arts Contest. Winners will be selected from four categories. Prize money will be awarded to winners. Winning entries will be displayed at Earth Fair for the public to judge Best of Show. This prize will be announced at the Earth Fair. Dylan and Savannah ask the committee if it would be willing to donate \$200 for prize money if they can raise \$500. After discussion, the committee votes to award the club \$200 now. Doug L suggests the pair speak to him after the meeting to discuss asking the PV Arts Council for additional funds. Kristin R will check on information regarding a globe sculpture event she saw in Chicago that might be inspirational for the contest.

Earth Fair: Mary Helen K reports good responses from her calls to potential exhibitors. She has nine commitments and only Krystal Planet and LEEDS Building have had to decline so far. Additional exhibitors have yet to respond. Don L reports that Cheryl L has had all positive responses so far. Bob P will call the transportation exhibitors.

Publicity: Don L reports that the Publicity Committee met and established poster ideas. Ben R designed and the mock-up was passed around. Don notes that the Art Contest could be a flashy piece of business and asks for other suggestions. Powell Gardens may be an item. Kristin R's and Penny M's Climate Talk will be noted. Kristin reports that the Metropolitan Energy Council and H&R Block have a talk on implementation and tax benefits of home energy improvements. Doug L reports that the Parks and Recreation Department has requested the entire March Issue of Village Voice (therefore closing out any publicity announcement for Earth Fair 7). He stated that the Large Item Pickup door hangers will have PV curbside recycling information printed on the back. Mention is made that it would be nice if those hangers could come out before the Earth Fair so the event could be publicized on them. Required number of posters discussed. Don passes sheet for poster distribution sign-up. Margaret asks that more suggestions on possible exhibitors be sent to her. Mary Helen K asks if we are doing radio promotion. Don L notes the difficulty of filling a half hour with Earth Fair talk. Suggestion is made that our speaker unite with other speakers and go on a show together. Kristin R is willing to participate in a radio promotion.

7301 Mission Road Recycling: Linda S and Diane M report that neither they nor Teri C want to be involved with hauling recyclable materials from the building due to physical limitations. Kathy R will check to see if Zimmer will have a recycling dumpster placed at the facility – she doubts it will happen. Margaret T will contact some supporting members to see if any would be willing to take on this responsibility.

PV Recycling Data: Margaret T presents an overview of the recycling data compiled by the city. Doug L explains that the 2005 spike in paper recycling was due to the discontinuance of glass recycling and the beginning of chip and corrugated collection which are both included in the paper count.

Stream Sign: Committee agrees that the mock-up is fine as is with the exception of using "Schliffke Park" as a prominent title.

PV Electronic Recycling: Doug L presents information from Surplus Exchange about hosting our own event. Cost to the committee would be near \$4000. Doug reports that Overland Park has not been willing to allow us to partner with them and suggests that hosting our own event would be viewed positively. After some discussion questioning the merits of hosting, Mary M makes the point that this would be our opportunity to have a real impact. Margaret T asks all to review the information for discussion at the next meeting.

Climate Crisis: Kristin R presents an abbreviated version of Al Gore's climate change slide show. She reports that Mr. Gore has a positive attitude about our chances overall. He notes that global warming, like politics, is a non-linear system and public opinion can change very quickly in favor of taking action.

The meeting adjourned at 8:35.

Respectfully submitted,  
Lisa Riggin, secretary.

**VillageFest 2007 Committee  
Meeting Minutes  
Thursday, January 25, 2007**

The VillageFest Committee met January 25, 2007 in the Multi-purpose Room. Present: Bob Pisciotta, Chair and committee members Ann Lilak, Diana Ewy Sharp, Doug Sharp, Joel Crown, Jim Hanson, Ann Bontrager, Ed Roberts, John Capito, Frank Bardwell, and Luci Mitchell. Staff: Bob Pryzby, Mike Helms, Capt. Wes Jordan, Sgt. Steve Hunter, Barbara Vernon and Jeanne Koontz. Chris Andrews was present representing Johnson County Fire District No. 2.

**Introductions**

Those present introduced themselves to the committee.

**Minutes**

Joel Crown moved approval of the minutes from Thursday, July 27, 2006. Ed Roberts seconded the motion which passed unanimously.

