

**COUNCIL COMMITTEE OF THE WHOLE
Council Chambers
Monday, October 02, 2017
6:00 PM**

AGENDA

JORI NELSON, COUNCIL PRESIDENT

AGENDA ITEMS FOR DISCUSSION

Executive Session (30 minutes)

Consider approval of the next step in the services agreement with BBN Architects to hold a resident meeting to solicit feedback from the community on the preliminary concept of Village Square as part of the update to the Harmon and Santa Fe Parks Master Plan.
BBN Architects

*COU2017-40 Consider approval of proposed amendments and changes to the animal control and regulation ordinance
Chief Tim Schwartzkopf

Discussion regarding possible changes to traffic flow on 69th Street between Delmar Street and Tomahawk Road
Keith Bredehoeft

***Council Action Requested the same night**



ADMINISTRATION

Council Committee Date: October 2, 2017

Consider approving the next step in the services agreement with BBN Architects to hold a resident meeting to solicit feedback from the community for the Village Square concept as part of the update to the Harmon and Santa Fe Parks Master Plan

RECOMMENDATION

Staff recommends a motion to approve the next step in the services agreement with BBN Architects to hold a resident meeting to solicit feedback from the community on the preliminary concept of Village Square as part of the update to the Harmon and Santa Fe Parks Master Plan.

MOTION

Approve the next step in the services agreement with BBN Architects to hold a resident meeting to solicit feedback from the community on the preliminary concept of Village Square as part of the update to the Harmon and Santa Fe Parks Master Plan.

BACKGROUND

In 2009, the City Council adopted the Parks & Recreation Master Plan, which guides the future development and enhancement of Prairie Village City parks and recreation programming. For Harmon and Santa Fe Parks, the Plan identified a number of improvements including: adding eight-foot wide trails around the perimeter of the park and through the interior, skate park improvements, relocating and expanding the play area as a Santa Fe Trail-themed destination playground, incorporating prairie areas along the edges in sweeping bands of grasses, and much more. One specific improvement to the parks was the recommendation to fully develop the amphitheater area, creating a more permanent facility. While the City did resurface the Harmon Tennis Courts in 2014, no additional Parks Master Plan recommendations have been implemented.

As part of the 2017 budget, City Council approved allotting \$50,000 to the "Village Square" concept from the Economic Development Fund. The Village Square Committee was formed to oversee the study and is comprised of Council Members Morehead, Gallagher, McFadden, and Myers, two Prairie Village residents (Randy Knight and Jon Birkel), and three City staff members (Wes Jordan, Keith Bredehoeft, and Alley Williams).

On April 3, 2017 City Council approved a services agreement with BBN Architects for a concept study for Village Square/Harmon Park. The goal of the concept study is to utilize and build upon the 2009 Parks Master Plan for Harmon and Santa Fe Parks to transform the underutilized park and green space of Harmon and Santa Fe Parks into a focal point in the

heart of the City by offering an array of activity opportunities, connectivity, and intergenerational appeal to the Prairie Village community.

BBN will be presenting the preliminary concept that has been developed with input from the Village Square Committee, Parks & Recreation Committee, and the Tree Board. With City Council's approval, the next step would be to take the preliminary concept to the public for feedback.

FUNDING

N/A

ATTACHMENTS

N/A

PREPARED BY

Alley Williams

Assistant to the City Administrator

Date: September 28, 2017



POLICE DEPARTMENT

Committee Meeting Date: October 2, 2017

COU2017-40

Consider Amendments to Chapter II. Animal Control and Regulation - Article 1.

RECOMMENDATION

Staff recommends the City Council approve proposed amendments to Chapter II Ordinances governing Animal Control and Regulation.

COUNCIL ACTION REQUESTED ON:

October 2, 2017

BACKGROUND

The Police Department, in collaboration with the City Council, decided to amend and change portions of the animal control and regulation ordinance. In addition to general language clean up and reorganization as recommended by the City Attorney and City Prosecutor, two substantive changes were added; a new classification for potentially dangerous and vicious animals and the mechanism for an animal to be declared potentially dangerous, dangerous, or vicious is now being recommended to be handled through Municipal Court. The Department feels the changes will not only improve the ordinance, but also be more operationally effective for animal control personnel.

The Governing Body has discussed these changes at previous meetings.

PREPARED BY

Tim M. Schwartzkopf
Chief of Police

Date: September 26, 2017

Attachment

CHAPTER II. ANIMAL CONTROL AND REGULATION

ARTICLE 1. GENERAL PROVISIONS

2-101 PURPOSE

The purpose of this Chapter is to promote harmonious relationships in the interaction between humans and animals by:

- a) Protecting animals from improper use, abuse, neglect, exploitation, inhumane treatment and health hazards;
- b) Delineating the responsibility of persons for the acts and behavior of such persons' animals at all times;
- c) Providing regulations that foster a reduced risk to residents from annoyance, intimidation, injury and health hazards by animals; and
- d) Encouraging responsible pet ownership.

2-102 DEFINITIONS

- a) Abandon includes the leaving of an animal by the person responsible therefor without making effective provisions for its proper care.
- b) Adequate care means normal and prudent attention to the needs of an animal, including that care which is normally necessary to maintain good health in a specific animal.
- c) Adequate food means supplying at suitable intervals (not to exceed 24 hours) of a quantity of food suitable and sufficient to maintain reasonable level of nutrition for each animal.
- d) Adequate health care means the provision to each healthy animal of all immunizations and preventative care required to maintain good health, space adequate to allow the animal rest and exercise sufficient to maintain good health, and the provision to each sick, diseased, or injured animal of necessary veterinary care or humane death.
- e) Adequate shelter means a structurally sound, properly ventilated, sanitary and weatherproof shelter which provides access to shade from direct sunlight and regress from exposure to inclement weather conditions.
- f) Adequate water means a continual access to a supply of clean, fresh, potable water provided in a sanitary manner.
- g) ~~b)~~ Animal is any living creature, other than humans.
- h) ~~e)~~ Animal bite is any contact between an animal's mouth, teeth, or appendages and the skin of a bite victim that causes any visible puncture, scratch, ~~or break or abrasion~~ to the skin.
- i) ~~e)~~ Animal control officer is a duly authorized person employed by the City who is charged with the duties of enforcing this Chapter and/or related ordinances.
- j) ~~e)~~ At-large is to be off the property of the person responsible for an animal, except when the animal is taken off such person's property on a leash, in a cage, or other conveyance.
- k) ~~f)~~ City is a reference to the City of Prairie Village, Kansas and its corporate limits.
- l) ~~e)~~ Confined to the premises means confined or restricted either inside the residential structure of the person responsible for an animal; or if outside the residential structure, confined or restricted to the backyard of the premises fenced in a manner that prohibits escape, or by being physically restrained on a chain or leash or other proper method of physical restraint from which the animal cannot escape.
- m) ~~h)~~ Dangerous wild animal means any animal, which is wild by nature and ~~of~~ of a species which, due to size, vicious nature or other characteristics, would constitute a danger to human life, physical well-being, or property, including but not limited to lions, tigers,

leopards, panthers, bears, wolves, wolf hybrids, apes, gorillas, monkeys of a species whose average adult weight is 20 pounds or more, foxes, elephants, alligators, crocodiles, and animals which are venomous and/or poisonous, and any animals which could otherwise present a risk or serious physical harm or death to human beings as a result of their nature or physical makeup, including all constrictors.

- n) ~~1) Dangerous eat-or-dog-animal means a eat-or-dog-an-animal which:~~
- 1) When unprovoked, aggressively bites, attacks or endangers the safety of humans or domestic animals;
 - 2) When unprovoked, has a known propensity, tendency or disposition to attack, cause injury to, or otherwise threaten the safety of human beings or domestic animals; ~~or~~
 - 3) Has been found to be potentially dangerous and after the person responsible therefor has notice that the eat-or-dog-animal is potentially dangerous, the eat-or-dog-animal aggressively bites, attacks or endangers the safety of humans or domestic animals; or
 - 4) Is owned, harbored, sheltered, kept, controlled, managed, or possessed primarily or in part for the purpose of fighting or is trained for fighting.
- h) Domesticated cat or dog is a cat or dog that tends to possess reliability of temperament, tractability, docility, predictability and trainability, and has adapted to life among humans.
- i) Impound means taking any animal into the confinement, care, or custody of the City.
- j) Municipal Court means the Municipal Court of the City.
- k) Person is any natural person, association, firm, partnership, organization, or corporation.
- l) Person responsible (for an animal) includes any person which owns, harbors, shelters, keeps, controls, manages, possesses, or has a part interest in any animal. An occupant of any premises on which a dog or cat remains or customarily returns is a person responsible for it under this Chapter. There may be more than one (1) person responsible for an animal. Any person keeping any animal in the City for three (3) consecutive days shall be conclusively presumed to be the person responsible for such animal.
- m) Potentially dangerous eat-or-dog-animal means any eat-or-dog-animal which, when unprovoked:
- 1) Inflicts bites on a human or domestic animal either on public or private property; or
 - ~~2) Chases or approaches a person upon the streets, sidewalks, or any public grounds in a menacing fashion or apparent attitude of attack; or~~
 - ~~3) any cat or dog 2) any animal~~ with a known propensity, tendency, or disposition to attack unprovoked, to cause injury, or otherwise to threaten the safety of humans or domestic animals.
- ~~n) Service / work animal is any guide animal, signal animal or other animal that is individually trained to do and is doing the work of performing tasks for the benefit of an individual with a disability, or a dog that is utilized by law enforcement personnel.~~
- n) Unprovoked means that the person or domestic animal approached, chased, bitten or attacked:
- 1) Did not mischievously or carelessly provoke or aggravate the eat-or-dog-animal;
 - 2) Was not committing a willful trespass or other tort upon the premises occupied by the person responsible for the eat-or-dog-animal;
 - 3) Was not tormenting, abusing, assaulting or attacking the eat-or-dog-animal;

Comment [c11]: Moved definition to 2-113

- 4) Has not in the past been observed or reported to have tormented, abused assaulted or attacked the ~~cat or dog animal~~; or
- 5) Was not committing or attempting to commit a crime.

p) ~~Vicious~~ ~~cat or dog animal~~ means ~~a cat or dog-an animal~~ which has:

- 1) When unprovoked, has inflicted a vicious bite to any person or domestic animal on public or private property;
- 2) When unprovoked, has killed a domestic animal while off the property of the person responsible for such vicious ~~cat or dog animal~~; or
- 3) Been declared to be dangerous and after the person responsible therefor has notice that the ~~cat or dog animal~~ has been declared dangerous, the ~~cat or dog animal~~ aggressively bites, attacks or endangers the safety of humans or domestic animals.

p) ~~Vicious bite~~ is any attack by any animal, which results in serious physical injury or death to a human and/or other domestic animal in which the attacking animal uses its teeth and/or claws.

2-103 KEEPING OF LIVESTOCK, POULTRY AND FOWL PROHIBITED

- a) It shall be unlawful for any person to own, harbor, shelter, keep, control, manage, or possess livestock, poultry or fowl on any premises within the City and no special or temporary permit will be issued for these. For the purpose of this section, livestock, poultry, and fowl include, but are not limited to: cows, pigs, horses, donkeys, mules, sheep, goats, chickens, ducks, geese, guinea fowl, peacocks, pigeons, swans and those animals considered miniature or pygmy breeds, e.g., pot-bellied pigs, miniature donkeys, miniature horses, and pygmy goats.
- b) The following persons or organization shall be allowed to own, harbor, shelter, keep, control, manage, or possess any livestock, poultry and fowl:
 - 1. The keeping of such animals in zoos, bona fide educational or medical institutions, museums or any other place where there are kept live specimens for the public to view or for the purpose of instruction or study;
 - 2. The keeping of such animals for exhibition to the public of such animals by a circus, carnival or other exhibit or show;
 - 3. The keeping of such animals in a bona fide, licensed veterinary hospital for treatment; and
 - 4. Commercial establishments processing such animals for the purpose of sale or display.

2-104 KEEPING OF DANGEROUS WILD ANIMALS PROHIBITED

- a) No person shall keep or permit to be kept on such person's premises any dangerous wild animals for display or for exhibition purposes whether gratuitously or for a fee. This section will not be construed to apply to zoological parks, performing animal exhibits or circuses, bonafide licensed veterinary hospital for treatment, bonafide educational o medical institutions, museums or any other place where they are kept as live exhibits or for study.
- b) No person shall keep or permit to be kept any dangerous wild animal as a pet.

2-105 PIT BULL DOG – KEEPING PROHIBITED

It shall be unlawful to own, harbor, shelter, keep, control, manage, or possess within the corporate limits of the City, any pit bull dog. Pit bull dog for the purposes of this Chapter shall include:

- a) The Staffordshire Bull Terrier breed of dog;

- b) The American Pit Bull Terrier breed of dog;
- c) The American Staffordshire Terrier breed of dog, or
- d) Any dog having the appearance and characteristics of being predominately of the breeds of Staffordshire pit bull terrier, American pit bull terrier, American Staffordshire bull terrier; or a combination of any of these breeds.

2-106 POTENTIALLY DANGEROUS, DANGEROUS AND VICIOUS ~~CATS OR DOGS~~ANIMALS

a) Determination.

1. In the event that the animal control officer or a law enforcement officer has probable cause to believe that ~~a cat or dog~~ an animal is potentially dangerous, dangerous or vicious, as defined in Section 2-102, such officer may petition the Municipal Court to set a hearing for the purpose of determining whether or not the ~~cat or dog~~ animal in question should be declared potentially dangerous, dangerous or vicious. Whenever possible, any complaint received from a member of the public which serves as the evidentiary basis to support a finding of probable cause shall be made by declaration under penalty of perjury by the complainant in the manner provided by K.S.A. 53-601, and shall be attached to the petition. The Municipal Court, upon the finding of probable cause, shall notify the person responsible for the ~~cat or dog~~ animal, personally or by certified mail, and the animal control officer or law enforcement officer and City Prosecutor, by best means possible, that a hearing will be held within fourteen (14) days, at which time the person responsible may present evidence to the Municipal Court as to why the ~~cat or dog~~ animal should not be declared potentially dangerous, dangerous or vicious.
2. The failure of the person responsible to attend or participate in the hearing shall not prevent the Municipal Court from hearing evidence in the matter and making a determination whether the ~~cat or dog~~ animal is potentially dangerous, dangerous or vicious as alleged, or from entering further orders pursuant to such finding. The hearing shall be informal and shall be open to the public.
3. The Municipal Court, after considering the evidence, may issue its determination and order declaring the animal to be potentially dangerous, dangerous or vicious based upon such evidence. The order shall be delivered to the person responsible either personally or by first class mail. If a determination is made that the ~~cat or dog~~ animal is potentially dangerous, dangerous or vicious, the person responsible shall comply with the provisions of this Chapter as directed by the Municipal Court in accordance with a time table established by the Municipal Court, within thirty (30) days after the date of the determination. If the person responsible for the ~~cat or dog~~ animal contests the determination, he or she may within ten (10) days, exclusive of Saturdays, Sundays and holidays, of such determination appeal to the district court.
4. In the event that pending the determination by the Municipal Court and/or in any appeals taken, the animal is not restrained, and the animal control officer or law enforcement officer has probable cause to believe that the ~~cat or dog~~ animal in question may pose a threat of serious harm to human beings or other domestic animals, the animal control officer or law enforcement officer may seize and impound the ~~cat or dog~~ animal pending the aforesaid Municipal Court determination and/or the determination in any appeals taken. Upon the Municipal Court's determination that the impounded ~~cat or dog~~ animal is potentially dangerous, dangerous or vicious, the person responsible for the ~~cat or dog~~

animal shall be liable to the City for the costs and expenses of impounding such cat or dog animal.

- b) Control of Potentially Dangerous and Dangerous Cats or Dogs. If the Municipal Court determines that a cat or dog-an animal is potentially dangerous or dangerous, the person responsible for such animal shall comply with the requirements of sections 2-107, 2-109 and 2-117 through 2-121 of this Chapter.
- c) Disposition of Vicious Cat or Dogs Animals. If the Municipal Court determines that a cat or dog-an animal is vicious, the Municipal Court shall order that the cat or dog-animal be euthanized or that the person responsible for such cat or dog-animal remove the cat or dog-animal from the City limits and shall provide the Municipal Court with the exact location, address, and contact information for the new person responsible where the cat or dog-animal has been moved. The Municipal Court shall notify the receiving jurisdiction that the animal has been determined to be a vicious cat or dog-animal. The cat or dog-animal shall not be returned to the City limits after removal. It shall be unlawful for the person responsible for a vicious cat or dog-animal to maintain such animal in violation of the Municipal Court's order and this section.
- d) Dangerous and Potentially Dangerous Cat or Dog-Animal Designation Review. Beginning one (1) year after a cat or dog-an animal is declared potentially dangerous or dangerous, a person responsible therefor may petition annually that the Municipal Court review the designation by requesting a review hearing in the Municipal Court. If a petition for a review hearing is filed, the Municipal court shall notify the person responsible for the cat or dog-animal, personally or by certified mail, and the animal control officer or law enforcement officer and City Prosecutor, by best means possible, that a hearing will be held within fourteen (14) days, at which time the person responsible must provide evidence that the cat or dog-animal is no longer potentially dangerous or dangerous due to the cat or dog's-animal's age, neutering, environment, completion of obedience training that includes modification of aggressive behavior, or other factors. The City Prosecutor may present evidence as well. The hearing shall be informal and shall be open to the public. If the Municipal Court finds sufficient evidence that the cat or dog's-animal's behavior has changed, the Municipal Court may rescind that potentially dangerous or dangerous cat or dog-animal designation.

2-107 POTENTIALLY DANGEROUS OR DANGEROUS CAT OR DOG-ANIMAL PERMIT REQUIRED

- a) Any person who owns, harbors, shelters, keeps, controls, manages, or possesses, within the City, any cat or dog-animal which has been declared to be potentially dangerous or dangerous by the Municipal Court of the City, or any other jurisdiction, shall secure and a-renew an annual potentially dangerous or dangerous cat or dog-animal permit in accordance with this Chapter and comply with all terms and conditions this Chapter to maintaining such permit.
- b) Failure to obtain and maintain a potentially dangerous or dangerous cat or dog-animal permit as required by subsection (a) shall be adequate grounds for the animal control officer to impound the animal until a permit is obtained.

2-108 EXEMPTIONS

The provisions of this Chapter shall not apply to the transportation of prohibited animals or potentially dangerous, dangerous or vicious cats or dogs through his City when such transport has taken adequate safeguards to protect the public and has notified the local law enforcement agency of the proposed route of transportation and the time thereof.

2-109 HARBORING OR KEEPING OF PERMITTED ANIMALS

- a) No person shall own, harbor, shelter, keep, control, manage, or possess, within the City, any potentially dangerous or dangerous ~~cat or dog~~ animal, or any safe animal including the domestic ~~cat or~~ dog (canis familiaris) and the domestic cat (felis domesticus), without obtaining permits and licenses required under this Chapter. The following animals are the only animals allowed without a permit or license:
 - 1. Gerbils (Tateriltus gracillio);
 - 2. Hamsters (Critecus critecus);
 - 3. Rabbits (Lepus Cunicullus);
 - 4. Domestic Mice (Mus musculus);
 - 5. Domestic Rat (Rattus norvegicus),
 - 6. Any animal, usually tame and commonly sold at pet stores, including: Ferrets (Mustela furo), Chinchillas (Chinchillidae), Canaries (Serinus canaria), Cockatoos, Macaws, Parakeets, and Parrots (Psittacines), and
 - 7. Bees, subject to Section 2-140.
- b) Any person who owns, harbors, shelters, keeps, controls, manages, or possesses, within the City, any animal without a permit, except as exempted by this section, shall be charged with a misdemeanor and upon conviction thereof, shall be subject to the penalties in section ~~2-141-2-143~~. This shall include instances where any person owns, harbors, shelters, keeps, controls, manages, or possesses, within the City, an animal which has been declared by another municipality to be potentially dangerous or dangerous, or similar designation.

2-110 REGISTRATION – TAGS

The person responsible for any cat or dog present in the City shall cause the same to be registered at the office of the City Clerk. The registration shall contain the name, address and phone number of the person responsible for such animal, the animal's breed, name, sex, whether neutered, color and description and such other information as may be deemed necessary by the City Clerk. Subject to the provisions of section 2-114, the City Clerk or authorized assistant shall upon payment of the license fee as provided in section 2-111, issue a permanent tag, bearing a number and Prairie Village, KS.

2-111 LICENSE FEE – DESIGNATED

- a) In addition to any permit fees required by this Chapter, there is levied and imposed an annual license fee upon the person responsible for each cat or dog of the age of over six months, attaining such age during the license year. The license fee shall be adopted by the Governing Body and the amount of the fee will be kept on record in the office of the City Clerk.
- b) The license year shall be for a twelve (12) month period commencing on the date the animal is first licensed. The license is valid for one year from issuance of license or until the expiration of rabies vaccination whichever is greater. The fee shall be payable within 60 days of the expiration of the license. An animal for which a licensed fee is required as set forth in this section; over six months of age should be licensed within thirty days of being brought into the City or attaining six months of age.

2-112 LICENSE FEE – OVERDUE

- a) If the license fee required in section 2-111 is not paid within the time provided in this section, penalties will apply in addition to the normal license fee. The amount and dates penalty will be charged shall be adopted by the Governing Body and on record in the Office of the City Clerk.

- b) After 60 days after the due date, if the fee imposed and required to be paid by section 2-111 remains unpaid, the City Prosecutor may issue a complaint against the person responsible for violation of section 2-111.

2-113 LICENSE FEE – EXEMPTIONS

Any person who owns, harbors, shelters, keeps, controls, manages, or possesses, within the City, a ~~service/work animal dog which is a “service animal” as defined by the Americans with Disabilities Act, 42 U.S.C. 12101 et seq., or a dog that is utilized by law enforcement personnel,~~ shall be exempt from the license fee payment upon submittal of adequate proof that the animal is ~~fully trained as a service/work animal and is~~ current for the year on its rabies vaccination.

2-114 INOCULATION AGAINST RABIES REQUIRED

- a) No City license tag required by this section shall be issued until the person responsible for a cat or dog shall furnish to the City Clerk a current inoculation certificate signed by a registered veterinarian, showing thereon that the cat or dog has been vaccinated against rabies. The inoculation certificate shall be deemed current if it has not expired before the person responsible submits it to the City along with the application for license.
- b) It shall be the responsibility of the person responsible for the cat or dog to ensure that the animal’s inoculation against rabies is maintained throughout the license period.

2-115 ENUMERATION OF ANIMALS

The Governing Body may require the annual enumeration of all cat or dogs present within the City. The enumeration shall account for the number and persons responsible for all cats and dogs.

2-116 LIMITATIONS ON NUMBER OF ANIMALS

No person, residential premises or household within this City shall have, hold, maintain or contain more than a combined total of four dogs and cats over three months of age; provided, however, that in no event shall the combination of dogs or cats exceed three dogs or three cats. Any violation of this section is, upon conviction thereof, a misdemeanor and subject to the penalties provided in this Chapter.

2-117 APPLICATION FOR POTENTIALLY DANGEROUS AND DANGEROUS ~~CAT OR DOG~~ ANIMAL PERMIT

An application for any permit required pursuant to Section 2-107 shall be made to the City Clerk in writing upon a form furnished by the City Clerk. Said application shall be verified by the person who desires to have, keep, maintain or have in his/her possession or under his or her control, in the City, the animal for which a permit is required, and shall set forth the following:

- a) The name, address and telephone number of the applicant.
- b) The applicant’s interest in such animal.
- c) The proposed location, and the name, address and telephone number of the owner of such location, and of the lessee, if any.
- d) The number and general disposition of all animals for which the permit is being sought.
- e) Any information known to the applicant concerning dangerous propensities of said animals.
- f) Housing arrangements for all said animals with particular details as to the safety, structure, locks, fences, warning sign, etc.
- g) Safety precautions proposed to be taken.
- h) Noises or odors anticipated in the keeping of such animals.
- i) The prior history of incidents involving the public health or safety involving any of said animals.

- j) A statement, signed by the applicant, indemnifying the City and its agents and employees for any and all injuries that may result from the animal.
- k) Proof of liability insurance, when a permit is issued in accordance with this Chapter and is for an animal deemed a “dangerous cat” or “dangerous dog”, in the minimum amount of \$300,000 per occurrence covering any damage or injury which may be caused by such dangerous animal shall be required. The City shall be listed as certificate holder, and shall be required to be notified of any cancellation, termination or expiration of the liability insurance policy. The person responsible shall maintain the liability insurance required by this subsection at all times, unless and until the person responsible shall cease to own, harbor, shelter, keep, control, manage, or possess the dangerous ~~cat or dog-animal~~.
- ~~l) A statement, signed by the applicant, indemnifying the City and its agents and employees for any and all injuries that may result from the animal.~~
- l) Any additional information required by the animal control officer or law enforcement officer authorized by the Chief or Police or his or her designee to enforce the provisions of this Chapter at the time of filing such application or thereafter.

Comment [c12]: Repeated j) above

2-118 PROVISIONS AND/OR REQUIREMENTS FOR KEEPING POTENTIALLY DANGEROUS AND DANGEROUS CATS OR DOGS

The keeping of potentially dangerous and dangerous cats and dogs in the City shall be subject to, but not be limited to the following provisions and/or requirements:

- a) Leash and muzzle. An animal that has been declared to be a potentially dangerous or dangerous ~~cat or dog-animal~~ and is kept in this City will be required to be securely leashed and, in the case of dogs which have been declared dangerous, muzzled when it is taken outside of its area of confinement. The leash shall be no longer than four feet in length and under control of an adult capable of exercising control over the animal. The muzzling device must not cause injury to the dog or interfere with its vision or respiration, but shall prevent it from biting any human or animal
- b) Confinement.
 - 1. An animal that has been declared to be a potentially dangerous or dangerous ~~cat or dog-animal~~ shall be securely confined indoors or in a securely enclosed and locked pen or kennel; or in a yard fenced in a manner that prohibits escape, except when leashed and muzzled as above provided. Such pen, kennel or structure must have secure sides and a secure top attached to the sides. All structures used for confinement must be locked with a key or combination lock when such animals are within the structure. All such structures must be adequately lighted and ventilated and kept in a clean and sanitary condition.
 - 2. An animal which has been declared to be a potentially dangerous or dangerous cat shall be securely confined indoors at all times, except when secured on a leash or in a carrier for transport to the veterinarian.
- c) Confinement Indoors. No animal that has been declared to be a potentially dangerous or dangerous ~~cat or dog-animal~~ may be kept on a porch, patio or in any part of a house or structure that would allow the animal to exit such building on its own volition. In addition, no such animal may be kept in a house or structure when the windows are open or when screen windows or screen doors are the only obstacles preventing the animal from exiting the structure.
- d) Signs. All persons responsible for any animal dog that has been declared to be a ~~potentially dangerous or~~ dangerous dog must display in a prominent place on their premises a sign which shall be at least 10 inches by 14 inches using the words “Beware of Dog” in at least two-inch block letters. In addition, a similar sign is required to be

posted on the kennel or pen of such animal, and on each entry point of fences that will be used to confine the dog.

- e) Identification Photographs. All persons responsible for any animal that has been declared to be a potentially dangerous or dangerous cat or dog animal must provide to the City Clerk two color photographs of such animal clearly showing the general appearance, color and approximate size of the animal.
- f) Microchip Identification. The person responsible for any animal that has been declared to be a potentially dangerous or dangerous cat or dog animal must have a microchip implanted in the cat or dog animal for identification, and the name of the microchip manufacturer and the identification number of the microchip must be provided to the City Clerk.
- g) Mandatory Spay and Neuter. All declared potentially dangerous and dangerous cats and or dogs shall be required to be spayed or neutered
- h) Training. All declared potentially dangerous and dangerous dogs shall be required to be enrolled in a behavior modification program administered by a Certified Pet Dog Trainer (CPDT), Certified Dog Behavior Consultant (CDBC), Veterinary Behaviorist certified through the American College of Veterinary Behaviorists (ACVB), or comparable certification. Upon successful completion of said program, verification must be provided to the City Clerk.
- i) Reporting requirements. All persons responsible for any animal that has been declared to be a potentially dangerous or dangerous cat or dog animal must provide written notification to the City Clerk at least ten days prior to any of the following situations:
 - 1. The removal from the City of such animal, and provide the City Clerk with the contact information of the new person responsible for such animal.
 - 2. The birth of offspring of such animal.
 - 3. The new address of the person responsible for such animal should the person responsible move within the corporate City limits.
 - 4. In the event of the death of such animal, the City Clerk must be notified in writing within ten days of the death.
- j) Sale or Transfer Prohibited. No person shall sell, transfer, barter or in any other way dispose of a declared potentially dangerous or dangerous cat or dog animal to any person within the City unless the recipient person resides permanently in the same household and on the same premises as the registered person responsible for such animal; provided that the registered person responsible for such animal may sell or otherwise dispose of such animal to persons who do not reside within the City.

2-119 POTENTIALLY DANGEROUS OR DANGEROUS CAT OR DOG ANIMAL PERMIT FEE

The fee for a potentially dangerous or dangerous cat or dog animal permit application shall be adopted by the Governing Body and on record in the Office of the City Clerk. The fee will be based upon the number of potentially dangerous and dangerous cat and dog animal permits being applied for and shall be non-refundable. The fee shall be payable to the City Clerk at the time of application. Accretions by natural birth shall not require additional permits during the period of a valid permit.

2-120 TERM AND RENEWAL OF DANGEROUS AND POTENTIALLY DANGEROUS CAT OR DOG ANIMAL PERMIT

No potentially dangerous or dangerous cat or dog animal permit required by this Chapter shall be granted for a period in excess of one year. An application for renewal of any such permit shall be made not less than forty-five (45) days prior to the expiration thereof, and shall be accompanied by the same fee as required upon making the original application.

2-121 INSPECTIONS FOR RENEWAL

The holder of a potentially dangerous or dangerous animal permit shall notify the City at least forty-five (45) days prior to the permit expiration date of any request for renewal. Prior to the annual renewal of any potentially dangerous or dangerous ~~cat or dog animal~~ permit, an animal control officer or law enforcement officer shall inspect the premises subject to such permit to determine whether the person to whom it has been issued is continuing to comply with all of the conditions specified in this Chapter. If the animal control officer or law enforcement officer determines during any such inspection that any of the conditions therein specified are being violated, the officer shall recommend denial of a renewal of any such permit or shall recommend the immediate revocation of such permit in the event that such violation is not corrected within such period of time as the officer shall direct. Upon completion of the inspection process provided herein, the animal control officer or law enforcement officer shall report to the Municipal Court that the dangerous ~~cat or dog animal~~ permit has been renewed, that the renewal application has been denied, or that the permit has been revoked. If the application is denied, or there is a revocation of a permit, a copy of the report shall be given to the person responsible for the potentially dangerous or dangerous ~~cat or dog animal~~. The report shall include the basis for the denial or revocation. The person responsible shall have the right to appeal the denial or revocation of permit to the Municipal Court. An appeal shall be taken by the filing of a written request for a review hearing with the Municipal Court within thirty (30) days of the denial or revocation of the permit. If an appeal is filed, the Municipal Court shall notify the animal control officer or law enforcement officer and City Prosecutor, by best means possible, that a hearing will be held within fourteen (14) days, at which time the person responsible must provide evidence of compliance with the conditions of this Chapter. The hearing shall be informal and shall be open to the public. The Municipal Court, after considering the evidence, shall issue its determination as to whether the permit should be renewed, denied or revoked. The determination of the Municipal Court shall be final.

2-122 COLLAR OR HARNESS REQUIRED

The person responsible for any cat or dog shall cause the same to wear a collar or harness outside the dwelling of the person responsible. The registration tag required in section 2-110 shall be securely affixed to the collar or harness of each cat or dog registered. The tags shall be situated on the collar or harness in such a manner that it may at all times be easily visible to law enforcement officers or animal control officers of the City. Replacement tags shall be issued for a fee which is recorded in the City Clerk's office and may be changed from time to time.

2-123 CAT AND DOG CONTROL

- a) All cats must be under the control of the person responsible therefor at all times. For the purpose of this section, a cat shall be considered not under control and in violation of this section in the following situations:
 1. If a neighbor complains orally or in writing to the person responsible for a cat, that the cat is entering upon the neighbor's property, then the cat's presence on the neighbor's property at any time subsequent to the neighbor's complaint shall constitute a violation of this section;
 2. If a cat causes injury to persons or animals.
 3. If a cat causes damage to property off the property of the person responsible for such cat, to include, but not limited to, breaking, bruising, tearing up, digging up, crushing or injuring any lawn, garden, flower bed, plant, shrub or tree in any manner or defecating or urinating upon any private property.
- b) It is unlawful for the person responsible for any dog to permit such dog to run at large within the City. For the purpose of this section, a dog shall be considered running at large and in violation of this section in the following situations:

1. If a dog is off the property of the person responsible for such dog, and is not firmly attached to a hand-held leash and under the physical control of the person responsible. Electronic collars may not be used to control a dog when off the property of the person responsible for such dog.
2. If a dog is off the property of the person responsible for such dog, and is not prevented from making uninvited contact with humans or other animals. This includes a situation when a dog is secured on a leash.

~~e) It is lawful for any animal control officer or law enforcement officer or other person designated by the Governing Body to pursue and capture a dog running at large; provided, further, however, that no such dog shall be held to be running at large when said dog is merely passing along or through such property while in a cage or other conveyance.~~

Comment [c13]: Deleted because covered by 2-131(a)

2-124 ELECTRONIC FENCES AND ELECTRONIC COLLARS

Dogs may be confined to the residential property of the person responsible for such dogs by an electronic fence or an electronic collar. An electronic fence or electronic collar is defined as a fence or collar that controls the movement of the dog by emitting an electrical shock when the animal wearing the collar nears the boundary of such property. Dogs confined to residential property by an electronic fence or collar shall at all times be required to wear the collar or other required device which must be functional, and shall not be permitted to be nearer than 10 feet from any public walkway or street. All persons who use an electronic fence or an electronic collar shall clearly post their property to indicate to the public that such a fence or collar is in use. Electronic collars may not be used to control a dog when it is off the property of the person responsible for such dog. An electronic fence or electronic collar shall not be used to confine a potentially dangerous or dangerous dog.

2-125 PUBLIC NUISANCE

- a) A Public Nuisance is any animal that:
 1. ~~Damages~~ Materially damages private or public property;
 2. Scatters ~~refuse~~ solid waste that is bagged or otherwise contained, or
 3. Excessively barks, whines, howls, or creates any other disturbance which is continuous or during times covered by the City Noise Ordinance (12:00am to 9:00am Friday-Saturday, 11:00pm to 7:00am Sunday-Thursday) (disturbance factors include, but not limited to, time of day, volume, length of time, etc.). If the violation is not witnessed by the animal control officer and/or law enforcement officer, the complainant making such statement must agree to sign a complaint and testify in court if requested.
- b) It is unlawful for the person responsible for any animal to negligently, carelessly, willfully or maliciously permit such animal to become a public nuisance.
- c) Anyone having the authority of an animal control officer, including but not limited to law enforcement officers, is given the authority to seize and impound any animal which is a public nuisance as defined by this section.

2-126 UNLAWFUL TO HARBOR OR KEEP ANY ANIMAL WITHOUT PROPER AND NECESSARY PRECAUTIONS

- a) Any person responsible for an animal within the City shall take all proper and necessary precautions to ensure and promote conditions that restrict the animal when unleashed to such person's property and prevent injury to other humans, domestic animals and/or damage to property.

~~b) It is unlawful for the person responsible for any animal to negligently, carelessly, willfully or maliciously permit such animal to cause a disturbance of peace or permit such animal to create a noise disturbance so as to constitute a disturbance of the peace.~~

b. e) No person responsible for an animal shall fail to provide the animal with adequate care, adequate food, adequate water, adequate health care, and adequate shelter. Such shelter should be clean, dry, and compatible with the condition, age and species. An animal must also have the opportunity for adequate daily exercise. This requires that the person responsible must offer some freedom from continuous chaining and tethering.

2-127 TETHERING

- a) It is unlawful to attach chains or other tethers, restraints or implements directly to a dog without the proper use of a collar, harness or other device designed for that purpose and made from a material that prevents injury to the dog.
- b) It is unlawful for any person to:
 1. Continuously tether a dog for more than one continuous hour. A dog may be tethered 3 hours total within a 24 hour time period providing there is a 3 hour break between each period of tethered time. For the purpose of tethering a dog, a chain, leash, rope or tether must be at least ten feet in length.
 2. Use a chain, leash, rope, collaring device, tether, which restricts the free movement of the animal (i.e. the device should not weigh more than one eighth of the animal's body weight).
 3. Tether a dog in such a manner as to cause injury or strangulation, or entanglement of the dog on fences, trees, posts or other manmade or natural obstacles.
 4. Tethered for any length of time anywhere in the City when they are off the property of the person responsible for such animal.
 5. Tether without providing adequate care, food, shelter, and water as outlined in sections 2-126 and 2-128.

2-128 CRUELTY TO ANIMALS

Cruelty to Animals shall be defined as:

- a) Intentionally killing, injuring, maiming, torturing, mutilating, beating, or overworking any animal; this includes, but is not limited to, administering any poisonous substance with the intent that the same shall be taken or swallowed by any animal;
- b) Acting or failing to act when the act or failure to act causes or permits pain or suffering to such animal;
- c) Abandoning or leaving any animal in any place or releasing or dumping an animal from a vehicle without making provisions for its proper care; in addition, "abandon" means for the person responsible to leave an animal without demonstrated or apparent intent to recover or resume custody; to leave an animal for more than twenty-four hours without providing adequate food and shelter for the duration of the absence; or to turn out or release an animal for the purpose of causing it to be impounded;
- d) Failing to provide adequate care, adequate food, adequate health care, adequate shelter, or adequate water; or
- e) Failing to provide veterinary care when needed to treat injury or illness unless the animal is promptly destroyed in a humane manner.

The provisions of this section shall not apply to:

1. Normal or accepted veterinary practices;
2. Bona fide experiments carried on by recognized research facilities;

3. Killing, attempting to kill, trapping, catching or taking of any animal in accordance with the provisions of Chapter 32 or Chapter 47 of the Kansas Statutes Annotated;
4. Rodeo practices accepted by the Rodeo Cowboys' Association;
5. The humane killing of an animal which is diseased or disabled beyond recovery for any useful purpose, or the humane killing of animals for population control, by the person responsible or the agent of such person residing outside of a City or the person responsible therefor within a City if no animal shelter, pound or licensed veterinarian is within the City, or by a licensed veterinarian at the request of the person responsible therefor, or by any officer or agent of any incorporated humane society, the operator of an animal shelter or pound, public health officer or licensed veterinarian three business days following the receipt of any such animal at such society, shelter or pound;
6. With respect to farm animals, normal or accepted practices of animal husbandry;
7. The killing of any animal by any person at any time which may be found outside of the owned or rented property of the person responsible for such animal and which is found injuring or posing an immediate threat to any person, farm or domestic animal or property, or
8. An animal control officer trained in the use of a tranquilizer gun, using such gun with the estimated dosage for the size of the animal, when such animal is vicious, a threat to public safety or themselves or could not be captured after reasonable attempts using other methods.

2-129 AUTHORITY OF ANIMAL CONTROL OFFICER OR LAW ENFORCEMENT OFFICER TO RESCUE AN ENDANGERED ANIMAL

- a) Whenever an animal is found confined and/or unattended in a motor vehicle or other location, which subjects it to certain weather conditions that endangers its life as determined by the animal control officer or law enforcement officer, the animal control officer may enter such vehicle or property with the assistance from the police for the purpose of rescuing such animal, and transporting it to a shelter house designated by the Governing Body for treatment, boarding, or care. A written notice shall be left on or in the motor vehicle or other applicable property advising that the animal has been removed under authority of this section and the location where the animal has been impounded.
- b) Nothing in this section shall be deemed to prevent the animal control officer or law enforcement officer from entering upon property without consent when the condition or animal is found in plain sight and not within a private structure or under conditions constituting an emergency.
- c) No animal control officer or law enforcement officer shall be held criminally or civilly liable for action under this section, provided the officer acts lawfully, in good faith, on probable cause and without malice.

2-130 SEIZURE PROHIBITED ANIMALS

- a) Upon the written complaint of any person that a person owns, harbors, shelters, keeps, controls, manages, or possesses, within the City, an animal prohibited by this Chapter, the animal control officer or a law enforcement officer shall conduct an investigation and if the investigation reveals evidence that indicates that such person named in the complaint in fact owns, harbors, shelters, keeps, controls, manages, or possesses, within the City, an animal prohibited by this Chapter, the animal control officer or law enforcement officer shall forthwith send written notice to such person requiring such

person to safely remove said animal from the City within three (3) days of the date of said notice. Notice as herein provided shall not be required where such animal has previously caused serious physical harm or death to any person or has escaped and is at large, in which case the animal control officer or law enforcement officer shall cause said animal to be immediately seized and impounded or killed, if seizure and impoundment are not possible without risk of serious physical harm or death to any person.

- b) The animal control officer or law enforcement officer shall forthwith cause to be seized and impounded any animal prohibited by this Chapter where the person responsible therefor has failed to comply with the notice sent. Upon a seizure and impoundment said animal shall be delivered to a place of confinement which may be with any organization which is authorized by law to accept, own, keep or harbor such animals. If during the course of seizing and impounding any such animal, the animal poses a risk of serious physical harm or death to any person, the animal control officer or law enforcement officer may render said animal immobile by means of tranquilizers or other safe drugs, or if that is not safely possible, then said animal may be killed.
- c) Any reasonable costs incurred by the animal control officer or law enforcement officer in seizing, impounding and for confining any animal prohibited in the City by this Chapter shall be charged against the person responsible for such animal. Such charges shall be in addition to any fine or penalty provided for violating this Chapter.