**VillageFest: a brief history**

Diana Ewy Sharp gave a brief history of VillageFest and passed out a document with this information. Diana said VillageFest sprang from the 45<sup>th</sup> Anniversary Celebration in 1996. After this event, the Mayor and Council budgeted money for the following year. She wanted the event to have a hometown feel and be free. She stated it is important the event remains free. A copy of her report is attached.

**VillageFest Components:**

- a. **Budget and sponsors** – Bob Pisciotta asked what the budget is for this year. Barbara Vernon stated the budget is \$20,000 with the assumption the committee will raise \$5,000 of that. Diana Ewy Sharp asked if someone would be leading the sponsorship effort. Bob Pisciotta said he will be asking a few people.
- b. **Contract already negotiated and signed by the City** – Jeanne Koontz gave a report on what has already been accomplished. She has confirmed Slugger, the T-Bones mascot, the Wizards mascot, KC Wolf, Chris Cakes, and Jim Cosgrove and the Hiccups and their sound operator. She spoke with Jennifer Cosgrove who is checking on the availability of Dino O'Dell and the pricing for this year. She stated the Marching Cobras have been continually difficult to contact. She put in a request on their website and has not heard back yet. Contracts still need to be sent. Jeanne stated KC Rain Dogs contacted her about performing this year. They participated a few years back. She reported there will be an article in the upcoming *Village Voice* requesting volunteers for the committee and the event.
- c. **Contracts the city plans to manage** – Bob Pisciotta listed contracts that will need to be issued: Beaks 'N Wings, Petting Zoo, and All Seasons for the tent over the stage.

- d. **Food Vendors** – Bob Pisciotta asked the committee if they wanted to use HyVee again. Ann Lilak stated they did an outstanding job.
- e. **Mascots** – Ann Lilak said she tried to get Clifford the Big Red Dog from KCPT last year but they never returned her calls. She thought the younger children would really like it. She asked they be contacted again.
- f. **Patriotic Service** – Bob Pisciotta asked how long there has been a patriotic service. Diana Ewy Sharp said there was a patriotic/ecumenical service at the first event but through the years the ecumenical component was dropped. Bob Pisciotta said the patriotic service usually includes music, a speaker, and the presentation of awards. Ann Lilak suggested replacing the patriotic service with the orchestra. Bob Pisciotta said he has some leads on smaller brass ensembles. Ann Lilak said Jim Funkhouser wants to do the event again. The committee expressed concern on whether they could afford the orchestra again. John Capito asked if the committee could get someone to sponsor just the orchestra. Ann Lilak said Highwoods might sponsor the band if we let them have their banner on the stage. Joel Crown stated he would like to continue looking at a smaller brass band. John Capito asked if the band will be miked. He stated it was hard to hear the orchestra last year. Bob Pisciotta said if the committee can identify money he would like to consider the orchestra. Diana Ewy Sharp asked Ann if she thought Funkhouser would come down in price any. Ann Lilak said the committee could ask him. Bob Pisciotta stated he will work on the patriotic service.
- g. **Entertainment** – Bob Pisciotta stated he would propose headliners at the next meeting. He asked if the committee wanted Miller-Marley to come back. The committee decided to hold off on issuing an invitation to this group. Ann Lilak said the man she went through to get Ida McBeth is very good. He could deal with the amount of money we can spend. Ann Lilak mentioned a new act, Funky Mama, who is friends with Jim Cosgrove. She does a 30 minute program for \$175-200. She suggested Funky Mama might be a good performer in the morning. Diana Ewy Sharp said she does not think there needs to be three children's acts. Bob Pisciotta stated depending on the schedule Funky Mama might fit in.
- h. **Family Activities** – Bob Pisciotta mentioned the usual family activities: petting zoo, pony rides, Beaks 'N Wings and Clement McCrae Puppets. Diana Ewy Sharp stated she has never seen the puppet show and asked if we want to continue having them. Bob Pryzby said there was a big crowd last year. Bob Pisciotta stated last year there were four inflatables, clowns, magicians, and Uncle Sam on stilts. He said we might need to cut back on the number of inflatables, clowns and magicians depending on the budget.
- i. **Creativity Center** – Ann Lilak said last year Tracy Hill said she would do it again but need to be contacted. Bob Pisciotta said he will contact her.
- j. **Children's Parade** – Joel Crown said he would like to head this up again.
- k. **Quilt Show** – Ann Bontrager said she will be out of town during VillageFest but could help jump start the quilt show. Joel Crown stated he

has two people who would be willing to help. Ann Bontrager stated their premier quilter passed away over Christmas. She said the quilt show will need to be advertised in the *Village Voice* a few times. Joel Crown said he will take over this event.