2-131 SEIZURE PERMITTED ANIMALS

- a) Any animal control officer, law enforcement officer or other person designated by the Governing Body of the City is authorized to capture any dog found running at large in violation of section 2-123 and any cat which is not under control as defined in section 2-123 and place such animal in an animal shelter designated by the Governing Body for that purpose. In addition to or in lieu of seizing the cat or dog, the animal control officer, law enforcement officer or City Prosecutor may charge the person responsible for such animal with violating section 2-123 of this Chapter.
- b) Any animal control officer, law enforcement officer or other person designated by the Governing Body of the City is authorized to capture any animal which is a public nuisance as defined by section 2-125 and place such animal in an animal shelter designated by the Governing Body for that purpose. In addition to or in lieu of seizing the animal, the animal control officer, law enforcement officer or City Prosecutor may charge the person responsible for such animal with violating section 2-125 of this Chapter.
- c) An animal control officer or law enforcement officer shall forthwith cause to be seized and impounded any potentially dangerous or dangerous ~~cat or dog~~ animal, when the person responsible for such animal has failed to comply with the requirements of this Chapter relating to permitting and keeping potentially dangerous or dangerous cats and dogs. Such officer may place such animal in an animal shelter designated by the Governing Body for that purpose. In addition to seizing the animal, the animal control officer, law enforcement officer or City Prosecutor may charge the person responsible for such animal with violating the requirements of this Chapter relating to permitting and keeping potentially dangerous or dangerous cats and dogs. If during the course of seizing and impounding any such animal, the animal poses a risk of serious physical harm or death to any person, or the animal is considered a threat to public safety by the animal control officer or any law enforcement officer, such officer may render said animal immobile by means of tranquilizers or other safe drugs; or if that is not safely possible, then said animal may be destroyed.
- d) Any reasonable costs incurred by the animal control officer or law enforcement officer in seizing, impounding and for confining any animal permitted in the City by this Chapter

shall be charged against the person responsible for such animal. Such charges shall be in addition to any fine or penalty provided for violating this Chapter, and payment of such charges shall be a condition to the redemption and release to persons responsible for such animals.

2-132 PROCEDURE FOR FAILURE TO REDEEM

Any animal captured or apprehended under the terms and conditions of this Chapter shall be held in a shelter approved by the City for a period of three (3) business days from the date of impoundment, such period of time beginning at nine a.m. the morning following the day of impoundment. If the person responsible does not reclaim his or her animal during the period specified in the preceding sentence, or if the animal control officer or animal shelter is unable to locate and notify the person responsible after making a good faith effort to do so within the three (3) business day period, ~~then the animal shelter may offer the animal for adoption or destroy the animal in a humane manner~~ becomes the property of the intake facility.

2-133 PRESENTATION OF ANIMAL

The person responsible for any ~~eat or dog animal~~ shall physically produce the animal for observation, identification or inspection when requested to do so by an animal control officer or law enforcement officer investigating a violation of the animal control and/or welfare laws of the City, provided the officer has probable cause to believe a crime or violation of the animal control laws has been committed. Failure to do so is a violation of this section.

2-134 DUTY TO REPORT ANIMAL BITES AND SCRATCHES

When any animal, while within the boundaries of the City, inflicts an animal bite on any person or domestic animal, or when an animal is suspected of having rabies; it shall be the duty of any person having knowledge of such facts to report the same immediately, or as soon as practicable, to the Police Department or the animal control officer.

2-135 ANIMAL BITE PROCEDURE

- a) Except as provided in subsection (e) of this section, an animal which inflicts an animal bite on any person or domestic animal shall immediately, or as soon as practicable, be quarantined at the expense of the person responsible for such animal with a licensed veterinarian of such person's choice or with the City's approved animal shelter for a period of not less than ten (10) days nor more than twelve (12) days.
- b) If the person responsible for the animal cannot be immediately notified, City personnel shall immediately, or as soon as practicable, impound such animal with a City approved shelter, at the expense of the person responsible, for a period of not less than ten (10) days nor more than twelve (10) days. If the address of the person responsible for the animal can be determined, the animal control officer or Police Department shall make a reasonable effort to notify such person that said animal is impounded under the provisions of this section and that such person has the right to redeem the animal at the expiration of confinement upon the payment of impoundment fees, any veterinarian fees, and any license and penalty fees then due and owing to the City.
- c) In the event the original place of impoundment is not the choice of the person responsible for such animal, such person may cause the animal's place of impoundment to be changed to a licensed veterinarian of such person's choice; provided all other provisions of this Chapter are complied with. The total period of confinement of the animal at the one or more locations is to be for a period of not less than ten (10) days nor more than twelve (12) days.
- d) The veterinarian or City approved shelter with whom the animal is impounded, shall give immediate written notice to the Chief of Police that such animal has been confined and

will be confined for not less than ten (10) days no more than twelve (12) days. At the expiration of the aforesaid confinement period, the veterinarian or City approved shelter shall give immediate written notice to the Chief of Police as to the health of such animal pertaining to the diagnosis of rabies.

- e) In the event the investigating officer determines that the animal had an effective rabies inoculation, and was duly licensed under this Chapter at the time of the injury, or the animal had an effective rabies inoculation and caused bite or injury to an immediate family member, and agrees to obtain a City license for the animal prior to the completion of rabies observation, provided both the victim and person responsible agree, then the animal need not be impounded in accordance with subsection (a) of this section but the following alternative procedure shall be followed:
 - 1. If the injured person, his parent, or guardian desires that the animal be impounded and agrees in writing to pay for its board during the period of impoundment, it shall be so impounded for the period specified in subsection (a) of this section notwithstanding any other provision of this Chapter.
 - 2. If the injured party, his parent, or guardian is unwilling to agree in writing to pay for the animal's board during the period of impoundment, the animal shall be permitted to remain confined in the residence or enclosed yard of the person responsible; provided no animal shall be allowed to remain on the property of the person responsible therefor under this section unless such person signs a written agreement to keep the animal on the property in confinement for the period specified in subsection (a) of this section and further agrees to allow the animal to be examined periodically to determine its physical condition during the confinement period. At the end of the observation period, the animal control officer may require that a licensed veterinarian examine the animal and furnish written notification to the animal control officer regarding the animal's health. All costs associated with the exam are the responsibility of the person responsible. If the person responsible for such animal is unwilling to sign such an agreement, the animal shall be immediately, or as soon as practicable, impounded in accordance with subsection (a) of this section.

2-136 ANIMAL BITE VIOLATION

Persons who are responsible for or in control of animals in the City shall prevent such animals from inflicting animal bites on any person or domestic animal. It shall be a violation of this section by the person responsible for or in control of an animal if the animal, when unprovoked, inflicts an animal bite on any person or domestic animal.

2-137 DISEASE CONTROL

- a) When rabies or other communicable diseases associated with animals are known to exist in the community, or when they are known to exist in neighboring communities the Mayor may declare a quarantine of any or all animals. It shall be the duty of the person responsible for such animal to keep such animal confined to the premises of the person responsible therefor and under control. For the purposes of this section, animals are not to be considered confined to the premises of the residential property the person responsible therefor if the only restraining device is an invisible electric fence.
- b) It shall be the duty of all animal control officers or law enforcement officers, or those having the authority of law enforcement officers to enforce such quarantine. The Mayor and Chief of Police shall have a right to deputize ~~school guards and~~ other persons as needed. Such deputized persons need not seize such animals, but shall aid in

determining the person responsible to the end that warrants of arrest can be issued against violating persons responsible.

2-138 REMOVAL OF ANIMAL FECES

- a) Any person in charge of an animal, when such animal is off the property of the person responsible therefor, shall be responsible for the removal of any feces deposited by such animals on public walks, streets, recreation areas, or private property, and it shall be a violation of this provision for such person to fail to remove or provide for the removal of such feces before the animal leaves the immediate area where such defecation occurred.
- b) It shall be unlawful for any person to dispose of removed feces by intentionally or recklessly depositing, or causing to be deposited, feces removed pursuant to this section into, upon or about any public place, or any private property without the consent of the owner or occupant of the property.

2-139 REMOVAL OF DEAD ANIMAL

It shall be the responsibility of the person responsible for a deceased animal to provide for its removal from private property.

2-140 FEES TO GENERAL FUND

All fees, charges and penalties paid to or collected by any officers of the City under or pursuant to the provisions of this Chapter shall be paid over to the City Treasurer and credited to the general operating fund.

2-141 ENFORCEMENT

It is the duty of the animal control officer or anyone having the authority of an animal control officer, including but not limited to law enforcement officers, to enforce the terms and provisions of this Chapter and the Mayor or the Chief of Police may appoint by and with the consent of the Governing Body some suitable person to be known as an animal control officer whose duties it shall be to assist in the enforcement of this Chapter and to work under an immediate supervision and direction of the Police Department. Anyone having the authority of an animal control officer is given the authority to seize any animal found outside the City limits when he/she has reasonable grounds to believe said animal committed any act within the City which is prohibited by the provisions of this Chapter or which subjects said animal to seizure if found within the City. Any private person may, upon signed complaint, bring charges against any person responsible for an animal for the violation of any of the provisions of this Chapter.

2-142 BEEKEEPING

Any person keeping bees shall comply with the following:

- a) Minimize swarming of bees;
- b) Provide and maintain a source of water located on the premises;
- c) Maintain no more than two (2) hives per property/lot;
- d) Hives will be located only within a fenced back yard. The minimum height of fence will be 42 inches. A flyway structure/barrier (shrubbery or fencing) is necessary if the exterior fence is less than 6 feet in height;
- e) Hives will be maintained at least ten (10) feet from all property lines; and
- f) Maintain and manage such boxes or hives so as not to create a nuisance by any of the following circumstances: unhealthy condition(s), interfere with the normal use and enjoyment of human or animal life, or interfere with the normal use and enjoyment of any public property or private property of others.

- g) Remove hives if established guidelines are not maintained as determined by Codes or animal control officers.

2-143 VIOLATION – PENALTY

- a) It is unlawful for any person to violate any of the provisions of this Chapter. Any person convicted of the violation of any provision of this Chapter where a specific penalty is not otherwise prescribed shall be fined up to \$1,000 or 30 days imprisonment, or a combination of fine and imprisonment. Upon conviction, the Municipal Court may order restitution be paid to the victim of the violation.
- b) Each day any violation of this Chapter to which this penalty applies continues constitutes a separate offense.

2-144 NUISANCE, INJUNCTION

In addition to any other relief provided by this Chapter, the City Attorney may apply to a court of competent jurisdiction for an injunction to prohibit the continuation of any violation of this Chapter. Such application for relieve may include the seeking of temporary and permanent injunctive relief.

2-145 SEVERABILITY

If any section, subsection, subdivision, paragraph, sentence, clause or phrase in this Chapter or any part thereof, is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Chapter or any part thereof.

CHAPTER II. ANIMAL CONTROL AND REGULATION

ARTICLE 1. GENERAL PROVISIONS

2-101 PURPOSE

The purpose of this Chapter is to promote harmonious relationships in the interaction between humans and animals by:

- a) Protecting animals from improper use, abuse, neglect, exploitation, inhumane treatment and health hazards;
- b) Delineating the responsibility of persons for the acts and behavior of such persons' animals at all times;
- c) Providing regulations that foster a reduced risk to residents from annoyance, intimidation, injury and health hazards by animals; and
- d) Encouraging responsible pet ownership.

2-102 DEFINITIONS

- a) Abandon includes the leaving of an animal by the person responsible therefor without making effective provisions for its proper care.
- b) Adequate care means normal and prudent attention to the needs of an animal, including that care which is normally necessary to maintain good health in a specific animal.
- c) Adequate food means supplying at suitable intervals (not to exceed 24 hours) of a quantity of food suitable and sufficient to maintain reasonable level of nutrition for each animal.
- d) Adequate health care means the provision to each healthy animal of all immunizations and preventative care required to maintain good health, space adequate to allow the animal rest and exercise sufficient to maintain good health, and the provision to each sick, diseased, or injured animal of necessary veterinary care or humane death.
- e) Adequate shelter means a structurally sound, properly ventilated, sanitary and weatherproof shelter which provides access to shade from direct sunlight and regress from exposure to inclement weather conditions.
- f) Adequate water means a continual access to a supply of clean, fresh, potable water provided in a sanitary manner.
- g) Animal is any living creature, other than humans.
- h) Animal bite is any contact between an animal's mouth, teeth, or appendages and the skin of a bite victim that causes any visible puncture, scratch, or break to the skin.
- i) Animal control officer is a duly authorized person employed by the City who is charged with the duties of enforcing this Chapter and/or related ordinances.
- j) At-large is to be off the property of the person responsible for an animal, except when the animal is taken off such person's property on a leash, in a cage, or other conveyance.
- k) City is a reference to the City of Prairie Village, Kansas and its corporate limits.
- l) Confined to the premises means confined or restricted either inside the residential structure of the person responsible for an animal; or if outside the residential structure, confined or restricted to the backyard of the premises fenced in a manner that prohibits escape, or by being physically restrained on a chain or leash or other proper method of physical restraint from which the animal cannot escape.
- m) Dangerous wild animal means any animal, which is wild by nature and of a species which, due to size, vicious nature or other characteristics, would constitute a danger to human life, physical well-being, or property, including but not limited to lions, tigers, leopards, panthers, bears, wolves, wolf hybrids, apes, gorillas, monkeys of a species

whose average adult weight is 20 pounds or more, foxes, elephants, alligators, crocodiles, and animals which are venomous and/or poisonous, and any animals which could otherwise present a risk or serious physical harm or death to human beings as a result of their nature or physical makeup, including all constrictors.

- n) Dangerous animal means an animal which:
 - 1) When unprovoked, aggressively bites, attacks or endangers the safety of humans or domestic animals;
 - 2) When unprovoked, has a known propensity, tendency or disposition to attack, cause injury to, or otherwise threaten the safety of human beings or domestic animals;
 - 3) Has been found to be potentially dangerous and after the person responsible therefor has notice that the animal is potentially dangerous, the animal aggressively bites, attacks or endangers the safety of humans or domestic animals; or
 - 4) Is owned, harbored, sheltered, kept, controlled, managed, or possessed primarily or in part for the purpose of fighting or is trained for fighting.
- h) Domesticated cat or dog is a cat or dog that tends to possess reliability of temperament, tractability, docility, predictability and trainability, and has adapted to life among humans.
- i) Impound means taking any animal into the confinement, care, or custody of the City.
- j) Municipal Court means the Municipal Court of the City.
- k) Person is any natural person, association, firm, partnership, organization, or corporation.
- l) Person responsible (for an animal) includes any person which owns, harbors, shelters, keeps, controls, manages, possesses, or has a part interest in any animal. An occupant of any premises on which a dog or cat remains or customarily returns is a person responsible for it under this Chapter. There may be more than one (1) person responsible for an animal. Any person keeping any animal in the City for three (3) consecutive days shall be conclusively presumed to be the person responsible for such animal.
- m) Potentially dangerous animal means any animal which, when unprovoked:
 - 1) Inflicts bites on a human or domestic animal either on public or private property; or
 - 2) any animal with a known propensity, tendency, or disposition to attack unprovoked, to cause injury, or otherwise to threaten the safety of humans or domestic animals.
- n) Unprovoked means that the person or domestic animal approached, chased, bitten or attacked:
 - 1) Did not mischievously or carelessly provoke or aggravate the animal;
 - 2) Was not committing a willful trespass or other tort upon the premises occupied by the person responsible for the animal;
 - 3) Was not tormenting, abusing, assaulting or attacking the animal;
 - 4) Has not in the past been observed or reported to have tormented, abused assaulted or attacked the animal; or
 - 5) Was not committing or attempting to commit a crime.
- o) Vicious animal means an animal which has:
 - 1) When unprovoked, has inflicted a vicious bite to any person or domestic animal on public or private property;
 - 2) When unprovoked, has killed a domestic animal while off the property of the person responsible for such vicious animal; or
 - 3) Been declared to be dangerous and after the person responsible therefor has notice that the animal has been declared dangerous, the animal aggressively bites, attacks or endangers the safety of humans or domestic animals.

- p) Vicious bite is any attack by any animal, which results in serious physical injury or death to a human and/or other domestic animal in which the attacking animal uses its teeth and/or claws.

2-103 KEEPING OF LIVESTOCK, POULTRY AND FOWL PROHIBITED

- a) It shall be unlawful for any person to own, harbor, shelter, keep, control, manage, or possess livestock, poultry or fowl on any premises within the City and no special or temporary permit will be issued for these. For the purpose of this section, livestock, poultry, and fowl include, but are not limited to: cows, pigs, horses, donkeys, mules, sheep, goats, chickens, ducks, geese, guinea fowl, peacocks, pigeons, swans and those animals considered miniature or pygmy breeds, e.g., pot-bellied pigs, miniature donkeys, miniature horses, and pygmy goats.
- b) The following persons or organization shall be allowed to own, harbor, shelter, keep, control, manage, or possess any livestock, poultry and fowl:
 - 1. The keeping of such animals in zoos, bona fide educational or medical institutions, museums or any other place where there are kept live specimens for the public to view or for the purpose of instruction or study;
 - 2. The keeping of such animals for exhibition to the public of such animals by a circus, carnival or other exhibit or show;
 - 3. The keeping of such animals in a bona fide, licensed veterinary hospital for treatment; and
 - 4. Commercial establishments processing such animals for the purpose of sale or display.

2-104 KEEPING OF DANGEROUS WILD ANIMALS PROHIBITED

- a) No person shall keep or permit to be kept on such person's premises any dangerous wild animals for display or for exhibition purposes whether gratuitously or for a fee. This section will not be construed to apply to zoological parks, performing animal exhibits or circuses, bonafide licensed veterinary hospital for treatment, bonafide educational or medical institutions, museums or any other place where they are kept as live exhibits or for study.
- b) No person shall keep or permit to be kept any dangerous wild animal as a pet.

2-105 PIT BULL DOG – KEEPING PROHIBITED

It shall be unlawful to own, harbor, shelter, keep, control, manage, or possess within the corporate limits of the City, any pit bull dog. Pit bull dog for the purposes of this Chapter shall include:

- a) The Staffordshire Bull Terrier breed of dog;
- b) The American Pit Bull Terrier breed of dog;
- c) The American Staffordshire Terrier breed of dog, or
- d) Any dog having the appearance and characteristics of being predominately of the breeds of Staffordshire pit bull terrier, American pit bull terrier, American Staffordshire bull terrier; or a combination of any of these breeds.

2-106 POTENTIALLY DANGEROUS, DANGEROUS AND VICIOUS ANIMALS

- a) Determination.
 - 1. In the event that the animal control officer or a law enforcement officer has probable cause to believe that an animal is potentially dangerous, dangerous or vicious, as defined in Section 2-102, such officer may petition the Municipal Court to set a hearing for the purpose of determining whether or not the animal in

question should be declared potentially dangerous, dangerous or vicious. Whenever possible, any complaint received from a member of the public which serves as the evidentiary basis to support a finding of probable cause shall be made by declaration under penalty of perjury by the complainant in the manner provided by K.S.A. 53-601, and shall be attached to the petition. The Municipal Court, upon the finding of probable cause, shall notify the person responsible for the animal, personally or by certified mail, and the animal control officer or law enforcement officer and City Prosecutor, by best means possible, that a hearing will be held within fourteen (14) days, at which time the person responsible may present evidence to the Municipal Court as to why the animal should not be declared potentially dangerous, dangerous or vicious.

2. The failure of the person responsible to attend or participate in the hearing shall not prevent the Municipal Court from hearing evidence in the matter and making a determination whether the animal is potentially dangerous, dangerous or vicious as alleged, or from entering further orders pursuant to such finding. The hearing shall be informal and shall be open to the public.
 3. The Municipal Court, after considering the evidence, may issue its determination and order declaring the animal to be potentially dangerous, dangerous or vicious based upon such evidence. The order shall be delivered to the person responsible either personally or by first class mail. If a determination is made that the animal is potentially dangerous, dangerous or vicious, the person responsible shall comply with the provisions of this Chapter as directed by the Municipal Court in accordance with a time table established by the Municipal Court, within thirty (30) days after the date of the determination. If the person responsible for the animal contests the determination, he or she may within ten (10) days, exclusive of Saturdays, Sundays and holidays, of such determination appeal to the district court.
 4. In the event that pending the determination by the Municipal Court and/or in any appeals taken, the animal is not restrained, and the animal control officer or law enforcement officer has probable cause to believe that the animal in question may pose a threat of serious harm to human beings or other domestic animals, the animal control officer or law enforcement officer may seize and impound the animal pending the aforesaid Municipal Court determination and/or the determination in any appeals taken. Upon the Municipal Court's determination that the impounded animal is potentially dangerous, dangerous or vicious, the person responsible for the animal shall be liable to the City for the costs and expenses of impounding such animal.
- b) Control of Potentially Dangerous and Dangerous Cats or Dogs. If the Municipal Court determines that an animal is potentially dangerous or dangerous, the person responsible for such animal shall comply with the requirements of sections 2-107, 2-109 and 2-117 through 2-121 of this Chapter.
- c) Disposition of Vicious Animals. If the Municipal Court determines that an animal is vicious, the Municipal Court shall order that the animal be euthanized or that the person responsible for such animal remove the animal from the City limits and shall provide the Municipal Court with the exact location, address, and contact information for the new person responsible where the animal has been moved. The Municipal Court shall notify the receiving jurisdiction that the animal has been determined to be a vicious animal. The animal shall not be returned to the City limits after removal. It shall be unlawful for the person responsible for a vicious animal to maintain such animal in violation of the Municipal Court's order and this section.

- d) Dangerous and Potentially Dangerous Animal Designation Review. Beginning one (1) year after an animal is declared potentially dangerous or dangerous, a person responsible therefor may petition annually that the Municipal Court review the designation by requesting a review hearing in the Municipal Court. If a petition for a review hearing is filed, the Municipal court shall notify the person responsible for the animal, personally or by certified mail, and the animal control officer or law enforcement officer and City Prosecutor, by best means possible, that a hearing will be held within fourteen (14) days, at which time the person responsible must provide evidence that the animal is no longer potentially dangerous or dangerous due to the animal's age, neutering, environment, completion of obedience training that includes modification of aggressive behavior, or other factors. The City Prosecutor may present evidence as well. The hearing shall be informal and shall be open to the public. If the Municipal Court finds sufficient evidence that the animal's behavior has changed, the Municipal Court may rescind that potentially dangerous or dangerous animal designation.

2-107 POTENTIALLY DANGEROUS OR DANGEROUS ANIMAL PERMIT REQUIRED

- a) Any person who owns, harbors, shelters, keeps, controls, manages, or possesses, within the City, any animal which has been declared to be potentially dangerous or dangerous by the Municipal Court of the City, or any other jurisdiction, shall secure and renew an annual potentially dangerous or dangerous animal permit in accordance with this Chapter and comply with all terms and conditions this Chapter to maintaining such permit.
- b) Failure to obtain and maintain a potentially dangerous or dangerous animal permit as required by subsection (a) shall be adequate grounds for the animal control officer to impound the animal until a permit is obtained.

2-108 EXEMPTIONS

The provisions of this Chapter shall not apply to the transportation of prohibited animals or potentially dangerous, dangerous or vicious cats or dogs through his City when such transport has taken adequate safeguards to protect the public and has notified the local law enforcement agency of the proposed route of transportation and the time thereof.

2-109 HARBORING OR KEEPING OF PERMITTED ANIMALS

- a) No person shall own, harbor, shelter, keep, control, manage, or possess, within the City, any potentially dangerous or dangerous animal, or any safe animal including the domestic dog (*canis familiaris*) and the domestic cat (*felis domesticus*), without obtaining permits and licenses required under this Chapter. The following animals are the only animals allowed without a permit or license:
1. Gerbils (*Tateriltus gracillio*);
 2. Hamsters (*Critecus critecus*);
 3. Rabbits (*Lepus Cunicullus*);
 4. Domestic Mice (*Mus musculus*);
 5. Domestic Rat (*Rattus norvegicus*),
 6. Any animal, usually tame and commonly sold at pet stores, including: Ferrets (*Mustela furo*), Chinchillas (*Chinchillidae*), Canaries (*Serinus canaria*), Cockatoos, Macaws, Parakeets, and Parrots (*Psittacines*), and
 7. Bees, subject to Section 2-140.
- b) Any person who owns, harbors, shelters, keeps, controls, manages, or possesses, within the City, any animal without a permit, except as exempted by this section, shall be charged with a misdemeanor and upon conviction thereof, shall be subject to the penalties in section 2-143. This shall include instances where any person owns, harbors,

shelters, keeps, controls, manages, or possesses, within the City, an animal which has been declared by another municipality to be potentially dangerous or dangerous, or similar designation.

2-110 REGISTRATION – TAGS

The person responsible for any cat or dog present in the City shall cause the same to be registered at the office of the City Clerk. The registration shall contain the name, address and phone number of the person responsible for such animal, the animal's breed, name, sex, whether neutered, color and description and such other information as may be deemed necessary by the City Clerk. Subject to the provisions of section 2-114, the City Clerk or authorized assistant shall upon payment of the license fee as provided in section 2-111, issue a permanent tag, bearing a number and Prairie Village, KS.

2-111 LICENSE FEE – DESIGNATED

- a) In addition to any permit fees required by this Chapter, there is levied and imposed an annual license fee upon the person responsible for each cat or dog of the age of over six months, attaining such age during the license year. The license fee shall be adopted by the Governing Body and the amount of the fee will be kept on record in the office of the City Clerk.
- b) The license year shall be for a twelve (12) month period commencing on the date the animal is first licensed. The license is valid for one year from issuance of license or until the expiration of rabies vaccination whichever is greater. The fee shall be payable within 60 days of the expiration of the license. An animal for which a licensed fee is required as set forth in this section; over six months of age should be licensed within thirty days of being brought into the City or attaining six months of age.

2-112 LICENSE FEE – OVERDUE

- a) If the license fee required in section 2-111 is not paid within the time provided in this section, penalties will apply in addition to the normal license fee. The amount and dates penalty will be charged shall be adopted by the Governing Body and on record in the Office of the City Clerk.
- b) After 60 days after the due date, if the fee imposed and required to be paid by section 2-111 remains unpaid, the City Prosecutor may issue a complaint against the person responsible for violation of section 2-111.

2-113 LICENSE FEE – EXEMPTIONS

Any person who owns, harbors, shelters, keeps, controls, manages, or possesses, within the City, a dog which is a "service animal" as defined by the Americans with Disabilities Act, 42 U.S.C. 12101 *et seq.*, or a dog that is utilized by law enforcement personnel, shall be exempt from the license fee payment upon submittal of adequate proof that the animal is current for the year on its rabies vaccination.

2-114 INOCULATION AGAINST RABIES REQUIRED

- a) No City license tag required by this section shall be issued until the person responsible for a cat or dog shall furnish to the City Clerk a current inoculation certificate signed by a registered veterinarian, showing thereon that the cat or dog has been vaccinated against rabies. The inoculation certificate shall be deemed current if it has not expired before the person responsible submits it to the City along with the application for license.
- b) It shall be the responsibility of the person responsible for the cat or dog to ensure that the animal's inoculation against rabies is maintained throughout the license period.

2-115 ENUMERATION OF ANIMALS

The Governing Body may require the annual enumeration of all cat or dogs present within the City. The enumeration shall account for the number and persons responsible for all cats and dogs.

2-116 LIMITATIONS ON NUMBER OF ANIMALS

No person, residential premises or household within this City shall have, hold, maintain or contain more than a combined total of four dogs and cats over three months of age; provided, however, that in no event shall the combination of dogs or cats exceed three dogs or three cats. Any violation of this section is, upon conviction thereof, a misdemeanor and subject to the penalties provided in this Chapter.

2-117 APPLICATION FOR POTENTIALLY DANGEROUS AND DANGEROUS ANIMAL PERMIT

An application for any permit required pursuant to Section 2-107 shall be made to the City Clerk in writing upon a form furnished by the City Clerk. Said application shall be verified by the person who desires to have, keep, maintain or have in his/her possession or under his or her control, in the City, the animal for which a permit is required, and shall set forth the following:

- a) The name, address and telephone number of the applicant.
- b) The applicant's interest in such animal.
- c) The proposed location, and the name, address and telephone number of the owner of such location, and of the lessee, if any.
- d) The number and general disposition of all animals for which the permit is being sought.
- e) Any information known to the applicant concerning dangerous propensities of said animals.
- f) Housing arrangements for all said animals with particular details as to the safety, structure, locks, fences, warning sign, etc.
- g) Safety precautions proposed to be taken.
- h) Noises or odors anticipated in the keeping of such animals.
- i) The prior history of incidents involving the public health or safety involving any of said animals.
- j) A statement, signed by the applicant, indemnifying the City and its agents and employees for any and all injuries that may result from the animal.
- k) Proof of liability insurance, when a permit is issued in accordance with this Chapter and is for an animal deemed a "dangerous cat" or "dangerous dog", in the minimum amount of \$300,000 per occurrence covering any damage or injury which may be caused by such dangerous animal shall be required. The City shall be listed as certificate holder, and shall be required to be notified of any cancellation, termination or expiration of the liability insurance policy. The person responsible shall maintain the liability insurance required by this subsection at all times, unless and until the person responsible shall cease to own, harbor, shelter, keep, control, manage, or possess the dangerous animal.
- l) Any additional information required by the animal control officer or law enforcement officer authorized by the Chief or Police or his or her designee to enforce the provisions of this Chapter at the time of filing such application or thereafter.

2-118 PROVISIONS AND/OR REQUIREMENTS FOR KEEPING POTENTIALLY DANGEROUS AND DANGEROUS CATS OR DOGS

The keeping of potentially dangerous and dangerous cats and dogs in the City shall be subject to, but not be limited to the following provisions and/or requirements:

- a) Leash and muzzle. An animal that has been declared to be a potentially dangerous or dangerous animal and is kept in this City will be required to be securely leashed and, in

the case of dogs which have been declared dangerous, muzzled when it is taken outside of its area of confinement. The leash shall be no longer than four feet in length and under control of an adult capable of exercising control over the animal. The muzzling device must not cause injury to the dog or interfere with its vision or respiration, but shall prevent it from biting any human or animal

- b) Confinement.
 - 1. An animal that has been declared to be a potentially dangerous or dangerous animal shall be securely confined indoors or in a securely enclosed and locked pen or kennel; or in a yard fenced in a manner that prohibits escape, except when leashed and muzzled as above provided. Such pen, kennel or structure must have secure sides and a secure top attached to the sides. All structures used for confinement must be locked with a key or combination lock when such animals are within the structure. All such structures must be adequately lighted and ventilated and kept in a clean and sanitary condition.
 - 2. An animal which has been declared to be a potentially dangerous or dangerous cat shall be securely confined indoors at all times, except when secured on a leash or in a carrier for transport to the veterinarian.
- c) Confinement Indoors. No animal that has been declared to be a potentially dangerous or dangerous animal may be kept on a porch, patio or in any part of a house or structure that would allow the animal to exit such building on its own volition. In addition, no such animal may be kept in a house or structure when the windows are open or when screen windows or screen doors are the only obstacles preventing the animal from exiting the structure.
- d) Signs. All persons responsible for any dog that has been declared to be a dangerous dog must display in a prominent place on their premises a sign which shall be at least 10 inches by 14 inches using the words "Beware of Dog" in at least two-inch block letters. In addition, a similar sign is required to be posted on the kennel or pen of such animal, and on each entry point of fences that will be used to confine the dog.
- e) Identification Photographs. All persons responsible for any animal that has been declared to be a potentially dangerous or dangerous animal must provide to the City Clerk two color photographs of such animal clearly showing the general appearance, color and approximate size of the animal.
- f) Microchip Identification. The person responsible for any animal that has been declared to be a potentially dangerous or dangerous animal must have a microchip implanted in the animal for identification, and the name of the microchip manufacturer and the identification number of the microchip must be provided to the City Clerk.
- g) Mandatory Spay and Neuter. All declared potentially dangerous and dangerous cats and or dogs shall be required to be spayed or neutered
- h) Training. All declared potentially dangerous and dangerous dogs shall be required to be enrolled in a behavior modification program administered by a Certified Pet Dog Trainer (CPDT), Certified Dog Behavior Consultant (CDBC), Veterinary Behaviorist certified through the American College of Veterinary Behaviorists (ACVB), or comparable certification. Upon successful completion of said program, verification must be provided to the City Clerk.
- i) Reporting requirements. All persons responsible for any animal that has been declared to be a potentially dangerous or dangerous animal must provide written notification to the City Clerk at least ten days prior to any of the following situations:
 - 1. The removal from the City of such animal, and provide the City Clerk with the contact information of the new person responsible for such animal.
 - 2. The birth of offspring of such animal.

3. The new address of the person responsible for such animal should the person responsible move within the corporate City limits.
 4. In the event of the death of such animal, the City Clerk must be notified in writing within ten days of the death.
- j) Sale or Transfer Prohibited. No person shall sell, transfer, barter or in any other way dispose of a declared potentially dangerous or dangerous animal to any person within the City unless the recipient person resides permanently in the same household and on the same premises as the registered person responsible for such animal; provided that the registered person responsible for such animal may sell or otherwise dispose of such animal to persons who do not reside within the City.

2-119 POTENTIALLY DANGEROUS OR DANGEROUS ANIMAL PERMIT FEE

The fee for a potentially dangerous or dangerous animal permit application shall be adopted by the Governing Body and on record in the Office of the City Clerk. The fee will be based upon the number of potentially dangerous and dangerous animal permits being applied for and shall be non-refundable. The fee shall be payable to the City Clerk at the time of application. Accretions by natural birth shall not require additional permits during the period of a valid permit.

2-120 TERM AND RENEWAL OF DANGEROUS AND POTENTIALLY DANGEROUS ANIMAL PERMIT

No potentially dangerous or dangerous animal permit required by this Chapter shall be granted for a period in excess of one year. An application for renewal of any such permit shall be made not less than forty-five (45) days prior to the expiration thereof, and shall be accompanied by the same fee as required upon making the original application.

2-121 INSPECTIONS FOR RENEWAL

The holder of a potentially dangerous or dangerous animal permit shall notify the City at least forty-five (45) days prior to the permit expiration date of any request for renewal. Prior to the annual renewal of any potentially dangerous or dangerous animal permit, an animal control officer or law enforcement officer shall inspect the premises subject to such permit to determine whether the person to whom it has been issued is continuing to comply with all of the conditions specified in this Chapter. If the animal control officer or law enforcement officer determines during any such inspection that any of the conditions therein specified are being violated, the officer shall recommend denial of a renewal of any such permit or shall recommend the immediate revocation of such permit in the event that such violation is not corrected within such period of time as the officer shall direct. Upon completion of the inspection process provided herein, the animal control officer or law enforcement officer shall report to the Municipal Court that the dangerous animal permit has been renewed, that the renewal application has been denied, or that the permit has been revoked. If the application is denied, or there is a revocation of a permit, a copy of the report shall be given to the person responsible for the potentially dangerous or dangerous animal. The report shall include the basis for the denial or revocation. The person responsible shall have the right to appeal the denial or revocation of permit to the Municipal Court. An appeal shall be taken by the filing of a written request for a review hearing with the Municipal Court within thirty (30) days of the denial or revocation of the permit. If an appeal is filed, the Municipal Court shall notify the animal control officer or law enforcement officer and City Prosecutor, by best means possible, that a hearing will be held within fourteen (14) days, at which time the person responsible must provide evidence of compliance with the conditions of this Chapter. The hearing shall be informal and shall be open to the public. The Municipal Court, after considering the evidence, shall issue its determination as to whether the permit should be renewed, denied or revoked. The determination of the Municipal Court shall be final.

2-122 COLLAR OR HARNESS REQUIRED

The person responsible for any cat or dog shall cause the same to wear a collar or harness outside the dwelling of the person responsible. The registration tag required in section 2-110 shall be securely affixed to the collar or harness of each cat or dog registered. The tags shall be situated on the collar or harness in such a manner that it may at all times be easily visible to law enforcement officers or animal control officers of the City. Replacement tags shall be issued for a fee which is recorded in the City Clerk's office and may be changed from time to time.

2-123 CAT AND DOG CONTROL

- a) All cats must be under the control of the person responsible therefor at all times. For the purpose of this section, a cat shall be considered not under control and in violation of this section in the following situations:
 1. If a neighbor complains orally or in writing to the person responsible for a cat, that the cat is entering upon the neighbor's property, then the cat's presence on the neighbor's property at any time subsequent to the neighbor's complaint shall constitute a violation of this section;
 2. If a cat causes injury to persons or animals.
 3. If a cat causes damage to property off the property of the person responsible for such cat, to include, but not limited to, breaking, bruising, tearing up, digging up, crushing or injuring any lawn, garden, flower bed, plant, shrub or tree in any manner or defecating or urinating upon any private property.
- b) It is unlawful for the person responsible for any dog to permit such dog to run at large within the City. For the purpose of this section, a dog shall be considered running at large and in violation of this section in the following situations:
 1. If a dog is off the property of the person responsible for such dog, and is not firmly attached to a hand-held leash and under the physical control of the person responsible. Electronic collars may not be used to control a dog when off the property of the person responsible for such dog.
 2. If a dog is off the property of the person responsible for such dog, and is not prevented from making uninvited contact with humans or other animals. This includes a situation when a dog is secured on a leash.

2-124 ELECTRONIC FENCES AND ELECTRONIC COLLARS

Dogs may be confined to the residential property of the person responsible for such dogs by an electronic fence or an electronic collar. An electronic fence or electronic collar is defined as a fence or collar that controls the movement of the dog by emitting an electrical shock when the animal wearing the collar nears the boundary of such property. Dogs confined to residential property by an electronic fence or collar shall at all times be required to wear the collar or other required device which must be functional, and shall not be permitted to be nearer than 10 feet from any public walkway or street. All persons who use an electronic fence or an electronic collar shall clearly post their property to indicate to the public that such a fence or collar is in use. Electronic collars may not be used to control a dog when it is off the property of the person responsible for such dog. An electronic fence or electronic collar shall not be used to confine a potentially dangerous or dangerous dog.

2-125 PUBLIC NUISANCE

- a) A Public Nuisance is any animal that:
 1. Materially damages private or public property;
 2. Scatters solid waste that is bagged or otherwise contained, or

3. Excessively barks, whines, howls, or creates any other disturbance which is continuous or during times covered by the City Noise Ordinance (12:00am to 9:00am Friday-Saturday, 11:00pm to 7:00am Sunday-Thursday) (disturbance factors include, but not limited to, time of day, volume, length of time, etc.). If the violation is not witnessed by the animal control officer and/or law enforcement officer, the complainant making such statement must agree to sign a complaint and testify in court if requested.
- b) It is unlawful for the person responsible for any animal to negligently, carelessly, willfully or maliciously permit such animal to become a public nuisance.
- c) Anyone having the authority of an animal control officer, including but not limited to law enforcement officers, is given the authority to seize and impound any animal which is a public nuisance as defined by this section.

2-126 UNLAWFUL TO HARBOR OR KEEP ANY ANIMAL WITHOUT PROPER AND NECESSARY PRECAUTIONS

- a) Any person responsible for an animal within the City shall take all proper and necessary precautions to ensure and promote conditions that restrict the animal when unleashed to such person's property and prevent injury to other humans, domestic animals and/or damage to property.
- b) No person responsible for an animal shall fail to provide the animal with adequate care, adequate food, adequate water, adequate health care, and adequate shelter. Such shelter should be clean, dry, and compatible with the condition, age and species. An animal must also have the opportunity for adequate daily exercise. This requires that the person responsible must offer some freedom from continuous chaining and tethering.

2-127 TETHERING

- a) It is unlawful to attach chains or other tethers, restraints or implements directly to a dog without the proper use of a collar, harness or other device designed for that purpose and made from a material that prevents injury to the dog.
- b) It is unlawful for any person to:
 1. Continuously tether a dog for more than one continuous hour. A dog may be tethered 3 hours total within a 24 hour time period providing there is a 3 hour break between each period of tethered time. For the purpose of tethering a dog, a chain, leash, rope or tether must be at least ten feet in length.
 2. Use a chain, leash, rope, collaring device, tether, which restricts the free movement of the animal (i.e. the device should not weigh more than one eighth of the animal's body weight).
 3. Tether a dog in such a manner as to cause injury or strangulation, or entanglement of the dog on fences, trees, posts or other manmade or natural obstacles.
 4. Tethered for any length of time anywhere in the City when they are off the property of the person responsible for such animal.
 5. Tether without providing adequate care, food, shelter, and water as outlined in sections 2-126 and 2-128.

2-128 CRUELTY TO ANIMALS

Cruelty to Animals shall be defined as:

- a) Intentionally killing, injuring, maiming, torturing, mutilating, beating, or overworking any animal; this includes, but is not limited to, administering any poisonous substance with the intent that the same shall be taken or swallowed by any animal;

- b) Acting or failing to act when the act or failure to act causes or permits pain or suffering to such animal;
- c) Abandoning or leaving any animal in any place or releasing or dumping an animal from a vehicle without making provisions for its proper care; in addition, "abandon" means for the person responsible to leave an animal without demonstrated or apparent intent to recover or resume custody; to leave an animal for more than twenty-four hours without providing adequate food and shelter for the duration of the absence; or to turn out or release an animal for the purpose of causing it to be impounded;
- d) Failing to provide adequate care, adequate food, adequate health care, adequate shelter, or adequate water; or
- e) Failing to provide veterinary care when needed to treat injury or illness unless the animal is promptly destroyed in a humane manner.

The provisions of this section shall not apply to:

1. Normal or accepted veterinary practices;
2. Bona fide experiments carried on by recognized research facilities;
3. Killing, attempting to kill, trapping, catching or taking of any animal in accordance with the provisions of Chapter 32 or Chapter 47 of the Kansas Statutes Annotated;
4. Rodeo practices accepted by the Rodeo Cowboys' Association;
5. The humane killing of an animal which is diseased or disabled beyond recovery for any useful purpose, or the humane killing of animals for population control, by the person responsible or the agent of such person residing outside of a City or the person responsible therefor within a City if no animal shelter, pound or licensed veterinarian is within the City, or by a licensed veterinarian at the request of the person responsible therefor, or by any officer or agent of any incorporated humane society, the operator of an animal shelter or pound, public health officer or licensed veterinarian three business days following the receipt of any such animal at such society, shelter or pound;
6. With respect to farm animals, normal or accepted practices of animal husbandry;
7. The killing of any animal by any person at any time which may be found outside of the owned or rented property of the person responsible for such animal and which is found injuring or posing an immediate threat to any person, farm or domestic animal or property, or
8. An animal control officer trained in the use of a tranquilizer gun, using such gun with the estimated dosage for the size of the animal, when such animal is vicious, a threat to public safety or themselves or could not be captured after reasonable attempts using other methods.

2-129 AUTHORITY OF ANIMAL CONTROL OFFICER OR LAW ENFORCEMENT OFFICER TO RESCUE AN ENDANGERED ANIMAL

- a) Whenever an animal is found confined and/or unattended in a motor vehicle or other location, which subjects it to certain weather conditions that endangers its life as determined by the animal control officer or law enforcement officer, the animal control officer may enter such vehicle or property with the assistance from the police for the purpose of rescuing such animal, and transporting it to a shelter house designated by the Governing Body for treatment, boarding, or care. A written notice shall be left on or in the motor vehicle or other applicable property advising that the animal has been removed under authority of this section and the location where the animal has been impounded.