- i. **Car Show** – Bob Pisciotta said the Mustang Club came through last year. Ann Lilak said John would like to help with this again. Sgt. Greg Hudson said he tried to get the Thunderbird Club of Kansas City last year. Bob Pisciotta asked Greg to contact them again. Sgt. Greg Hudson said he could try but there probably will not be very many that come.
- m. **KU Med Van** – Bob Pisciotta asked if Art Dick was going to be on the committee this year. Ann Lilak said he will have to be asked. Bob Pisciotta will call him.
- n. **Train Show** – Bob Pisciotta stated this event was popular. Jim Hanson said he would be willing to ask them to do it again.
- o. **Public Works demos/displays** – Bob Pisciotta asked if Public Works has this together. Bob Pryzby stated he has some ideas. Ann Lilak suggested red and blue fountain water.
- p. **Public Safety demos/displays** – Capt. Wes Jordan suggested doing the police dog demonstration again but it might have to be done earlier in the day. He also mentioned getting the Highway Patrol rollover machine. He thought the helicopter was well received. Bob Pisciotta asked if there were any other ideas. Wes Jordan said he thought the bike rodeo and Headstrong for Jake went well. Barbara Vernon said she heard of one town that did a bike rodeo with kids and adults. Wes Jordan said legal documents will need to be signed if the skatepark demonstration is done again. He stated Headstrong for Jake gave away over 200 helmets last year. Bob Pisciotta said the rodeo should be invited back. Diana Ewy Sharp asked John if he could look into getting a Chinook. John Capito said he would need to talk to the church to use their parking lot. Bob Pisciotta said it would be best not to even try for a fly-by this year. Bob Pryzby asked if there are any antique cars in Prairie Village. Bob Pisciotta said there were a lot at the 50<sup>th</sup> Anniversary. Luci Mitchell said her dad is the head of the antique car club in Topeka and she could ask him for a contact. Wes Jordan said he does not think there would be enough room for both car clubs.
- q. **Consolidated Fire District #2 demos/displays** – Chris Andrews said he thought the antique fire truck went over well and he could pursue it again. Joel Crown mentioned a firemen's team in Overland Park or Lenexa who competed in the World Fire championship. He thought they had issued a challenge to Prairie Village. Chris Andrews said he could look into that. He also suggested showing parts of a fire muster.
- r. **Student Contest** – Ed Roberts said he would like to do the student contest again. He said he does not want to leave the children out. He suggested doing posters instead of essays and would need a theme. Barbara Vernon said posters were done once before. Luci Mitchell said the posters would make a nice display at the event. Ed Roberts asked



what size the posters should be. Joel Crown said they were 11 x 17 in the past. The committee agreed on a poster contest. Ed Roberts asked for this to be posted in the *Village Voice*. Joel Crown suggested Fourth of July as the theme. Ann Bontrager suggested communicating this through bible schools. Bob Pisciotta stated the word will not get out if it is only advertised in the *VillageVoice*. Diana Ewy Sharp suggested contacting the PTA and youth leaders at Prairie Village churches. Ann Lilak suggested contacting the boy scouts and girl scouts. Ann Bontrager said the letter to churches could include a note about the quilts.

Frank Bardwell explained the Mayor invited him to be on the committee as a goodwill ambassador. He said he could bring a lot of people to the event. Frank offered to put up signs in the two Hen House stores in Prairie Village and the one in Fairway. Diana Ewy Sharp asked if Hen House would be willing to sponsor the poster contest. Frank said he thinks they could help with that. Frank offered to sell and autograph the Prairie Village History books at VillageFest. The committee thought that was a great idea.

- s. **Information Booth** – Jim Bernard will be in charge of this. Diana Ewy Sharp said the Municipal Foundation would like to be under the information tent again.
- t. **Publicity** - Doug Sharp will be in charge of this.
- u. **Hospitality** – Doug Sharp said Johnny's agreed to provide for the hospitality room as long as there is a VillageFest.
- v. **Volunteers** – Bob Pisciotta said he will need help with this.
- w. **City Committees** – Bob Pisciotta said a number of committees like to take up space. Barbara Vernon mentioned the Sister City Committee might like to participate.
- x. **Decorations** – Bob Pisciotta asked if Kathy Peters would be helping with this again. Ann Lilak said she will need to be called. Bob said he will contact her.
- y. **Committee Shirts** – Bob Pisciotta said it is a tradition to order t-shirts. Committee members must pay for their shirt. Vests are also available to wear the day of the event.

### **Other Information**

Ann Lilak said padded chairs and a banner for Mission Road were purchased with the money leftover from last year.

Diana Ewy Sharp asked if there was money set aside for a plaque for the Community Spirit Award. Barbara Vernon said there is still \$1,000 from Capital Federal in the Municipal Foundation for VillageFest.

Joel Crown moved to adjourn at 8:05 pm. John Capito seconded the motion which passed unanimously.

Bob Pisciotta  
Chairperson

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# NOTEWORTHY

February 2007

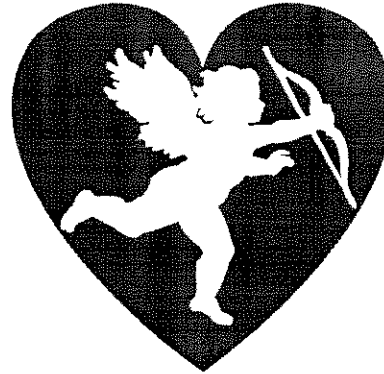
## FEBRUARY BIRTHDAYS & ANNIVERSARIES

### *Birthday Wishes to...*

02/09	James Carney	Corporal
02/10	Elmer Zavala	Maint. Worker
02/12	Byron Roberson	Corporal
02/12	Daniel Sachen	Police Officer
02/22	Oscar Aguilar	Maint. Worker
02/24	Jim Brown	Building Official
02/24	Joel Colletti	Police Officer
02/24	Lorri Vanderport	Adm. Sup. Spec.
02/27	Donna Blake	Adm. Sup. Spec.
02/27	Ivan Washington	Police Officer

### *We appreciate your years of service...*

Marcia Gradinger	Code Enf. Off..	6 years
Claudia Alexander	Computer Spec.	3 years
Naomi Kent	Dispatcher	1 year



Welcome to new crossing guard who started January 22, Annedore Veggezzie

City offices will be closed on February 19 in observance of President's Day.

### *Retirement Reception for Chief Charles Grover*

*To Acknowledge 15 years of dedicated and professional service to the PV Police Department.*

*Saturday, February 3, 2007*

*7 - 10 pm*

*Presentations at 8 pm*

*Homestead Country Club*

*6510 Mission Road*

*Prairie Village, Kansas 66208*



### **Update on Status of Retirees**

**Chief Grover will retire February 4, 2007 after 16 years with the City. The Mayor has appointed a committee of Council members and a former Mayor to work with a consultant who will conduct a nationwide search for a new Chief. The selection should be made and the new Chief appointed sometime early in May. Mayor Shaffer will appoint Captain John Walter and Captain Wes Jordan to alternate on a monthly basis as Acting Chief until the new Chief is appointed.**

**Barbara Vernon announced her plan to retire in October, 2007 after more than 29 years with the City. The same committee will work with a consultant to conduct a nationwide search for the new City Administrator. The Mayor expects to have the appointment made before Barbara retires.**

# Pre-Diabetes: Are You at Risk?

Type 2 diabetes can develop at any age. Diabetes, while manageable, can put you at risk for a number of health conditions, including kidney disease, vision problems, heart disease and stroke. Researchers have found it almost always is preceded by a condition called pre-diabetes.

In pre-diabetes, blood-glucose levels are higher than normal, but not quite high enough to warrant a diabetes diagnosis. The good news is, if pre-diabetes is detected early enough, you can take steps to prevent or delay the onset of Type 2 diabetes.

## Who Gets Pre-Diabetes?

There are factors that may put some people at a greater risk for pre-diabetes. These include being age 45 or older, having a family history of diabetes, undesirable cholesterol levels or high blood pressure, or being overweight or inactive. Certain ethnic groups seem to have an increased risk as well. But, anyone can develop pre-diabetes. Your doctor can help assess your risk.