- b) Nothing in this section shall be deemed to prevent the animal control officer law enforcement officer from entering upon property without consent when the condition or animal is found in plain sight and not within a private structure or under conditions constituting an emergency.
- c) No animal control officer or law enforcement officer shall be held criminally or civilly liable for action under this section, provided the officer acts lawfully, in good faith, on probable cause and without malice.

2-130 SEIZURE PROHIBITED ANIMALS

- a) Upon the written complaint of any person that a person owns, harbors, shelters, keeps, controls, manages, or possesses, within the City, an animal prohibited by this Chapter, the animal control officer or a law enforcement officer shall conduct an investigation and if the investigation reveals evidence that indicates that such person named in the complaint in fact owns, harbors, shelters, keeps, controls, manages, or possesses, within the City, an animal prohibited by this Chapter, the animal control officer or law enforcement officer shall forthwith send written notice to such person requiring such person to safely remove said animal from the City within three (3) days of the date of said notice. Notice as herein provided shall not be required where such animal has previously caused serious physical harm or death to any person or has escaped and is at large, in which case the animal control officer or law enforcement officer shall cause said animal to be immediately seized and impounded or killed, if seizure and impoundment are not possible without risk of serious physical harm or death to any person.
- b) The animal control officer or law enforcement officer shall forthwith cause to be seized and impounded any animal prohibited by this Chapter where the person responsible therefor has failed to comply with the notice sent. Upon a seizure and impoundment said animal shall be delivered to a place of confinement which may be with any organization which is authorized by law to accept, own, keep or harbor such animals. If during the course of seizing and impounding any such animal, the animal poses a risk of serious physical harm or death to any person, the animal control officer or law enforcement officer may render said animal immobile by means of tranquilizers or other safe drugs, or if that is not safely possible, then said animal may be killed.
- c) Any reasonable costs incurred by the animal control officer or law enforcement officer in seizing, impounding and for confining any animal prohibited in the City by this Chapter shall be charged against the person responsible for such animal. Such charges shall be in addition to any fine or penalty provided for violating this Chapter.

2-131 SEIZURE PERMITTED ANIMALS

- a) Any animal control officer, law enforcement officer or other person designated by the Governing Body of the City is authorized to capture any dog found running at large in violation of section 2-123 and any cat which is not under control as defined in section 2-123 and place such animal in an animal shelter designated by the Governing Body for that purpose. In addition to or in lieu of seizing the cat or dog, the animal control officer, law enforcement officer or City Prosecutor may charge the person responsible for such animal with violating section 2-123 of this Chapter.
- b) Any animal control officer, law enforcement officer or other person designated by the Governing Body of the City is authorized to capture any animal which is a public nuisance as defined by section 2-125 and place such animal in an animal shelter designated by the Governing Body for that purpose. In addition to or in lieu of seizing the animal, the animal control officer, law enforcement officer or City Prosecutor may charge the person responsible for such animal with violating section 2-125 of this Chapter.

- c) An animal control officer or law enforcement officer shall forthwith cause to be seized and impounded any potentially dangerous or dangerous animal, when the person responsible for such animal has failed to comply with the requirements of this Chapter relating to permitting and keeping potentially dangerous or dangerous cats and dogs. Such officer may place such animal in an animal shelter designated by the Governing Body for that purpose. In addition to seizing the animal, the animal control officer, law enforcement officer or City Prosecutor may charge the person responsible for such animal with violating the requirements of this Chapter relating to permitting and keeping potentially dangerous or dangerous cats and dogs. If during the course of seizing and impounding any such animal, the animal poses a risk of serious physical harm or death to any person, or the animal is considered a threat to public safety by the animal control officer or any law enforcement officer, such officer may render said animal immobile by means of tranquilizers or other safe drugs; or if that is not safely possible, then said animal may be destroyed.
- d) Any reasonable costs incurred by the animal control officer or law enforcement officer in seizing, impounding and for confining any animal permitted in the City by this Chapter shall be charged against the person responsible for such animal. Such charges shall be in addition to any fine or penalty provided for violating this Chapter, and payment of such charges shall be a condition to the redemption and release to persons responsible for such animals.

2-132 PROCEDURE FOR FAILURE TO REDEEM

Any animal captured or apprehended under the terms and conditions of this Chapter shall be held in a shelter approved by the City for a period of three (3) business days from the date of impoundment, such period of time beginning at nine a.m. the morning following the day of impoundment. If the person responsible does not reclaim his or her animal during the period specified in the preceding sentence, or if the animal control officer or animal shelter is unable to locate and notify the person responsible after making a good faith effort to do so within the three (3) business day period then the animal becomes the property of the intake facility.

2-133 PRESENTATION OF ANIMAL

The person responsible for any animal shall physically produce the animal for observation, identification or inspection when requested to do so by an animal control officer or law enforcement officer investigating a violation of the animal control and/or welfare laws of the City, provided the officer has probable cause to believe a crime or violation of the animal control laws has been committed. Failure to do so is a violation of this section.

2-134 DUTY TO REPORT ANIMAL BITES AND SCRATCHES

When any animal, while within the boundaries of the City, inflicts an animal bite on any person or domestic animal, or when an animal is suspected of having rabies; it shall be the duty of any person having knowledge of such facts to report the same immediately, or as soon as practicable, to the Police Department or the animal control officer.

2-135 ANIMAL BITE PROCEDURE

- a) Except as provided in subsection (e) of this section, an animal which inflicts an animal bite on any person or domestic animal shall immediately, or as soon as practicable, be quarantined at the expense of the person responsible for such animal with a licensed veterinarian of such person's choice or with the City's approved animal shelter for a period of not less than ten (10) days nor more than twelve (12) days.
- b) If the person responsible for the animal cannot be immediately notified, City personnel shall immediately, or as soon as practicable, impound such animal with a City approved

shelter, at the expense of the person responsible, for a period of not less than ten (10) days nor more than twelve (10) days. If the address of the person responsible for the animal can be determined, the animal control officer or Police Department shall make a reasonable effort to notify such person that said animal is impounded under the provisions of this section and that such person has the right to redeem the animal at the expiration of confinement upon the payment of impoundment fees, any veterinarian fees, and any license and penalty fees then due and owing to the City.

- c) In the event the original place of impoundment is not the choice of the person responsible for such animal, such person may cause the animal's place of impoundment to be changed to a licensed veterinarian of such person's choice; provided all other provisions of this Chapter are complied with. The total period of confinement of the animal at the one or more locations is to be for a period of not less than ten (10) days nor more than twelve (12) days.
- d) The veterinarian or City approved shelter with whom the animal is impounded, shall give immediate written notice to the Chief of Police that such animal has been confined and will be confined for not less than ten (10) days no more than twelve (12) days. At the expiration of the aforesaid confinement period, the veterinarian or City approved shelter shall give immediate written notice to the Chief of Police as to the health of such animal pertaining to the diagnosis of rabies.
- e) In the event the investigating officer determines that the animal had an effective rabies inoculation, and was duly licensed under this Chapter at the time of the injury, or the animal had an effective rabies inoculation and caused bite or injury to an immediate family member, and agrees to obtain a City license for the animal prior to the completion of rabies observation, provided both the victim and person responsible agree, then the animal need not be impounded in accordance with subsection (a) of this section but the following alternative procedure shall be followed:
 1. If the injured person, his parent, or guardian desires that the animal be impounded and agrees in writing to pay for its board during the period of impoundment, it shall be so impounded for the period specified in subsection (a) of this section notwithstanding any other provision of this Chapter.
 2. If the injured party, his parent, or guardian is unwilling to agree in writing to pay for the animal's board during the period of impoundment, the animal shall be permitted to remain confined in the residence or enclosed yard of the person responsible; provided no animal shall be allowed to remain on the property of the person responsible therefor under this section unless such person signs a written agreement to keep the animal on the property in confinement for the period specified in subsection (a) of this section and further agrees to allow the animal to be examined periodically to determine its physical condition during the confinement period. At the end of the observation period, the animal control officer may require that a licensed veterinarian examine the animal and furnish written notification to the animal control officer regarding the animal's health. All costs associated with the exam are the responsibility of the person responsible. If the person responsible for such animal is unwilling to sign such an agreement, the animal shall be immediately, or as soon as practicable, impounded in accordance with subsection (a) of this section.

2-136 ANIMAL BITE VIOLATION

Persons who are responsible for or in control of animals in the City shall prevent such animals from inflicting animal bites on any person or domestic animal. It shall be a violation of this

section by the person responsible for or in control of an animal if the animal, when unprovoked, inflicts an animal bite on any person or domestic animal.

.2-137 DISEASE CONTROL

- a) When rabies or other communicable diseases associated with animals are known to exist in the community, or when they are known to exist in neighboring communities the Mayor may declare a quarantine of any or all animals. It shall be the duty of the person responsible for such animal to keep such animal confined to the premises of the person responsible therefor and under control. For the purposes of this section, animals are not to be considered confined to the premises of the residential property the person responsible therefor if the only restraining device is an invisible electric fence.
- b) It shall be the duty of all animal control officers or law enforcement officers, or those having the authority of law enforcement officers to enforce such quarantine. The Mayor and Chief of Police shall have a right to deputize other persons as needed. Such deputized persons need not seize such animals, but shall aid in determining the person responsible to the end that warrants of arrest can be issued against violating persons responsible.

2-138 REMOVAL OF ANIMAL FECES

- a) Any person in charge of an animal, when such animal is off the property of the person responsible therefor, shall be responsible for the removal of any feces deposited by such animals on public walks, streets, recreation areas, or private property, and it shall be a violation of this provision for such person to fail to remove or provide for the removal of such feces before the animal leaves the immediate area where such defecation occurred.
- b) It shall be unlawful for any person to dispose of removed feces by intentionally or recklessly depositing, or causing to be deposited, feces removed pursuant to this section into, upon or about any public place, or any private property without the consent of the owner or occupant of the property.

2-139 REMOVAL OF DEAD ANIMAL

It shall be the responsibility of the person responsible for a deceased animal to provide for its removal from private property.

2-140 FEES TO GENERAL FUND

All fees, charges and penalties paid to or collected by any officers of the City under or pursuant to the provisions of this Chapter shall be paid over to the City Treasurer and credited to the general operating fund.

2-141 ENFORCEMENT

It is the duty of the animal control officer or anyone having the authority of an animal control officer, including but not limited to law enforcement officers, to enforce the terms and provisions of this Chapter and the Mayor or the Chief of Police may appoint by and with the consent of the Governing Body some suitable person to be known as an animal control officer whose duties it shall be to assist in the enforcement of this Chapter and to work under an immediate supervision and direction of the Police Department. Anyone having the authority of an animal control officer is given the authority to seize any animal found outside the City limits when he/she has reasonable grounds to believe said animal committed any act within the City which is prohibited by the provisions of this Chapter or which subjects said animal to seizure if found within the City. Any private person may, upon signed complaint, bring charges against any person responsible for an animal for the violation of any of the provisions of this Chapter.

2-142 BEEKEEPING

Any person keeping bees shall comply with the following:

- a) Minimize swarming of bees;
- b) Provide and maintain a source of water located on the premises;
- c) Maintain no more than two (2) hives per property/lot;
- d) Hives will be located only within a fenced back yard. The minimum height of fence will be 42 inches. A flyway structure/barrier (shrubbery or fencing) is necessary if the exterior fence is less than 6 feet in height;
- e) Hives will be maintained at least ten (10) feet from all property lines; and
- f) Maintain and manage such boxes or hives so as not to create a nuisance by any of the following circumstances: unhealthy condition(s), interfere with the normal use and enjoyment of human or animal life, or interfere with the normal use and enjoyment of any public property or private property of others.
- g) Remove hives if established guidelines are not maintained as determined by Codes or animal control officers.

2-143 VIOLATION – PENALTY

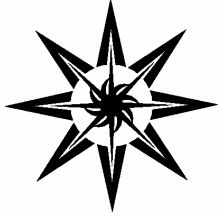
- a) It is unlawful for any person to violate any of the provisions of this Chapter. Any person convicted of the violation of any provision of this Chapter where a specific penalty is not otherwise prescribed shall be fined up to \$1,000 or 30 days imprisonment, or a combination of fine and imprisonment. Upon conviction, the Municipal Court may order restitution be paid to the victim of the violation.
- b) Each day any violation of this Chapter to which this penalty applies continues constitutes a separate offense.

2-144 NUISANCE, INJUNCTION

In addition to any other relief provided by this Chapter, the City Attorney may apply to a court of competent jurisdiction for an injunction to prohibit the continuation of any violation of this Chapter. Such application for relief may include the seeking of temporary and permanent injunctive relief.

2-145 SEVERABILITY

If any section, subsection, subdivision, paragraph, sentence, clause or phrase in this Chapter or any part thereof, is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Chapter or any part thereof.



PUBLIC WORKS DEPARTMENT

Council Committee Meeting Date: October 2, 2017

DISCUSSION OF POSSIBLE CHANGES TO 69TH STREET BETWEEN DELMAR STREET AND TOMAHAWK ROAD

Residents on 69th Street have requested that the City consider changing 69th Street between Delmar Street and Tomahawk Road to a one way street.

Direction from council is needed to move forward for further consideration. It is anticipated that a neighborhood meeting would be held on this possible change. After the resident meeting council would decide if changes are implemented.

BACKGROUND

Due to concerns with the intersection at 69th Street and Tomahawk Road residents have requested that the City consider changing 69th Street to a one way street between Delmar Street and Tomahawk Road. The large landscaped island at Tomahawk creates a unique connection at Tomahawk Road. Residents feel that the neighborhood is changing with recent rebuilds with younger families moving in. They are concerned with overall safety due to the absence of sidewalks and the unique intersection at Tomahawk. Making 69th Street one way would eliminate the two way traffic at this intersection and cause vehicles to slow as they enter the one way street.

The other benefit from making this a one way street is that 69th could easily have sidewalks added in the future with a street rehabilitation project. 69th currently has no sidewalks and sidewalk can't be added without significant impacts to large trees at the back of curb on both sides of the street.

Given the concerns of the residents, TranSystems was hired to do a study to determine if 69th Street could be made one way. That study is attached and concludes that this change is viable. Prior to the study residents on 69th Street did sign a petition on the concept of making the street one way. 78% of the residents on 69th Street support the concept.

If council eventually supports the change to a one way street, we anticipate making the changes on a temporary basis initially with delineators, pavement markings, and signs. If, after a period, there are no negative effects on the surrounding the neighborhoods we would add curbs to make the one way permanent.

Traffic Calming Speed tables already exist on this street.

FUNDING SOURCE

N/A

ATTACHMENTS

TranSystems Study

PREPARED BY

Keith Bredehoeft, Public Works Director
September 28, 2017

69TH STREET AREA TRAFFIC STUDY
Roe Avenue to Tomahawk Road

Prepared for
CITY OF PRAIRIE VILLAGE

By



May 2017

Introduction

In accordance with your request, TranSystems Corporation has prepared the following traffic study for 69th Street, Prairie Lane, and Oxford Road between Tomahawk Road and Roe Avenue in Prairie Village, Kansas. The purpose of this study is to determine the impacts on the surrounding streets if 69th Street is converted to one-way traffic flow east of El Monte Street. A map with the study area outlined is shown below on Figure 1.



Figure 1 – Study Area

Data Collection

Road Segment Inventory

As part of the data collection, we reviewed the study segments and documented various existing features which may affect the conversion of 69th Street to one-way traffic flow east of El Monte Street. These included characteristics such as road width, horizontal and vertical alignment, parking practices, and roadside development. A summary of our findings is listed below:

69th Street

- ▶ 69th Street is a two-lane street with curbs and gutters. East of Oxford Road, 69th Street is generally 24 feet wide, measured between the edges of pavement. No sidewalks are provided along this portion of the street. West of Oxford Road, 69th Street is generally 29 feet wide, measured between the edges of pavement. This portion of the street has a sidewalk along the south side with approximately a four foot green space buffer between the edge of sidewalk and back of curb.
- ▶ The posted speed limit on 69th Street is 25 m.p.h. Three speed humps are located along the study segment for traffic calming purposes.

- ▶ There is some horizontal curvature in the alignment of 69th Street, especially at the east end of the study segment where it intersects Tomahawk Road. There is a gradual incline from Tomahawk Road to approximately Granada Road where the roadway levels off.
- ▶ The study segment of 69th Street is located in a predominately residential area, with mature trees lining both sides of the street. Single-family homes are set back roughly 40 feet from the street along the majority of the study segment. Approximately 35 homes have driveways onto the portion of 69th Street between El Monte Street and Tomahawk Road.
- ▶ There is one local street that intersects 69th Street between El Monte Street and Tomahawk Road, and it operates under stop sign control at 69th Street. There is a large triangular island where 69th Street intersects Oxford Road and El Monte Street. 69th Street is uncontrolled in the eastbound direction between Roe Avenue and Tomahawk Road, however, westbound drivers must stop where 69th Street intersects Oxford Road.
- ▶ On the east end of the study segment, 69th Street curves to intersect Tomahawk Road. There is a triangular landscaped island on 69th Street at this location. The intersection of 69th Street and Tomahawk Road is within the functional area of the Tomahawk Road and Mission Road intersection which is located approximately 100 feet to the east. Furthermore, the sight distance is limited at this intersection for drivers on 69th Street looking west along Tomahawk Road due to some trees, bushes, and fencing.
- ▶ Parking is permitted along both sides of 69th Street, except within 100 feet of Tomahawk Road. For approximately 375 feet west of the no parking zone, signs are posted restricting parking to two-hours between 9 a.m. and 4 p.m. During our field work we observed sporadic on-street parking activity along both sides of the study segment.

Prairie Lane

- ▶ Prairie Lane is a two-lane street with curbs and gutters. The roadway is generally 29 feet wide, measured between the edges of pavement. A sidewalk is provided along the north side of the street with approximately a four foot buffer between the edge of sidewalk and back of curb.
- ▶ The posted speed limit on Prairie Lane is 25 m.p.h. A speed hump is located along the study segment approximately half-way between Oxford Road and Tomahawk Road for traffic calming purposes.
- ▶ There is a gradual incline along the study segment beginning at Tomahawk Road. The horizontal alignment of the roadway can be generally characterized as straight.

Oxford Road

- ▶ Oxford Road is a two-lane street with curbs and gutters. The roadway is generally 29 feet wide, measured between the edges of pavement. A sidewalk is provided along the south side of the street with approximately a four foot buffer between the edge of sidewalk and back of curb.
- ▶ The posted speed limit on Oxford Road is 25 m.p.h. Two speed humps are located along the study segment for traffic calming purposes.
- ▶ There is a gradual incline along the study segment beginning at Tomahawk Road. Additionally, there is some horizontal curvature in the alignment of Oxford Road.

Traffic Volume Counts

A speed trailer was placed on the following study segments by city staff to collect the traffic volumes and speeds on a typical weekday:

- ▶ 69th Street between Oxford Road and Tomahawk Road
- ▶ Prairie Lane between Oxford Road and Tomahawk Road
- ▶ Oxford Road between 69th Street and Tomahawk Road

These data were collected for a representative 24-hour period between Wednesday, March 15, 2017, and Tuesday, April 4, 2017. The traffic volumes along 69th Street between Roe Avenue and Oxford Road were obtained from the 69th Street Traffic Calming After Study. These data were collected on Tuesday, October 18, 2011. The average daily traffic volumes are summarized below in Table I. Figure A-1 in the Appendix, shows the average daily traffic volumes at each location along with the directional distributions and speeds.

Location	ADT (veh)
69th Street between Roe and Oxford	1,941
69th Street between Oxford and Tomahawk	424
Prairie Lane between Oxford and Tomahawk	770
Oxford between 69th and Tomahawk	759

Manual turning movement counts were conducted by city staff at the intersection of 69th Street and Tomahawk Road during typical weekday morning, noon, and evening peak periods. These data were collected on Wednesday, March 29, 2017 from 11:00 a.m. to 1:00 p.m. and 4:00 to 6:00 p.m. and on Thursday, March 30, 2017 from 7:00 to 8:30 a.m. The counts indicated the current turning movement patterns at the intersection as well as the typical peak hours. The peak hour turning movement volumes recorded during each of the count periods are shown in the Appendix (Figures A-2 through A-4).

Based on the counts, it appears that the triangular island located at the intersection of 69th Street and Tomahawk Road is causing drivers on Tomahawk Road to be confused as to where they are supposed to turn onto 69th Street. The turning movements indicate that eastbound and westbound drivers are using both sides of the island which is somewhat unconventional and provides awkward turning movements for drivers.

Spot Speed Studies

A spot speed study is a typical method used to determine vehicle speed characteristics along a particular segment of road. One of the more important statistics obtained from a spot speed study is the 85th percentile speed. This statistic represents the speed at which 85 percent of the observed vehicles are traveling at or below, and it is generally regarded as the speed considered reasonable and appropriate by most drivers.

Data from the speed trailer was used to determine the existing vehicle speed characteristics along the study segments. The vehicle speeds along 69th Street between Roe Avenue and Oxford Road were obtained from the 69th Street Traffic Calming After Study. These speeds were collected on Tuesday, October 18, 2011. The results of the studies are shown on the next page in Table I.

**Table 2
Vehicle Speed Data**

Location	85th Percentile Speed (m.p.h.)	Average Speed (m.p.h.)	Number of Observations
69th Street between Roe and Oxford	32.8	29.5	1,821
69th Street between Oxford and Tomahawk	32.5	27.4	423
Prairie Lane between Oxford and Tomahawk	32.8	29.6	764
Oxford between 69th and Tomahawk	28.0	26.4	759

Table I shows that the measured 85th percentile speeds for the study segments are slightly more than 30 m.p.h. at all locations except along Oxford Road, which was slightly below 30 m.p.h. All of these speeds are more than the posted speed limit. The average speed along the study segments ranges between approximately 26 m.p.h and 30 m.p.h.

Crash Experience

Crash records for the study segments were provided by the city for the time period between January 1, 2014 and January 31, 2017. Over this 37-month time period, only one crash was reported along the study segments. It occurred along Oxford Road just east of El Monte Street on Tuesday, October 20, 2015 at 6:07 A.M. This crash involved a westbound driver on Oxford Road who struck a legally parked car facing eastbound. The parked vehicle then struck another parked vehicle which struck another parked vehicle. The driver of the westbound vehicle was injured in the crash. The crash report identified alcohol as the contributing circumstance to the crash.

The above information indicates a very low crash frequency along the study segments and that the roads are generally operating in a safe manner.

Analysis

When analyzing whether a street with two-way traffic flow can be converted to one-way traffic flow there are a few considerations. One being the daily traffic volume of the roadway along with the directional distribution of the vehicles. It is usually recommended that the street be converted to accommodate the direction that has the predominant vehicular flow. This causes the least amount of disruption in the area, since traffic in the minor direction will be forced to find new routes along neighboring streets. Additionally, the effect of the one-way conversion on adjacent street segments should also be considered.

The street segment under consideration for one-way conversion is 69th Street between El Monte Street and Tomahawk Road. As shown above in Table I, the average daily traffic volume of this segment of 69th Street is approximately 420 vehicles. This volume is fairly low, but typical of residential streets. The directional distribution of the traffic for this segment of 69th Street is about 40 percent in the eastbound direction and 60 percent in the westbound direction. This distribution indicates that if the street is converted to one-way traffic flow, it would be most convenient to accommodate the westbound direction, since it is the predominant direction vehicles travel.

One-way conversion would force traffic in the eastbound direction to find new routes through the area. Fortunately, there are multiple streets for drivers to choose from, including Oxford Road and Prairie Lane. Since the traffic volume on 69th Street is low, approximately 170 vehicles per day would be dispersed onto the neighboring streets. If this volume is split equally between Oxford Road and Prairie Lane, it would result in

approximately an 11 percent increase in daily traffic on each street. The increase in daily traffic volumes on these neighboring streets is anticipated to be nominal and would have no significant safety or operational impact on these streets.

The conversion of 69th Street between El Monte Street and Tomahawk Road to one-way in the westbound direction addresses the existing sight distance concern that is currently present at the intersection of 69th Street and Tomahawk Road for eastbound drivers on 69th Street. With the conversion, eastbound traffic flow will be prohibited along 69th Street, thus eliminating the movements at the intersection that have limited sight distance.

Conclusion

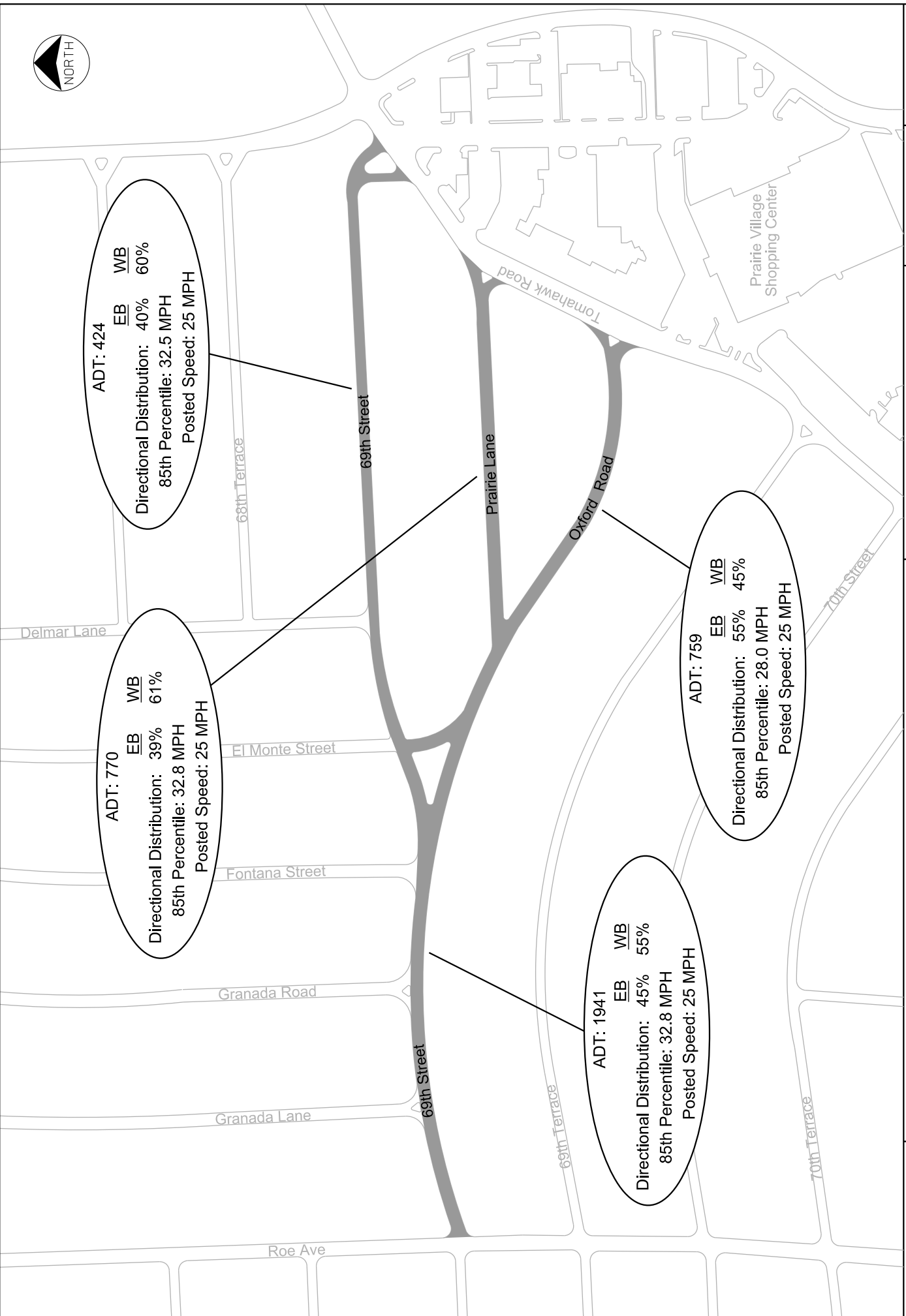
If desired, the portion of 69th Street between El Monte Street and Tomahawk Road can be converted to one-way traffic flow in the westbound direction. Eastbound traffic will be diverted to different routes, such as Oxford Road and Prairie Lane. The increase in daily traffic volumes on these neighboring streets is anticipated to be nominal and would have no significant safety or operational impact on these streets.

We trust that the enclosed information proves beneficial to the City of Prairie Village. We appreciate the opportunity to be of service to you and will be available to review this study at your convenience.

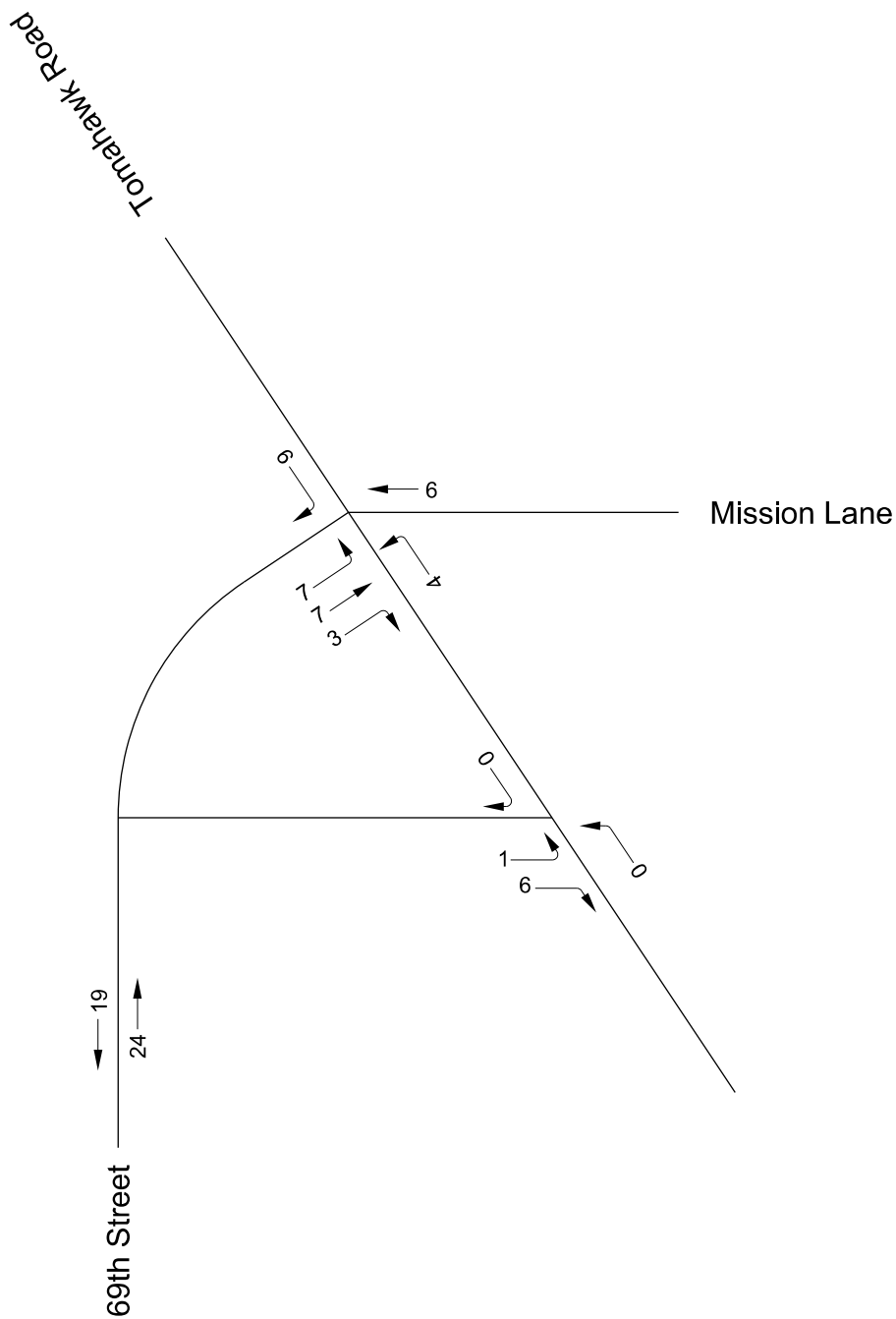
Appendix

Average Daily Traffic Volumes A-1

Turning Movement Counts A-2 through A-4



	AVERAGE DAILY TRAFFIC VOLUME AND SPEED		69th Street Area Traffic Study Prairie Village, Kansas	May 2017	Figure A-1
				No Scale	



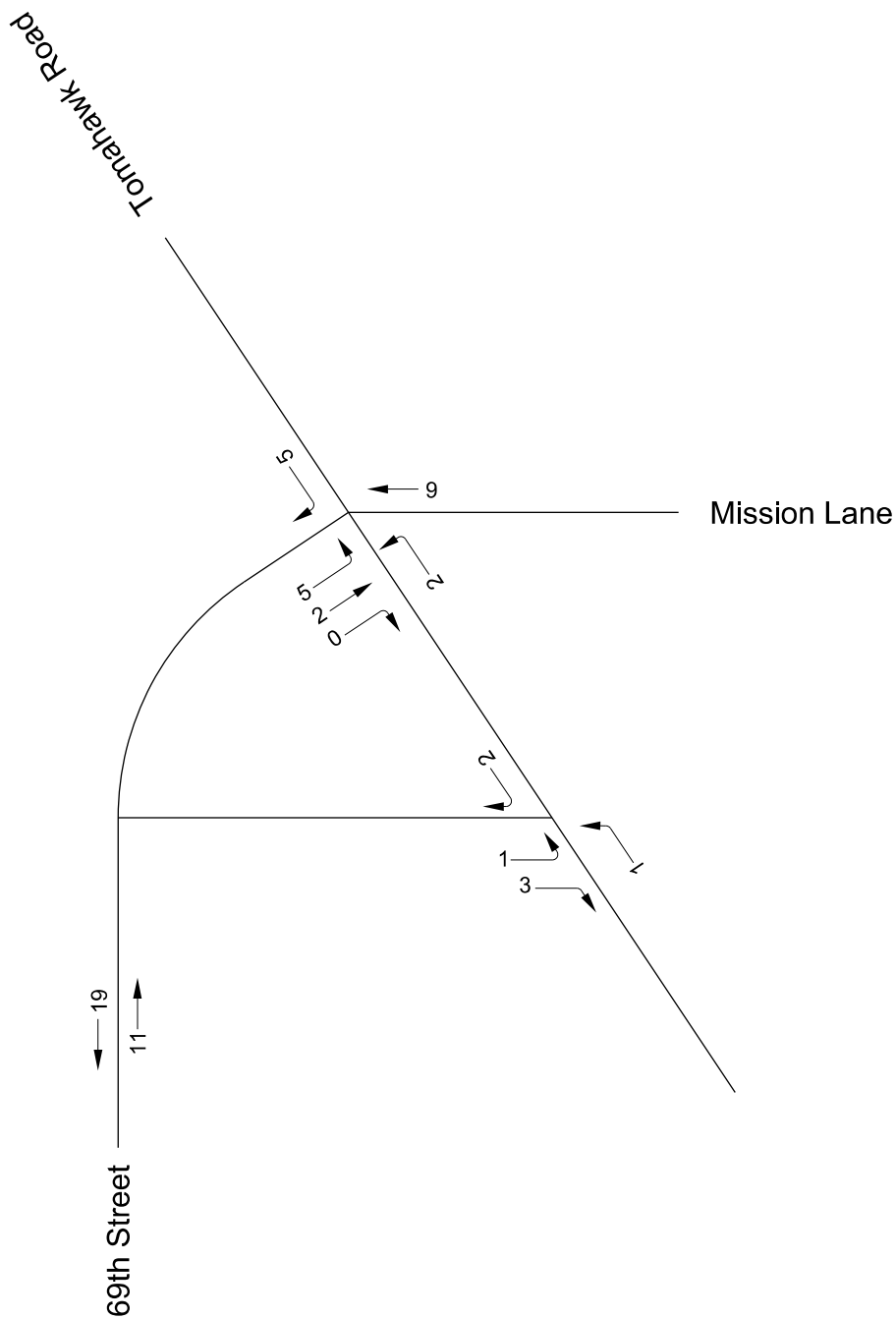
TRAFFIC VOLUMES
A.M. PEAK HOUR 7:30 A.M. - 8:30 A.M.

69th Street Area
Traffic Study
Prairie Village, Kansas

May 2017

No Scale

Figure A-2



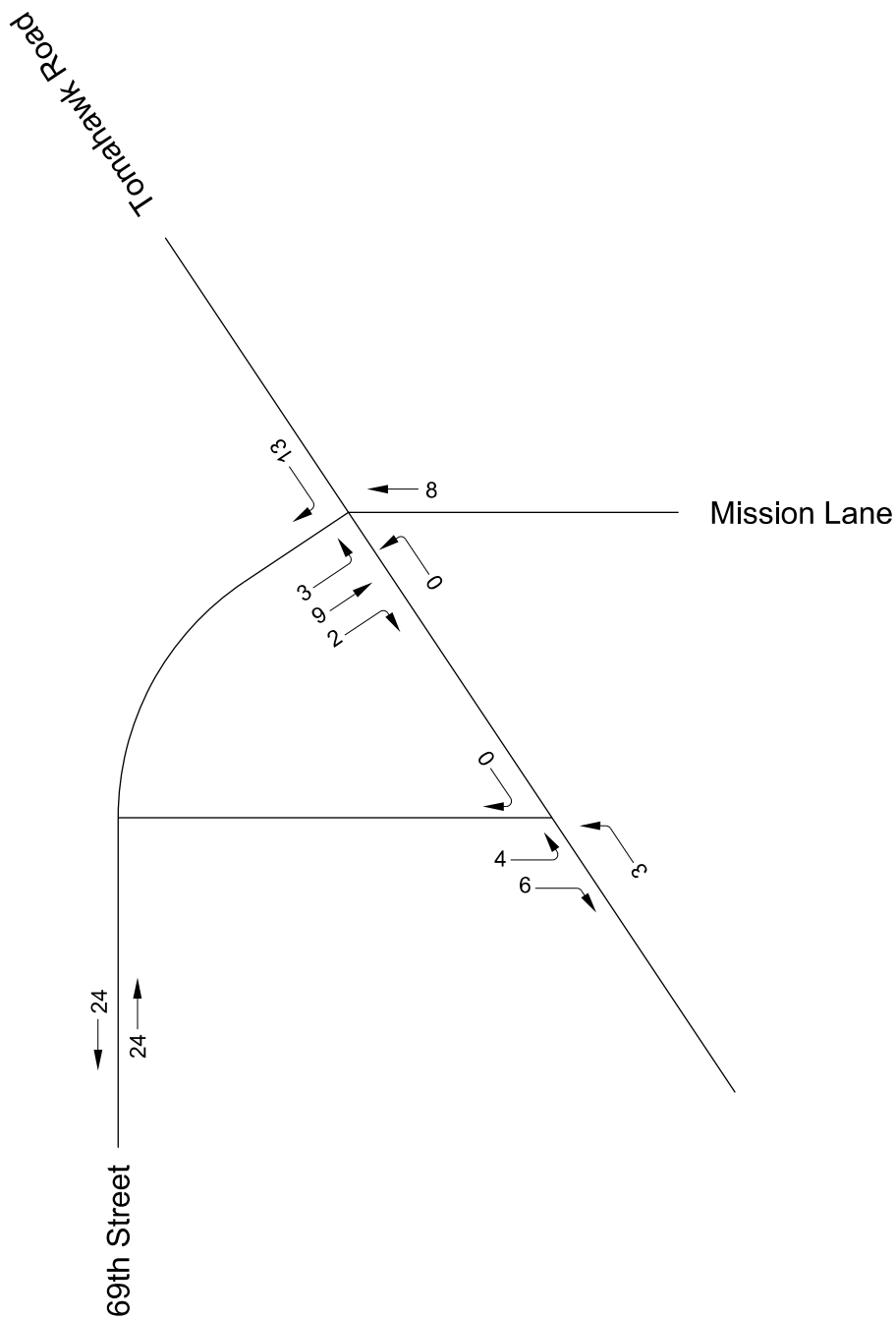
TRAFFIC VOLUMES
NOON PEAK HOUR 11:45 A.M. - 12:45 P.M.

69th Street Area
Traffic Study
Prairie Village, Kansas

May 2017

No Scale

Figure A-3



TRAFFIC VOLUMES
P.M. PEAK HOUR 4:00 P.M. - 5:00 P.M.

69th Street Area
Traffic Study
Prairie Village, Kansas

May 2017

No Scale

Figure A-4

**COUNCIL MEETING AGENDA
CITY OF PRAIRIE VILLAGE
Council Chambers
Monday, October 02, 2017
7:30 PM**

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

Recognition of Johnson County Park and Recreation District - NRPA National Gold Medal Award for Excellence in Park and Recreation Management

- VI. **PUBLIC PARTICIPATION**

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

- 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 the regular City Council meeting - September 18, 2017
- 2. Approve the award of a bid to Kansas City Tree Company for trimming trees in the City right-of-way
- 3. Approve a resolution approving the Prairie Village State of the Arts reception as a special event and authorize the sale, consumption, and possession of alcoholic liquor and cereal malt beverages within the designated public areas of the event
- 4. Ratify the appointment of Ashley Repp as City Prosecutor and Jerry Merrill as Pro-Tem City Prosecutor

- VIII. **COMMITTEE REPORTS**

Council Committee of the Whole

COU2017-40 Approve the proposed amendments and changes to the animal control and regulation ordinance

Planning Commission

Consider approval of amendments to a Special Use Permit for
Kansas City Christian School

- IX. **MAYOR'S REPORT**
- X. **STAFF REPORTS**
- XI. **OLD BUSINESS**
- XII. **NEW BUSINESS**
- XIII. **ANNOUNCEMENTS**
- XIV. **ADJOURNMENT**

If any individual requires special accommodations - for example, qualified interpreter, large print, reader, hearing assistance - in order to attend the meeting, please notify the City Clerk at 385-4616, no later than 48 hours prior to the beginning of the meeting.

If you are unable to attend this meeting, comments may be received by e-mail at cityclerk@pvkansas.com

**CITY COUNCIL
CITY OF PRAIRIE VILLAGE**

September 18, 2017

The City Council of Prairie Village, Kansas, met in regular session on Monday, September 18, 2017 at 7:30 p.m. in the Council Chambers at the Municipal Building, 7700 Mission Road, Prairie Village, Kansas.

ROLL CALL

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

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

INTRODUCTION OF STUDENTS & SCOUTS

No students or scouts were in attendance.

PRESENTATIONS

Welcoming Proclamation in celebration of Diversity Week

Acting Mayor Jori Nelson read and presented a welcoming proclamation recognizing the week of September 15th through 24th as Immigration Welcoming Week to Mexican Consul Sergio Garcia and John Ratliff of the Village Presbyterian Church Social Witness and Advocacy Task Force. Several members of the Task Force were in

attendance. Mrs. Meyers asked what the task force did. The chairman replied they serve to educate the church and community on issues of social importance such as immigration, gun control, etc.

PUBLIC PARTICIPATION

Linda Edwards-Tate, 4810 West 70th Terrace, expressed her concerns regarding the impact of ongoing construction in her neighborhood noting that she had a petition signed by neighbors stating their concerns. She stated that she has had to replace two tires due to the multiple nails left in the street, there is excessive garbage from the construction sites, no cones marking parked trailers that are left parked in the street for several days. She would like the city to prohibit parking on one side of the street. She also expressed concern with the size of the homes being constructed, noting that one is nearly attached to the fence and covering most of the lot including a pool in the backyard. She stated that these homes are out of proportion with the existing homes in the neighborhood devaluing them and destroying the character of the neighborhood. These homes are causing drainage problems for neighboring properties and asked why the city was not taking action to restrict the magnitude of these homes as the City of Leawood has.

Jeanne Davis, 4906 West 70th Terrace, addressed the City Council again regarding the huge homes being constructed on 70th Terrace. She reported that her basement has had sewer water at knee level. She has had a gate valve installed in her basement to prevent sewer backup from reoccurring. During the latest storm she spent four hours in her basement monitoring the valve to prevent backup. Johnson County Wastewater cannot handle the increased demands from these huge homes.

She noted that construction has been ongoing for over two years severely impacting the neighborhood with increased trash and street traffic. When she reviewed the plans for the neighboring home two years ago nothing was said about their being a two and a half stories and extended garage and pool. She wants the city to address the overbuilding in Prairie Village.

George Planchon, 4902 West 70th Terrace, has lived in his home since 1966. The area no longer reflects the "Old PV". The existing homes are ranch style with a few split levels. The new homes being constructed are out of proportion with the neighborhood. These homes are creating parking issues on their street and overflowing to the neighboring streets. Cars are parking on both sides of the street making it difficult for vehicles driving on the street. He questioned if fire emergency vehicles could get through in case of an emergency. He would like to have more police patrol in the neighborhood to see what is going on, noting there have been close calls for accidents.

Brooke Morehead asked if there was someone this group could meet. Wes Jordan responded that after this group appeared before the City Council on July 17th Mitch Dringman, the city building official met with them. The Police Department has met with them on the parking issue. The house in question was given a variance by the Board of Zoning Appeals for the construction of the garage at its location. The City is about to enter into Phase II discussions following up on the actions taken approximately a year ago to address the size of homes. These meetings will be well publicized and open to the public. However, he noted there is a wide spectrum of opinion on this issue with individuals supporting the construction of newer and larger homes, as well as those opposed.

Rayaroth Hidhin, 4818 West 70th Terrace, noted that Mr. Planchon is too old to be dealing with water in his basement, so he goes over to his house to handle it. His wife is a physician and the parking situation makes it difficult for her to get in and out of their driveway due to the construction related vehicles parked on his street. He calls the police department two or three times per week. The neighborhood has to deal with loud music from the construction site, increased trash and excessive street parking. He asked the city to take action before the situation gets out of control.

With no one else wishing to address the Council public participation was closed at 8:03 p.m.

CONSENT AGENDA

Brooke Morehead moved for the approval of the Consent Agenda for September 18, 2017:

1. Approval of the regular City Council meeting minutes - September 5, 2017
2. Approve Claims Ordinances #2554 - #2558

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

COMMITTEE REPORTS

Finance Committee

Eric Mikkelson reported that the Finance Committee met earlier in the evening to hear the request for public financing for the proposed redevelopment of Corinth South. Financial information was presented by the City’s Financial Advisor Jeff White with

Columbia Capital. Good discussion was held; however, at this point in time the Finance Committee voted unanimously not to recommend the City Council approve the financing proposal presented by First Washington. However, Mr. Mikkelson stated that the committee is open to further discussion about the proposed redevelopment and suggested that the council go into executive discussion under attorney client privilege to discuss the possibility of proposing a counter offer and felt that it could be done this evening.

Ted Odell stated that he felt that the Mayor should be involved in that discussion.

Terrence Gallagher asked why the committee was recommending the Council not approve the proposal.

Mr. Mikkelson stated, for him, there were a few significant financial aspects presented that were relevant; however, the bottom line was that the project could be completed by First Washington without public financing and still be profitable, although not as profitable. This would be a materially profitable investment for First Washington under the status quo. He had the following questions: 1) whether Prairie Village residents wanted the development with the parking structure enough to finance it; 2) whether First Washington would do the project without public financing and 3) If the existing CID funds could be used to fund the project.

Serena Schermoly stated she felt the council should let the dust settle and have all the council members be able to look at the documents presented at the meeting and get a summary of the discussion at the meeting along with staff thoughts prior to discussing this further and agrees with Mr. Odell that Mayor Wassmer should be involved in those discussions.

Steve Noll stated he did not see any economic value to the city in helping First Washington build a parking garage.

Dan Runion spoke simply to the financial aspects of the proposal noting the return on city's money would not happen for 13 to 14 years. Waiting until 2032 is a long period of time. During the meeting First Washington did clarify that this project with a parking garage would be possible without public financing. When they purchased this property, they did factor in the costs for redevelopment, but not the proposed redevelopment. Mr. Runion stated he has not heard support for the city offering public financing for this project or for any public/private investment. However, he does feel that it is worth considering a counter offer and is not opposed to coming back to them with a counter offer.

Jori Nelson stated that she also has not had heard any support for public financing.

Mr. Mikkelson stated he would not be moving for an executive session this evening; however, he would like First Washington to know that the ball is in the city's court. Sheila Myers asked if the counter offer would be discussed in the executive session. Katie Logan responded that the discussion would be preliminary negotiation and would fall under attorney client privilege. Brooke Morehead does not support moving forward. She does not view the proposed redevelopment with a parking garage is part of the city's vision, it is their vision and does not feel the city should be supporting it.

Courtney McFadden stated she supports further discussion in executive session, noting that this is something that will impact our community for a long time. It warrants more than 30 minutes of discussion in a committee meeting.

Mr. Mikkelson responded the purpose for the executive session would be to discuss/decide under the attorney/Client threshold whether to make a counter offer; what the counter offer would look like and who would formulate it. There are qualitative differences among the council and this would allow everyone the opportunity to weigh in and to ask questions. Ted Odell supports holding an executive session; however, feels that the Mayor needs to be part of that meeting.

Eric Mikkelson moved to place an executive session under attorney client privilege at the next available agenda at which Mr. White would be available. The motion was seconded by Dan Runion.

Sheila Myers asked to see the minutes from the Finance Committee. Mr. Mikkelson stated he would be pleased to meet with Mrs. Meyers to provide her more information. Dan Runion urged council to come into that meeting with ideas, if the motion passes. The motion was voted on and passed by a vote of 11 to 1 with Mrs. Morehead voting in opposition.

JazzFest Committee

Brooke Morehead reported the weather was wonderful for the 8th annual Jazz Festival which was very well attended. She thanked everyone involved in the event and noted that the committee had not had their wrap-up meeting yet and that she would report more after that meeting regarding the financial outcome of the event.

Park & Recreation Committee

Terrence Gallagher reported that he, Mr. Jordan, Mrs. Meyers, McFadden, Morehead and Williams met with representatives of Johnson County Park and Recreation District about programming at Meadowbrook Park. During that meeting the Park District offered to provide recreational programming for Prairie Village. They would

develop and operate programs for the city. This is a good next step toward more recreational programming. Mr. Runion confirmed there would be no cost involved for their services.

MAYOR'S REPORT

Acting Mayor Jori Nelson noted the deadline for Teen Council applications is Friday, September 22nd and encouraged council members to get the word out. She reviewed several upcoming events including the 33rd Annual Prairie Village Peanut Butter Weeks in support of Harvesters Food Bank to be held October 9th - 13th and the State of Arts reception on Friday, October 14th.

Ms. Nelson reminded Council members to respond to staff on their interest in attendance of the Shawnee Mission Education Foundation Breakfast and the Annual National League of Cities Conference.

STAFF REPORTS

Public Safety

- Chief Schwartzkopf report on the joint Leawood, Overland Park & Prairie Village "Coffee with a Cop" on Saturday, September 23rd at the Starbucks at 95th Street.
- Prairie Village will host "Coffee with a Cop" on Monday, October 16th at the Starbucks at the Prairie Village Shopping Center.

Public Works

- Keith Bredehoeft reported that three Requests for Proposals were published for Harmon Skate Park Reconstruction, Drainage Design for Delmar/Fontana & removal of low water crossing and 2018-1020 Park Improvement Projects.
- He is planning to discuss the Brush Creek flooding at the meeting on October 16th and Don Baker will present his findings. He is also looking at having Johnson County Waste Water also attend as this is a widespread issue for Prairie Village residents.

Administration

- Wes Jordan reported that JazzFest was a huge success, noting the only problem was a drone flying over the event. He stated that he has spoken with David Waters regarding coming before the Council with possible regulations to address these situations.
- He and Alley Williams also met with the YMCA and they will be coming to the October 16th meeting to make a presentation on what they are doing and possible partnership opportunities with them. The Johnson County Park & Recreation District is anticipated to be great opportunity for the city and noted they are already doing some of this with pool/swim programs.
- Also for the October 16th agenda will be a presentation by KCP&L on their plans for improvements in Prairie Village.
- Mr. Jordan reported that he will be out of the office on Wednesday participating in a Leadership Program panel presentation in Hutchinson.
- The city received 90 applications for the Assistant City Administrator position. Chad Herring and Courtney McFadden helped staff select candidates for the first round of interviews which will be held this week.
- The Village Square concept design will be presented to the City Council at its October 2nd meeting.
- The Shawnee Mission Educational Foundation Breakfast is October 10th. Council members were encouraged to attend.
- The employee event at Sporting KC last weekend was enjoyed by many and city employees thank the council for their support of this activity.
- Mr. Jordan reported that he will have the Planning Commission review Village Vision and report their findings back to the Council.

OLD BUSINESS

Dan Runion asked if the Village Square presentation would come to the Council with a recommendation. Mr. Jordan replied that it would not, that this would be Council's opportunity to look at the draft to approve moving forward for public comment.. Mr. Runion noted the increase in water related problems and asked if the cause was more rainfall or more impervious surfaces in the city. He asked if the Planning Commission could address this in their review of applications. Mr. Bredehoeft replied that most planning commission actions require a storm drainage report be submitted. Building permits are not issued until a stormwater review has been conducted and approved by Public Works. Mr. Runion questioned the operation of the water retention area on the Mission Chateau project, noting that it did not drain after the last rainfall. Mr. Bredehoeft

replied that the initial device in the system did not work and they are replacing it. He stated the system is designed to regulate the flow of water and will drain out within 24 hours of a storm. He will send an inspector to the site to look at the system. Mr. Runion asked in response to the comments from residents earlier in the meeting if tickets could be written by code enforcement. Mr. Jordan replied that city staff has been on site and it is an issue of perception. Police officers are patrolling the area regularly, the homes being constructed are in compliance with city code regarding size, setback and parking. He will have staff address the trash again. He noted that he had asked the residents to contact him with their concerns and not formulate a petition. Ms. Nelson asked that she be informed of when staff will be meeting with them or what they are told.

Sheila Myers asked about the garage being next to the fence. Mr. Jordan responded that a garage less than ten feet in height is allowed within three feet of a property line. Dan Runion asked if staff felt that changes to the zoning regulations would be beneficial. Wes Jordan responded that Mr. Brewster is working on changes that will provide more balance and direction. Terrence Gallagher asked if something couldn't be done with workers playing loud music at night. Mr. Jordan replied yes, if the city was notified.

NEW BUSINESS

Sheila Myers stated that she and Mrs. Morehead were looking at ways to improve communication within their ward. She likes the newsletter that Mr. Mikkelson sends to his constituents. Currently the city's website allows for communication to individual council members. They are looking at requesting a change that would allow each ward a

means to communicate through the website with their constituents. It could be used for the posting of a newsletter and would be another vehicle for communication.

Jori Nelson stated that she would like for everyone to have the opportunity to have a ward meeting if so inclined. Currently, the budget only allows for two per year. Mr. Mikkelson stated he would support anyone wanting to hold a ward meeting.

ANNOUNCEMENTS

Committee meetings scheduled for the next two weeks:

Environment/Recycle Committee	09/27/2017	5:30 p.m.
Council Committee of the Whole	10/02/2017	6:00 p.m.
City Council	10/02/2017	7:30 p.m.

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The Prairie Village Arts Council is pleased to feature the work of Nanci Stoeffler and Rachel Williams in the R.G. Endres Gallery during the month of September.

The 33rd Annual Prairie Village Peanut Butter Week in support of Harvesters Food Bank will be held October 9th - 13th. Support the drive through donations at City Hall or at your local church or school.

Mark your Calendars for the Shawnee Mission Education Foundation 25th Annual Fall Breakfast on October 10. RSVP to Meghan Boom.

Save the Date for the Annual National League of Cities Conference in Charlotte, November 15-18, 2017. RSVP to Meghan Boom.

ADJOURNMENT

Andrew Wang moved that the City Council meeting be adjourned. The motion was seconded by Brooke Morehead and passed unanimously. With no further business to come before the City Council the meeting was adjourned at 8:54 p.m.

Joyce Hagen Mundy
City Clerk



PUBLIC WORKS DEPARTMENT

Council Meeting Date: October 2, 2017

Consider Bid Award for 2017 Tree Trimming Program

RECOMMENDATION

Staff recommends the City Council approve the award of a bid to Kansas City Tree Company for \$59,730.00 for trimming trees in City right-of-way.

BACKGROUND

This bid is the annual tree trimming of trees in the City right-of-way. There are 3 areas bid for trimming this year, a map is attached that delineate those areas. Pricing for Park tree trimming was also part of the bid. The Parks to be trimmed this year will be: Franklin Park and Porter Park. The remaining Parks were trimmed with last year's program. All the trees will be trimmed to remove any dead wood larger than 2-inches over the right-of-way, remove limbs interfering with sight line to traffic signals and street signs, and with a cone under the street lights.

Kansas City Tree has completed this contract for the City in previous years with good results.

Two bids were received and opened on September 22, 2017, by the City Clerk. The bid tab is:

Bid Totals	
Bidder	Total
KC Tree	\$ 59,730.00
Arbor Masters	\$ 62,056.00

FUNDING SOURCE

Funds are available and were budgeted for tree trimming in the 2017 Public Works Operating Budget.

RELATION TO VILLAGE VISION

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

CFS2: Preserve and protect natural areas

ATTACHMENTS

Construction Agreement for Tree Trimming
Tree Trimming Area Map

PREPARED BY

Keith Bredehoeft, Director of Public Works

September 25, 2017

CONSTRUCTION AGREEMENT

for

2017 TREE TRIMMING

BETWEEN

CITY OF PRAIRIE VILLAGE, KS

AND

KANSAS CITY TREE CARE LLC

**CONSTRUCTION CONTRACT
FOR
2017 TREE TRIMMING**

**BETWEEN
THE CITY OF PRAIRIE VILLAGE, KANSAS
AND**

THIS AGREEMENT, is made and entered into this ____ day of _____, 20__, by and between the City of Prairie Village, Kansas, hereinafter termed the "City", and _____, hereinafter termed in this agreement, "Contractor", for the construction and completion of Project 2016 Tree Trimming , (the "Project") designated, described and required by the Project Manual and Bid Proposal, to wit:

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;

WHEREAS, the Contractor, in response to the advertisement, has submitted to the City in the manner and at the time specified, a sealed Bid Proposal in accordance with the Bid Documents;

WHEREAS, the City, in the manner prescribed by law, has publicly opened, examined and canvassed the Bid Proposals submitted, and as a result of such canvass has determined and declared the Contractor to be the lowest and best responsible bidder for the construction 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 set forth herein;

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 Contract Documents; 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;

NOW, THEREFORE, 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:

1. **DEFINITIONS:** Capitalized terms not defined herein shall have the meanings set forth in the General Conditions.

1.1 Following words are given these definitions:

ADVERSE WEATHER shall have the meaning set forth in Section 9.3 hereof.

APPLICATION FOR PAYMENT shall mean a written request for compensation for Work performed on forms approved by the City.

BID shall mean a complete and properly signed proposal to do the Work or designated portion thereof, for the price stipulated therein, submitted in accordance with the Bid Documents.

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.

BIDDER shall mean any individual: partnership, corporation, association or other entity submitting a bid for the Work.

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.

CERTIFICATE FOR PAYMENT shall mean written certification from the Field Superintendent stating that to the best of the Field Superintendent's knowledge, information and belief, and on the basis of the Field Superintendent's on-site visits and inspections, the Work described in an Application for Payment has been completed in accordance with the terms and conditions of the Contract Documents and that the amount requested in the Application for Payment is due and payable.

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 consist of (but not necessarily be limited to) the Plans, the Specifications, all addenda issued prior to and all modifications issued after execution of this Agreement, (modifications consisting of written amendments to the Agreement signed by both parties, Change Orders, written orders for minor changes in the Work issued by the Field Superintendent) this Construction Contract between the City and Contractor (sometimes referred to herein as the "**Agreement**"), the accepted Bid Proposal, Contractor's Performance Bond, Contractor's Maintenance Bond, Statutory Bond, the Project Manual, the General Conditions, the Special Conditions and any other documents that have bearing the Work prescribed in the Project. It is understood that the Work shall be

carried out and the Project shall be constructed fully in accordance with the Contract Documents.

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.

FIELD ORDER shall mean a written order issued by the Field Superintendent 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.

GENERAL CONDITIONS shall mean the provisions in the document titled "General Conditions - General Construction Provisions" attached hereto and incorporation herein by reference.

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

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 Shop Drawings which may have been prepared by or for the City as included in the Project Manual 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.

PROJECT shall mean the Project identified in the first paragraph hereof.

FIELD SUPERINTENDENT shall mean the person appointed by the Public Works Director for this Contract.

PROJECT MANUAL shall contain the General Conditions, Special Conditions, Specifications, Shop Drawings and Plans for accomplishing the work.

PROJECT SEGMENTS shall have the meaning set forth in Section 7.1 hereof.

PUBLIC WORKS DIRECTOR shall mean the duly appointed Director of Public Works for the City of Prairie Village or designee.

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 distribution 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.

SPECIAL CONDITIONS shall mean the provisions in the document titled "Special Conditions" attached hereto and incorporation herein by reference.

SUBCONTRACTOR 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 mean all elements of a Project Segment or the Total Project Work is complete including all subsidiary items and "punch-list" items.

TOTAL PROJECT WORK shall have the meaning set forth in Section 7.1 hereof.

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.

UNUSUALLY SEVERE WEATHER shall have the meaning set forth in Section 9.4 hereof.

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.

WORK SCHEDULE shall have the meaning set forth in Section 7.2 hereof.

- 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 Field Superintendent 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 Field Superintendent.
- 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.

2. ENTIRE AGREEMENT:

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.

3. INTENT AND INTERPRETATION

- 3.1 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.

- 3.2 All time limits stated in the Contract Documents are of the essence of the Contract.
- 3.3 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.
- 3.4 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.
- 3.5 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 Field Superintendent 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 Field Superintendent 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.
- 3.6 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.
- 3.7 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.
- 3.8 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.
- 3.9 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.
- 3.10 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 Field Superintendent before proceeding with the construction affected by such omissions or discrepancies.
- 3.11 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.

- 3.12 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.
- 3.13 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.
- 3.14 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.
- 3.15 KSA 16-113 requires that non-resident contractors appoint an agent for the service of process in Kansas. The executed appointment must then be filed with the Secretary of State, Topeka, Kansas. Failure to comply with this requirement shall disqualify the Contractor for the awarding of this Contract.

4. 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 _____ DOLLARS (\$ _____) 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.

5. WORK SUPERINTENDENT

- 5.1 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.
- 5.2 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.
- 5.3 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.

5.4 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.

5.5 The Contractor will be required to contact the Field Superintendent daily to advise whether and/or where the Contractor and/or the Subcontractor's crews will be working that day, in order that the Field Superintendent's representative is able to monitor properly the Work.

6. FIELD SUPERINTENDENT

6.1 It is mutually agreed by and between the parties to this Agreement that the Field Superintendent shall act as the representative of the City and shall observe and inspect, as required, the Work included herein.

6.2 In order to prevent delays and disputes and to discourage litigation, it is further agreed by and between the parties to this Agreement that the Field Superintendent 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 Field Superintendent shall determine, where applicable, questions in relation to said Work and the construction thereof; that Field Superintendent shall, where applicable decide questions which may arise relative to the execution of this Contract on the part of said Contractor; that the Field Superintendent'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 Field Superintendent 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 Field Superintendent 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.

6.3 The Field Superintendent, unless otherwise directed or agreed to by the City in writing, will perform those duties and discharge those responsibilities allocated to the Field Superintendent as set forth in this Contract. The Field Superintendent shall be the City's representative from the effective date of this Contract until final payment has been made. The Field Superintendent shall be authorized to act on behalf of the City only to the extent provided in this Contract. The City and Field Superintendent may, from time to time, designate Inspectors to perform such functions.

6.4 The City and the Contractor shall communicate with each other in the first instance through the Field Superintendent.

6.5 The Field Superintendent shall be the initial interpreter of the requirements of the Project Manual and the judge of the performance by the Contractor. The Field Superintendent shall render written graphic interpretations necessary for the proper execution or progress of the Work with reasonable promptness on request of the Contractor.

6.6 The Field Superintendent 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 Field Superintendent's recommendation of any payment requested in an Application for Payment will constitute a representation by Field Superintendent to City, based on Field Superintendent's on-site observations of the Work in progress as an experienced and qualified design professional and on Field Superintendent'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 Field Superintendent'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 Field Superintendent 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 Field Superintendent 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.

- 6.7 The Field Superintendent may refuse to recommend the whole or any part of any payment if, in Field Superintendent's opinion, it would be incorrect to make such representations to City. Field Superintendent 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 Field Superintendent'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.
- 6.8 The City may refuse to make payment of the full amount recommended by the Field Superintendent 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 Field Superintendent) stating the reasons for such action.
- 6.9 The Field Superintendent will have the authority to reject Work which is defective or does not conform to the requirements of this Contract. If the Field Superintendent deems it necessary or advisable, the Field Superintendent shall have authority to require additional inspection or testing of the Work for compliance with Contract requirements.
- 6.10 The Field Superintendent 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.

- 6.11 The Field Superintendent 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.
- 6.12 The Field Superintendent, upon written request from the Contractor shall conduct observations to determine the dates of Substantial Completion, Total Completion and the date of Final Acceptance. The Field Superintendent 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.
- 6.13 The Field Superintendent's decisions in matters relating to aesthetic effect shall be final if consistent with the intent of this Contract.
- 6.14 The Field Superintendent 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 Field Superintendent 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.
- 6.15 Any plan or method of work suggested by the Field Superintendent, 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 Field Superintendent and the City will assume no responsibility therefore.
- 6.16 It is agreed by the Contractor that the City shall be and is hereby authorized to appoint or employ, either directly or through the Field Superintendent, 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 Field Superintendent, or by the resident representatives for proper observation and examination of the Work and all parts thereof.
- 6.17 The Contractor shall comply with any interpretation of the Project Manual by the Field Superintendent, 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 Field Superintendent, resident representative or observer, the Contractor may appeal in writing to the City Director of Public Works for a decision.
- 6.18 Resident representatives, observers, and other properly authorized representatives of the City or Field Superintendent 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.

- 6.19 Such observation shall not relieve the Contractor from any obligation to perform said Work strictly in accordance with the Project Manual.
7. **WORK SCHEDULE:**
- 7.1 The Work 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 Contract Time shall be stated in the Contract Documents for both the Total Project Work and, when applicable, the Project Segments.
- 7.2 At the time of execution of this Contract, the Contractor shall furnish the Field Superintendent with a schedule (“Work 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 Project Segments will be started and completed within the Contract Time. The Work Schedule is subject to approval by the City.
- 7.3 Monthly Work Schedule reports shall accompany the Contractor’s pay request for Work completed. Where the Contractor is shown to be behind schedule, it shall provide an accompanying written summary, cause, and explanation of planned remedial action. Payments or portions of payments may be withheld by the City upon failure to maintain scheduled progress of the Work as shown on the approved Work Schedule.
- 7.4 At a minimum the Contractor shall update and submit the Work Schedule for review weekly, unless otherwise agreed upon by the City.
- 7.5 The Contractor, within ten (10) calendar days after being instructed to do so in a written notice from the City, shall commence the Work to be done under this Contract.
- 7.6 If at any time, in the opinion of the Field Superintendent or City, proper progress is not being maintained; changes shall be proposed in the Work Schedule and resubmitted for consideration and approval.
- 7.7 If the Contractor has not completed Project Segments and is within a non-performance penalty period, it shall not be allowed to undertake a new Project Segment until the Project Segment in dispute is completed, unless expressly permitted by the City.
- 7.8 The operation of any tool, equipment, vehicle, instrument, or other noise-producing device is prohibited to start before or continue after the hours of 7 AM and 10 PM, Monday through Friday (except Fridays which shall be until Midnight) and 8 AM and midnight on Weekends (except Sunday which shall be 10 PM). Violation of this requirement is Prima Facie Violation of City Municipal Code 11-202.
- 7.9 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 Field Superintendent. 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 Field Superintendent.
- 7.10 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.

- 7.11 The Contractor shall provide 24 hours notice prior to commencing any work to the City Field Superintendent. The Contractor shall communicate immediately any changes in the Work Schedule to the Field Superintendent for approval by the City.

8. DELAYS AND EXTENSIONS OF TIME

- 8.1 In executing the Contract, the Contractor expressly covenants and agrees that, in undertaking the completion of the Work within the Contract Time, it 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.

- 8.2 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 persons 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 it shall in such cases be entitled to such extension of the time specified for the completion of the Work as the City and the Field Superintendent 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 Field Superintendent in writing within one (1) week from the time when any such alleged cause for delay shall occur.

9. ADVERSE WEATHER:

- 9.1 Extensions of time for Adverse Weather shall be granted only under the conditions as hereinafter provided.
- 9.2 For conditions of weather or conditions at the site, so unusual as not to be reasonably anticipated, as determined by the Field Superintendent, 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.
- 9.3 “**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.
- 9.4 “**Unusually Severe Weather**” is defined as weather, which is more severe than the adverse weather anticipated for the season, location, or activity involved.
- 9.5 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 all 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.

9.6 The following schedule of monthly-anticipated Adverse Weather delays will constitute the baseline for monthly weather time evaluations. The Contractor's Work 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

- 9.7 Upon receipt of the Notice to Proceed, and continuing throughout the Contract, the Contractor shall record on its daily construction report, the occurrence of Adverse Weather and resultant impact to the Work Schedule.
- 9.8 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.
- 9.9 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.
- 9.10 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 Work Schedule.
- 9.11 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.
- 9.12 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.
- 9.13 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.
- 9.14 The Contractor shall summarize and report all actual Adverse Weather delay days for each month to the Field Superintendent by the tenth (10th) day of the following month. A

narrative indicating the impact of Adverse Weather conditions on the Work Schedule shall be included.

- 9.15 Any claim for extension of time due to Unusually Severe Weather shall be submitted to the Field Superintendent 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 described above.
- 9.16 The Contractor shall include and indicate the monthly-anticipated Adverse Weather days, listed above, in the Work Schedule. (Reference Section 7.1 for Work Schedule requirements)
- 9.17 The Contractor shall indicate the approved Adverse Weather days (whether less or more than the anticipated days) in its Work Schedule updates.

10. LIQUIDATED DAMAGES

- 10.1 Contractor agrees that time is of the essence and any term pertaining to Contractor timely performing so as to achieve Total Completion within the Contract Time 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 Contract Time for the Total Project Work 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 Contract Time. Such amount shall be deducted from any amounts due Contractor under this Agreement.
- 10.2 Further, the Contractor agrees that, in the event Contractor does not carry out such Work at such rates of progress as required by the Work Schedule approved by the City, 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.

11. PAYMENT PROCEDURE

- 11.1 Based upon Applications for Payment submitted to the Field Superintendent by the Contractor and Certificates for Payment issued by the Field Superintendent, the City shall make progress payments on account of the contract sum to the Contractor as provided below and elsewhere in the Contract Documents.
- 11.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month or on a mutually agreed date by City and Contractor.

- 11.3 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.
- 11.4 Each application for payment must be submitted with Contractor's waiver for period of construction covered by application. Each Application for 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.
- 11.5 The Contractor will submit waivers on forms, and executed in a manner, acceptable to City.
- 11.6 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.
- 11.7 The Field Superintendent 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 Field Superintendent 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.
- 11.8 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 Price. Percentage deductions will be computed at the stated percentage of the amount earned.
- 11.9 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.
- 11.10 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.

11.11 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.

11.12 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 Field Superintendent, 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.

12. COMPLETION AND FINAL PAYMENT

12.1 Upon Total Completion, when the Contractor is ready for a final inspection of the Total Project Work, it shall notify the City and the Field Superintendent thereof in writing. Thereupon, the Field Superintendent will make final inspection of the Work and, if the Work is complete in accordance with this Contract, the Field Superintendent 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 Field Superintendent 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.

12.2 The Contractor shall not be entitled to any payment unless and until it submits to the Field Superintendent 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.

12.3 The City shall make final payment of all sums due the Contractor within thirty days of the Field Superintendent's execution of a final Certificate for Payment.

12.4 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.

13. CLAIMS BY THE CONTRACTOR

13.1 All Contractor claims shall be initiated by written notice and claim to the Field Superintendent. 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.

13.2 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 Field Superintendent and the Contractor.

13.3 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.

13.4 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.

13.5 The City reserves the right to increase or decrease quantities, and alter the details of construction including grade and alignment as the Field Superintendent 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 Price based on the proposed quantity and the contract unit price).

- 13.6 When the alterations cause an increase or decrease in excess of the 25 percent indicated above, either the Contractor or the Field Superintendent may request an adjustment of the unit price to be paid for the item or items.
- 13.7 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.
- 13.8 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.
- 13.9 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.
- 13.10 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 Field Superintendent 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.
- 13.11 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.
- 13.12 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

14. CHANGES IN THE WORK

- 14.1 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.
- 14.2 The Field Superintendent 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.
- 14.3 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.
- 14.4 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 Field Superintendent 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 Field Superintendent 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 Field Superintendent's Certificate for Payment.
- 14.5 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.
- 14.6 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.

15. INSURANCE AND BONDS.

15.1 The Contractor shall secure and maintain, throughout the duration of the agreement, insurance (on an occurrence basis unless otherwise agreed to) of such types and in at least such amounts as required herein. Contractor shall provide certificates of insurance and renewals thereof on forms acceptable to the City. The City shall be notified by receipt of written notice from the insurer or the Contractor at least thirty (30) days prior to material modification or cancellation of any policy listed on the Certificate.

15.2 The Contractor, upon receipt of notice of any claim in connection with this Agreement, shall promptly notify the City, providing full details thereof, including an estimate of the amount of loss or liability. The Contractor shall monitor and promptly notify the City of any reduction in limits of protection afforded under any policy listed in the Certificate (or otherwise required by the Contract Documents) if the Contractor's limits of protection shall have been impaired or reduced to such extent that the limits fall below the minimum amounts required herein. The Contractor shall promptly reinstate the original limits of liability required hereunder and shall furnish evidence thereof to the City.

15.3 Minimum Requirements Commercial General Liability Policy Limits -

General Aggregate:	\$2,000,000
Products / Completed Operations Aggregate:	\$2,000,000
Personal & Advertising Injury:	\$1,000,000
Each Occurrence:	\$1,000,000

Policy MUST include the following conditions:

- A. Pollution Liability (Applicable only to contracts involving pollutants such as asbestos & lead abatement, sludge or other waste abatement, etc.)
- B. NAME CITY OF PRAIRIE VILLAGE AS "ADDITIONAL INSURED"

15.4 Automobile Liability Policy shall protect the Contractor against claims for bodily injury and/or property damage arising from the ownership or use of any owned, hired and/or non-owned vehicle.

Limits (Same as Commercial General Liability) -
Combined Single Limits, Bodily Injury and Property Damage - Each Accident:

Policy MUST include the following condition:
NAME CITY OF PRAIRIE VILLAGE AS "ADDITIONAL INSURED"

15.5 Umbrella Liability. The Umbrella / Excess Liability must be at least as broad as the underlying general liability and automobile liability policies.

Limits -

Each Occurrence	\$1,000,000
General Aggregate	\$1,000,000

- 15.6 Workers' Compensation. This insurance shall protect the Contractor against all claims under applicable state workers' 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 workers' compensation law. The policy limits shall not be less than the following:

Workers' Compensation:	Statutory
Employer's Liability:	
Bodily Injury by Accident	\$100,000 each accident
Bodily Injury by Disease	\$500,000 policy limit
Bodily Injury by Disease	\$100,000 each employee

- 15.7 The City will only accept coverage from an insurance carrier who offers proof that it:

Is authorized to do business in the State of Kansas;
 Carries a Best's policy holder rating of A- or better; and
 Carries at least a Class VIII financial rating, or
 Is a company mutually agreed upon by the City and Contractor.

- 15.8 Subcontractor's Insurance. If a part of the Agreement is to be sublet, the Contractor shall either:

- A. Cover all subcontractor's in its insurance policies, or
- B. Require each subcontractor not so covered to secure insurance which will protect subcontractor against all applicable hazards or risks of loss as and in the minimum amounts designated.

Whichever option is chosen, Contractor shall indemnify and hold harmless the City as to any and all damages, claims or losses, including attorney's fees, arising out of the acts or omissions of its Subcontractors.

- 15.9 Prior to commencing any work, Contractor shall provide City with certificates evidencing that (1) all Contractor's insurance obligations required by the contract documents are in full force and in effect and will remain in effect until Contractor has completed all of the work and has received final payment from City and (2) no insurance coverage will be canceled, renewal refused, or materially changed unless at least thirty (30) days prior written notice is given to City. Contractor's property insurance shall not lapse or be canceled if City occupies a portion of the work. Contractor shall provide City with the necessary endorsements from the insurance company prior to occupying a portion of the work.
- 15.10 Waiver of Subrogation. All insurance coverage required herein shall contain a waiver of subrogation in favor of the City. Contractor's insurance policies shall be endorsed to indicate that Contractor's insurance coverage is primary and any other insurance maintained by City is non-contributing as respects the work of Contractor.
- 15.11 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 Special Conditions.

15.12 Bonds and Other Performance Security. Contractor shall provide a Performance Bond, Maintenance Bond and a Statutory Bond in the amount of one hundred percent (100%) of the Contract Price to cover the entire scope of Work and any other specific performance security that may be indicated in this Contract. With each bond there shall be filed with the City one copy of "Power of Attorney" certified to include the date of the bonds.

16. INDEMNITY

16.1 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.

16.2 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 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.

16.3 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 or any third party and, further, notwithstanding any theory of law including, but not limited to, a characterization of the City's or any third party's joint, concurring or contributory or comparative fault or negligence as either passive or active in nature.

16.4 Nothing in this section shall be deemed to impose liability on the Contractor to indemnify the City for Loss when the negligence or other actionable fault the City is the sole cause of Loss.

16.5 With respect to the City'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.

17. SUCCESSORS AND ASSIGNS

17.1 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.

- 17.2 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 effect 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.
- 17.3 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.
- 17.4 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.
- 17.5 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.
- 17.6 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.
- 17.7 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.
- 17.8 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.

18. NON-DISCRIMINATION LAWS

18.1 The Contractor agrees that:

- A. The Contractor shall observe the provisions of the Kansas Act Against Discrimination (K.S.A. 44-1001 et seq.) and shall not discriminate against any person in the performance of Work under the present contract because of race, religion, color, sex, disability, national origin, ancestry or age;
- B. In all solicitations or advertisements for employees, the Contractor shall include the phrase, "equal opportunity employer," or a similar phrase to be approved by the Kansas Human Rights Commission (Commission);
- C. 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;
- D. 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
- E. The Contractor shall include the provisions of Subsections A through D in every subcontract or purchase order so that such provisions will be binding upon such Subcontractor or vendor.
- F. The provisions of this Section shall not apply to a contract entered into by a Contractor: (1) Who employs fewer than four employees during the term of such contract; or (2) Whose contracts with the City cumulatively total \$5,000 or less during the fiscal year of the City.

18.2 The Contractor further agrees that it shall abide by the Kansas Age Discrimination In Employment Act (K.S.A. 44-1111 et seq.) and the applicable provision of the Americans With Disabilities Act (42 U.S.C. 12101 et seq.) as well as all other federal, state and local laws.

19. FEDERAL LOBBYING ACTIVITIES [THIS PROVISION ONLY APPLIES IF THE CITY IS RECEIVING FEDERAL FUNDS]

19.1 31 USCS Section 1352 requires all subgrantees, Contractors, Subcontractors, and consultants/Architects who receive federal funds via the City to certify that they will not use federal funds to pay any person for influencing or attempting to influence a federal agency or Congress in connection with the award of any federal contract, grant, loan, or cooperative agreements.

- 19.2 In addition, contract applicants, recipients, and subrecipients must file a form disclosing any expenditure they make for lobbying out of non-federal funds during the contract period.
- 19.3 Necessary forms are available from the City and must be returned to the City with other Contract Documents. It is the responsibility of the general contractor to obtain executed forms from any Subcontractors who fall within the provisions of the Code and to provide the City with the same.

20. RELATIONS WITH OTHER CONTRACTORS:

- 20.1 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.
- 20.2 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.
- 20.3 Other projects the Contractor may have to coordinate shall be listed in the Special Conditions.
- 20.4 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.
- 20.5 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.

21. RIGHT OF CITY TO TERMINATE

- 21.1 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, Field Superintendent 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. Any termination of the Agreement for alleged default by Contractor that is ultimately determined to be unjustified shall automatically be deemed a termination for convenience of the City.

- 21.2 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, consequential damages or other costs other than direct costs of demobilization.

22. MISCELLANEOUS:

- 22.1 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.
- 22.2 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.
- 22.3 Provision for Emergencies. Whenever, in the opinion of the City, the Contractor has not taken sufficient precaution for the safety of the public or the protection of the Work to be constructed under this Contract, or of adjacent structures or property which may be injured by process of construction, and whenever, in the opinion of the City, an emergency shall arise and immediate action shall be considered necessary in order to protect property interests and to avoid personal injury and/or death, then the City, with or without notice to the Contractor, shall provide suitable protection to the said interests by causing such Work to be done and materials to be furnished at places as the City may consider necessary and adequate. The cost and expense of such Work and material so furnished shall be borne by the Contractor and, if the same shall not be paid on presentation of the bills therefore, such costs shall be deducted from any amounts due or to become due the Contractor. The performance of such emergency Work shall in no way relieve the Contractor of responsibility for damages which may occur during or after such precaution has been duly taken.

- 22.4 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 Field Superintendent 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.
- 22.5 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 Price 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.
- 22.6 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.
- 22.7 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.
- 22.8 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.
- 22.9 No waiver of any breach of this Contract shall be construed to be a waiver of any other subsequent breach.
- 22.10 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.

- 22.11 Without in any manner limiting Contractor's responsibilities as provided elsewhere in the Contract Documents, the Contractor shall assume full responsibility for the protection of all public and private property, structures, sewers, and utilities, for both above ground and underground facilities, along, beneath, above, across or near the site or sites of the Work being performed under this Agreement, 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 in place 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.
- 22.12 The Contractor shall keep fully informed of all existing and current regulations of the City, county, state, and federal 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.
- 22.13 Nothing contained in the Contract Documents 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.
- 22.14 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.
- 22.15 No action or failure to act by the City, Field Superintendent 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.
- 22.16 Contractor specifically acknowledges and confirms that: (i) it has visited the site, made all inspections it deems appropriate and has read and fully understands the Contract Documents, including all obligations and responsibilities undertaken by it as specified herein and in other Contract Documents and knowingly accepts the same; (ii) it has furnished copies of all Contract Documents to its insurance carrier(s) and its surety(ies); and (iii) its 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.
- 22.17 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.
- 22.18 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. Venue of any litigation arising in connection with this Agreement shall be the State courts of Johnson County, Kansas.

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

KANSAS CITY TREE CARE LLC

(typed company name)

By: _____
(signed)

By: _____
(signed)

Laura Wassmer _____

Zachary Johnson _____
(typed name)

Mayor _____

Owner _____
(typed title)

City of Prairie Village _____

Kansas City Tree Care LLC _____
(typed company name)

7700 Mission Road _____

1505 Merriam Ln _____
(typed address)

Prairie Village, Kansas 66208 _____

Kansas City, KS 66103 _____
(typed city, state, zip)

913-894-4767 _____
(typed telephone number)

(date of execution)

(date of execution)

SEAL

ATTEST:

APPROVED BY:

City Clerk, Joyce Hagen-Mundy

City Attorney, Catherine Logan

(If the Contract is not executed by the President of the Corporation, general partner of the Partnership, or manager of a limited liability company, please provide documentation, which authorizes the signatory to bind the corporation, partnership or limited liability company. 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.)

City of Prairie Village, Kansas

PROJECT MANUAL

For

2017 TREE TRIMMING

City of Prairie Village
Department of Public Works
3535 Somerset Drive
Prairie Village, Kansas
publicworks@pvkansas.com
913-385-4640

GENERAL CONSTRUCTION PROVISIONS

1. DEFINITIONS:

1.1. Following words are given these definitions:

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.

CONCRETE shall mean Portland cement concrete.

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 proscribed 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 date certain 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.

FIELD ORDER shall mean a written order issued by the City Public Works Field Superintendent 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 City Public Works Field Superintendent.

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.

PAVEMENT shall be a rigid or flexible type riding surface placed upon a previously prepared sub-grade or base.

PLANS shall mean and include all drawings which may have been prepared by or for the City as of the Project Manual 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.

PUBLIC WORKS FIELD SUPERINTENDENT 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..

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 distribution 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.

STREET shall mean the whole area of any roadway within the right-of-way limits.

SUBCONTRACTOR 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.

SUB-GRADE shall be that portion of the construction area which has been prepared, as specified, and upon which a layer of specified material, base, sub-base course, pavement or other improvement is to be placed

TEMPORARY CONSTRUCTION EASEMENT shall mean the land provided by the City for temporary use by the Contractor during the construction of the work.

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 on the basis of 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 Public Works Field Superintendent 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 Public Works Field Superintendent.

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.

2. ABBREVIATIONS

2.1. Wherever in this Project Manual the following abbreviations are used, they shall be understood to mean as follows. The serial designation of each reference shall be the latest year of adoption or revision, unless otherwise specified. See the plan sheet for the material abbreviation's legend.