## How Is It Diagnosed?

There are two different tests that doctors commonly use to diagnose pre-diabetes. Both generally require that you fast—or refrain from eating—for a period of time. Then, your doctor will check your glucose levels either before you eat or after you drink a sugary substance.

## What Can You Do?

Being diagnosed with pre-diabetes gives you the opportunity to take action now to delay Type 2 diabetes. Many people can get great results through lifestyle changes. If you've been diagnosed with pre-diabetes, your doctor may recommend the following:

- **Exercise—Staying active is a great way to turn back the clock on diabetes. Just 30 minutes a day of moderate physical activity can make a difference. Work with your doctor to develop a healthy exercise program for you.**
- **Weight Loss—A five to 10 percent reduction in body weight may help prevent or delay the onset of Type 2 diabetes significantly. Your doctor can help you set a realistic weight loss goal—and provide tips for achieving and maintaining it.**
- **Routine monitoring—Regular blood sugar screenings allow your doctor to monitor your diabetes risk. If the condition does develop, you'll have the advantage of early detection.**

**With myuhc.com® you can access an array of health information that will help you answer important questions about diabetes and other health and wellness issues.**

**Remember, Care24 nurses can answer many of your health questions. Call any time, any day!**

**Care24 1-888-887-4114**

TDD/TTY callers, please call the National Relay Center  
at 1-800-855-2880 and ask for 1-888-887-4114.

**[www.myuhc.com](http://www.myuhc.com)**

**Council Members**  
**Mark Your Calendars**  
**February 5, 2007**

**February 2007** Rebecca Darrah watercolor on cloth exhibit in the R.G. Endres Gallery  
February 9 Employee Appreciation Dinner at New Theater  
February 15 NE Johnson County Chamber of Commerce lunch – State of the Cities at the Overland  
Park Marriott – each member Mayor will make a presentation  
February 19 City offices closed in observance of President’s Day  
February 20(Tuesday)City Council Meeting

**March 2007** A. J. Weber mixed media exhibit in the R. G. Endres Gallery  
March 5 City Council Meeting  
March 9 Artist reception in R. G. Endres Gallery 6:30 to 7:30 p.m.  
March 10-14 NLC Congressional Conference in Washington D.C.  
March 19 City Council Meeting

**April 2007** Kay Trieb photography exhibit in the R. G. Endres Gallery  
April 2 City Council Meeting  
April 13 Artist reception in R. G. Endres Gallery 6:30 to 7:30 p.m.  
April 16 City Council Meeting  
April 19 Shawnee Mission Education Foundation “Celebrate Success! 2007” 11:30 a.m.  
(Overland Park Convention Center)

**May 2007** David Payne oils exhibit in the R. G. Endres Gallery  
May 7 City Council Meeting  
May 11 Artist reception in R. G. Endres Gallery 6:30 to 7:30 p.m.  
May 21 City Council Meeting  
May 28 City offices closed in observance of Memorial Day

**June 2007** Jack O’Hara watercolors exhibit in the R. G. Endres Gallery  
June 4 City Council Meeting  
June 8 Artist reception in R. G. Endres Gallery 6:30 to 7:30 p.m.  
June 18 City Council Meeting

**July 2007** Senior Arts Council mixed media exhibit in the R. G. Endres Gallery  
July 2 City Council Meeting  
July 4 City offices closed in observance of Independence Day  
July 13 Artist reception in R. G. Endres Gallery 6:30 to 7:30 p.m.  
July 16 City Council Meeting

**August 2007** Shawn Bohs photography exhibit in the R. G. Endres Gallery  
August 6 City Council Meeting  
August 10 Artist reception in R. G. Endres Gallery 6:30 to 7:30 p.m.  
August 20 City Council Meeting  
August 23 Shawnee Mission Education Foundation 15<sup>th</sup> Annual Fall Breakfast

**September 2007** Barney Newcom oils exhibit in the R. G. Endres Gallery  
September 3 City offices closed in observance of Labor Day  
September 4(Tuesday)City Council Meeting  
September 14 Artist reception in R. G. Endres Gallery 6:30 to 7:30 p.m.