AASHTO	-	American Association of State Highway & Transportation Officials
ABA	-	American Arborist Association
ACI	-	American Concrete Institute

AGC	-	Associated General Contractors of America
AIA	-	American Institute of Architects
AISC	-	American Institute of Steel Construction
ANLA	-	American Nursery and Landscape Association
ANSI	-	American National Standards Institute
APWA	-	Kansas City Metropolitan Chapter of the American Public Works Association
ASCE	-	American Society of Civil Engineers
ASLA	-	American Society of Landscape Architects
ASME	-	American Society of Mechanical Engineers
ASTM	-	American Society for Testing Materials
ATSSA	-	American Traffic Safety Services Association
AWPA	-	American Wood Preservers' Association
AWS	-	American Welding Society
AWWA	-	American Water Works Association
CARS	-	County Assistance Road System
CRSI	-	Concrete Reinforcing Steel Institute
FHWA	-	Federal Highway Administration - Department of Transportation
ISSA	-	International Slurry Seal Association
ITE	-	Institute of Traffic Engineers
KCMMB	-	Kansas City Metropolitan Materials Board
KDOT	-	Kansas Department of Transportation
MCIB	-	Mid-West Concrete Industry Board, Inc.
MUTCD	-	Manual on Uniform Traffic Control Devices
NEC	-	National Electrical Code, National Fire Protection Association
NEMA	-	National Electrical Manufacturers Association
NRMCA	-	National Ready Mixed Concrete Association

3. Standard Detailed Specifications

3.1. The first level of reference for standard detailed specifications shall be those promulgated by the City of Prairie Village, KS, Public Works Department.

3.2. The second level of reference will be the current edition of the standard detailed specifications of the American Public Works Association (APWA) Kansas City Metro Chapter.

3.3. The third level of reference will be the latest edition of the Kansas Department of Transportation "Standard Specifications for Road and Bridge Construction".

3.4. For traffic specifications, the latest edition of the Manual On Uniform Traffic Control Devices as published the Federal Highway Administration.

3.5. All reference material shall be the latest edition for this project as though fully set forth herein, except as modified or superseded by these construction specifications.

4. Responsibility Of Contractor

4.1. The Contractor shall furnish all transportation, tools, equipment, machinery, and plant, and all suitable appliances, requisite for the execution of the Project Manual and shall be solely answerable for the same and for the safe, proper, and lawful construction, maintenance, and use thereof including responsibility for hazardous materials.

4.2. The Contractor will use equipment and tools suitable for the work. All equipment and tools will be in near-original working condition.

4.3. The Contractor shall cover and protect his/her/er Work from damage and all injury to the same from any source.

4.4. The Contractor shall be solely answerable for all damage to the City or the property of the City, to other contractors or other employees of the City, to the neighboring premises, to any person or to any private or personal property, due to improper, illegal, or negligent conduct of Contractor or his/her subcontractors, employees, or agents in and about said work, or in the execution of the work covered by this Contract, or any extra work undertaken as herein provided.

4.5. The Contractor shall be responsible to the City for defect in, or the improper use of, any scaffolding, shoring, apparatus, ways, works, machinery, or plant.

4.6. The Contractor shall notify all affected utilities of the work and coordinate with the utilities to avoid interruption of utility service and damage to utility lines and property. This notice requirement shall also apply as to the City/operator of any affected underground facility. Any project delay, damages or increase in construction costs dues to utility relocation delays shall be at the Contractor's risk.

4.7. The project site shall be kept clean, neat, and orderly as possible at all times. Stockpiling of debris and unsuitable materials beyond normal working demands shall not be allowed. Immediately after construction operations are complete, all equipment, debris and unsuitable materials shall be completely removed from the site in order to minimize the damage to finished work and inconvenience to the public and adjoining property owners. The work site shall be left "broom clean" at the end of each workday and in case of dispute the City may clean the site and charge the Contractor.

4.8. Precaution shall be taken to ensure that excessive dust does not become airborne during construction. The Contractor shall comply with all State and Federal regulations, which apply to this matter in the geographical area of the Work. When directed by the City Public Works Field Superintendent, the Contractor shall take appropriate dust control measures satisfactory to the City Public Works Field Superintendent.

4.9. The Contractor shall not allow the site of the work or neighboring properties to become littered with trash and waste material, but shall maintain the same in a neat and orderly condition on a daily basis throughout the construction period. The City, or the City Public Works Field Superintendent on the City's behalf, shall have the right to determine what is or is not trash or waste material.

4.10. On or before the completion of the work the Contractor shall, without charge therefore, carefully clean out all pits, pipes, chambers, or conduits, and shall tear down and remove all temporary structures built by Contractor, and shall remove all rubbish of every kind from the tracts or grounds which it has occupied and shall leave them in first-class condition. Any trash receptacles on the site shall be covered.

4.11. The Contractor shall take whatever steps necessary to provide access for the City and the City Public Works Field Superintendent to the Work at all times from commencement of the Work through final completion.

4.12. The Contractor alone shall be responsible for the safety, adequacy and efficiency of its plant, equipment, and methods, and for the means, methods, techniques, sequences and procedures of construction.

4.13. The review of the City Public Works Field Superintendent of any plan or method of work proposed by the Contractor shall not relieve the Contractor of any responsibility therefore, and such review shall not be considered as an assumption by the City, City Public Works Field Superintendent, or any officer, agent, or employee thereof, of any risk or liability.

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

4.15. All operations of the Contractor shall be conducted within the right-of-way of the roadway or established easements and the limits of the earthwork and grading, as shown on the plans. While working under this contract, no agreement shall be made between Contractor and resident, as it pertains to any additional work on private property not paid for by the City.

5. Safety Rules

5.1. The Contractor shall be responsible for enforcing safety rules to assure protection of the employees and property of the City, to assure uninterrupted production and to assure safe working conditions for the Contractor and Subcontractors and their employees and to assure the safety of the general public.

5.2. In addition to any other rights the City might exercise, the Contractor and/or and Subcontractor failing to follow safety rules shall be subject to eviction from the job site and may be refused reentry.

5.3. The Contractor is expected to establish and enforce a comprehensive safety program on this project for the protection of its personnel, its Subcontractor's personnel. City's employees and all other, persons exposed to hazards resulting from the Contractor's operations. As a minimum requirement, the Contractor shall review and discuss the details of its program with the City at the first project meeting. The items to be covered shall include, but not necessarily be limited to:

- Personal protective equipment;
- First aid-personnel and facilities;
- Arrangements for medical attention;

- Sanitary facilities;
- Fire protection;
- Signs, signals, and barricades;
- Security regulations;
- Safety inspections;
- Designation of persons responsible for the program;
- Reporting forms and procedures;
- Material handling and storage;
- Lines of communication;
- Determination of potential hazards;
- Personnel safety meetings and education;
- Access to work areas;
- Subcontractors involvement in the program;
- Inspections and corrective action

5.4. The Contractor shall maintain at all times, as required by the conditions and progress of the Work, all necessary safeguards for the protection of life, the Work, supplies, materials and equipment on the project site not yet incorporated in the Work, City's property and adjacent property.

5.5. The Contractor shall comply with any and all instructions from the City regarding prevention of accidents, fires or for the elimination of any unsafe practice and shall observe all the applicable recommendations of the National Fire Protection Association Standard No. 241 (or other, later revision) "Standards For Safeguarding Building Construction and Demolition Operations".

5.6. The Contractor shall post danger signs warning against the hazards created by such features of construction as protruding nails, hod hoists, well holes, elevator hatchways, scaffolding, window openings, stairways, falling materials, open trenches, other excavations, obstructions and similar conditions. It shall designate a responsible member of its organization on the project whose duty shall be the prevention of accidents. The name and position of the person so designated shall be reported to the City by the Contractor.

5.7. In emergencies affecting the safety of persons or the Work or property at the site or adjacent thereto, Contractor, without special instruction or authorization from City Public Works Field Superintendent or City, is obligated to act, at its discretion, to prevent threatened damage, injury, or loss.

5.8. The Contractor shall give prompt written notice of any significant changes in the Work or deviations from the Project Manual caused or necessitated by the emergency. A Change Order shall thereupon be issued covering the changes and deviations involved in such bona fide emergency. If Contractor believes that additional work done in an emergency, which arose from causes, beyond its control entitles it to an increase in the Contract Price or an extension of the Contract Time, the Contractor may make a claim therefore as provided herein.

5.9. The Contractor shall develop and maintain an up-to-date emergency action plan, taking into account fires, hazardous materials, explosions, adverse weather, floods, etc., which shall be in compliance with all

federal, state and local laws and ordinances. The procedures should outline specific action to be taken to protect life and to secure and protect the building materials, constructed work, buildings, equipment, and the position of cranes. The Contractor shall be fully responsible for the contents of and procedures outlined in said plan, including deficiencies therein, whether or not the City shall have reviewed said plan.

5.10. Whenever, in the opinion of the City, the Contractor has not taken sufficient precaution for the safety of the public or the protection of the Work to be constructed under this Contract, or of adjacent structures or property which may be injured by process of construction, and whenever, in the opinion of the City, an emergency shall arise and immediate action shall be considered necessary in order to protect property interests and to avoid personal injury and/or death, then the City, with or without notice to the Contractor, shall provide suitable protection to the said interests by causing such work to be done and materials to be furnished at places, as the City may consider necessary and adequate. The cost and expense of such work and material so furnished shall be borne by the Contractor and, if the same shall not be paid on presentation of the bills thereof, such costs shall be deducted from any amounts due or to become due the Contractor.

5.11. The performance of such emergency work shall in no way relieve the Contractor of responsibility for damages, which may occur during or after such precaution has been duly taken.

6. Temporary Facilities/Utilities

6.1. Except where special permission has been granted by the City to use existing toilet facilities belonging to the City, the Contractor shall provide and maintain sanitary temporary toilet facilities located where directed by the City for accommodation of all persons engaged on the work. Temporary toilets shall be enclosed and weatherproof, kept in sanitary, and in an approved condition at all times. After use for same has ceased, the Contractor shall remove the temporary toilet facilities from the City's premises and disinfect and fill any vaults.

6.2. The Contractor shall provide and maintain any necessary temporary offices, storerooms, roadways, etc, as may be required for its work. Same shall be located and constructed in an approved manner acceptable to the City. Upon completion of work or when requested by the City, the Contractor shall remove same from City's premises and leave the area in a clean and orderly condition.

6.3. The Contractor shall provide and maintain temporary heat as required to protect all work and material against injury from dampness and/or cold to the satisfaction of the City.

6.4. Unless otherwise specified in the Project Manual, the Contractor shall provide, at his/her/her/her cost and expense, temporary power, wiring, water and lights from City's provided source as may be required for its operations.

6.5. The operations of the Contractor shall be in full conformity with all of the rules and regulations of boards and bodies having jurisdiction with respect to sanitation. The Contractor shall supply safe and sufficient drinking water to all employees. The Contractor shall obey and enforce all sanitary regulations and orders, and shall take precautions against infectious disease and the spread of the same.

6.6. All water used in the course of the Work shall be hauled in or purchased from the local Water Company's distribution system at the Contractor's own cost and expense.

7. Right-Of-Way Limits

7.1. The Contractor shall confine construction operations to the construction limits and easements provided for and labeled in the Project Manual. Equipment or materials shall not be stored beyond these limits without the express written approval of the City of such property.

7.2. No person, firm or corporation shall park or store for any period of time any construction vehicles, equipment or materials while constructing or improving any street or while working on any public works project of any kind within the city, on behalf of the city, or any other governmental agency, or any utility, public or private, unless a permit has been previously issued by the Director of Public Works. The person, firm or corporation who parks, or allows the parking or storing of any construction vehicles, equipment, or materials without first obtaining said permit or who parks or stores or allows said parking or storage contrary to the terms and conditions of any permit issued by the city, shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be punished as provided in the Prairie Village Municipal Code. Each day such violation is committed or permitted to continue constitutes a separate offense and shall be punishable as such hereunder

7.3. The contractor is required to obtain a staging permit prior to commencing work. All staging area locations are to be approved by the City prior to construction. A list of possible staging areas known to the City may be obtained from the Public Works Director. A staging permit is required.

7.4. The Director of Public Works is authorized to issue a permit to authorize and allow the temporary parking, staging and storage of construction vehicles, equipment, and materials on public streets of the City or on public property, church property or property zoned C-0 through C-2 and CPO through CP-2 during periods of construction of public works projects of the city, any other governmental agency, or public or private utility projects within the City of Prairie Village, Kansas.

7.5. No permit shall be allowed on property that is residential in nature, provided, however, that property zoned "residential" that is being used as a church, school, or country club may be used with the written permission of the City.

7.6. The only designated haul routes in Prairie Village are: Nall Avenue, 95th Street, Mission Road, and 75th Street. The Contractor must have written approval prior to using any other street or haul route.

8. Completed Work

8.1. Before final acceptance of the Work, all mechanical and electrical equipment and devices shall be tested and each part shall be in good condition and working order, or shall be placed in such condition and order at the expense of the Contractor.

8.2. All tests of such completed work required under this Contract shall be made in the presence of the City Public Works Field Superintendent or its authorized representatives.

8.3. All unsatisfactory, faulty or defective work and all work not conforming to the requirements to the Project Manual at the time of acceptance thereof, or of such inspections, tests, or approvals shall be considered defective. Prompt notice of all defects shall be given to the Contractor.

8.4. All defective work, whether or not in place, may be rejected pending correction thereof. Should Contractor not correct said Work, the City may do so at Contractor's expense.

8.5. The Contractor shall remove from the site of the work, without delay, all rejected and condemned material or structures of any kind brought to or incorporated in the work, or if the Contractor fails to make satisfactory progress in so doing, within forty-eight (48) hours, after the service of a written notice from the City Public Works Field Superintendent ordering such removal, the rejected material or structures may be removed by the City at the Contractor's expense.

8.6. At the City's discretion, payment for all related items of work may be withheld until all rejected and condemned materials or structures are satisfactorily removed.

9. Public Complaints

9.1. All complaints to the Contractor or any of the Subcontractors or to the City Public Works Field Superintendent are to be reported in writing immediately to the City Public Works Field Superintendent. This written report will include the name, address and telephone number of the complainant, a detailed description of the complaint, a detailed description of the actions taken, and by whom to resolve the complaint.

9.2. The Contractor shall endeavor, with the cooperation and concurrence of the City Public Works Field Superintendent and City, to communicate with abutting property owners and tenants affected by the work.

9.3. The City Public Works Field Superintendent/Contractor shall respond to citizen complaints, concerns or inquiries with 48 hours. City to be copied with results of City Public Works Field Superintendent/Contractor's response and resolution of same in a timely manner utilizing forms provided by the City.

10. Notification

10.1. As part of this project the Contractor will notify residents by door hanger, which will be provided by the City, of the upcoming work. The Contractor must distribute the door hangers no less than 48 hours and no more than 5 working days prior to doing **any** work on a street.

10.2. Delays created by failure of the Contractor to notify the City in the above-specified time will be counted against the contract time. The Contractor will not be entitled to an extension of the contract time based on notification delays.

10.3. In the event, work does not begin on the designated street within the designated time, the

Contractor will re-notify the residents with an explanation of why work did not begin as scheduled and a statement of when work will begin. Work may not begin until 48 hours after distributing the re-notifications.

11. Progress Meetings

11.1. Periodic Progress meetings shall be held at a predetermined location on the site. These meetings will be held once every two weeks or sooner as events dictate. These meetings will be organized by the City or City Public Works Field Superintendent. Participation in this meeting by representatives of the prime contractor and each of the subcontractors is required. These representatives must be empowered to make decisions affecting the prosecution of the work and shall be the City of the construction firm and/or his/her/her superintendent. The Project Manager will conduct the meetings and the discussion will include, but is not limited to the following:

- Proposed construction schedule for duration of contract for both Prime and Subcontractors
- Identification of any known utility/contractor conflicts and proposed resolution of same
- Coordination of other trades
- Specialty items (Fences, shrubs, monuments, sprinkler systems, etc.)
- Completion date requirements.
- Review of traffic control plan as it pertains to area of work.
- Problems and/or complaints and remedial measures taken or proposed

12. Correcting Work

12.1. The Contractor shall, within two weeks of written notification, proceed to correct Work rejected by the City Public Works Field Superintendent as defective or failing to conform to this Contract.

12.2. Nothing contained in this Article shall establish any period of limitation with respect to other obligations, which the Contractor has under this Contract.

13. City May Accept Defective or Non-conforming Work

13.1. If the City chooses to accept defective or non-conforming Work, the City may do so. In such event, the Contract Price shall be reduced by the greater of (a) the reasonable cost of removing and correcting the defective or non-conforming Work, and (b) the difference between the fair market value of the Work as constructed and the fair market value of the Work had it not been constructed in such a manner as to include defective or non-conforming Work. If the remaining portion of the unpaid Contract Price, if any, is insufficient to compensate the City for its acceptance of defective or non-conforming Work, the Contractor shall, upon written demand from the City, pay the City such remaining compensation for accepting defective or non-conforming Work.

SPECIAL CONDITIONS

1. The APWA Section 1100 General Conditions is negated and not to be applied as part of this Project Manual.
2. The trimming work will be completed by **December 31, 2017**.
3. The City will provide an inventory of the trees in each Area, please note that the City's initial inventory might not represent all of the trees in the area but is a tool in submitting the required final inventory information back to the City.
4. A map showing each Area is provided.
5. The City will accept, in lieu of but subject to the conditions of the Performance Bond, Maintenance Bond and Statutory Bond, a certified check or bank cashier's check made payable to the City of Prairie Village in the amount of the total bid cost and will be held by the City in a non-interest bearing depository. The Contractor agrees that the check is subject to being forfeited to and becoming the property of the City of Prairie Village as liquidated damages and not as penalty, together with other legal remedies the City may choose to invoke for non-performance as provided in the Contract. Said check, less any liquidated damages, will be returned to the Contractor upon completion of the Contract.
6. The City has a budget limit for this tree trimming program. Therefore, the bids will be awarded separately for each area until the budget limit is reached. For example, if the sum of all the area bids exceeds the budget limit, then one of the areas will not be awarded or the list of trees will be reduced.
7. The Contractor is to notify the Public Works Field Superintendent each morning after 7AM, but before beginning work, as to which streets the Contractor will be working.
8. The contractor will follow all Local, State and Federal regulations including but not limited to all quarantine regulations.

101 MOBILIZATION

Description

This work shall include furnishing of all labor, equipment, tools and materials for preparatory work and operations, including, but not limited to, those necessary for the movement of personnel, equipment, supplies and incidentals to the project site. It shall also include those costs for the establishment of all offices, buildings, temporary utilities and other facilities necessary for work on the project. Bond and insurance costs incurred to begin the work at the project site are included in this item.

Bid items are:

MOBILIZATION

Reference Standard Specification

Primary Reference Standard Specification is KDOT Standard Specifications for State Road and Bridge Construction Section 820, as amended

The above Reference Standard Specification may contain modifications in the form of additions, deletions, and substitutions. Where any part of the Reference Standard Specification is so modified, the unaltered provisions shall remain in effect.

Construction Requirements

None

Method of Measurement

The measurement of payment will be the percentage of work completed.

Basis of Payment

Partial payments will be made as follows:

1. When the work amounting to 5 percent of the original contract amount has been completed, 25 percent of the Contract amount for the item of mobilization or 2.5 percent of the original Contract amount whichever is lesser, will be paid.
2. When the work amounting to 10 percent of the original contract amount has been completed, 50 percent of the Contract amount for the item of mobilization or 5.0 percent of the original Contract amount whichever is lesser, will be paid.
3. When the work amounting to 25 percent of the original contract amount has been completed, 60 percent of the Contract amount for the item of mobilization or 7.5 percent of the original Contract amount whichever is lesser, will be paid.
4. When the work amounting to 50 percent of the original Contract amount has been completed, 100 percent of the Contract amount for the item of mobilization or 10 percent of the original contract amount whichever is lesser, will be paid.
5. Upon acceptance of the Contract, payment of any amount in excess of 10 percent of the original Contract amount will be paid.

The term "Original Contract Amount" used shall be construed to mean the total dollar value of the Original Contract, including all bid items shown in the Contract.

When computing the percentage of the original Contract amount completed, do not include monies earned for Mobilization, materials stored, Traffic Control (when bid as a lump sum) and Contractor Construction Staking.

END OF SECTION

682 Tree Trimming

Description

This work consists of trimming City trees to the satisfaction of the City Public Works Field Superintendent, and in accordance with the details shown on the plans. It shall include using all means necessary to protect existing structures, equipment, piping and facilities not designated for removal within the limits of the work, as defined in these specifications, in the Special Conditions, as shown on the Plans or established by the City Public Works Field Superintendent.

Bid items are:

TREE TRIMMING

Reference Standard Specification

The Kansas Arborist at Kansas State University, Kansas Forest Service shall determine interpret proper trimming techniques and practices.

Primary Reference Standard Specification is ANSI A300 Part 1 Pruning, as amended and Z133.1-2000 Safety Requirements for Pruning, Trimming, Repairing, Maintaining, Removing Trees and Cutting Brush.

The above Reference Standard Specification may contain modifications in the form of additions, deletions, and substitutions. Where any part of the Reference Standard Specification is so modified, the unaltered provisions shall remain in effect.

Tree Trimming Requirements

Trees to be trimmed along the City streets will be located either wholly or partially within 10 feet from the face of the street curb. Trimming of trees located on private property will not be permitted except to meet item c. in the next paragraph.

Trees will be trimmed:

- a. To remove dead wood two inches in diameter and larger over the City right-of-way,
- b. To remove hangers over the City right-of-way,
- c. To remove limbs lower than nine feet over sidewalks and fourteen feet over street pavement,
- d. To remove limbs that obstruct the view of a street light as viewed from a distance equal to the height of the street light from the street pavement,
- e. To remove tree limbs obstructing the view of street signs and traffic signals from a distance of 500 feet as viewed from a person standing in the vehicle travel lane.
- f. Park Trees will be trimmed with the same criteria but the entire tree will be trimmed. The trimming criteria should also be applied to any trees on abutting properties with limbs hanging over City Park property.

The Contractor will be responsible for the removal of all trimmings and other trimming debris. The debris removal will be in accordance with all Local, State and Federal regulations including but not limited to all quarantine regulations. The street and resident property will be cleaned to equal or better condition as existed before the work activity. The Contractor shall use no gafts in the tree trimming process.

The Contractor may leave wood for the resident at the resident's request, but the wood will be placed on private property and not on City right-of-way.

The Contractor will provide each residence with a notice 48 hours before beginning work. The City will provide the notices to the Contractor.

Tree Inventory Requirements

The contractor will verify the inventory list as to species, house number, condition and date trimmed. The City will provide a list of condition terminology to be used. The type of tree will be the common name for generic-species, i.e., Maple-sugar. The generic - Maple - is not acceptable as it must have the species.

The inventory list will be modified by lining out the tree not in existence, adding trees found in the City right-of-way, but not on the list, and placing a check mark for those trees trimmed.

Method of Measurement

The measurement of payment for Trimming Trees is submittal of the modified inventory list for each area and approval of satisfactory work for each area by Field Superintendent.

Basis of Payment

The amount of completed and accepted work, measured as provided above, shall be paid for at the Contract lump sum price for "TREE TRIMMING". The price shall be full compensation for furnishing and for all labor, tools, equipment and incidentals necessary to complete the work.

END OF SECTION

701 TRAFFIC CONTROL

Description

This work shall consist of furnishing, erecting, moving, cleaning, replacing, maintaining and removing signs, barricades, lights and other traffic control devices as shown on the Plans, the Traffic Control Plan, or as required by the Engineer or as proposed by the Contractor and approved by the Engineer.

Bid items are:

TRAFFIC CONTROL

Reference Standard Specification

Primary Reference Standard Specification is KDOT Standard Specifications for State Road and Bridge Construction Section 805, as amended.

The above Reference Standard Specification may contain modifications in the form of additions, deletions, and substitutions. Where any part of the Reference Standard Specification is so modified, the unaltered provisions shall remain in effect.

Construction Requirements

ADD:

No work shall be conducted between the hours of 10 PM and 7 AM, Monday through Friday. No work shall be undertaken on Saturdays, Sundays and Holidays without the express approval or permission of the City.

No work may be performed on non-residential streets between 7:00 a.m. to 8:30 a.m. and 4:00 p.m. to 6:00 p.m. on weekdays.

Non-residential streets may not be closed to all traffic unless permitted by the City.

Non-residential streets are defined as 75th Street, 95th Street, Mission Road, Nall Avenue, State Line Road, 63rd Street, 71st Street, 79th Street, 83rd Street, Lamar Avenue, Roe Avenue, Somerset Drive, Tomahawk Road, 67th Street, 69th Street, 87th Street (Nall Avenue to Somerset Drive), Booth Drive, Belinder Avenue, Cambridge Street (State Line Road to Somerset Drive), Cherokee Drive, Colonial Drive and Windsor Street (Cherokee to 75th Street).

Residential street closure may occur only from 8:00 a.m. until 5:00 p.m.

Evening 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.

Ensure minimum interference with roads, streets, driveways, sidewalks, and adjacent facilities.

Do not close or obstruct streets, sidewalks, alleys or passageways without permission from authorities having jurisdiction.

If required by governing authorities, provide alternate routes around closed or obstructed traffic ways.

The Contractor shall conduct his/her work to interfere as little as possible with public travel, whether vehicular or pedestrian. Whenever it is necessary to cross, obstruct, or close roads, driveways and walks, whether public or private, the Contractor shall, at his/her own expense, provide and maintain suitable and safe bridges, detours, or other temporary expedients for the accommodation of public and private travel, and shall give reasonable notice to owners of private drives before interfering with them provided that maintenance of traffic will not be required where the Contractor has obtained permission from the City and tenant of private property, or from the authority having jurisdiction over public property involved, to obstruct traffic for the duration of time as may be agreed upon.

The Contractor shall, at the time of the preconstruction conference or 72 hours prior to the proposed implementation, submit a detailed plan for handling traffic during construction and non-working hours for review and approval by the Engineer and City before commencing with any work. The traffic control plan shall be certified by an ATSSA Certified Worksite Traffic Supervisor. The logic for this traffic control plan is to be included in the Contractor's construction control schedule.

The Worksite shall be cleaned up at the end of each working day and temporary surfacing shall be placed such that access will be had to all driveways during the night, weekends, holidays and other days when Work is not in progress and when the stage of the Work does not directly interfere with the drive. The Engineer, at his/her discretion, may grant short-term exceptions to this requirement in connection with preparing sub-grade and paving.

The Contractor shall assign a specific person to be responsible for the installation and maintenance of traffic control devices. This information shall be provided to the Engineer. The Contractor may, at his/her option, establish a maintenance agreement, approved by the Engineer, with one of the area sign companies to supply, install, and maintain required traffic control devices throughout the duration of this project. When the traffic control devices are no longer needed, immediate removal of said devices shall be included in this agreement.

Driveway entrances, sidewalks, steps and finish grading shall be completed as soon as practicable behind construction of curb and gutter so that access may be had from the street adjacent property as soon as possible. Temporary grading shall be provided where required to negotiate the difference in elevation from the graded roadbed to the finished curb at driveway entrances. The Contractor shall provide as many barricades with appropriate warning lights as needed to protect effectively pedestrians or traffic from exposed objects or excavations.

In addition to traffic control devices shown on the Plans, the Contractor shall provide and maintain all barricades, cones, construction warning signs, flagmen, temporary pavement marking, and incidental devices to protect the traveling public and the Contractor's personnel or equipment on the job site. During all phases of construction, the Contractor shall display the required signs. Any traffic control device not in use shall be covered, removed, or turned away from the view of on-coming traffic. Whenever the Work area changes, all construction warning signs and traffic channelization devices shall be made current, in both legend and function.

Local traffic on all streets shall be carried through construction whenever possible. Detours of traffic will be permitted, with prior permission from the City, when necessary and in accordance with the traffic control plan. Streets may be closed for short periods of time under authority of proper permit issued by the City or authority having jurisdiction. However, the Contractor shall conduct his/her work to interfere as little as possible with public travel, whether vehicular or pedestrian, on such streets.

Proper notification to City Police and County Paramedic units, Fire Districts, School Districts and City refuse collector shall be given by the Contractor before closing any street.

It will be the responsibility of the Contractor to perform the necessary maintenance or provide additional traffic control devices as requested by the Engineer.

The Contractor shall maintain access for refuse collection. If refuse cannot be picked up because of construction activities, the Contractor will be required to collect the reuse and to coordinate with the refuse collector to designate an alternate pick-up site.

The Contractor shall only work on one side of the road at a time and no more than two streets at one time unless permitted to do so by the City.

Left turn movements shall not be restricted at any intersection controlled by a traffic signal.

The Contractor must use proper flagging procedures when limiting traffic to one lane during working hours.

The Contractor will supply, install, and maintain the necessary traffic control devices required to maintain traffic as outlined herein. These devices include, but are not limited to, advance construction warning signs, barricades, flagmen, and other traffic control devices. All such devices shall be fabricated and installed in accordance with the M.U.T.C.D. and N.C.H.R.P. 350, latest editions. Any request for changes in the required devices or methods of maintaining traffic should be submitted in writing to the Engineer a minimum of 72 hours prior to the time the Contractor wishes to make the change.

Temporary striping shall be tape and this work shall conform to Section 821 of the KDOT Standard Specification. In addition to the placement of lane lines and centerline stripes, the Contractor shall also be responsible for the proper placement of required turn arrows.

The Inspector may review the Work area at various times to determine if any additional traffic control devices are necessary or if any maintenance is required to the traffic control devices in place. Any traffic control device, which requires maintenance or any additional traffic control needs found during these reviews, will be reported to the Contractor. It will be the responsibility of the Contractor to perform the necessary maintenance or provide additional traffic control devices as requested by the Engineer. Failure to comply with this request will result in one of the following:

1. Employ another agency to correct deficiencies in signing or warning devices and deduct the cost from the contractor's pay estimate.
2. Suspend all pay estimates until deficiencies are corrected.
3. Stop the work until deficiencies are corrected.
4. Place the contractor in default.

All existing traffic signs, stop signs, and street signs in the way of the Work shall be carefully removed by the Contractor and shall be returned to the City. The required function of stop signs and other signs affecting driver safety shall be preserved by the Contractor whenever a street is open to traffic. Upon completion of the Project, all street signs shall be reset by the Contractor as approved by the Engineer.

All stop, yield and street name signs removed shall be temporarily erected in the appropriate locations (no less than 7 feet vertical from grade) until permanent signing can be installed.

Method of Measurement

The measurement of payment will be the percentage of work completed.

Basis of Payment

Partial payments will be made as follows:

1. When work amounting to 10 percent of the original Contract amount is completed, 50 percent of the amount bid for traffic control or five percent of the original Contract amount, whichever is lesser, may be paid.
2. When work amounting to 80 percent of the original Contract amount is completed, 100 percent of the amount bid for traffic control or ten percent of the original Contract amount, whichever is lesser, may be paid.
3. Upon completion of all work on the project, 100 percent of the amount bid for traffic control will be paid.

When computing the percentage of the original Contract amount completed, do not include monies earned for mobilization, materials stored, traffic control (when bid as Lump Sum) and contractor construction staking.

The term "Original Contract Amount" used shall be construed to mean the total dollar value of the Original Contract, including all bid items shown in the Contract.

END OF SECTION

PROJECT CONTACTS

Prairie Village Public Works
 James Carney, Field Superintendent
 3535 Somerset Drive
 Prairie Village, KS 66208
 E-mail jcarney@pvkansas.com
 Office - (913) 385-4644

Prairie Village Police Dept.
 7710 Mission Road
 Prairie Village, KS 66208
 (913) 381-6464

Fire/Med-Act Communications
 (913) 432-1717

Utilities

Time Warner Cable
 8221 West 119th Street
 Overland Park, KS 66213
 (913) 927-3402
 Gary Dixon

AT&T
 9444 Nall Avenue
 Overland Park, KS 66207
 (913) 383-6948
 Rich Pearl

KCP&L
 16215 W. 108th St.
 Lenexa, KS 66219
 (913) 810-7623
 Gary Price

Johnson County Wastewater
 18111 Sunset Drive, Suite 2500
 Overland Park, KS 66213
 (913) 715-8501
 Charles McAllister

Kansas Gas Service
 11401 West 89th Street
 Overland Park, Kansas 66214
 (913) 599-8978
 Becca Orr
 (913) 492-8555

KCP&L
 Traffic Signals
 8730 Nieman Rd.
 Overland Park, KS 66214-1793
 (913) 894-3074
 John Wienstroer

Southern Star Central Gas Pipeline
 13430 W. 98th Street
 Lenexa, KS 66215
 (913) 310-7612
 Kevin Hoover

Google Fiber
 (870) 219-5630
 Craig Young

Water One
 10747 Renner Road
 Lenexa, KS 66219-9624
 (913) 895-5732
 Dana Hudson

Contractor:
 Contact:
 Address:
 Project Supervisor:
 Email:
 Office :Phone
 Mobile:
 Pager:

City of Prairie Village, Kansas

BID DOCUMENTS

For

Tree Trimming

Bid Proposal Opening Date:

September 22, 2017

**City of Prairie Village
Department of Public Works
3535 Somerset Drive
Prairie Village, Kansas
publicworks@pvkansas.com
913-385-4640**

NOTICE TO BIDDERS
CITY OF PRAIRIE VILLAGE, KANSAS
TREE TRIMMING

Sealed bids will be received by the City Governing Body of Prairie Village, Kansas at the office of City Clerk at the City Hall, 7700 Mission Road, Prairie Village, Kansas, until 3:00 p.m. (CDT) on September 22, 2017. All bids shall be submitted in the provided envelope stamped "Bid", sealed and addressed to the City Clerk, and marked "**2017 TREE TRIMMING BID**". At the above stated time and place, all bids shall be publicly opened and read aloud. Bids received after the designated closing time will be returned unopened.

Said project to include, but not limited to, trimming city street trees in designated areas and park trees, including verification and updating of tree inventory information.

All equipment, material and workmanship must be in accordance with the Bid Documents, Plans, Project Manual and Contract Documents on file with the City Clerk, Prairie Village, Kansas. Copies of the Bid Documents, Plans, Project Manual, and Contract Documents may be obtained from the Department of Public Works Office at 3535 Somerset Drive, Prairie Village, KS or online at <http://www.pvkansas.com/doing-business/bids-proposals>.

Non-resident corporations that are not already registered with the Kansas Secretary of State and all non-resident individuals and partnerships are required by law to register with the Director of Revenue, State Office Building, Topeka, Kansas, and to pay a fee of Ten Dollars (\$10.00) for each and every contract as a precedent to commencing work on the contract. For contracts in excess of Ten Thousand Dollars (\$10,000), the foreign contractor shall file with the Director of Revenue an acceptable bond for ten percent (10%) of the contract.

CITY OF PRAIRIE VILLAGE
JOYCE HAGEN-MUNDY,
CITY CLERK

INSTRUCTIONS TO BIDDERS

1.0 GENERAL STATEMENT

All bids shall be made on the forms provided as part of these Bid Documents and in compliance with these Instructions. All appropriate blanks shall be filled-in and the Bid Proposal shall be signed by the appropriate individual on behalf of him/herself or the entity submitting the bid. The bid must be submitted in the enclosed envelope, sealed and addressed to "City Clerk, City of Prairie Village, 7700 Mission Road, Prairie Village, Kansas, 66208.

2.0 DEFINITIONS

These definitions shall apply to the Bid Documents, Plans and Specifications.

ALTERNATE BID (OR ALTERNATE) is an amount stated in the bid to be added to or deducted from the amount of the base bid, if the corresponding change in the work, as described in the Bid Documents, is accepted.

BASE BID is the sum stated in the bid for which the bidder offers to perform the work described in the Project Manual, without inclusion of any alternate bids.

BID DOCUMENTS include the Notice to Bidders, Instruction to Bidders, Project Manual, the Bid, Bid Bond and, including any Addenda issued prior to receipt of bids.

BID is a complete and properly signed proposal to do the work or designated portion of thereof for the price stipulated therein, submitted in accordance with the Bid Documents.

BIDDER is a person or entity who submits a Bid Proposal with a Bid Bond.

CITY shall mean the City of Prairie Village, Kansas, acting through the Director of Public Works.

CITY PUBLIC WORKS FIELD SUPERINTENDENT shall mean the City Public Works Field Superintendent.

CONTRACT DOCUMENTS shall include the Contract Agreement, the accepted Bid Proposal with any addendums, Performance Bond, Statutory Bond, and a Maintenance Bond, Plans and Project Manual.

CONTRACTOR shall be the Successful Bidder that the City governing body has determined and declared to be the successful bidder and that has, following such determination and declaration, thereafter executed a Contract for construction with the City to perform the work.

DAY shall mean a calendar day unless otherwise described.

DIRECTOR OF PUBLIC WORKS shall mean the duly appointed person or their designee.

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 City Public Works Field Superintendent.

PLANS shall mean the set of drawings for accomplishing the work.

PROJECT MANAGER shall mean the City Public Works Field Superintendent.

PROJECT MANUAL shall contain the General Conditions, Specifications and Special Conditions for accomplishing the work.

SUCCESSFUL BIDDER is the person or entity who is determined and declared by the City governing body to have submitted the lowest and best responsible bid in the conformity with the terms of the Bid Documents.

UNIT PRICE is an amount stated in the Bid Proposal as a price per unit of measurement for materials or services as described in the Project Manual.

WORK shall mean the tasks described on the Plans and in the Project Manual.

3.0 DOCUMENTS

Bidders may obtain complete sets of the Bid Documents, Plans, Project Manual and Contract Documents from City of Prairie Village Public Works Department, 3535 Somerset Drive, Prairie Village, Kansas, 66208.

Bidders shall use complete sets of Bid Documents in preparing bids. Neither the City nor any employee nor any entity in contract with the City, assumes any responsibility for errors or misinterpretations resulting from the use of incomplete sets of Bid Documents.

The City, in making copies of the Bid Documents available on the above terms, does so only for obtaining Bid Proposals for the Work and does not confer a license or grant for any other use.

4.0 BIDDER'S REPRESENTATIONS

Each Bidder by making a Bid Proposal represents that:

- a. They have read and understand the Bid Documents, and their Bid Proposal is made in accordance therewith.
- b. They have visited the site of the work and thoroughly and fully informed themselves relative to construction hazards and procedures, labor and all other conditions and factors, local and otherwise, which would affect the prosecution and completion of the work and the cost thereof, including subgrade conditions, subsurface conditions, the availability and cost of labor and available facilities for transportation, handling and storage of materials and equipment. The Bidder has informed himself/herself/themselves of natural hazards, drainage runoff, and structures and has reviewed all referenced reports, documented inspections and other documents relating to the work and has correlated his/her/their observations with the requirements of the Bid Documents. All such factors have been properly investigated and considered in the

preparation of every Bid submitted as there will be no subsequent financial adjustment to any Contract awarded there under, which is based on the lack of such prior information or its effect on the cost of the work.

- c. Their Bid Proposal is based upon the materials, systems and equipments required by the Bid Documents without exception.
- d. They have familiarized themselves with the state, federal and local ordinances and regulations, which may affect cost, progress or performance of the work. Including but not limited to any current quarantines.

5.0 DEFECTS IN BID DOCUMENTS OR CONTRACT DOCUMENTS

Bidders shall promptly notify the City Project Manager of any errors, omissions, discrepancies or inconsistencies, which they may discover upon examination of the Bid or Contract Documents, or the site and local conditions.

Bidders requiring clarification or interpretation of any part of the Bid Document or the Contract Document may submit to the City Project Manager a written request for an interpretation, which shall reach the City at least seven days prior to the date for receipt of bids. The person submitting the request will be responsible for its prompt and actual delivery.

Any interpretation of such documents will be made solely by Addendum duly issued. A copy of such Addendum will be mailed or delivered by the City before expiration of the time set for the receipt of bids. Interpretations, corrections or changes of the Bid Documents or Contract Documents made in any other manner will not be binding, and Bidders shall not rely upon such interpretations, corrections and changes.

Bidders will not be permitted to take advantage of any such errors, omissions, discrepancies or inconsistencies, which they may discover upon examination of the Bidding/Contract Documents or the site and local conditions.

6.0 SUBSTITUTIONS

The materials, products and equipment described in the Project Manual establish a standard of required function, dimension, appearance and quality to be met by any proposed substitution.

No substitution will be considered prior to receipt of bids unless the City Project Manager has received a written request for approval at least seven (7) days prior to the date for receipt of bids. Each such request shall include the name of the material or equipment for which it is to be substituted and a complete description of the proposed substitute including drawings, cuts, performance and test data and other information necessary for an evaluation. A statement setting forth any changes in other materials, equipment or other work that incorporation of the substitute would require shall be included. The burden of proof of the merit of the proposed substitute is upon the Bidder. The City Project Manager's decision of approval or disapproval of a proposed substitution shall be final.

If the City approves any proposed substitution, such approval will be set forth in a written addendum. Bidders shall not rely upon approvals made in any other manner.

No substitution will be considered after the Contract award unless specifically provided in the Contract Documents.

7.0 SUB-CONTRACTORS

The Contractor shall not award subcontracts, which total more than forty-five percent (45%) of the contract and shall perform, within its own organization, work amounting to not less than fifty-five percent (55%) of the total contract price.

The names of subcontractors shall be submitted to and approved by the City prior to award of the contract.

8.0 ADDENDA

Addenda will be mailed or delivered to all who are known by the City to have received a complete set of Bid Documents and Contract Documents.

Addenda will be made available for inspection at the office of the City Project Manager.

No addenda will be issued later than four days prior to the date for receipt of Bids, except an addendum withdrawing the request for Bid Proposals, or one, which includes postponement of the date for receipt of Bid Proposals.

Each Bidder shall ascertain prior to submitting his/her Bid that he/she has received all written addenda issued, and he/she shall acknowledge its receipt in his/her Bid.

9.0 PROPOSAL GUARANTEE

Each proposal having a total value of \$10,000 or more shall be accompanied by a certified or a cashier's check or Bid Bond drawn on an acceptable Bank, made payable, without condition, to the City of Prairie Village, Kansas, in an amount of not less than five (5%) percent of the total proposal cost. The amount of said check may be retained by and forfeited to the City of Prairie Village, Kansas, as liquidated damages, if such proposal is accepted, the Contract awarded, and the Bidder fails to enter into a Contract in the form prescribed, with the required maintenance, performance and statutory bond, within ten (10) days after such award is made by the City of Prairie Village, Kansas. Bid checks will be returned to unsuccessful Bidder when their Bid Proposals have been rejected and to the successful Bidder upon receipt of satisfactory completion of the Contract Documents.

10.0 TAXES

It is the intent of the City of Prairie Village to supply the Contractor with a Sales and Compensating Tax Exemption Certificate for use in purchasing materials and supplies used on this/her project. The Contractor shall, in preparing his/her/her bid, omit from his/her/her computed costs all appropriate sales and compensation Taxes. Two copies of the State of Kansas Project Completion Certification (Form DO-77) will be furnished to the City by the Kansas Department of Revenue upon issuance of a tax exemption number. Two copies of the Project Completion Certification will be forwarded to the Contractor and must be signed and returned to the City upon completion of the project. The City will forward one (1) copy of the Project Completion Certification to the Kansas Department of Revenue and retain one copy. All

invoices must be retained by the Contractor for a period of five (5) years and are subject to audit by the Kansas Department of Revenue. Final payment will not be made to the Contractor until the City has received the two project Completion Certifications from the Contractor along with a Consent of Surety Company to Final Payment.

11.0 WITHDRAWAL OR MODIFICATION OF BID PROPOSALS

No Bidder may withdraw their bid for a period of sixty (60) days after the date and hour set for the receiving of said bids. A Bidder may withdraw their bid at any time prior to the expiration of the period during which proposals may be submitted, by written request of the Bidder signed in the same manner and by the same person who signed the Bid.

12.0 SIGNATURES OF BIDDERS

Each Bidder shall sign their Bid Proposal, using their usual signature and giving their full business address. Bid Proposals by partnerships shall be signed with the partnership name by one of the members of the partnership or by an authorized representative with the signatures and designation of the person signing. Bid Proposals by corporations shall be signed by the president, secretary or other person authorized to bind it in the matter.

The names of all persons should also be typed or printed below the signature. A bidder who affixes to the signature the word "president", "secretary", or other designation without disclosing the principal may be held to be the Bid Proposal of the individual signing the Bid Proposal. When requested by the City, a statement, sealed with the corporation seal, will be furnished stating that the individual signing the Bid Proposal is authorized to do so on behalf of the corporation.

13.0 ACCEPTANCE AND REJECTION OF BID PROPOSALS AND AWARD OF CONTRACT

The City reserves the right to reject any and all Bid Proposals; to waive any and all irregularities and informalities; to negotiate contract terms with the successful Bidder; and the right to disregard all non-conforming, non-responsive or conditional bids.

In evaluating Bid Proposals, the City may consider, in addition to the bid amount, the qualifications of Bidders, whether or not the Bids comply with the prescribed requirements, alternates and unit prices. The City reserves the right to reject any bid of any Bidder who does not pass the evaluation to the City's satisfaction.

Bid submitted by Kansas City Tree Care LLC

BID PROPOSAL FORM

TREE TRIMMING

To the City of Prairie Village, Kansas:

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

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

ITEMIZED PROPOSAL

Item No.	Description	Unit	Quantities	Unit Price	Total
1	101 Mobilization	L.S.	N/A	None	—
2	682 Tree Trimming Area 51	L.S.	N/A	None	14,325.00
3	701 Traffic Maintenance	None	N/A	None	-----
Total Area - 51					14,325.00

Bid submitted by Kansas City TreeCare, LLC

Item No.	Description	Unit	Quantities	Unit Price	Total
1	101 Mobilization	L.S.	N/A	None	—
2	682 Tree Trimming Area 52	L.S.	N/A	None	116,125.00
3	701 Traffic Maintenance	None	N/A	None	-----
Total Area - 52					116,125.00

Item No.	Description	Unit	Quantities	Unit Price	Total
1	101 Mobilization	L.S.	N/A	None	—
2	682 Tree Trimming Area - 53	L.S.	N/A	None	6,675.00
3	701 Traffic Maintenance	None	N/A	None	-----
Total Area - 53					6,675.00

Item No.	Description	Unit	Quantities	Unit Price	Total
1	101 Mobilization	L.S.	N/A	None	—
2	682 Tree Trimming Area - Franklin Park	L.S.	N/A	None	15,255.00
3	701 Traffic Maintenance	None	N/A	None	-----
Total Area - Franklin Park					15,255.00

Item No.	Description	Unit	Quantities	Unit Price	Total
1	101 Mobilization	L.S.	N/A	None	—
2	682 Tree Trimming Area - Porter Park	L.S.	N/A	None	7,350.00
3	701 Traffic Maintenance	None	N/A	None	-----
Total Area - Porter Park					7,350.00

Bid submitted by Kansas City Tree Care LLC

PROPOSAL QUANTITIES

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

PROPOSAL ABBREVIATIONS

LS - LUMP SUM EA - EACH

The undersigned Bidder declares:

That, if this proposal is accepted, to complete the work by the **December 31, 2017** completion date.

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

<u>Project Number</u>	<u>Location</u>	<u>Contact & Telephone</u>
<u>City of Lee's Summit</u>	<u>Lee's Summit</u>	<u>Brooke 816-967-1575</u>
<u>City of Independence</u>	<u>Independence</u>	<u>Crystal Reed</u>
<u>City of Overland Park</u>	<u>Overland Park</u>	<u>Bailey 913-262-5628</u>
<u>Four Colonies</u>	<u>Lenexa</u>	<u>Erin 913-888-4920</u>

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

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

Addendum receipt:

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

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

Bid submitted byKansas City Tree Care LLC

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

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

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

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

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

Enclosed is a certified check, cashier's check or bid bond in the amount of Five thousand nine hundred DOLLARS (\$ 001100), made payable to the City of Prairie Village, which the undersigned agrees is subject to being forfeited to and becoming the property of the City of Prairie Village as liquidated damages and not as penalty, together with other legal remedies the Cities may choose to invoke, all set forth in the Instruction to Bidders Section, should this Bid be accepted and the Contract be awarded to this Bidder and he/she should fail to enter into an Agreement in the form prescribed and to furnish the required insurance, bonds and other required documents within ten (10) calendar days as above stipulated, otherwise the bid security shall be returned to the undersigned upon signing of the Agreement and delivery of the approved bonds and other required documents to the City of Prairie Village, Kansas.

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



Kansas City Tree Care, LLC
 1505 Merriam Lane
 Kansas City, KS 66103

Community First Bank
 18-100/1010

2735

9/21/2017

PAY TO THE ORDER OF City of Prairie Village, KS \$**5,970.00
 Five Thousand Nine Hundred Seventy and 00/100***** DOLLARS

PROTECTED AGAINST FRAUD



City of Prairie Village, KS
 3535 Somerset Drive
 Prairie Village, KS 66208



[Handwritten Signature]



MEMO

⑈002735⑈ ⑆101001005⑆ 06 138 7⑈

Kansas City Tree Care, LLC
 City of Prairie Village, KS

2735
 9/21/2017
 5,970.00

COPY

Community First Bank	5,970.00
Kansas City Tree Care, LLC	2735
City of Prairie Village, KS	9/21/2017
	5,970.00

PAYMENT RECORD

Community First Bank	5,970.00
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Bid submitted by _____

Signature of Bidder: _____

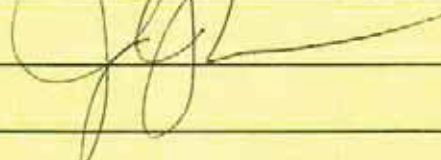
If an individual: _____

Doing business as: _____

If a Partnership: _____

By _____, member of firm

If a Corporation: Kansas City Tree Care LLC

By Zachary Johnson 

Title Owner

DATED: 9/20/17

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

913-894-4767
Telephone Number

Anna Porter
Typed name of Contact

866-923-4311
Fax Number

1505 Merriam Lane
Street Address

KansasCityTreeCare@yahoo.com
Email Address

Kansas City KS 66103
City, State, Zip

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

State in which incorporated: Kansas

Name and business address of its:

President: Zachary Johnson
1505 Merriam Lane
Kansas City KS 66103

Bid submitted by Kansas City Tree Care LLC

Secretary: None

SEAL

Date

9/21/17

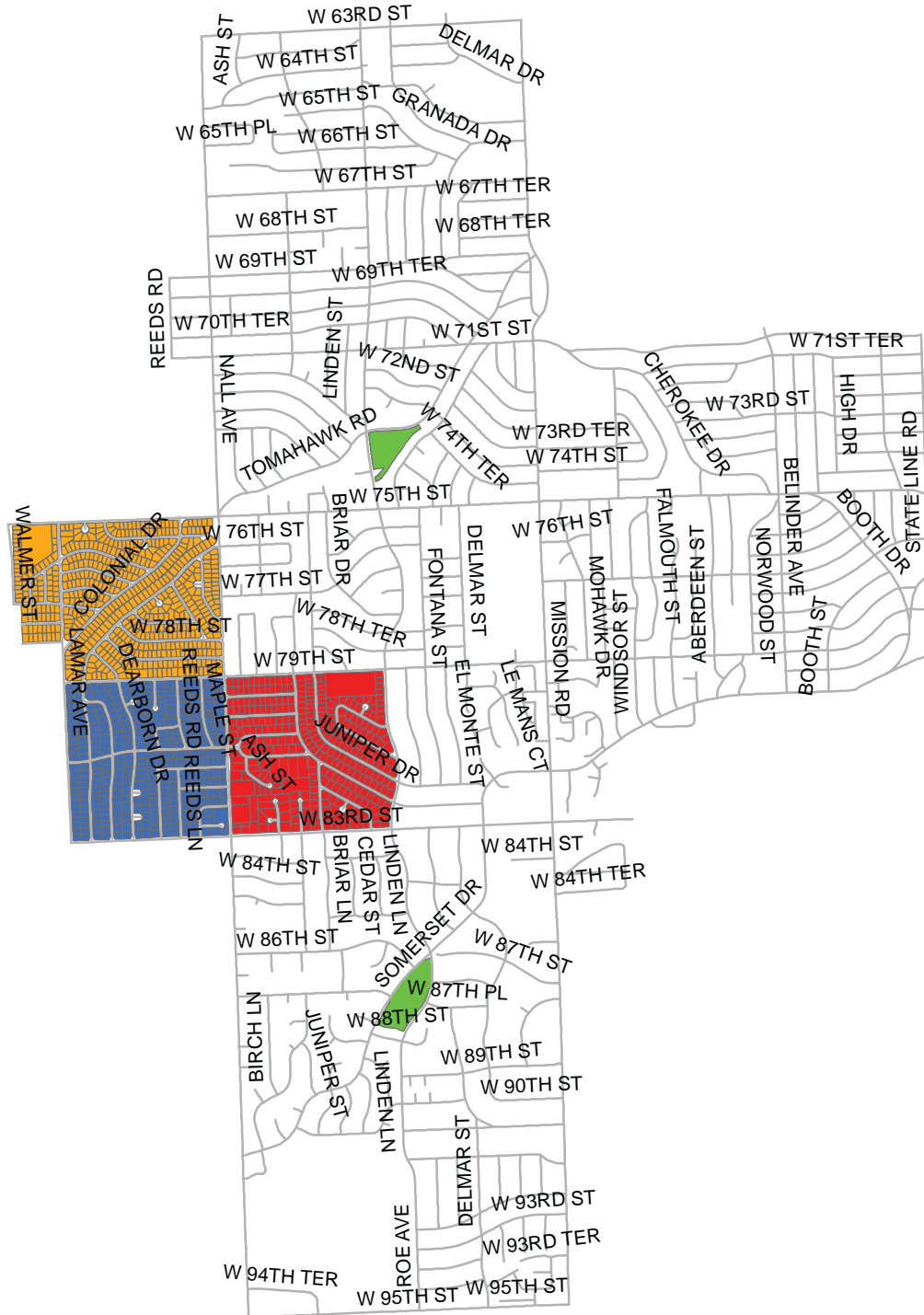
Attached hereto is a Bid Bond for the sum of \$ _____

or


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

Will provide if awarded bid

2017 Tree Trimming



2017 Tree Trimming

-  Area_51
-  Area_52
-  Area_53
-  2017 Parks



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

August 31, 2017



ADMINISTRATION

City Council Date: October 2, 2017
CONSENT AGENDA

Consider Resolution 2017-02 approving the Prairie Village Arts Council State of the Arts Reception as a Special Event and Authorizing the Sale, Consumption and Possession of Alcoholic Liquor and Cereal Malt Beverages within the Designated Public Areas of the Event.

RECOMMENDATION:

Staff recommends that the City Council approve Resolution 2017-02 approving the Prairie Village Arts Council State of the Arts reception to be held October 13, 2017 from 6:00 p.m. to 8:00 p.m. as a special event and authorizing the sale, consumption, and possession of alcoholic liquor and cereal malt beverages within the designated public areas of the event.

DISCUSSION:

Pursuant to KSA 41-719(a)(2) and KSA 41-2645, the Governing Body may approve special events and exempt public streets and sidewalks from the prohibition concerning drinking or consuming alcoholic liquor and cereal malt beverages in public areas, streets and sidewalks.

The Prairie Village Arts Council has secured Embrace the Grape of Kansas LLC as the caterer for the State of the Arts reception. Embrace the Grape has applied for and received the proper license from the State of Kansas to sell alcoholic liquor and cereal malt beverages at the event. Additionally, the caterer has supplied special event insurance in the amount of \$2,000,000 with the City of Prairie Village as a certificate holder.

ATTACHMENTS:

Resolution 2017-02
Special Event Permit
Embrace the Grape Liquor License
Embrace the Grape COI

PREPARED BY:

Meghan Boom
Deputy City Clerk

Date: September 27, 2017

RESOLUTION 2017-02

WHEREAS, the Prairie Village Arts Council is a non-profit organization promoting the arts in Prairie Village through regular monthly art exhibits at the R. G. Endres Art Gallery located at 7700 Mission Road;

WHEREAS, the Arts Council hosts the State of the Arts reception on the second Friday in October of each year between the hours 6:00 to 8:00 p.m. and desires to sell alcoholic liquor and cereal malt beverages on the following date: October 13, 2017;

WHEREAS, the Governing Body may approve special events and exempt public areas, streets and sidewalks from the prohibitions concerning drinking or consuming of alcoholic liquor and cereal malt beverages in public areas, streets and sidewalks;

WHEREAS, the Prairie Village Arts Council has secured a caterer with the appropriate license from the State of Kansas to sell alcoholic liquor and cereal beverages in accordance with all applicable state laws and municipal ordinances in the area designated by the Division of Alcoholic Beverage Control within the enclosed designated area during the event;

THEREFORE, BE IT RESOLVED that Prairie Village Arts Council State of the Arts reception is hereby designated as a special event and authorization is given by the Governing Body of the City of Prairie Village for the consumption of alcoholic liquor and cereal malt beverages during the specified date and time at 7700 Mission Road.

ADOPTED BY THE GOVERNING BODY ON OCTOBER 2, 2017.

Mayor Laura Wassmer

ATTEST:

Joyce Hagen Mundy, City Clerk

Account Information

Account Number 021471128900F01
Account Status Active

Licensee Information

License# 12001520701
Licensee DBA Name EMBRACE THE GRAPE OF KANSAS LLC
Contact Person Name Jane Monroe
Email Address events@embracecatering.com
Business Phone#
Phone# 816-260-6498
Does this event have a sponsor? Yes No

Event Information

Event Title State of the Arts - Arts Council
Event Date 10/13/2017
Begin Time 6:00 PM
End Time 8:00 PM
Approximate Attendance 200
Address Line 1 7700 MISSION RD
Address Line 2
City PRAIRIE VILLAGE
County Johnson
Zip 66208

Reason For Late Notice

If request is submitted less than 10 days
in advance of the event date.

After submitting this application please print this notification, including the Catered Event ID and the Diagram. These documents must be posted at the entrance of your event. Caterers must ensure that patrons do not remove alcoholic beverages from the boundaries of the event area. ABC suggests a physical boundary to help prevent this. Note: If your event is on public streets, alleys, roads, sidewalks or highways you must obtain a copy of the city ordinance or county resolution for the event. The Catered Event ID will appear with the application status after submitting this application.

Diagram of the premises where the Catered Event will take place, clearly marking the boundaries of the event area.

Event Diagram [Diagram - PV City Hall.pdf](#)

Will this event be held on public streets, alleys, roads, sidewalks,
or highways?

Yes No

**Kansas Alcoholic Beverage Control Division
Liquor License**

Caterer

OWNER NAME: **Embrace the Grape of Kansas LLC**
DBA: **Embrace the Grape**
ADDRESS: **195 Southwest Boulevard J174**
Kansas City, KS 66103

LICENSE NO: 12001520701

The licensee named above has been granted a liquor license by the Kansas Department of Revenue, Alcoholic Beverage Control Division. This license is neither transferable nor assignable and is subject to suspension or revocation.

PRIVILEGES:

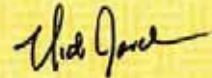
Allows the licensee to sell and serve alcoholic liquor for consumption on unlicensed premises and other activities as authorized by K.S.A. 41-2643.

AGREEMENT:

By accepting this license, the licensee agrees to conduct business in compliance with all applicable federal, state, county and city statutes and regulations.



Debbi Beavers
Interim Director, Alcoholic Beverage Control



Nick Jordan
Secretary of Revenue

EFFECTIVE: 10/13/2016

EXPIRES: 10/12/2018

THIS LICENSE MUST BE FRAMED AND POSTED ON THE PREMISES IN A CONSPICUOUS PLACE

IMPORTANT INFORMATION

Contact the ABC Licensing Unit at 785-296-7015 or email abc.licensing@kdor.ks.gov if you have any:

- questions regarding this license
- changes to your business name, location, ownership or officers
- questions about filing gallonage tax; if applicable

Contact your local ABC Enforcement Agent at 785-296-7015 or visit our website at <http://www.ksrevenue.org/abccontact.html>

Contact the Miscellaneous Tax Segment at 785-368-8222 or email miscellaneous.tax@kdor.ks.gov if you:

- need assistance with liquor drink or liquor enforcement taxes
- have questions about liquor drink tax bonds, bond relief or bond release

CLOSING YOUR BUSINESS

If you are closing your business, you must surrender your liquor license and complete the information on the back of the license



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

09/04/2017

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER J Silver Agency Inc-Allstate 676 SE Bayberry lane Ste 103C Lee's Summit, MO 64063	CONTACT NAME: Jeff Silver PHONE (A/C, No, Ext): 816-524-5900 E-MAIL ADDRESS:	FAX (A/C, No): 816-524-1975
	INSURER(S) AFFORDING COVERAGE	
INSURED Embrace The Grape, LLC 301 NW Central St Ste J Lee's Summit, MO 64063	INSURER A: United States Liability Insurance Co	
	INSURER B: Illinois Union Insurance Co	
	INSURER C: Missouri Employers Mutual Ins. Co	
	INSURER D:	
	INSURER E:	
	INSURER F:	

COVERAGES**CERTIFICATE NUMBER:****REVISION NUMBER:**

THIS IS TO CERTIFY THAT 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. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADD'L SUBR: INSD WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	<input checked="" type="checkbox"/>	CP1577247	06/01/2017	06/01/2018	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 - COM/OP AGG \$2,000,000 \$
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS					COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
B	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED: RETENTION \$:	<input checked="" type="checkbox"/>	LL89000Q2017	06/12/2017	06/12/2018	EACH OCCURRENCE \$1,000,000 AGGREGATE \$2,000,000 \$
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N <input checked="" type="checkbox"/> N N/A	2024586-00	02/01/2017	02/01/2018	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$100,000 E.L. DISEASE - EA EMPLOYEE \$500,000 E.L. DISEASE - POLICY LIMIT \$100,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Certificate holder is an additional insured.

CERTIFICATE HOLDER**CANCELLATION**

The City of Prairie Village, KS
 7700 Mission RD
 Prairie Village, KS 66208

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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Council Meeting Date: October 2, 2017
Consent Agenda

Consider appointment of City Prosecutor and Pro-Tem City Prosecutor

RECOMMENDATION

Ratification of Mayor's appointment of the City Prosecutor, Ashley Repp and approval of Pro Tem City Prosecutor, Gerald "Jerry" Merrill.

BACKGROUND

After eight years of loyal service as City Prosecutor, Debra Vermillion has taken a full time position with the City of Shawnee and has asked to terminate her contract.

Under the terms of the Municipal Code, this position is a Mayoral appointment for two-year term with the compensation fixed by agreement. Ashley Repp has served as Pro Tem City Prosecutor and has successfully completed the interview process and would serve as City Prosecutor from October 12, 2017 to the end of the original contract term of June 30, 2019.

Jerry Merrill successfully completed the interview process and has agreed to serve as Pro Tem City Prosecutor. Under the terms of the Prosecutor contract, this position is to be approved by the City.

FUNDING SOURCE

The Municipal Court budgets annually for prosecutor services. The proposed contract would cost \$1,800 per month and \$130 per hour for any appeal services.

ATTACHMENTS

Résumés
City Prosecutor Contract

PREPARED BY

Deana Scott
Court Administrator

Date: October 2, 2017

Ashley Elizabeth Repp

EXPERIENCE

City of Gardner, Kansas

120 E. Main St., Gardner, KS 66030

City Prosecutor, May 2016-Present

Duties: I am the city prosecutor for the city of Gardner. We have court three times a month in the evenings and I represent the city of Gardner on all their traffic and misdemeanor related offenses.

Mark Ferguson's Law office

1919 Buchanan, North Kansas City, MO 64116

Associate Attorney, June 2013-Present

Supervisor: Mark Ferguson (816) 221-1750

Duties: The majority of my caseload is criminal cases. I prepare and handle a wide range of different types of criminal cases from meeting with clients; to going to court; to preparing a defense for trial.

University of Phoenix

1310 E. 104th Street, Suite 100, Kansas City, MO 64151

Faculty, June 2011-January, 2017

Supervisor: Vernon Fields (816) 204-2123 (may contact)

Duties: Teach classes related to the criminal justice program as well as any classes in the area of law.

Clay County Prosecutor's Office

11 South Water Street, Liberty, MO 64068

Assistant Prosecuting Attorney, September 2011- June 2013

Supervisor: Dawn Schaag (816) 736-8300 (may contact)

Duties: I handled a range of felony and misd cases as they were referred to our office. I specialized in sex crimes and handled all aspects of cases dealing with sex crimes and child pornography. I prepared and handled a range of jury trials and bench trials. I also have a good working relationship with law enforcement and the defense bar.

Platte County Prosecutor's Office

415 Third Street, Platte City, MO 64079

Assistant Prosecuting Attorney, May 2008 – September 2011

Supervisor: Mark Gibson (816) 858-3476 (may contact)

Duties: Specialized in Driving While Intoxicated cases and traffic cases. I covered the DWI docket every week and was a founding member of the Platte County DWI Court Team. I also handled a range of other felony charges as they were referred to our office. I was also the intern coordinator for the entire office.

John O'Connor of Counsel with Wagstraff & Cartmell, Kansas City, Missouri

4740 Grand Ave, Kansas City, MO 64112

Legal Intern, May 2007 – May 2008

Supervisor: John O'Connor (816) 701-1100 (may contact)

Duties: Helped with trial and hearing preparations and participated in client meetings. Also drafted motions and completed research as needed for criminal defense cases.

UMKC, Law School

500 E. 52nd, Kansas City, MO 64110

Academic Enrichment Head Leader, August 2007-May 2008

Supervisor: Professor Daniel Weddle (816) 235-5654 (may contact)

Duties: Helped organize the Academic Enrichment Program with Professor Dan Weddle and audited other teaching assistants classes

Missouri Attorney General
207 West High Street, P.O. Box 899, Jefferson City, MO 65102

Law Clerk, Summer 2006

Department: Litigation (573) 751-3321 (may contact)

Duties: Completed research for civil litigation matters and prepared memorandums. Also assisted in drafting pleadings, including discovery motions and motions to dismiss

UMKC, Law School
500 E. 52nd, Kansas City, MO 64110

Structured Study Leader (T.A.), August 2006-May 2007

Supervisor: Professor Daniel Weddle (816) 235-5654 (may contact)

Duties: Write and teach weekly lesson plans corresponding to a first year Contracts course and a first year Constitutional Law course

Glenn Bradford & Associates, P.C.
1150 Grand Blvd #230, Kansas City, MO 64106

Law Clerk, August 2006-May 2007

Supervisor: Glenn Bradford (816) 283-0400 (may contact)

Duties: Completed research as needed for defense of criminal and professional licensing litigation

Harlan, Harlan, & Still
307 Locust St., Columbia, MO 65201

Administrative Assistant, 2002-2003

Supervisor: Tim Harlan (573) 874-2402 (may contact)

Duties: Performed initial interviews with potential clients and maintained client litigation files

EDUCATION

May 2008

J.D., University of Missouri-Kansas City, MO

Activities- Dean's List, Moot Court-Chief Justice, Association of Women Law Students, 2006-07-Secretary, 2007-2008-President, Christian Legal Society, Vice-President, Student Bar Association, American Bar Association

December 2004

B.A., University of Missouri-Columbia, MO

Major: Psychology

Minor: Sociology

Honors: Honor College Graduate, Golden Key International Honor Society Member

May 2001

High School Diploma: Jefferson City High School-Jefferson City, MO

MERRILL LAW FIRM

LICENSED IN MISSOURI & KANSAS

JERRY MERRILL
ATTORNEY AT LAW

7211 W 98TH TERRACE
BUILDING 4, SUITE 140
OVERLAND PARK, KS 66212

PHONE: 913.381.2085
FACSIMILE: 913.341.1130
EMAIL: JERRY@MERRILL.LAW

RESUME

RELEVANT EXPERIENCE

City of Edgerton Edgerton, KS

Prosecutor, February 2014-Present

- Prosecute misdemeanors, traffic and other ordinance violations occurring within Edgerton, KS.

Merrill Law Firm Overland Park, KS

Owner, October 2013 - Present

- Operate a solo law practice focused on criminal litigation in municipal and state courts in Kansas.

Johnson County District Attorney's Office Olathe, KS

Assistant District Attorney, November 2009-September 2013

Legal Intern, May 2007-May 2008

- Prosecuted misdemeanor and felony cases to trial in the Johnson County District Courts.
- Drafted legal pleadings, motions and briefs for criminal proceedings.
- Advised law enforcement officers on questions of law.

Kitsap County Superior Court Port Orchard, WA

Judicial Law Clerk, July 2008-November 2009

- Performed legal research for Superior Court Judges concerning questions of law and legal processes.
- Prepared written and oral summaries and recommendations for Superior Court Judges for motions pertaining to complex litigation.
- Researched, analyzed, and drafted written opinions for Superior Court Judges.

Office of the Public Defender -- State of Missouri Kansas City, MO

Legal Intern, Summer 2006

- Researched and drafted motions, briefs, and memorandums.
- Provided support for and participated in depositions.
- Conducted client and witness interviews and investigations in preparation for litigation.

EDUCATION

University of Missouri -- Kansas City School of Law Kansas City, MO

Juris Doctor, 2008

Missouri Western State University Saint Joseph, MO

Bachelor of Science, 2005

OTHER NOTES

- In the last 12 months I have served as a pro tem prosecutor for the cities of Shawnee, Louisburg, Spring Hill, and Gardner as well as a Special Prosecutor in Linn County.
- Publication: Jerry Merrill, *The Past, Present & Future of Lethal Injection: Baze v. Rees' Effect on the Death Penalty*, 77 UMKC L. Rev. 161 (Fall 2008).
- UMKC Law Review, Senior Staff Member, 2006-2008

PROFESSIONAL SERVICES AGREEMENT
CITY PROSECUTOR CONTRACT

This CITY PROSECUTOR CONTRACT (“Contract”), made and entered into this ___ day of October, 2017, by and between Ashley Repp (the “Contractor”) and the City of Prairie Village, a Kansas municipal corporation (the “City”).

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

1. Scope of Work.

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

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

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

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

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

3. License. The Contractor shall at all times hold an unrestricted license to practice law in the State of Kansas. The Contractor shall give all notices and comply with all laws, ordinances, rules, regulations and lawful orders of any public authority bearing on the performance of the Work.

4. Indemnification. The Contractor shall appear, defend, indemnify and hold harmless the City, members of the City’s governing body, its officers, agents,

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

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

6. Insurance. The Contractor shall purchase and maintain professional liability insurance in minimum amounts of two hundred fifty thousand dollars (\$250,000.00) per specific claim and seven hundred fifty thousand dollars (\$750,000.00) per aggregate claim per occurrence. If required by the City, Certificates of Insurance acceptable to the City shall be filed with the City at all times while this Contract is in effect. The Certificates shall contain a provision stating that coverage is supported and that the policies will not expire, be canceled or changed until all Work has been completed and accepted by the City.

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

8. Contract Term. The term of this Contract will commence on October 12, 2017, and continue through June 30, 2019.

9. Termination. If the Contractor fails to adequately perform the services or is otherwise determined by the City to have committed misconduct, City may immediately terminate this Contract by written notice to Contractor. Either party may terminate this Contract at any time, without cause, subject to an obligation to give notice in writing to the other party at least sixty (60) days' prior to termination. Termination is effective sixty (60) days from the date of the written notice unless otherwise specified therein. Notwithstanding the termination, the City will remain obligated to pay the Contractor all fees incurred prior thereto. If the Contractor fails to adequately perform the services, City may immediately terminate this Contract by written notice to Contractor.

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

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

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

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

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

CITY OF PRAIRIE VILLAGE, KANSAS

By: _____
Laura Wassmer, Mayor

Attest:

Joyce Hagen Mundy, City Clerk

Approved as to form:

Catherine P. Logan, City Attorney

CONTRACTOR

Ashley Repp

EXHIBIT A

SCOPE OF WORK & CONTRACT RATE

1. The Contractor shall serve as the City Prosecutor for the City of Prairie Village, Kansas. The Contractor's primary responsibilities shall include, but are not limited to, prosecution of misdemeanors, traffic violations that occur within the City and violations of Prairie Village City Ordinances.
2. The Contractor shall render to the best of its abilities, in accordance with applicable professional standards, the services, legal representation and advice described herein during the continuance of this Contract.
3. The Contractor agrees to faithfully represent the interests of the City in carrying out her duties as City Prosecutor and in accordance with established prosecution standards and policies.
4. The Contractor's services shall include attendance at hearings to represent the City of Prairie Village as City Prosecutor in the Municipal Court and preparation for such hearings. Hearing, trial, arraignment and plea dockets will be as specified by the City from time to time and will be held in the council chambers at City Hall.
5. The Contractor will be compensated \$1,800.00 per month for the period October 12, 2017 through June 30, 2019 for prosecution services described in paragraph 4 above.
6. The Contractor shall also be required to continue its representation of the City when a case is appealed to the Johnson County District Court. The Contractor may also be requested from time to time to provide legal advice to the police department not involving the prosecution of individual cases. The Contractor shall be compensated at an hourly rate of \$130.00 for such appeal work.
7. The Contractor shall be responsible for arranging for substitute counsel when unable, for any reason, to appear in Court. Substitute counsel shall not be used routinely. Generally, substitute counsel shall be used only when the Contractor cannot serve as City Prosecutor because of illness or prior legal commitment in another Court. The Contractor shall provide the City and the City Attorney with a list of the name(s), address(es), telephone number(s), Kansas Bar number(s), and professional resumes of substitute counsel who will be responsible for providing City Prosecutor services. All substitute counsel on such list must be approved by the City in advance. All services performed by substitute counsel shall be the sole responsibility of the Contractor, including matters of compensation due and payable to substitute counsel for work performed.



POLICE DEPARTMENT

Committee Meeting Date: October 2, 2017

COU2017-40

Consider Amendments to Chapter II. Animal Control and Regulation - Article 1.

RECOMMENDATION

Staff recommends the City Council approve proposed amendments to Chapter II Ordinances governing Animal Control and Regulation.

COUNCIL ACTION REQUESTED ON:

October 2, 2017

BACKGROUND

The Police Department, in collaboration with the City Council, decided to amend and change portions of the animal control and regulation ordinance. In addition to general language clean up and reorganization as recommended by the City Attorney and City Prosecutor, two substantive changes were added; a new classification for potentially dangerous and vicious animals and the mechanism for an animal to be declared potentially dangerous, dangerous, or vicious is now being recommended to be handled through Municipal Court. The Department feels the changes will not only improve the ordinance, but also be more operationally effective for animal control personnel.

The Governing Body has discussed these changes at previous meetings.

PREPARED BY

Tim M. Schwartzkopf
Chief of Police

Date: September 26, 2017

Attachment

CHAPTER II. ANIMAL CONTROL AND REGULATION

ARTICLE 1. GENERAL PROVISIONS

2-101 PURPOSE

The purpose of this Chapter is to promote harmonious relationships in the interaction between humans and animals by:

- a) Protecting animals from improper use, abuse, neglect, exploitation, inhumane treatment and health hazards;
- b) Delineating the responsibility of persons for the acts and behavior of such persons' animals at all times;
- c) Providing regulations that foster a reduced risk to residents from annoyance, intimidation, injury and health hazards by animals; and
- d) Encouraging responsible pet ownership.

2-102 DEFINITIONS

- a) Abandon includes the leaving of an animal by the person responsible therefor without making effective provisions for its proper care.
- b) Adequate care means normal and prudent attention to the needs of an animal, including that care which is normally necessary to maintain good health in a specific animal.
- c) Adequate food means supplying at suitable intervals (not to exceed 24 hours) of a quantity of food suitable and sufficient to maintain reasonable level of nutrition for each animal.
- d) Adequate health care means the provision to each healthy animal of all immunizations and preventative care required to maintain good health, space adequate to allow the animal rest and exercise sufficient to maintain good health, and the provision to each sick, diseased, or injured animal of necessary veterinary care or humane death.
- e) Adequate shelter means a structurally sound, properly ventilated, sanitary and weatherproof shelter which provides access to shade from direct sunlight and regress from exposure to inclement weather conditions.
- f) Adequate water means a continual access to a supply of clean, fresh, potable water provided in a sanitary manner.
- g) ~~b)~~ Animal is any living creature, other than humans.
- h) ~~e)~~ Animal bite is any contact between an animal's mouth, teeth, or appendages and the skin of a bite victim that causes any visible puncture, scratch, ~~or break or abrasion~~ to the skin.
- i) ~~e)~~ Animal control officer is a duly authorized person employed by the City who is charged with the duties of enforcing this Chapter and/or related ordinances.
- j) ~~e)~~ At-large is to be off the property of the person responsible for an animal, except when the animal is taken off such person's property on a leash, in a cage, or other conveyance.
- k) ~~f)~~ City is a reference to the City of Prairie Village, Kansas and its corporate limits.
- l) ~~e)~~ Confined to the premises means confined or restricted either inside the residential structure of the person responsible for an animal; or if outside the residential structure, confined or restricted to the backyard of the premises fenced in a manner that prohibits escape, or by being physically restrained on a chain or leash or other proper method of physical restraint from which the animal cannot escape.
- m) ~~h)~~ Dangerous wild animal means any animal, which is wild by nature and ~~of~~ of a species which, due to size, vicious nature or other characteristics, would constitute a danger to human life, physical well-being, or property, including but not limited to lions, tigers,

leopards, panthers, bears, wolves, wolf hybrids, apes, gorillas, monkeys of a species whose average adult weight is 20 pounds or more, foxes, elephants, alligators, crocodiles, and animals which are venomous and/or poisonous, and any animals which could otherwise present a risk or serious physical harm or death to human beings as a result of their nature or physical makeup, including all constrictors.

- n) ~~h) Dangerous eat-or-dog-animal means a eat-or-dog-an-animal which:~~
- 1) When unprovoked, aggressively bites, attacks or endangers the safety of humans or domestic animals;
 - 2) When unprovoked, has a known propensity, tendency or disposition to attack, cause injury to, or otherwise threaten the safety of human beings or domestic animals; ~~or~~
 - 3) Has been found to be potentially dangerous and after the person responsible therefor has notice that the eat-or-dog-animal is potentially dangerous, the eat-or-dog-animal aggressively bites, attacks or endangers the safety of humans or domestic animals; or
 - 4) Is owned, harbored, sheltered, kept, controlled, managed, or possessed primarily or in part for the purpose of fighting or is trained for fighting.
- h) Domesticated cat or dog is a cat or dog that tends to possess reliability of temperament, tractability, docility, predictability and trainability, and has adapted to life among humans.
- i) Impound means taking any animal into the confinement, care, or custody of the City.
- j) Municipal Court means the Municipal Court of the City.
- k) Person is any natural person, association, firm, partnership, organization, or corporation.
- l) Person responsible (for an animal) includes any person which owns, harbors, shelters, keeps, controls, manages, possesses, or has a part interest in any animal. An occupant of any premises on which a dog or cat remains or customarily returns is a person responsible for it under this Chapter. There may be more than one (1) person responsible for an animal. Any person keeping any animal in the City for three (3) consecutive days shall be conclusively presumed to be the person responsible for such animal.
- m) Potentially dangerous eat-or-dog-animal means any eat-or-dog-animal which, when unprovoked:
- 1) Inflicts bites on a human or domestic animal either on public or private property; or
 - ~~2) Chases or approaches a person upon the streets, sidewalks, or any public grounds in a menacing fashion or apparent attitude of attack; or~~
 - ~~3) any cat or dog-2) any animal~~ with a known propensity, tendency, or disposition to attack unprovoked, to cause injury, or otherwise to threaten the safety of humans or domestic animals.
- ~~n) Service / work animal is any guide animal, signal animal or other animal that is individually trained to do and is doing the work of performing tasks for the benefit of an individual with a disability, or a dog that is utilized by law enforcement personnel.~~
- n) ~~e) Unprovoked means that the person or domestic animal approached, chased, bitten or attacked:~~
- 1) Did not mischievously or carelessly provoke or aggravate the eat-or-dog-animal;
 - 2) Was not committing a willful trespass or other tort upon the premises occupied by the person responsible for the eat-or-dog-animal;
 - 3) Was not tormenting, abusing, assaulting or attacking the eat-or-dog-animal;

Comment [c11]: Moved definition to 2-113

- 4) Has not in the past been observed or reported to have tormented, abused assaulted or attacked the ~~cat or dog animal~~; or
- 5) Was not committing or attempting to commit a crime.

p) ~~Vicious~~ ~~cat or dog animal~~ means ~~a cat or dog-an animal~~ which has:

- 1) When unprovoked, has inflicted a vicious bite to any person or domestic animal on public or private property;
- 2) When unprovoked, has killed a domestic animal while off the property of the person responsible for such vicious ~~cat or dog animal~~; or
- 3) Been declared to be dangerous and after the person responsible therefor has notice that the ~~cat or dog animal~~ has been declared dangerous, the ~~cat or dog animal~~ aggressively bites, attacks or endangers the safety of humans or domestic animals.

p) ~~Vicious bite~~ is any attack by any animal, which results in serious physical injury or death to a human and/or other domestic animal in which the attacking animal uses its teeth and/or claws.

2-103 KEEPING OF LIVESTOCK, POULTRY AND FOWL PROHIBITED

- a) It shall be unlawful for any person to own, harbor, shelter, keep, control, manage, or possess livestock, poultry or fowl on any premises within the City and no special or temporary permit will be issued for these. For the purpose of this section, livestock, poultry, and fowl include, but are not limited to: cows, pigs, horses, donkeys, mules, sheep, goats, chickens, ducks, geese, guinea fowl, peacocks, pigeons, swans and those animals considered miniature or pygmy breeds, e.g., pot-bellied pigs, miniature donkeys, miniature horses, and pygmy goats.
- b) The following persons or organization shall be allowed to own, harbor, shelter, keep, control, manage, or possess any livestock, poultry and fowl:
 - 1. The keeping of such animals in zoos, bona fide educational or medical institutions, museums or any other place where there are kept live specimens for the public to view or for the purpose of instruction or study;
 - 2. The keeping of such animals for exhibition to the public of such animals by a circus, carnival or other exhibit or show;
 - 3. The keeping of such animals in a bona fide, licensed veterinary hospital for treatment; and
 - 4. Commercial establishments processing such animals for the purpose of sale or display.

2-104 KEEPING OF DANGEROUS WILD ANIMALS PROHIBITED

- a) No person shall keep or permit to be kept on such person's premises any dangerous wild animals for display or for exhibition purposes whether gratuitously or for a fee. This section will not be construed to apply to zoological parks, performing animal exhibits or circuses, bonafide licensed veterinary hospital for treatment, bonafide educational o medical institutions, museums or any other place where they are kept as live exhibits or for study.
- b) No person shall keep or permit to be kept any dangerous wild animal as a pet.

2-105 PIT BULL DOG – KEEPING PROHIBITED

It shall be unlawful to own, harbor, shelter, keep, control, manage, or possess within the corporate limits of the City, any pit bull dog. Pit bull dog for the purposes of this Chapter shall include:

- a) The Staffordshire Bull Terrier breed of dog;

- b) The American Pit Bull Terrier breed of dog;
- c) The American Staffordshire Terrier breed of dog, or
- d) Any dog having the appearance and characteristics of being predominately of the breeds of Staffordshire pit bull terrier, American pit bull terrier, American Staffordshire bull terrier; or a combination of any of these breeds.

2-106 POTENTIALLY DANGEROUS, DANGEROUS AND VICIOUS ~~CATS OR DOGS~~ANIMALS

a) Determination.

1. In the event that the animal control officer or a law enforcement officer has probable cause to believe that ~~a cat or dog~~ an animal is potentially dangerous, dangerous or vicious, as defined in Section 2-102, such officer may petition the Municipal Court to set a hearing for the purpose of determining whether or not the ~~cat or dog~~ animal in question should be declared potentially dangerous, dangerous or vicious. Whenever possible, any complaint received from a member of the public which serves as the evidentiary basis to support a finding of probable cause shall be made by declaration under penalty of perjury by the complainant in the manner provided by K.S.A. 53-601, and shall be attached to the petition. The Municipal Court, upon the finding of probable cause, shall notify the person responsible for the ~~cat or dog~~ animal, personally or by certified mail, and the animal control officer or law enforcement officer and City Prosecutor, by best means possible, that a hearing will be held within fourteen (14) days, at which time the person responsible may present evidence to the Municipal Court as to why the ~~cat or dog~~ animal should not be declared potentially dangerous, dangerous or vicious.
2. The failure of the person responsible to attend or participate in the hearing shall not prevent the Municipal Court from hearing evidence in the matter and making a determination whether the ~~cat or dog~~ animal is potentially dangerous, dangerous or vicious as alleged, or from entering further orders pursuant to such finding. The hearing shall be informal and shall be open to the public.
3. The Municipal Court, after considering the evidence, may issue its determination and order declaring the animal to be potentially dangerous, dangerous or vicious based upon such evidence. The order shall be delivered to the person responsible either personally or by first class mail. If a determination is made that the ~~cat or dog~~ animal is potentially dangerous, dangerous or vicious, the person responsible shall comply with the provisions of this Chapter as directed by the Municipal Court in accordance with a time table established by the Municipal Court, within thirty (30) days after the date of the determination. If the person responsible for the ~~cat or dog~~ animal contests the determination, he or she may within ten (10) days, exclusive of Saturdays, Sundays and holidays, of such determination appeal to the district court.
4. In the event that pending the determination by the Municipal Court and/or in any appeals taken, the animal is not restrained, and the animal control officer or law enforcement officer has probable cause to believe that the ~~cat or dog~~ animal in question may pose a threat of serious harm to human beings or other domestic animals, the animal control officer or law enforcement officer may seize and impound the ~~cat or dog~~ animal pending the aforesaid Municipal Court determination and/or the determination in any appeals taken. Upon the Municipal Court's determination that the impounded ~~cat or dog~~ animal is potentially dangerous, dangerous or vicious, the person responsible for the ~~cat or dog~~

animal shall be liable to the City for the costs and expenses of impounding such cat or dog animal.