September 14	Artist reception in R. G. Endres Gallery 6:30 to 7:30 p.m.
September 17	City Council Meeting
<b>October 2007</b>	No exhibit scheduled yet in the R. G. Endres Gallery
October 1	City Council Meeting
October 15	City Council Meeting
<b>November 2007</b>	Mid-America Pastel Society exhibit in the R. G. Endres Gallery
November 5	City Council Meeting
November 9	Artist reception in R. G. Endres Gallery 6:30 to 7:30 p.m.
November 19	City Council Meeting
November 22-23	City offices closed in observance of Thanksgiving
<b>December 2007</b>	Christi Roberts-Bony mixed media R. G. Endres Gallery
December 3	City Council Meeting
December 7	Mayor's Holiday Gala
December 14	Artist reception in R. G. Endres Gallery 6:30 to 7:20 p.m.
December 17	City Council Meeting
December 25	City offices closed in observance of Christmas

**ANIMAL CONTROL COMMITTEE**

AC96-04 Consider ban the dogs from parks ordinance (assigned 7/15/96)

**COMMUNICATIONS COMMITTEE**

COM2000-01 Consider redesign of City flag (assigned 7/25/2000)  
 COM2000-02 Consider a brochure to promote permanent local art and history (assigned Strategic Plan for 1<sup>st</sup> Quarter 2001)  
 COM2000-04 Consider the installation of marquees banners at City Hall to announce upcoming civic events (assigned Strategic Plan for 1<sup>st</sup> Quarter of 2001)

**COUNCIL COMMITTEE**

COU99-13 Consider Property Audits (assigned 4/12/99)  
 COU2000-42 Consider a proactive plan to address the reuse of school sites that may become available (assigned Strategic Plan for 4<sup>th</sup> Quarter 2001)  
 COU2000-44 Provide direction to PVDC regarding its function / duties (2000 Strategic Plan)  
 COU2000-45 Review current City definition for blight and redefine it where appropriate (assigned 2000 Strategic Plan)  
 COU2004-10 Develop programs to promote and encourage owner occupied housing (transferred from PVDC on 3/15/2004)  
 COU2004-11 Identify potential redevelopment areas and encourage redevelopment proposals (transferred from PVDC on 3/15/2004)  
 COU2004-12 Pursue development of higher value single-family housing (transferred from PVDC on 3/15/2004)  
 COU2004-13 Proactively encourage redevelopment to increase property values (transferred from PVDC on 3/15/2004)  
 COU2004-14 Meet with the Homes Association of the Country Club District (HACCD) to obtain their input regarding deed restrictions (transferred from PVDC on 3/15/2004)  
 COU2005-17 Consider how to expand leadership opportunities for Council (assigned 9/6/2005)  
 COU2005-19 Consider term limits for elected officials and committees (assigned 9/6/2005)  
 COU2005-21 Develop a policy for use of Fund Balance (assigned 9/6/2005)  
 COU2005-27 Consider concept of Outcomes Measurement or Quantifying Objectives (assigned 9/6/2005)  
 COU2005-44 Consider YMCA Partnership (assigned 12/14/2005)  
 COU2006-05 Consider Committee Structure (assigned 4/25/2006)  
 COU2006-20 Consider Project 191020: Colonial Pedestrian Bridge Replacement (assigned 8/1/2006)  
 COU2006-26 Consider Project 190862: 75<sup>th</sup> Street from Nall Avenue to Mission Road (CARS) (assigned 8/28/2006)  
 COU2006-27 Consider Project 190855: Tomahawk Road Bridge Replacement (assigned 8/28/2006)  
 COU2006-33 Consider Lease of Public Works from Highwoods Properties, Inc. (assigned 8/29/2006)  
 COU2006-38 Consider Park & Recreation Committee Report (assigned 09/27/2006)  
 COU2006-43 Consider 2005 Traffic Safety Report (10/12/2006)  
 COU2006-44 Consider 2007-2008 Consultant Selection ( assigned 11/2/2006)  
 COU2006-45 Consider Infrastructure Manual: Driveway - Requirements, Standards, Practices (assigned 11/2/2006)  
 COU2006-55 Consider Project SP105: 2007 Crack Seal/Slurry Seal/Microsurfacing Program (assigned 12/27/2006)  
 COU2006-56 Consider Project 191019: Canterbury Street Sidewalk Improvements (assigned 12/21/2006)  
 COU2006-57 Consider Renewal of Special Use Permit at 7700 Mission Road (assigned 12/7/2006)  
 COU2007-01 Consider Home Improvement Loan Program (assigned 12/28/2006)  
 COU2007-02 Consider Reducing the size of the Council (assigned 1/8/2007)