- b) Control of Potentially Dangerous and Dangerous Cats or Dogs. If the Municipal Court determines that a cat or dog-an animal is potentially dangerous or dangerous, the person responsible for such animal shall comply with the requirements of sections 2-107, 2-109 and 2-117 through 2-121 of this Chapter.
- c) Disposition of Vicious Cat or Dogs Animals. If the Municipal Court determines that a cat or dog-an animal is vicious, the Municipal Court shall order that the cat or dog-animal be euthanized or that the person responsible for such cat or dog-animal remove the cat or dog-animal from the City limits and shall provide the Municipal Court with the exact location, address, and contact information for the new person responsible where the cat or dog-animal has been moved. The Municipal Court shall notify the receiving jurisdiction that the animal has been determined to be a vicious cat or dog-animal. The cat or dog-animal shall not be returned to the City limits after removal. It shall be unlawful for the person responsible for a vicious cat or dog-animal to maintain such animal in violation of the Municipal Court's order and this section.
- d) Dangerous and Potentially Dangerous Cat or Dog-Animal Designation Review. Beginning one (1) year after a cat or dog-an animal is declared potentially dangerous or dangerous, a person responsible therefor may petition annually that the Municipal Court review the designation by requesting a review hearing in the Municipal Court. If a petition for a review hearing is filed, the Municipal court shall notify the person responsible for the cat or dog-animal, personally or by certified mail, and the animal control officer or law enforcement officer and City Prosecutor, by best means possible, that a hearing will be held within fourteen (14) days, at which time the person responsible must provide evidence that the cat or dog-animal is no longer potentially dangerous or dangerous due to the cat or dog's-animal's age, neutering, environment, completion of obedience training that includes modification of aggressive behavior, or other factors. The City Prosecutor may present evidence as well. The hearing shall be informal and shall be open to the public. If the Municipal Court finds sufficient evidence that the cat or dog's-animal's behavior has changed, the Municipal Court may rescind that potentially dangerous or dangerous cat or dog-animal designation.

2-107 POTENTIALLY DANGEROUS OR DANGEROUS CAT OR DOG-ANIMAL PERMIT REQUIRED

- a) Any person who owns, harbors, shelters, keeps, controls, manages, or possesses, within the City, any cat or dog-animal which has been declared to be potentially dangerous or dangerous by the Municipal Court of the City, or any other jurisdiction, shall secure and a-renew an annual potentially dangerous or dangerous cat or dog-animal permit in accordance with this Chapter and comply with all terms and conditions this Chapter to maintaining such permit.
- b) Failure to obtain and maintain a potentially dangerous or dangerous cat or dog-animal permit as required by subsection (a) shall be adequate grounds for the animal control officer to impound the animal until a permit is obtained.

2-108 EXEMPTIONS

The provisions of this Chapter shall not apply to the transportation of prohibited animals or potentially dangerous, dangerous or vicious cats or dogs through his City when such transport has taken adequate safeguards to protect the public and has notified the local law enforcement agency of the proposed route of transportation and the time thereof.

2-109 HARBORING OR KEEPING OF PERMITTED ANIMALS

- a) No person shall own, harbor, shelter, keep, control, manage, or possess, within the City, any potentially dangerous or dangerous ~~cat or dog~~ animal, or any safe animal including the domestic ~~cat or~~ dog (canis familiaris) and the domestic cat (felis domesticus), without obtaining permits and licenses required under this Chapter. The following animals are the only animals allowed without a permit or license:
 1. Gerbils (Tateriltus gracillio);
 2. Hamsters (Critecus critecus);
 3. Rabbits (Lepus Cunicullus);
 4. Domestic Mice (Mus musculus);
 5. Domestic Rat (Rattus norvegicus),
 6. Any animal, usually tame and commonly sold at pet stores, including: Ferrets (Mustela furo), Chinchillas (Chinchillidae), Canaries (Serinus canaria), Cockatoos, Macaws, Parakeets, and Parrots (Psittacines), and
 7. Bees, subject to Section 2-140.
- b) Any person who owns, harbors, shelters, keeps, controls, manages, or possesses, within the City, any animal without a permit, except as exempted by this section, shall be charged with a misdemeanor and upon conviction thereof, shall be subject to the penalties in section ~~2-141-2-143~~. This shall include instances where any person owns, harbors, shelters, keeps, controls, manages, or possesses, within the City, an animal which has been declared by another municipality to be potentially dangerous or dangerous, or similar designation.

2-110 REGISTRATION – TAGS

The person responsible for any cat or dog present in the City shall cause the same to be registered at the office of the City Clerk. The registration shall contain the name, address and phone number of the person responsible for such animal, the animal's breed, name, sex, whether neutered, color and description and such other information as may be deemed necessary by the City Clerk. Subject to the provisions of section 2-114, the City Clerk or authorized assistant shall upon payment of the license fee as provided in section 2-111, issue a permanent tag, bearing a number and Prairie Village, KS.

2-111 LICENSE FEE – DESIGNATED

- a) In addition to any permit fees required by this Chapter, there is levied and imposed an annual license fee upon the person responsible for each cat or dog of the age of over six months, attaining such age during the license year. The license fee shall be adopted by the Governing Body and the amount of the fee will be kept on record in the office of the City Clerk.
- b) The license year shall be for a twelve (12) month period commencing on the date the animal is first licensed. The license is valid for one year from issuance of license or until the expiration of rabies vaccination whichever is greater. The fee shall be payable within 60 days of the expiration of the license. An animal for which a licensed fee is required as set forth in this section; over six months of age should be licensed within thirty days of being brought into the City or attaining six months of age.

2-112 LICENSE FEE – OVERDUE

- a) If the license fee required in section 2-111 is not paid within the time provided in this section, penalties will apply in addition to the normal license fee. The amount and dates penalty will be charged shall be adopted by the Governing Body and on record in the Office of the City Clerk.

- b) After 60 days after the due date, if the fee imposed and required to be paid by section 2-111 remains unpaid, the City Prosecutor may issue a complaint against the person responsible for violation of section 2-111.

2-113 LICENSE FEE – EXEMPTIONS

Any person who owns, harbors, shelters, keeps, controls, manages, or possesses, within the City, a ~~service/work animal dog~~ which is a “service animal” as defined by the Americans with Disabilities Act, 42 U.S.C. 12101 *et seq.*, or a dog that is utilized by law enforcement personnel, shall be exempt from the license fee payment upon submittal of adequate proof that the animal is ~~fully trained as a service/work animal and is~~ current for the year on its rabies vaccination.

2-114 INOCULATION AGAINST RABIES REQUIRED

- a) No City license tag required by this section shall be issued until the person responsible for a cat or dog shall furnish to the City Clerk a current inoculation certificate signed by a registered veterinarian, showing thereon that the cat or dog has been vaccinated against rabies. The inoculation certificate shall be deemed current if it has not expired before the person responsible submits it to the City along with the application for license.
- b) It shall be the responsibility of the person responsible for the cat or dog to ensure that the animal’s inoculation against rabies is maintained throughout the license period.

2-115 ENUMERATION OF ANIMALS

The Governing Body may require the annual enumeration of all cat or dogs present within the City. The enumeration shall account for the number and persons responsible for all cats and dogs.

2-116 LIMITATIONS ON NUMBER OF ANIMALS

No person, residential premises or household within this City shall have, hold, maintain or contain more than a combined total of four dogs and cats over three months of age; provided, however, that in no event shall the combination of dogs or cats exceed three dogs or three cats. Any violation of this section is, upon conviction thereof, a misdemeanor and subject to the penalties provided in this Chapter.

2-117 APPLICATION FOR POTENTIALLY DANGEROUS AND DANGEROUS ~~CAT OR DOG~~ ANIMAL PERMIT

An application for any permit required pursuant to Section 2-107 shall be made to the City Clerk in writing upon a form furnished by the City Clerk. Said application shall be verified by the person who desires to have, keep, maintain or have in his/her possession or under his or her control, in the City, the animal for which a permit is required, and shall set forth the following:

- a) The name, address and telephone number of the applicant.
- b) The applicant’s interest in such animal.
- c) The proposed location, and the name, address and telephone number of the owner of such location, and of the lessee, if any.
- d) The number and general disposition of all animals for which the permit is being sought.
- e) Any information known to the applicant concerning dangerous propensities of said animals.
- f) Housing arrangements for all said animals with particular details as to the safety, structure, locks, fences, warning sign, etc.
- g) Safety precautions proposed to be taken.
- h) Noises or odors anticipated in the keeping of such animals.
- i) The prior history of incidents involving the public health or safety involving any of said animals.

- j) A statement, signed by the applicant, indemnifying the City and its agents and employees for any and all injuries that may result from the animal.
- k) Proof of liability insurance, when a permit is issued in accordance with this Chapter and is for an animal deemed a “dangerous cat” or “dangerous dog”, in the minimum amount of \$300,000 per occurrence covering any damage or injury which may be caused by such dangerous animal shall be required. The City shall be listed as certificate holder, and shall be required to be notified of any cancellation, termination or expiration of the liability insurance policy. The person responsible shall maintain the liability insurance required by this subsection at all times, unless and until the person responsible shall cease to own, harbor, shelter, keep, control, manage, or possess the dangerous ~~cat or dog-animal~~.
- ~~l) A statement, signed by the applicant, indemnifying the City and its agents and employees for any and all injuries that may result from the animal.~~
- l) Any additional information required by the animal control officer or law enforcement officer authorized by the Chief or Police or his or her designee to enforce the provisions of this Chapter at the time of filing such application or thereafter.

Comment [c12]: Repeated j) above

2-118 PROVISIONS AND/OR REQUIREMENTS FOR KEEPING POTENTIALLY DANGEROUS AND DANGEROUS CATS OR DOGS

The keeping of potentially dangerous and dangerous cats and dogs in the City shall be subject to, but not be limited to the following provisions and/or requirements:

- a) Leash and muzzle. An animal that has been declared to be a potentially dangerous or dangerous ~~cat or dog-animal~~ and is kept in this City will be required to be securely leashed and, in the case of dogs which have been declared dangerous, muzzled when it is taken outside of its area of confinement. The leash shall be no longer than four feet in length and under control of an adult capable of exercising control over the animal. The muzzling device must not cause injury to the dog or interfere with its vision or respiration, but shall prevent it from biting any human or animal
- b) Confinement.
 - 1. An animal that has been declared to be a potentially dangerous or dangerous ~~cat or dog-animal~~ shall be securely confined indoors or in a securely enclosed and locked pen or kennel; or in a yard fenced in a manner that prohibits escape, except when leashed and muzzled as above provided. Such pen, kennel or structure must have secure sides and a secure top attached to the sides. All structures used for confinement must be locked with a key or combination lock when such animals are within the structure. All such structures must be adequately lighted and ventilated and kept in a clean and sanitary condition.
 - 2. An animal which has been declared to be a potentially dangerous or dangerous cat shall be securely confined indoors at all times, except when secured on a leash or in a carrier for transport to the veterinarian.
- c) Confinement Indoors. No animal that has been declared to be a potentially dangerous or dangerous ~~cat or dog-animal~~ may be kept on a porch, patio or in any part of a house or structure that would allow the animal to exit such building on its own volition. In addition, no such animal may be kept in a house or structure when the windows are open or when screen windows or screen doors are the only obstacles preventing the animal from exiting the structure.
- d) Signs. All persons responsible for any ~~animal dog~~ that has been declared to be a ~~potentially dangerous or~~ dangerous dog must display in a prominent place on their premises a sign which shall be at least 10 inches by 14 inches using the words “Beware of Dog” in at least two-inch block letters. In addition, a similar sign is required to be

posted on the kennel or pen of such animal, and on each entry point of fences that will be used to confine the dog.

- e) Identification Photographs. All persons responsible for any animal that has been declared to be a potentially dangerous or dangerous cat-or-dog-animal must provide to the City Clerk two color photographs of such animal clearly showing the general appearance, color and approximate size of the animal.
- f) Microchip Identification. The person responsible for any animal that has been declared to be a potentially dangerous or dangerous cat-or-dog-animal must have a microchip implanted in the cat-or-dog-animal for identification, and the name of the microchip manufacturer and the identification number of the microchip must be provided to the City Clerk.
- g) Mandatory Spay and Neuter. All declared potentially dangerous and dangerous cats and or dogs shall be required to be spayed or neutered
- h) Training. All declared potentially dangerous and dangerous dogs shall be required to be enrolled in a behavior modification program administered by a Certified Pet Dog Trainer (CPDT), Certified Dog Behavior Consultant (CDBC), Veterinary Behaviorist certified through the American College of Veterinary Behaviorists (ACVB), or comparable certification. Upon successful completion of said program, verification must be provided to the City Clerk.
- i) Reporting requirements. All persons responsible for any animal that has been declared to be a potentially dangerous or dangerous cat-or-dog-animal must provide written notification to the City Clerk at least ten days prior to any of the following situations:
 - 1. The removal from the City of such animal, and provide the City Clerk with the contact information of the new person responsible for such animal.
 - 2. The birth of offspring of such animal.
 - 3. The new address of the person responsible for such animal should the person responsible move within the corporate City limits.
 - 4. In the event of the death of such animal, the City Clerk must be notified in writing within ten days of the death.
- j) Sale or Transfer Prohibited. No person shall sell, transfer, barter or in any other way dispose of a declared potentially dangerous or dangerous cat-or-dog-animal to any person within the City unless the recipient person resides permanently in the same household and on the same premises as the registered person responsible for such animal; provided that the registered person responsible for such animal may sell or otherwise dispose of such animal to persons who do not reside within the City.

2-119 POTENTIALLY DANGEROUS OR DANGEROUS CAT-OR-DOG-ANIMAL PERMIT FEE

The fee for a potentially dangerous or dangerous cat-or-dog-animal permit application shall be adopted by the Governing Body and on record in the Office of the City Clerk. The fee will be based upon the number of potentially dangerous and dangerous cat-and-dog-animal permits being applied for and shall be non-refundable. The fee shall be payable to the City Clerk at the time of application. Accretions by natural birth shall not require additional permits during the period of a valid permit.

2-120 TERM AND RENEWAL OF DANGEROUS AND POTENTIALLY DANGEROUS CAT-OR-DOG-ANIMAL PERMIT

No potentially dangerous or dangerous cat-or-dog-animal permit required by this Chapter shall be granted for a period in excess of one year. An application for renewal of any such permit shall be made not less than forty-five (45) days prior to the expiration thereof, and shall be accompanied by the same fee as required upon making the original application.

2-121 INSPECTIONS FOR RENEWAL

The holder of a potentially dangerous or dangerous animal permit shall notify the City at least forty-five (45) days prior to the permit expiration date of any request for renewal. Prior to the annual renewal of any potentially dangerous or dangerous ~~cat or dog animal~~ permit, an animal control officer or law enforcement officer shall inspect the premises subject to such permit to determine whether the person to whom it has been issued is continuing to comply with all of the conditions specified in this Chapter. If the animal control officer or law enforcement officer determines during any such inspection that any of the conditions therein specified are being violated, the officer shall recommend denial of a renewal of any such permit or shall recommend the immediate revocation of such permit in the event that such violation is not corrected within such period of time as the officer shall direct. Upon completion of the inspection process provided herein, the animal control officer or law enforcement officer shall report to the Municipal Court that the dangerous ~~cat or dog animal~~ permit has been renewed, that the renewal application has been denied, or that the permit has been revoked. If the application is denied, or there is a revocation of a permit, a copy of the report shall be given to the person responsible for the potentially dangerous or dangerous ~~cat or dog animal~~. The report shall include the basis for the denial or revocation. The person responsible shall have the right to appeal the denial or revocation of permit to the Municipal Court. An appeal shall be taken by the filing of a written request for a review hearing with the Municipal Court within thirty (30) days of the denial or revocation of the permit. If an appeal is filed, the Municipal Court shall notify the animal control officer or law enforcement officer and City Prosecutor, by best means possible, that a hearing will be held within fourteen (14) days, at which time the person responsible must provide evidence of compliance with the conditions of this Chapter. The hearing shall be informal and shall be open to the public. The Municipal Court, after considering the evidence, shall issue its determination as to whether the permit should be renewed, denied or revoked. The determination of the Municipal Court shall be final.

2-122 COLLAR OR HARNESS REQUIRED

The person responsible for any cat or dog shall cause the same to wear a collar or harness outside the dwelling of the person responsible. The registration tag required in section 2-110 shall be securely affixed to the collar or harness of each cat or dog registered. The tags shall be situated on the collar or harness in such a manner that it may at all times be easily visible to law enforcement officers or animal control officers of the City. Replacement tags shall be issued for a fee which is recorded in the City Clerk's office and may be changed from time to time.

2-123 CAT AND DOG CONTROL

- a) All cats must be under the control of the person responsible therefor at all times. For the purpose of this section, a cat shall be considered not under control and in violation of this section in the following situations:
 1. If a neighbor complains orally or in writing to the person responsible for a cat, that the cat is entering upon the neighbor's property, then the cat's presence on the neighbor's property at any time subsequent to the neighbor's complaint shall constitute a violation of this section;
 2. If a cat causes injury to persons or animals.
 3. If a cat causes damage to property off the property of the person responsible for such cat, to include, but not limited to, breaking, bruising, tearing up, digging up, crushing or injuring any lawn, garden, flower bed, plant, shrub or tree in any manner or defecating or urinating upon any private property.
- b) It is unlawful for the person responsible for any dog to permit such dog to run at large within the City. For the purpose of this section, a dog shall be considered running at large and in violation of this section in the following situations:

1. If a dog is off the property of the person responsible for such dog, and is not firmly attached to a hand-held leash and under the physical control of the person responsible. Electronic collars may not be used to control a dog when off the property of the person responsible for such dog.
2. If a dog is off the property of the person responsible for such dog, and is not prevented from making uninvited contact with humans or other animals. This includes a situation when a dog is secured on a leash.

~~c) It is lawful for any animal control officer or law enforcement officer or other person designated by the Governing Body to pursue and capture a dog running at large; provided, further, however, that no such dog shall be held to be running at large when said dog is merely passing along or through such property while in a cage or other conveyance.~~

Comment [c13]: Deleted because covered by 2-131(a)

2-124 ELECTRONIC FENCES AND ELECTRONIC COLLARS

Dogs may be confined to the residential property of the person responsible for such dogs by an electronic fence or an electronic collar. An electronic fence or electronic collar is defined as a fence or collar that controls the movement of the dog by emitting an electrical shock when the animal wearing the collar nears the boundary of such property. Dogs confined to residential property by an electronic fence or collar shall at all times be required to wear the collar or other required device which must be functional, and shall not be permitted to be nearer than 10 feet from any public walkway or street. All persons who use an electronic fence or an electronic collar shall clearly post their property to indicate to the public that such a fence or collar is in use. Electronic collars may not be used to control a dog when it is off the property of the person responsible for such dog. An electronic fence or electronic collar shall not be used to confine a potentially dangerous or dangerous dog.

2-125 PUBLIC NUISANCE

- a) A Public Nuisance is any animal that:
 1. ~~Damages~~ Materially damages private or public property;
 2. Scatters ~~refuse~~ solid waste that is bagged or otherwise contained, or
 3. Excessively barks, whines, howls, or creates any other disturbance which is continuous or during times covered by the City Noise Ordinance (12:00am to 9:00am Friday-Saturday, 11:00pm to 7:00am Sunday-Thursday) (disturbance factors include, but not limited to, time of day, volume, length of time, etc.). If the violation is not witnessed by the animal control officer and/or law enforcement officer, the complainant making such statement must agree to sign a complaint and testify in court if requested.
- b) It is unlawful for the person responsible for any animal to negligently, carelessly, willfully or maliciously permit such animal to become a public nuisance.
- c) Anyone having the authority of an animal control officer, including but not limited to law enforcement officers, is given the authority to seize and impound any animal which is a public nuisance as defined by this section.

2-126 UNLAWFUL TO HARBOR OR KEEP ANY ANIMAL WITHOUT PROPER AND NECESSARY PRECAUTIONS

- a) Any person responsible for an animal within the City shall take all proper and necessary precautions to ensure and promote conditions that restrict the animal when unleashed to such person's property and prevent injury to other humans, domestic animals and/or damage to property.

~~b) It is unlawful for the person responsible for any animal to negligently, carelessly, willfully or maliciously permit such animal to cause a disturbance of peace or permit such animal to create a noise disturbance so as to constitute a disturbance of the peace.~~

b) e) No person responsible for an animal shall fail to provide the animal with adequate care, adequate food, adequate water, adequate health care, and adequate shelter. Such shelter should be clean, dry, and compatible with the condition, age and species. An animal must also have the opportunity for adequate daily exercise. This requires that the person responsible must offer some freedom from continuous chaining and tethering.

2-127 TETHERING

- a) It is unlawful to attach chains or other tethers, restraints or implements directly to a dog without the proper use of a collar, harness or other device designed for that purpose and made from a material that prevents injury to the dog.
- b) It is unlawful for any person to:
 1. Continuously tether a dog for more than one continuous hour. A dog may be tethered 3 hours total within a 24 hour time period providing there is a 3 hour break between each period of tethered time. For the purpose of tethering a dog, a chain, leash, rope or tether must be at least ten feet in length.
 2. Use a chain, leash, rope, collaring device, tether, which restricts the free movement of the animal (i.e. the device should not weigh more than one eighth of the animal's body weight).
 3. Tether a dog in such a manner as to cause injury or strangulation, or entanglement of the dog on fences, trees, posts or other manmade or natural obstacles.
 4. Tethered for any length of time anywhere in the City when they are off the property of the person responsible for such animal.
 5. Tether without providing adequate care, food, shelter, and water as outlined in sections 2-126 and 2-128.

2-128 CRUELTY TO ANIMALS

Cruelty to Animals shall be defined as:

- a) Intentionally killing, injuring, maiming, torturing, mutilating, beating, or overworking any animal; this includes, but is not limited to, administering any poisonous substance with the intent that the same shall be taken or swallowed by any animal;
- b) Acting or failing to act when the act or failure to act causes or permits pain or suffering to such animal;
- c) Abandoning or leaving any animal in any place or releasing or dumping an animal from a vehicle without making provisions for its proper care; in addition, "abandon" means for the person responsible to leave an animal without demonstrated or apparent intent to recover or resume custody; to leave an animal for more than twenty-four hours without providing adequate food and shelter for the duration of the absence; or to turn out or release an animal for the purpose of causing it to be impounded;
- d) Failing to provide adequate care, adequate food, adequate health care, adequate shelter, or adequate water; or
- e) Failing to provide veterinary care when needed to treat injury or illness unless the animal is promptly destroyed in a humane manner.

The provisions of this section shall not apply to:

1. Normal or accepted veterinary practices;
2. Bona fide experiments carried on by recognized research facilities;

3. Killing, attempting to kill, trapping, catching or taking of any animal in accordance with the provisions of Chapter 32 or Chapter 47 of the Kansas Statutes Annotated;
4. Rodeo practices accepted by the Rodeo Cowboys' Association;
5. The humane killing of an animal which is diseased or disabled beyond recovery for any useful purpose, or the humane killing of animals for population control, by the person responsible or the agent of such person residing outside of a City or the person responsible therefor within a City if no animal shelter, pound or licensed veterinarian is within the City, or by a licensed veterinarian at the request of the person responsible therefor, or by any officer or agent of any incorporated humane society, the operator of an animal shelter or pound, public health officer or licensed veterinarian three business days following the receipt of any such animal at such society, shelter or pound;
6. With respect to farm animals, normal or accepted practices of animal husbandry;
7. The killing of any animal by any person at any time which may be found outside of the owned or rented property of the person responsible for such animal and which is found injuring or posing an immediate threat to any person, farm or domestic animal or property, or
8. An animal control officer trained in the use of a tranquilizer gun, using such gun with the estimated dosage for the size of the animal, when such animal is vicious, a threat to public safety or themselves or could not be captured after reasonable attempts using other methods.

2-129 AUTHORITY OF ANIMAL CONTROL OFFICER OR LAW ENFORCEMENT OFFICER TO RESCUE AN ENDANGERED ANIMAL

- a) Whenever an animal is found confined and/or unattended in a motor vehicle or other location, which subjects it to certain weather conditions that endangers its life as determined by the animal control officer or law enforcement officer, the animal control officer may enter such vehicle or property with the assistance from the police for the purpose of rescuing such animal, and transporting it to a shelter house designated by the Governing Body for treatment, boarding, or care. A written notice shall be left on or in the motor vehicle or other applicable property advising that the animal has been removed under authority of this section and the location where the animal has been impounded.
- b) Nothing in this section shall be deemed to prevent the animal control officer or law enforcement officer from entering upon property without consent when the condition or animal is found in plain sight and not within a private structure or under conditions constituting an emergency.
- c) No animal control officer or law enforcement officer shall be held criminally or civilly liable for action under this section, provided the officer acts lawfully, in good faith, on probable cause and without malice.

2-130 SEIZURE PROHIBITED ANIMALS

- a) Upon the written complaint of any person that a person owns, harbors, shelters, keeps, controls, manages, or possesses, within the City, an animal prohibited by this Chapter, the animal control officer or a law enforcement officer shall conduct an investigation and if the investigation reveals evidence that indicates that such person named in the complaint in fact owns, harbors, shelters, keeps, controls, manages, or possesses, within the City, an animal prohibited by this Chapter, the animal control officer or law enforcement officer shall forthwith send written notice to such person requiring such

person to safely remove said animal from the City within three (3) days of the date of said notice. Notice as herein provided shall not be required where such animal has previously caused serious physical harm or death to any person or has escaped and is at large, in which case the animal control officer or law enforcement officer shall cause said animal to be immediately seized and impounded or killed, if seizure and impoundment are not possible without risk of serious physical harm or death to any person.

- b) The animal control officer or law enforcement officer shall forthwith cause to be seized and impounded any animal prohibited by this Chapter where the person responsible therefor has failed to comply with the notice sent. Upon a seizure and impoundment said animal shall be delivered to a place of confinement which may be with any organization which is authorized by law to accept, own, keep or harbor such animals. If during the course of seizing and impounding any such animal, the animal poses a risk of serious physical harm or death to any person, the animal control officer or law enforcement officer may render said animal immobile by means of tranquilizers or other safe drugs, or if that is not safely possible, then said animal may be killed.
- c) Any reasonable costs incurred by the animal control officer or law enforcement officer in seizing, impounding and for confining any animal prohibited in the City by this Chapter shall be charged against the person responsible for such animal. Such charges shall be in addition to any fine or penalty provided for violating this Chapter.

2-131 SEIZURE PERMITTED ANIMALS

- a) Any animal control officer, law enforcement officer or other person designated by the Governing Body of the City is authorized to capture any dog found running at large in violation of section 2-123 and any cat which is not under control as defined in section 2-123 and place such animal in an animal shelter designated by the Governing Body for that purpose. In addition to or in lieu of seizing the cat or dog, the animal control officer, law enforcement officer or City Prosecutor may charge the person responsible for such animal with violating section 2-123 of this Chapter.
- b) Any animal control officer, law enforcement officer or other person designated by the Governing Body of the City is authorized to capture any animal which is a public nuisance as defined by section 2-125 and place such animal in an animal shelter designated by the Governing Body for that purpose. In addition to or in lieu of seizing the animal, the animal control officer, law enforcement officer or City Prosecutor may charge the person responsible for such animal with violating section 2-125 of this Chapter.
- c) An animal control officer or law enforcement officer shall forthwith cause to be seized and impounded any potentially dangerous or dangerous ~~cat or dog~~ animal, when the person responsible for such animal has failed to comply with the requirements of this Chapter relating to permitting and keeping potentially dangerous or dangerous cats and dogs. Such officer may place such animal in an animal shelter designated by the Governing Body for that purpose. In addition to seizing the animal, the animal control officer, law enforcement officer or City Prosecutor may charge the person responsible for such animal with violating the requirements of this Chapter relating to permitting and keeping potentially dangerous or dangerous cats and dogs. If during the course of seizing and impounding any such animal, the animal poses a risk of serious physical harm or death to any person, or the animal is considered a threat to public safety by the animal control officer or any law enforcement officer, such officer may render said animal immobile by means of tranquilizers or other safe drugs; or if that is not safely possible, then said animal may be destroyed.
- d) Any reasonable costs incurred by the animal control officer or law enforcement officer in seizing, impounding and for confining any animal permitted in the City by this Chapter

shall be charged against the person responsible for such animal. Such charges shall be in addition to any fine or penalty provided for violating this Chapter, and payment of such charges shall be a condition to the redemption and release to persons responsible for such animals.

2-132 PROCEDURE FOR FAILURE TO REDEEM

Any animal captured or apprehended under the terms and conditions of this Chapter shall be held in a shelter approved by the City for a period of three (3) business days from the date of impoundment, such period of time beginning at nine a.m. the morning following the day of impoundment. If the person responsible does not reclaim his or her animal during the period specified in the preceding sentence, or if the animal control officer or animal shelter is unable to locate and notify the person responsible after making a good faith effort to do so within the three (3) business day period, ~~then the animal shelter may offer the animal for adoption or destroy the animal in a humane manner~~ becomes the property of the intake facility.

2-133 PRESENTATION OF ANIMAL

The person responsible for any ~~cat or dog animal~~ shall physically produce the animal for observation, identification or inspection when requested to do so by an animal control officer or law enforcement officer investigating a violation of the animal control and/or welfare laws of the City, provided the officer has probable cause to believe a crime or violation of the animal control laws has been committed. Failure to do so is a violation of this section.

2-134 DUTY TO REPORT ANIMAL BITES AND SCRATCHES

When any animal, while within the boundaries of the City, inflicts an animal bite on any person or domestic animal, or when an animal is suspected of having rabies; it shall be the duty of any person having knowledge of such facts to report the same immediately, or as soon as practicable, to the Police Department or the animal control officer.

2-135 ANIMAL BITE PROCEDURE

- a) Except as provided in subsection (e) of this section, an animal which inflicts an animal bite on any person or domestic animal shall immediately, or as soon as practicable, be quarantined at the expense of the person responsible for such animal with a licensed veterinarian of such person's choice or with the City's approved animal shelter for a period of not less than ten (10) days nor more than twelve (12) days.
- b) If the person responsible for the animal cannot be immediately notified, City personnel shall immediately, or as soon as practicable, impound such animal with a City approved shelter, at the expense of the person responsible, for a period of not less than ten (10) days nor more than twelve (10) days. If the address of the person responsible for the animal can be determined, the animal control officer or Police Department shall make a reasonable effort to notify such person that said animal is impounded under the provisions of this section and that such person has the right to redeem the animal at the expiration of confinement upon the payment of impoundment fees, any veterinarian fees, and any license and penalty fees then due and owing to the City.
- c) In the event the original place of impoundment is not the choice of the person responsible for such animal, such person may cause the animal's place of impoundment to be changed to a licensed veterinarian of such person's choice; provided all other provisions of this Chapter are complied with. The total period of confinement of the animal at the one or more locations is to be for a period of not less than ten (10) days nor more than twelve (12) days.
- d) The veterinarian or City approved shelter with whom the animal is impounded, shall give immediate written notice to the Chief of Police that such animal has been confined and

will be confined for not less than ten (10) days no more than twelve (12) days. At the expiration of the aforesaid confinement period, the veterinarian or City approved shelter shall give immediate written notice to the Chief of Police as to the health of such animal pertaining to the diagnosis of rabies.

- e) In the event the investigating officer determines that the animal had an effective rabies inoculation, and was duly licensed under this Chapter at the time of the injury, or the animal had an effective rabies inoculation and caused bite or injury to an immediate family member, and agrees to obtain a City license for the animal prior to the completion of rabies observation, provided both the victim and person responsible agree, then the animal need not be impounded in accordance with subsection (a) of this section but the following alternative procedure shall be followed:
 - 1. If the injured person, his parent, or guardian desires that the animal be impounded and agrees in writing to pay for its board during the period of impoundment, it shall be so impounded for the period specified in subsection (a) of this section notwithstanding any other provision of this Chapter.
 - 2. If the injured party, his parent, or guardian is unwilling to agree in writing to pay for the animal's board during the period of impoundment, the animal shall be permitted to remain confined in the residence or enclosed yard of the person responsible; provided no animal shall be allowed to remain on the property of the person responsible therefor under this section unless such person signs a written agreement to keep the animal on the property in confinement for the period specified in subsection (a) of this section and further agrees to allow the animal to be examined periodically to determine its physical condition during the confinement period. At the end of the observation period, the animal control officer may require that a licensed veterinarian examine the animal and furnish written notification to the animal control officer regarding the animal's health. All costs associated with the exam are the responsibility of the person responsible. If the person responsible for such animal is unwilling to sign such an agreement, the animal shall be immediately, or as soon as practicable, impounded in accordance with subsection (a) of this section.

2-136 ANIMAL BITE VIOLATION

Persons who are responsible for or in control of animals in the City shall prevent such animals from inflicting animal bites on any person or domestic animal. It shall be a violation of this section by the person responsible for or in control of an animal if the animal, when unprovoked, inflicts an animal bite on any person or domestic animal.

2-137 DISEASE CONTROL

- a) When rabies or other communicable diseases associated with animals are known to exist in the community, or when they are known to exist in neighboring communities the Mayor may declare a quarantine of any or all animals. It shall be the duty of the person responsible for such animal to keep such animal confined to the premises of the person responsible therefor and under control. For the purposes of this section, animals are not to be considered confined to the premises of the residential property the person responsible therefor if the only restraining device is an invisible electric fence.
- b) It shall be the duty of all animal control officers or law enforcement officers, or those having the authority of law enforcement officers to enforce such quarantine. The Mayor and Chief of Police shall have a right to deputize ~~school guards and~~ other persons as needed. Such deputized persons need not seize such animals, but shall aid in

determining the person responsible to the end that warrants of arrest can be issued against violating persons responsible.

2-138 REMOVAL OF ANIMAL FECES

- a) Any person in charge of an animal, when such animal is off the property of the person responsible therefor, shall be responsible for the removal of any feces deposited by such animals on public walks, streets, recreation areas, or private property, and it shall be a violation of this provision for such person to fail to remove or provide for the removal of such feces before the animal leaves the immediate area where such defecation occurred.
- b) It shall be unlawful for any person to dispose of removed feces by intentionally or recklessly depositing, or causing to be deposited, feces removed pursuant to this section into, upon or about any public place, or any private property without the consent of the owner or occupant of the property.

2-139 REMOVAL OF DEAD ANIMAL

It shall be the responsibility of the person responsible for a deceased animal to provide for its removal from private property.

2-140 FEES TO GENERAL FUND

All fees, charges and penalties paid to or collected by any officers of the City under or pursuant to the provisions of this Chapter shall be paid over to the City Treasurer and credited to the general operating fund.

2-141 ENFORCEMENT

It is the duty of the animal control officer or anyone having the authority of an animal control officer, including but not limited to law enforcement officers, to enforce the terms and provisions of this Chapter and the Mayor or the Chief of Police may appoint by and with the consent of the Governing Body some suitable person to be known as an animal control officer whose duties it shall be to assist in the enforcement of this Chapter and to work under an immediate supervision and direction of the Police Department. Anyone having the authority of an animal control officer is given the authority to seize any animal found outside the City limits when he/she has reasonable grounds to believe said animal committed any act within the City which is prohibited by the provisions of this Chapter or which subjects said animal to seizure if found within the City. Any private person may, upon signed complaint, bring charges against any person responsible for an animal for the violation of any of the provisions of this Chapter.

2-142 BEEKEEPING

Any person keeping bees shall comply with the following:

- a) Minimize swarming of bees;
- b) Provide and maintain a source of water located on the premises;
- c) Maintain no more than two (2) hives per property/lot;
- d) Hives will be located only within a fenced back yard. The minimum height of fence will be 42 inches. A flyway structure/barrier (shrubbery or fencing) is necessary if the exterior fence is less than 6 feet in height;
- e) Hives will be maintained at least ten (10) feet from all property lines; and
- f) Maintain and manage such boxes or hives so as not to create a nuisance by any of the following circumstances: unhealthy condition(s), interfere with the normal use and enjoyment of human or animal life, or interfere with the normal use and enjoyment of any public property or private property of others.

- g) Remove hives if established guidelines are not maintained as determined by Codes or animal control officers.

2-143 VIOLATION – PENALTY

- a) It is unlawful for any person to violate any of the provisions of this Chapter. Any person convicted of the violation of any provision of this Chapter where a specific penalty is not otherwise prescribed shall be fined up to \$1,000 or 30 days imprisonment, or a combination of fine and imprisonment. Upon conviction, the Municipal Court may order restitution be paid to the victim of the violation.
- b) Each day any violation of this Chapter to which this penalty applies continues constitutes a separate offense.

2-144 NUISANCE, INJUNCTION

In addition to any other relief provided by this Chapter, the City Attorney may apply to a court of competent jurisdiction for an injunction to prohibit the continuation of any violation of this Chapter. Such application for relief may include the seeking of temporary and permanent injunctive relief.

2-145 SEVERABILITY

If any section, subsection, subdivision, paragraph, sentence, clause or phrase in this Chapter or any part thereof, is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Chapter or any part thereof.

CHAPTER II. ANIMAL CONTROL AND REGULATION

ARTICLE 1. GENERAL PROVISIONS

2-101 PURPOSE

The purpose of this Chapter is to promote harmonious relationships in the interaction between humans and animals by:

- a) Protecting animals from improper use, abuse, neglect, exploitation, inhumane treatment and health hazards;
- b) Delineating the responsibility of persons for the acts and behavior of such persons' animals at all times;
- c) Providing regulations that foster a reduced risk to residents from annoyance, intimidation, injury and health hazards by animals; and
- d) Encouraging responsible pet ownership.

2-102 DEFINITIONS

- a) Abandon includes the leaving of an animal by the person responsible therefor without making effective provisions for its proper care.
- b) Adequate care means normal and prudent attention to the needs of an animal, including that care which is normally necessary to maintain good health in a specific animal.
- c) Adequate food means supplying at suitable intervals (not to exceed 24 hours) of a quantity of food suitable and sufficient to maintain reasonable level of nutrition for each animal.
- d) Adequate health care means the provision to each healthy animal of all immunizations and preventative care required to maintain good health, space adequate to allow the animal rest and exercise sufficient to maintain good health, and the provision to each sick, diseased, or injured animal of necessary veterinary care or humane death.
- e) Adequate shelter means a structurally sound, properly ventilated, sanitary and weatherproof shelter which provides access to shade from direct sunlight and regress from exposure to inclement weather conditions.
- f) Adequate water means a continual access to a supply of clean, fresh, potable water provided in a sanitary manner.
- g) Animal is any living creature, other than humans.
- h) Animal bite is any contact between an animal's mouth, teeth, or appendages and the skin of a bite victim that causes any visible puncture, scratch, or break to the skin.
- i) Animal control officer is a duly authorized person employed by the City who is charged with the duties of enforcing this Chapter and/or related ordinances.
- j) At-large is to be off the property of the person responsible for an animal, except when the animal is taken off such person's property on a leash, in a cage, or other conveyance.
- k) City is a reference to the City of Prairie Village, Kansas and its corporate limits.
- l) Confined to the premises means confined or restricted either inside the residential structure of the person responsible for an animal; or if outside the residential structure, confined or restricted to the backyard of the premises fenced in a manner that prohibits escape, or by being physically restrained on a chain or leash or other proper method of physical restraint from which the animal cannot escape.
- m) Dangerous wild animal means any animal, which is wild by nature and of a species which, due to size, vicious nature or other characteristics, would constitute a danger to human life, physical well-being, or property, including but not limited to lions, tigers, leopards, panthers, bears, wolves, wolf hybrids, apes, gorillas, monkeys of a species

whose average adult weight is 20 pounds or more, foxes, elephants, alligators, crocodiles, and animals which are venomous and/or poisonous, and any animals which could otherwise present a risk or serious physical harm or death to human beings as a result of their nature or physical makeup, including all constrictors.

- n) Dangerous animal means an animal which:
 - 1) When unprovoked, aggressively bites, attacks or endangers the safety of humans or domestic animals;
 - 2) When unprovoked, has a known propensity, tendency or disposition to attack, cause injury to, or otherwise threaten the safety of human beings or domestic animals;
 - 3) Has been found to be potentially dangerous and after the person responsible therefor has notice that the animal is potentially dangerous, the animal aggressively bites, attacks or endangers the safety of humans or domestic animals; or
 - 4) Is owned, harbored, sheltered, kept, controlled, managed, or possessed primarily or in part for the purpose of fighting or is trained for fighting.
- h) Domesticated cat or dog is a cat or dog that tends to possess reliability of temperament, tractability, docility, predictability and trainability, and has adapted to life among humans.
- i) Impound means taking any animal into the confinement, care, or custody of the City.
- j) Municipal Court means the Municipal Court of the City.
- k) Person is any natural person, association, firm, partnership, organization, or corporation.
- l) Person responsible (for an animal) includes any person which owns, harbors, shelters, keeps, controls, manages, possesses, or has a part interest in any animal. An occupant of any premises on which a dog or cat remains or customarily returns is a person responsible for it under this Chapter. There may be more than one (1) person responsible for an animal. Any person keeping any animal in the City for three (3) consecutive days shall be conclusively presumed to be the person responsible for such animal.
- m) Potentially dangerous animal means any animal which, when unprovoked:
 - 1) Inflicts bites on a human or domestic animal either on public or private property; or
 - 2) any animal with a known propensity, tendency, or disposition to attack unprovoked, to cause injury, or otherwise to threaten the safety of humans or domestic animals.
- n) Unprovoked means that the person or domestic animal approached, chased, bitten or attacked:
 - 1) Did not mischievously or carelessly provoke or aggravate the animal;
 - 2) Was not committing a willful trespass or other tort upon the premises occupied by the person responsible for the animal;
 - 3) Was not tormenting, abusing, assaulting or attacking the animal;
 - 4) Has not in the past been observed or reported to have tormented, abused assaulted or attacked the animal; or
 - 5) Was not committing or attempting to commit a crime.
- o) Vicious animal means an animal which has:
 - 1) When unprovoked, has inflicted a vicious bite to any person or domestic animal on public or private property;
 - 2) When unprovoked, has killed a domestic animal while off the property of the person responsible for such vicious animal; or
 - 3) Been declared to be dangerous and after the person responsible therefor has notice that the animal has been declared dangerous, the animal aggressively bites, attacks or endangers the safety of humans or domestic animals.