## **COMMITTEE AGENDA**

**February 5, 2007**

- COU2007-03 Consider cooperative agreement for establishment and maintenance of ALERT/ETAC (assigned 1/9/2007)
- COU2007-04 Consider Rescinding Council Policy #340-Police Reserve Unit (assigned 1/11/2007)
- COU2007-05 Consider Decrease in Rate charged for Off-Duty Contractual Employment of Police Officers (assigned 1/11/2007)
- COU2007-07 Consider Prairie Village Legislative Program for 2007 (assigned 1/11/2007)
- COU2007-08 Consider 2008 Budget (assigned 1/11/2007)
- COU2007-09 Consider Fee for Electronic Documents (1/11/2007)
- COU2007-10 Consider Recognition of Prairie Village families with service personnel in Iraq, Afghanistan or other dangerous areas (assigned 1/11/2007)
- COU2007-11 Consider SP107: 2007 Street Repair Program (1/31/2007)
- COU2007-12 Consider Drainage Consultant Selection (1/31/2007)
- COU2007-13 Consider 2008-2012 CARS Application (1/31/2007)
- COU2007-14 Consider Right Turn Only on Somerset Drive at 83<sup>rd</sup> Street (1/31/2007)

## **LEGISLATIVE/FINANCE COMMITTEE**

- LEG2000-25 Review fee schedules to determine if they are comparable to other communities and where appropriate (assigned Strategic Plan for 1<sup>st</sup> Quarter of 2001)
- LEG2003-12 Consider Resident survey - choices in services and service levels, redevelopment (assigned 8/7/2003)
- LEG2004-31 Consider Lease of Park Land to Cingular Wireless (assigned 8/31/2004)
- LEG2005-49 Consider Building Permit and Plan Review Fees (assigned 12//21/2005)

## **PARKS AND RECREATION COMMITTEE**

- PK97-26 Consider Gazebo for Franklin Park (assigned 12/1/97)

## **PLANNING COMMISSION**

- PC2000-01 Consider the inclusion of mixed-use developments in the City and create guidelines criteria and zoning regulations for their location and development (assigned Strategic Plan)
- PC2000-02 Consider Meadowbrook Country Club as a golf course or public open space - Do not permit redevelopment for non-recreational uses (assigned Strategic Plan 2<sup>nd</sup> Qtr 2001)
- COU2006-01 Consider Request for Special Use Permit for Communication Antennae at McCrum Park (assigned 12/7/2006)

## **POLICY/SERVICES**

- POL2004-15 Consider Project 190709: Somerset, Delmar to Fontana (assigned 8/26/2004)
- POL2004-16 Consider Project 190708: Tomahawk Road Nall to Roe (assigned 8/26/2004)
- POL2005-03 Consider Project 190850: Reeds Street - 69<sup>th</sup> to 71<sup>st</sup> St. (assigned 1/31/2005)
- POL2005-04 Consider Project 190809: 75<sup>th</sup> Street and State Line Road (assigned 2/1/2005)
- POL2005-21 Consider Project 190851: 2006 Paving Program Sidewalks (assigned 8/30/05)
- POL2005-30 Consider Project 190855: Tomahawk Road Bridge (assigned 11/1/2005)
- POL2005-34 Consider Project 190717: 2006 Storm Drainage Repair Program
- POL2006-09 Consider Project 190849: Roe Avenue - 91<sup>st</sup> to 95<sup>th</sup> (assigned 4/25/2006)
- POL2006-10 Consider Project 190858: 2006 Crack/Slurry/Microsurfacing Program (assigned 3/2/2006)
- POL2006-11 Consider Project 191014: 2006 Concrete Repair Program (assigned 3/2/2006)
- POL2006-12 Consider Project 190856: 95<sup>th</sup> Street - Mission to Nall (assigned 4/25/2006)
- POL2006-13 Consider Project 190851: 2006 Paving Program ( assigned 4/25/2006)

## **PRAIRIE VILLAGE ARTS COUNCIL**

- PVAC2000-01 Consider a brochure to promote permanent local art and history (assigned Strategic Plan for the 1<sup>st</sup> Quarter of 2001)