- p) Vicious bite is any attack by any animal, which results in serious physical injury or death to a human and/or other domestic animal in which the attacking animal uses its teeth and/or claws.

2-103 KEEPING OF LIVESTOCK, POULTRY AND FOWL PROHIBITED

- a) It shall be unlawful for any person to own, harbor, shelter, keep, control, manage, or possess livestock, poultry or fowl on any premises within the City and no special or temporary permit will be issued for these. For the purpose of this section, livestock, poultry, and fowl include, but are not limited to: cows, pigs, horses, donkeys, mules, sheep, goats, chickens, ducks, geese, guinea fowl, peacocks, pigeons, swans and those animals considered miniature or pygmy breeds, e.g., pot-bellied pigs, miniature donkeys, miniature horses, and pygmy goats.
- b) The following persons or organization shall be allowed to own, harbor, shelter, keep, control, manage, or possess any livestock, poultry and fowl:
 - 1. The keeping of such animals in zoos, bona fide educational or medical institutions, museums or any other place where there are kept live specimens for the public to view or for the purpose of instruction or study;
 - 2. The keeping of such animals for exhibition to the public of such animals by a circus, carnival or other exhibit or show;
 - 3. The keeping of such animals in a bona fide, licensed veterinary hospital for treatment; and
 - 4. Commercial establishments processing such animals for the purpose of sale or display.

2-104 KEEPING OF DANGEROUS WILD ANIMALS PROHIBITED

- a) No person shall keep or permit to be kept on such person's premises any dangerous wild animals for display or for exhibition purposes whether gratuitously or for a fee. This section will not be construed to apply to zoological parks, performing animal exhibits or circuses, bonafide licensed veterinary hospital for treatment, bonafide educational or medical institutions, museums or any other place where they are kept as live exhibits or for study.
- b) No person shall keep or permit to be kept any dangerous wild animal as a pet.

2-105 PIT BULL DOG – KEEPING PROHIBITED

It shall be unlawful to own, harbor, shelter, keep, control, manage, or possess within the corporate limits of the City, any pit bull dog. Pit bull dog for the purposes of this Chapter shall include:

- a) The Staffordshire Bull Terrier breed of dog;
- b) The American Pit Bull Terrier breed of dog;
- c) The American Staffordshire Terrier breed of dog, or
- d) Any dog having the appearance and characteristics of being predominately of the breeds of Staffordshire pit bull terrier, American pit bull terrier, American Staffordshire bull terrier; or a combination of any of these breeds.

2-106 POTENTIALLY DANGEROUS, DANGEROUS AND VICIOUS ANIMALS

- a) Determination.
 - 1. In the event that the animal control officer or a law enforcement officer has probable cause to believe that an animal is potentially dangerous, dangerous or vicious, as defined in Section 2-102, such officer may petition the Municipal Court to set a hearing for the purpose of determining whether or not the animal in

question should be declared potentially dangerous, dangerous or vicious. Whenever possible, any complaint received from a member of the public which serves as the evidentiary basis to support a finding of probable cause shall be made by declaration under penalty of perjury by the complainant in the manner provided by K.S.A. 53-601, and shall be attached to the petition. The Municipal Court, upon the finding of probable cause, shall notify the person responsible for the animal, personally or by certified mail, and the animal control officer or law enforcement officer and City Prosecutor, by best means possible, that a hearing will be held within fourteen (14) days, at which time the person responsible may present evidence to the Municipal Court as to why the animal should not be declared potentially dangerous, dangerous or vicious.

2. The failure of the person responsible to attend or participate in the hearing shall not prevent the Municipal Court from hearing evidence in the matter and making a determination whether the animal is potentially dangerous, dangerous or vicious as alleged, or from entering further orders pursuant to such finding. The hearing shall be informal and shall be open to the public.
 3. The Municipal Court, after considering the evidence, may issue its determination and order declaring the animal to be potentially dangerous, dangerous or vicious based upon such evidence. The order shall be delivered to the person responsible either personally or by first class mail. If a determination is made that the animal is potentially dangerous, dangerous or vicious, the person responsible shall comply with the provisions of this Chapter as directed by the Municipal Court in accordance with a time table established by the Municipal Court, within thirty (30) days after the date of the determination. If the person responsible for the animal contests the determination, he or she may within ten (10) days, exclusive of Saturdays, Sundays and holidays, of such determination appeal to the district court.
 4. In the event that pending the determination by the Municipal Court and/or in any appeals taken, the animal is not restrained, and the animal control officer or law enforcement officer has probable cause to believe that the animal in question may pose a threat of serious harm to human beings or other domestic animals, the animal control officer or law enforcement officer may seize and impound the animal pending the aforesaid Municipal Court determination and/or the determination in any appeals taken. Upon the Municipal Court's determination that the impounded animal is potentially dangerous, dangerous or vicious, the person responsible for the animal shall be liable to the City for the costs and expenses of impounding such animal.
- b) Control of Potentially Dangerous and Dangerous Cats or Dogs. If the Municipal Court determines that an animal is potentially dangerous or dangerous, the person responsible for such animal shall comply with the requirements of sections 2-107, 2-109 and 2-117 through 2-121 of this Chapter.
- c) Disposition of Vicious Animals. If the Municipal Court determines that an animal is vicious, the Municipal Court shall order that the animal be euthanized or that the person responsible for such animal remove the animal from the City limits and shall provide the Municipal Court with the exact location, address, and contact information for the new person responsible where the animal has been moved. The Municipal Court shall notify the receiving jurisdiction that the animal has been determined to be a vicious animal. The animal shall not be returned to the City limits after removal. It shall be unlawful for the person responsible for a vicious animal to maintain such animal in violation of the Municipal Court's order and this section.

- d) Dangerous and Potentially Dangerous Animal Designation Review. Beginning one (1) year after an animal is declared potentially dangerous or dangerous, a person responsible therefor may petition annually that the Municipal Court review the designation by requesting a review hearing in the Municipal Court. If a petition for a review hearing is filed, the Municipal court shall notify the person responsible for the animal, personally or by certified mail, and the animal control officer or law enforcement officer and City Prosecutor, by best means possible, that a hearing will be held within fourteen (14) days, at which time the person responsible must provide evidence that the animal is no longer potentially dangerous or dangerous due to the animal's age, neutering, environment, completion of obedience training that includes modification of aggressive behavior, or other factors. The City Prosecutor may present evidence as well. The hearing shall be informal and shall be open to the public. If the Municipal Court finds sufficient evidence that the animal's behavior has changed, the Municipal Court may rescind that potentially dangerous or dangerous animal designation.

2-107 POTENTIALLY DANGEROUS OR DANGEROUS ANIMAL PERMIT REQUIRED

- a) Any person who owns, harbors, shelters, keeps, controls, manages, or possesses, within the City, any animal which has been declared to be potentially dangerous or dangerous by the Municipal Court of the City, or any other jurisdiction, shall secure and renew an annual potentially dangerous or dangerous animal permit in accordance with this Chapter and comply with all terms and conditions this Chapter to maintaining such permit.
- b) Failure to obtain and maintain a potentially dangerous or dangerous animal permit as required by subsection (a) shall be adequate grounds for the animal control officer to impound the animal until a permit is obtained.

2-108 EXEMPTIONS

The provisions of this Chapter shall not apply to the transportation of prohibited animals or potentially dangerous, dangerous or vicious cats or dogs through his City when such transport has taken adequate safeguards to protect the public and has notified the local law enforcement agency of the proposed route of transportation and the time thereof.

2-109 HARBORING OR KEEPING OF PERMITTED ANIMALS

- a) No person shall own, harbor, shelter, keep, control, manage, or possess, within the City, any potentially dangerous or dangerous animal, or any safe animal including the domestic dog (*canis familiaris*) and the domestic cat (*felis domesticus*), without obtaining permits and licenses required under this Chapter. The following animals are the only animals allowed without a permit or license:
1. Gerbils (*Tateriltus gracillio*);
 2. Hamsters (*Critecus critecus*);
 3. Rabbits (*Lepus Cunicullus*);
 4. Domestic Mice (*Mus musculus*);
 5. Domestic Rat (*Rattus norvegicus*),
 6. Any animal, usually tame and commonly sold at pet stores, including: Ferrets (*Mustela furo*), Chinchillas (*Chinchillidae*), Canaries (*Serinus canaria*), Cockatoos, Macaws, Parakeets, and Parrots (*Psittacines*), and
 7. Bees, subject to Section 2-140.
- b) Any person who owns, harbors, shelters, keeps, controls, manages, or possesses, within the City, any animal without a permit, except as exempted by this section, shall be charged with a misdemeanor and upon conviction thereof, shall be subject to the penalties in section 2-143. This shall include instances where any person owns, harbors,

shelters, keeps, controls, manages, or possesses, within the City, an animal which has been declared by another municipality to be potentially dangerous or dangerous, or similar designation.

2-110 REGISTRATION – TAGS

The person responsible for any cat or dog present in the City shall cause the same to be registered at the office of the City Clerk. The registration shall contain the name, address and phone number of the person responsible for such animal, the animal's breed, name, sex, whether neutered, color and description and such other information as may be deemed necessary by the City Clerk. Subject to the provisions of section 2-114, the City Clerk or authorized assistant shall upon payment of the license fee as provided in section 2-111, issue a permanent tag, bearing a number and Prairie Village, KS.

2-111 LICENSE FEE – DESIGNATED

- a) In addition to any permit fees required by this Chapter, there is levied and imposed an annual license fee upon the person responsible for each cat or dog of the age of over six months, attaining such age during the license year. The license fee shall be adopted by the Governing Body and the amount of the fee will be kept on record in the office of the City Clerk.
- b) The license year shall be for a twelve (12) month period commencing on the date the animal is first licensed. The license is valid for one year from issuance of license or until the expiration of rabies vaccination whichever is greater. The fee shall be payable within 60 days of the expiration of the license. An animal for which a licensed fee is required as set forth in this section; over six months of age should be licensed within thirty days of being brought into the City or attaining six months of age.

2-112 LICENSE FEE – OVERDUE

- a) If the license fee required in section 2-111 is not paid within the time provided in this section, penalties will apply in addition to the normal license fee. The amount and dates penalty will be charged shall be adopted by the Governing Body and on record in the Office of the City Clerk.
- b) After 60 days after the due date, if the fee imposed and required to be paid by section 2-111 remains unpaid, the City Prosecutor may issue a complaint against the person responsible for violation of section 2-111.

2-113 LICENSE FEE – EXEMPTIONS

Any person who owns, harbors, shelters, keeps, controls, manages, or possesses, within the City, a dog which is a "service animal" as defined by the Americans with Disabilities Act, 42 U.S.C. 12101 *et seq.*, or a dog that is utilized by law enforcement personnel, shall be exempt from the license fee payment upon submittal of adequate proof that the animal is current for the year on its rabies vaccination.

2-114 INOCULATION AGAINST RABIES REQUIRED

- a) No City license tag required by this section shall be issued until the person responsible for a cat or dog shall furnish to the City Clerk a current inoculation certificate signed by a registered veterinarian, showing thereon that the cat or dog has been vaccinated against rabies. The inoculation certificate shall be deemed current if it has not expired before the person responsible submits it to the City along with the application for license.
- b) It shall be the responsibility of the person responsible for the cat or dog to ensure that the animal's inoculation against rabies is maintained throughout the license period.

2-115 ENUMERATION OF ANIMALS

The Governing Body may require the annual enumeration of all cat or dogs present within the City. The enumeration shall account for the number and persons responsible for all cats and dogs.

2-116 LIMITATIONS ON NUMBER OF ANIMALS

No person, residential premises or household within this City shall have, hold, maintain or contain more than a combined total of four dogs and cats over three months of age; provided, however, that in no event shall the combination of dogs or cats exceed three dogs or three cats. Any violation of this section is, upon conviction thereof, a misdemeanor and subject to the penalties provided in this Chapter.

2-117 APPLICATION FOR POTENTIALLY DANGEROUS AND DANGEROUS ANIMAL PERMIT

An application for any permit required pursuant to Section 2-107 shall be made to the City Clerk in writing upon a form furnished by the City Clerk. Said application shall be verified by the person who desires to have, keep, maintain or have in his/her possession or under his or her control, in the City, the animal for which a permit is required, and shall set forth the following:

- a) The name, address and telephone number of the applicant.
- b) The applicant's interest in such animal.
- c) The proposed location, and the name, address and telephone number of the owner of such location, and of the lessee, if any.
- d) The number and general disposition of all animals for which the permit is being sought.
- e) Any information known to the applicant concerning dangerous propensities of said animals.
- f) Housing arrangements for all said animals with particular details as to the safety, structure, locks, fences, warning sign, etc.
- g) Safety precautions proposed to be taken.
- h) Noises or odors anticipated in the keeping of such animals.
- i) The prior history of incidents involving the public health or safety involving any of said animals.
- j) A statement, signed by the applicant, indemnifying the City and its agents and employees for any and all injuries that may result from the animal.
- k) Proof of liability insurance, when a permit is issued in accordance with this Chapter and is for an animal deemed a "dangerous cat" or "dangerous dog", in the minimum amount of \$300,000 per occurrence covering any damage or injury which may be caused by such dangerous animal shall be required. The City shall be listed as certificate holder, and shall be required to be notified of any cancellation, termination or expiration of the liability insurance policy. The person responsible shall maintain the liability insurance required by this subsection at all times, unless and until the person responsible shall cease to own, harbor, shelter, keep, control, manage, or possess the dangerous animal.
- l) Any additional information required by the animal control officer or law enforcement officer authorized by the Chief or Police or his or her designee to enforce the provisions of this Chapter at the time of filing such application or thereafter.

2-118 PROVISIONS AND/OR REQUIREMENTS FOR KEEPING POTENTIALLY DANGEROUS AND DANGEROUS CATS OR DOGS

The keeping of potentially dangerous and dangerous cats and dogs in the City shall be subject to, but not be limited to the following provisions and/or requirements:

- a) Leash and muzzle. An animal that has been declared to be a potentially dangerous or dangerous animal and is kept in this City will be required to be securely leashed and, in

the case of dogs which have been declared dangerous, muzzled when it is taken outside of its area of confinement. The leash shall be no longer than four feet in length and under control of an adult capable of exercising control over the animal. The muzzling device must not cause injury to the dog or interfere with its vision or respiration, but shall prevent it from biting any human or animal

- b) Confinement.
 - 1. An animal that has been declared to be a potentially dangerous or dangerous animal shall be securely confined indoors or in a securely enclosed and locked pen or kennel; or in a yard fenced in a manner that prohibits escape, except when leashed and muzzled as above provided. Such pen, kennel or structure must have secure sides and a secure top attached to the sides. All structures used for confinement must be locked with a key or combination lock when such animals are within the structure. All such structures must be adequately lighted and ventilated and kept in a clean and sanitary condition.
 - 2. An animal which has been declared to be a potentially dangerous or dangerous cat shall be securely confined indoors at all times, except when secured on a leash or in a carrier for transport to the veterinarian.
- c) Confinement Indoors. No animal that has been declared to be a potentially dangerous or dangerous animal may be kept on a porch, patio or in any part of a house or structure that would allow the animal to exit such building on its own volition. In addition, no such animal may be kept in a house or structure when the windows are open or when screen windows or screen doors are the only obstacles preventing the animal from exiting the structure.
- d) Signs. All persons responsible for any dog that has been declared to be a dangerous dog must display in a prominent place on their premises a sign which shall be at least 10 inches by 14 inches using the words "Beware of Dog" in at least two-inch block letters. In addition, a similar sign is required to be posted on the kennel or pen of such animal, and on each entry point of fences that will be used to confine the dog.
- e) Identification Photographs. All persons responsible for any animal that has been declared to be a potentially dangerous or dangerous animal must provide to the City Clerk two color photographs of such animal clearly showing the general appearance, color and approximate size of the animal.
- f) Microchip Identification. The person responsible for any animal that has been declared to be a potentially dangerous or dangerous animal must have a microchip implanted in the animal for identification, and the name of the microchip manufacturer and the identification number of the microchip must be provided to the City Clerk.
- g) Mandatory Spay and Neuter. All declared potentially dangerous and dangerous cats and or dogs shall be required to be spayed or neutered
- h) Training. All declared potentially dangerous and dangerous dogs shall be required to be enrolled in a behavior modification program administered by a Certified Pet Dog Trainer (CPDT), Certified Dog Behavior Consultant (CDBC), Veterinary Behaviorist certified through the American College of Veterinary Behaviorists (ACVB), or comparable certification. Upon successful completion of said program, verification must be provided to the City Clerk.
- i) Reporting requirements. All persons responsible for any animal that has been declared to be a potentially dangerous or dangerous animal must provide written notification to the City Clerk at least ten days prior to any of the following situations:
 - 1. The removal from the City of such animal, and provide the City Clerk with the contact information of the new person responsible for such animal.
 - 2. The birth of offspring of such animal.

3. The new address of the person responsible for such animal should the person responsible move within the corporate City limits.
 4. In the event of the death of such animal, the City Clerk must be notified in writing within ten days of the death.
- j) Sale or Transfer Prohibited. No person shall sell, transfer, barter or in any other way dispose of a declared potentially dangerous or dangerous animal to any person within the City unless the recipient person resides permanently in the same household and on the same premises as the registered person responsible for such animal; provided that the registered person responsible for such animal may sell or otherwise dispose of such animal to persons who do not reside within the City.

2-119 POTENTIALLY DANGEROUS OR DANGEROUS ANIMAL PERMIT FEE

The fee for a potentially dangerous or dangerous animal permit application shall be adopted by the Governing Body and on record in the Office of the City Clerk. The fee will be based upon the number of potentially dangerous and dangerous animal permits being applied for and shall be non-refundable. The fee shall be payable to the City Clerk at the time of application. Accretions by natural birth shall not require additional permits during the period of a valid permit.

2-120 TERM AND RENEWAL OF DANGEROUS AND POTENTIALLY DANGEROUS ANIMAL PERMIT

No potentially dangerous or dangerous animal permit required by this Chapter shall be granted for a period in excess of one year. An application for renewal of any such permit shall be made not less than forty-five (45) days prior to the expiration thereof, and shall be accompanied by the same fee as required upon making the original application.

2-121 INSPECTIONS FOR RENEWAL

The holder of a potentially dangerous or dangerous animal permit shall notify the City at least forty-five (45) days prior to the permit expiration date of any request for renewal. Prior to the annual renewal of any potentially dangerous or dangerous animal permit, an animal control officer or law enforcement officer shall inspect the premises subject to such permit to determine whether the person to whom it has been issued is continuing to comply with all of the conditions specified in this Chapter. If the animal control officer or law enforcement officer determines during any such inspection that any of the conditions therein specified are being violated, the officer shall recommend denial of a renewal of any such permit or shall recommend the immediate revocation of such permit in the event that such violation is not corrected within such period of time as the officer shall direct. Upon completion of the inspection process provided herein, the animal control officer or law enforcement officer shall report to the Municipal Court that the dangerous animal permit has been renewed, that the renewal application has been denied, or that the permit has been revoked. If the application is denied, or there is a revocation of a permit, a copy of the report shall be given to the person responsible for the potentially dangerous or dangerous animal. The report shall include the basis for the denial or revocation. The person responsible shall have the right to appeal the denial or revocation of permit to the Municipal Court. An appeal shall be taken by the filing of a written request for a review hearing with the Municipal Court within thirty (30) days of the denial or revocation of the permit. If an appeal is filed, the Municipal Court shall notify the animal control officer or law enforcement officer and City Prosecutor, by best means possible, that a hearing will be held within fourteen (14) days, at which time the person responsible must provide evidence of compliance with the conditions of this Chapter. The hearing shall be informal and shall be open to the public. The Municipal Court, after considering the evidence, shall issue its determination as to whether the permit should be renewed, denied or revoked. The determination of the Municipal Court shall be final.

2-122 COLLAR OR HARNESS REQUIRED

The person responsible for any cat or dog shall cause the same to wear a collar or harness outside the dwelling of the person responsible. The registration tag required in section 2-110 shall be securely affixed to the collar or harness of each cat or dog registered. The tags shall be situated on the collar or harness in such a manner that it may at all times be easily visible to law enforcement officers or animal control officers of the City. Replacement tags shall be issued for a fee which is recorded in the City Clerk's office and may be changed from time to time.

2-123 CAT AND DOG CONTROL

- a) All cats must be under the control of the person responsible therefor at all times. For the purpose of this section, a cat shall be considered not under control and in violation of this section in the following situations:
 - 1. If a neighbor complains orally or in writing to the person responsible for a cat, that the cat is entering upon the neighbor's property, then the cat's presence on the neighbor's property at any time subsequent to the neighbor's complaint shall constitute a violation of this section;
 - 2. If a cat causes injury to persons or animals.
 - 3. If a cat causes damage to property off the property of the person responsible for such cat, to include, but not limited to, breaking, bruising, tearing up, digging up, crushing or injuring any lawn, garden, flower bed, plant, shrub or tree in any manner or defecating or urinating upon any private property.
- b) It is unlawful for the person responsible for any dog to permit such dog to run at large within the City. For the purpose of this section, a dog shall be considered running at large and in violation of this section in the following situations:
 - 1. If a dog is off the property of the person responsible for such dog, and is not firmly attached to a hand-held leash and under the physical control of the person responsible. Electronic collars may not be used to control a dog when off the property of the person responsible for such dog.
 - 2. If a dog is off the property of the person responsible for such dog, and is not prevented from making uninvited contact with humans or other animals. This includes a situation when a dog is secured on a leash.

2-124 ELECTRONIC FENCES AND ELECTRONIC COLLARS

Dogs may be confined to the residential property of the person responsible for such dogs by an electronic fence or an electronic collar. An electronic fence or electronic collar is defined as a fence or collar that controls the movement of the dog by emitting an electrical shock when the animal wearing the collar nears the boundary of such property. Dogs confined to residential property by an electronic fence or collar shall at all times be required to wear the collar or other required device which must be functional, and shall not be permitted to be nearer than 10 feet from any public walkway or street. All persons who use an electronic fence or an electronic collar shall clearly post their property to indicate to the public that such a fence or collar is in use. Electronic collars may not be used to control a dog when it is off the property of the person responsible for such dog. An electronic fence or electronic collar shall not be used to confine a potentially dangerous or dangerous dog.

2-125 PUBLIC NUISANCE

- a) A Public Nuisance is any animal that:
 - 1. Materially damages private or public property;
 - 2. Scatters solid waste that is bagged or otherwise contained, or

3. Excessively barks, whines, howls, or creates any other disturbance which is continuous or during times covered by the City Noise Ordinance (12:00am to 9:00am Friday-Saturday, 11:00pm to 7:00am Sunday-Thursday) (disturbance factors include, but not limited to, time of day, volume, length of time, etc.). If the violation is not witnessed by the animal control officer and/or law enforcement officer, the complainant making such statement must agree to sign a complaint and testify in court if requested.
- b) It is unlawful for the person responsible for any animal to negligently, carelessly, willfully or maliciously permit such animal to become a public nuisance.
- c) Anyone having the authority of an animal control officer, including but not limited to law enforcement officers, is given the authority to seize and impound any animal which is a public nuisance as defined by this section.

2-126 UNLAWFUL TO HARBOR OR KEEP ANY ANIMAL WITHOUT PROPER AND NECESSARY PRECAUTIONS

- a) Any person responsible for an animal within the City shall take all proper and necessary precautions to ensure and promote conditions that restrict the animal when unleashed to such person's property and prevent injury to other humans, domestic animals and/or damage to property.
- b) No person responsible for an animal shall fail to provide the animal with adequate care, adequate food, adequate water, adequate health care, and adequate shelter. Such shelter should be clean, dry, and compatible with the condition, age and species. An animal must also have the opportunity for adequate daily exercise. This requires that the person responsible must offer some freedom from continuous chaining and tethering.

2-127 TETHERING

- a) It is unlawful to attach chains or other tethers, restraints or implements directly to a dog without the proper use of a collar, harness or other device designed for that purpose and made from a material that prevents injury to the dog.
- b) It is unlawful for any person to:
 1. Continuously tether a dog for more than one continuous hour. A dog may be tethered 3 hours total within a 24 hour time period providing there is a 3 hour break between each period of tethered time. For the purpose of tethering a dog, a chain, leash, rope or tether must be at least ten feet in length.
 2. Use a chain, leash, rope, collaring device, tether, which restricts the free movement of the animal (i.e. the device should not weigh more than one eighth of the animal's body weight).
 3. Tether a dog in such a manner as to cause injury or strangulation, or entanglement of the dog on fences, trees, posts or other manmade or natural obstacles.
 4. Tethered for any length of time anywhere in the City when they are off the property of the person responsible for such animal.
 5. Tether without providing adequate care, food, shelter, and water as outlined in sections 2-126 and 2-128.

2-128 CRUELTY TO ANIMALS

Cruelty to Animals shall be defined as:

- a) Intentionally killing, injuring, maiming, torturing, mutilating, beating, or overworking any animal; this includes, but is not limited to, administering any poisonous substance with the intent that the same shall be taken or swallowed by any animal;

- b) Acting or failing to act when the act or failure to act causes or permits pain or suffering to such animal;
- c) Abandoning or leaving any animal in any place or releasing or dumping an animal from a vehicle without making provisions for its proper care; in addition, "abandon" means for the person responsible to leave an animal without demonstrated or apparent intent to recover or resume custody; to leave an animal for more than twenty-four hours without providing adequate food and shelter for the duration of the absence; or to turn out or release an animal for the purpose of causing it to be impounded;
- d) Failing to provide adequate care, adequate food, adequate health care, adequate shelter, or adequate water; or
- e) Failing to provide veterinary care when needed to treat injury or illness unless the animal is promptly destroyed in a humane manner.

The provisions of this section shall not apply to:

- 1. Normal or accepted veterinary practices;
- 2. Bona fide experiments carried on by recognized research facilities;
- 3. Killing, attempting to kill, trapping, catching or taking of any animal in accordance with the provisions of Chapter 32 or Chapter 47 of the Kansas Statutes Annotated;
- 4. Rodeo practices accepted by the Rodeo Cowboys' Association;
- 5. The humane killing of an animal which is diseased or disabled beyond recovery for any useful purpose, or the humane killing of animals for population control, by the person responsible or the agent of such person residing outside of a City or the person responsible therefor within a City if no animal shelter, pound or licensed veterinarian is within the City, or by a licensed veterinarian at the request of the person responsible therefor, or by any officer or agent of any incorporated humane society, the operator of an animal shelter or pound, public health officer or licensed veterinarian three business days following the receipt of any such animal at such society, shelter or pound;
- 6. With respect to farm animals, normal or accepted practices of animal husbandry;
- 7. The killing of any animal by any person at any time which may be found outside of the owned or rented property of the person responsible for such animal and which is found injuring or posing an immediate threat to any person, farm or domestic animal or property, or
- 8. An animal control officer trained in the use of a tranquilizer gun, using such gun with the estimated dosage for the size of the animal, when such animal is vicious, a threat to public safety or themselves or could not be captured after reasonable attempts using other methods.

2-129 AUTHORITY OF ANIMAL CONTROL OFFICER OR LAW ENFORCEMENT OFFICER TO RESCUE AN ENDANGERED ANIMAL

- a) Whenever an animal is found confined and/or unattended in a motor vehicle or other location, which subjects it to certain weather conditions that endangers its life as determined by the animal control officer or law enforcement officer, the animal control officer may enter such vehicle or property with the assistance from the police for the purpose of rescuing such animal, and transporting it to a shelter house designated by the Governing Body for treatment, boarding, or care. A written notice shall be left on or in the motor vehicle or other applicable property advising that the animal has been removed under authority of this section and the location where the animal has been impounded.

- b) Nothing in this section shall be deemed to prevent the animal control officer law enforcement officer from entering upon property without consent when the condition or animal is found in plain sight and not within a private structure or under conditions constituting an emergency.
- c) No animal control officer or law enforcement officer shall be held criminally or civilly liable for action under this section, provided the officer acts lawfully, in good faith, on probable cause and without malice.

2-130 SEIZURE PROHIBITED ANIMALS

- a) Upon the written complaint of any person that a person owns, harbors, shelters, keeps, controls, manages, or possesses, within the City, an animal prohibited by this Chapter, the animal control officer or a law enforcement officer shall conduct an investigation and if the investigation reveals evidence that indicates that such person named in the complaint in fact owns, harbors, shelters, keeps, controls, manages, or possesses, within the City, an animal prohibited by this Chapter, the animal control officer or law enforcement officer shall forthwith send written notice to such person requiring such person to safely remove said animal from the City within three (3) days of the date of said notice. Notice as herein provided shall not be required where such animal has previously caused serious physical harm or death to any person or has escaped and is at large, in which case the animal control officer or law enforcement officer shall cause said animal to be immediately seized and impounded or killed, if seizure and impoundment are not possible without risk of serious physical harm or death to any person.
- b) The animal control officer or law enforcement officer shall forthwith cause to be seized and impounded any animal prohibited by this Chapter where the person responsible therefor has failed to comply with the notice sent. Upon a seizure and impoundment said animal shall be delivered to a place of confinement which may be with any organization which is authorized by law to accept, own, keep or harbor such animals. If during the course of seizing and impounding any such animal, the animal poses a risk of serious physical harm or death to any person, the animal control officer or law enforcement officer may render said animal immobile by means of tranquilizers or other safe drugs, or if that is not safely possible, then said animal may be killed.
- c) Any reasonable costs incurred by the animal control officer or law enforcement officer in seizing, impounding and for confining any animal prohibited in the City by this Chapter shall be charged against the person responsible for such animal. Such charges shall be in addition to any fine or penalty provided for violating this Chapter.

2-131 SEIZURE PERMITTED ANIMALS

- a) Any animal control officer, law enforcement officer or other person designated by the Governing Body of the City is authorized to capture any dog found running at large in violation of section 2-123 and any cat which is not under control as defined in section 2-123 and place such animal in an animal shelter designated by the Governing Body for that purpose. In addition to or in lieu of seizing the cat or dog, the animal control officer, law enforcement officer or City Prosecutor may charge the person responsible for such animal with violating section 2-123 of this Chapter.
- b) Any animal control officer, law enforcement officer or other person designated by the Governing Body of the City is authorized to capture any animal which is a public nuisance as defined by section 2-125 and place such animal in an animal shelter designated by the Governing Body for that purpose. In addition to or in lieu of seizing the animal, the animal control officer, law enforcement officer or City Prosecutor may charge the person responsible for such animal with violating section 2-125 of this Chapter.

- c) An animal control officer or law enforcement officer shall forthwith cause to be seized and impounded any potentially dangerous or dangerous animal, when the person responsible for such animal has failed to comply with the requirements of this Chapter relating to permitting and keeping potentially dangerous or dangerous cats and dogs. Such officer may place such animal in an animal shelter designated by the Governing Body for that purpose. In addition to seizing the animal, the animal control officer, law enforcement officer or City Prosecutor may charge the person responsible for such animal with violating the requirements of this Chapter relating to permitting and keeping potentially dangerous or dangerous cats and dogs. If during the course of seizing and impounding any such animal, the animal poses a risk of serious physical harm or death to any person, or the animal is considered a threat to public safety by the animal control officer or any law enforcement officer, such officer may render said animal immobile by means of tranquilizers or other safe drugs; or if that is not safely possible, then said animal may be destroyed.
- d) Any reasonable costs incurred by the animal control officer or law enforcement officer in seizing, impounding and for confining any animal permitted in the City by this Chapter shall be charged against the person responsible for such animal. Such charges shall be in addition to any fine or penalty provided for violating this Chapter, and payment of such charges shall be a condition to the redemption and release to persons responsible for such animals.

2-132 PROCEDURE FOR FAILURE TO REDEEM

Any animal captured or apprehended under the terms and conditions of this Chapter shall be held in a shelter approved by the City for a period of three (3) business days from the date of impoundment, such period of time beginning at nine a.m. the morning following the day of impoundment. If the person responsible does not reclaim his or her animal during the period specified in the preceding sentence, or if the animal control officer or animal shelter is unable to locate and notify the person responsible after making a good faith effort to do so within the three (3) business day period then the animal becomes the property of the intake facility.

2-133 PRESENTATION OF ANIMAL

The person responsible for any animal shall physically produce the animal for observation, identification or inspection when requested to do so by an animal control officer or law enforcement officer investigating a violation of the animal control and/or welfare laws of the City, provided the officer has probable cause to believe a crime or violation of the animal control laws has been committed. Failure to do so is a violation of this section.

2-134 DUTY TO REPORT ANIMAL BITES AND SCRATCHES

When any animal, while within the boundaries of the City, inflicts an animal bite on any person or domestic animal, or when an animal is suspected of having rabies; it shall be the duty of any person having knowledge of such facts to report the same immediately, or as soon as practicable, to the Police Department or the animal control officer.

2-135 ANIMAL BITE PROCEDURE

- a) Except as provided in subsection (e) of this section, an animal which inflicts an animal bite on any person or domestic animal shall immediately, or as soon as practicable, be quarantined at the expense of the person responsible for such animal with a licensed veterinarian of such person's choice or with the City's approved animal shelter for a period of not less than ten (10) days nor more than twelve (12) days.
- b) If the person responsible for the animal cannot be immediately notified, City personnel shall immediately, or as soon as practicable, impound such animal with a City approved

shelter, at the expense of the person responsible, for a period of not less than ten (10) days nor more than twelve (10) days. If the address of the person responsible for the animal can be determined, the animal control officer or Police Department shall make a reasonable effort to notify such person that said animal is impounded under the provisions of this section and that such person has the right to redeem the animal at the expiration of confinement upon the payment of impoundment fees, any veterinarian fees, and any license and penalty fees then due and owing to the City.

- c) In the event the original place of impoundment is not the choice of the person responsible for such animal, such person may cause the animal's place of impoundment to be changed to a licensed veterinarian of such person's choice; provided all other provisions of this Chapter are complied with. The total period of confinement of the animal at the one or more locations is to be for a period of not less than ten (10) days nor more than twelve (12) days.
- d) The veterinarian or City approved shelter with whom the animal is impounded, shall give immediate written notice to the Chief of Police that such animal has been confined and will be confined for not less than ten (10) days no more than twelve (12) days. At the expiration of the aforesaid confinement period, the veterinarian or City approved shelter shall give immediate written notice to the Chief of Police as to the health of such animal pertaining to the diagnosis of rabies.
- e) In the event the investigating officer determines that the animal had an effective rabies inoculation, and was duly licensed under this Chapter at the time of the injury, or the animal had an effective rabies inoculation and caused bite or injury to an immediate family member, and agrees to obtain a City license for the animal prior to the completion of rabies observation, provided both the victim and person responsible agree, then the animal need not be impounded in accordance with subsection (a) of this section but the following alternative procedure shall be followed:
 - 1. If the injured person, his parent, or guardian desires that the animal be impounded and agrees in writing to pay for its board during the period of impoundment, it shall be so impounded for the period specified in subsection (a) of this section notwithstanding any other provision of this Chapter.
 - 2. If the injured party, his parent, or guardian is unwilling to agree in writing to pay for the animal's board during the period of impoundment, the animal shall be permitted to remain confined in the residence or enclosed yard of the person responsible; provided no animal shall be allowed to remain on the property of the person responsible therefor under this section unless such person signs a written agreement to keep the animal on the property in confinement for the period specified in subsection (a) of this section and further agrees to allow the animal to be examined periodically to determine its physical condition during the confinement period. At the end of the observation period, the animal control officer may require that a licensed veterinarian examine the animal and furnish written notification to the animal control officer regarding the animal's health. All costs associated with the exam are the responsibility of the person responsible. If the person responsible for such animal is unwilling to sign such an agreement, the animal shall be immediately, or as soon as practicable, impounded in accordance with subsection (a) of this section.

2-136 ANIMAL BITE VIOLATION

Persons who are responsible for or in control of animals in the City shall prevent such animals from inflicting animal bites on any person or domestic animal. It shall be a violation of this

section by the person responsible for or in control of an animal if the animal, when unprovoked, inflicts an animal bite on any person or domestic animal.

.2-137 DISEASE CONTROL

- a) When rabies or other communicable diseases associated with animals are known to exist in the community, or when they are known to exist in neighboring communities the Mayor may declare a quarantine of any or all animals. It shall be the duty of the person responsible for such animal to keep such animal confined to the premises of the person responsible therefor and under control. For the purposes of this section, animals are not to be considered confined to the premises of the residential property the person responsible therefor if the only restraining device is an invisible electric fence.
- b) It shall be the duty of all animal control officers or law enforcement officers, or those having the authority of law enforcement officers to enforce such quarantine. The Mayor and Chief of Police shall have a right to deputize other persons as needed. Such deputized persons need not seize such animals, but shall aid in determining the person responsible to the end that warrants of arrest can be issued against violating persons responsible.

2-138 REMOVAL OF ANIMAL FECES

- a) Any person in charge of an animal, when such animal is off the property of the person responsible therefor, shall be responsible for the removal of any feces deposited by such animals on public walks, streets, recreation areas, or private property, and it shall be a violation of this provision for such person to fail to remove or provide for the removal of such feces before the animal leaves the immediate area where such defecation occurred.
- b) It shall be unlawful for any person to dispose of removed feces by intentionally or recklessly depositing, or causing to be deposited, feces removed pursuant to this section into, upon or about any public place, or any private property without the consent of the owner or occupant of the property.

2-139 REMOVAL OF DEAD ANIMAL

It shall be the responsibility of the person responsible for a deceased animal to provide for its removal from private property.

2-140 FEES TO GENERAL FUND

All fees, charges and penalties paid to or collected by any officers of the City under or pursuant to the provisions of this Chapter shall be paid over to the City Treasurer and credited to the general operating fund.

2-141 ENFORCEMENT

It is the duty of the animal control officer or anyone having the authority of an animal control officer, including but not limited to law enforcement officers, to enforce the terms and provisions of this Chapter and the Mayor or the Chief of Police may appoint by and with the consent of the Governing Body some suitable person to be known as an animal control officer whose duties it shall be to assist in the enforcement of this Chapter and to work under an immediate supervision and direction of the Police Department. Anyone having the authority of an animal control officer is given the authority to seize any animal found outside the City limits when he/she has reasonable grounds to believe said animal committed any act within the City which is prohibited by the provisions of this Chapter or which subjects said animal to seizure if found within the City. Any private person may, upon signed complaint, bring charges against any person responsible for an animal for the violation of any of the provisions of this Chapter.

2-142 BEEKEEPING

Any person keeping bees shall comply with the following:

- a) Minimize swarming of bees;
- b) Provide and maintain a source of water located on the premises;
- c) Maintain no more than two (2) hives per property/lot;
- d) Hives will be located only within a fenced back yard. The minimum height of fence will be 42 inches. A flyway structure/barrier (shrubbery or fencing) is necessary if the exterior fence is less than 6 feet in height;
- e) Hives will be maintained at least ten (10) feet from all property lines; and
- f) Maintain and manage such boxes or hives so as not to create a nuisance by any of the following circumstances: unhealthy condition(s), interfere with the normal use and enjoyment of human or animal life, or interfere with the normal use and enjoyment of any public property or private property of others.
- g) Remove hives if established guidelines are not maintained as determined by Codes or animal control officers.

2-143 VIOLATION – PENALTY

- a) It is unlawful for any person to violate any of the provisions of this Chapter. Any person convicted of the violation of any provision of this Chapter where a specific penalty is not otherwise prescribed shall be fined up to \$1,000 or 30 days imprisonment, or a combination of fine and imprisonment. Upon conviction, the Municipal Court may order restitution be paid to the victim of the violation.
- b) Each day any violation of this Chapter to which this penalty applies continues constitutes a separate offense.

2-144 NUISANCE, INJUNCTION

In addition to any other relief provided by this Chapter, the City Attorney may apply to a court of competent jurisdiction for an injunction to prohibit the continuation of any violation of this Chapter. Such application for relief may include the seeking of temporary and permanent injunctive relief.

2-145 SEVERABILITY

If any section, subsection, subdivision, paragraph, sentence, clause or phrase in this Chapter or any part thereof, is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Chapter or any part thereof.

COUNCIL COMMITTEE OF THE WHOLE

September 18, 2017

The Council Committee of the Whole met on Monday, September 18, 2017 at 6:00 p.m. in the Council Chambers. The meeting was called to order by Council President Jori Nelson with the following members present: Chad Herring, Serena Schermoly, Steve Noll, Eric Mikkelson, Andrew Wang, Sheila Myers, Brooke Morehead, Dan Runion, Courtney McFadden, Ted Odell and Terence Gallagher.

Staff Members present: Tim Schwartzkopf, Chief of Police; Sgt. Ivan Washington, Animal Control Officers Roger Blancher and Allie Jasminski; Keith Bredehoeft; Public Works Director; Katie Logan, City Attorney; Wes Jordan, City Administrator and Joyce Hagen Mundy, City Clerk. Also present was Chris Brewster, City Planning Consultant.

Zoning Discussion/Presentation

Relationship of Zoning to Comprehensive Plan

Chris Brewster stated he would be presenting a big picture look at zoning and planning, as a follow up to some specific discussion and questions the council had at its last meeting. An important point is that while related, planning and zoning are not the same and planning should not necessarily predetermine zoning decisions. Zoning addresses specific laws and requirements, and must be deemed reasonable in relation to the plan or other specific circumstances. It deals in the present, and day to day operations. Plans, on the other hand, reflect general policy and serve as guides dealing with the long-term issues and potential changes. Good plans take into consideration how the actions of today can impact issues of the future. They address known and anticipated issues and provide a framework within which to react to the unanticipated and deal with the city as a whole. A good plan provides a framework for decisions for the future and more specific plans or zoning decisions. Mr. Brewster reviewed the city's comprehensive plan map and its zoning map noting that they are not the same because they address different issues from different perspectives.

The Comprehensive Plan is required by state statutes and encompasses a long term view generally from 10 to 20 years. The purpose of the plan is three-pronged:

- To guide zoning and development issues
- To coordinate development - both public and private
- To prioritize public investment.

Zoning is one of three main tools a city can use to implement its plan.

Mr. Brewster reviewed the “Golden Factors” that should be considered in making a zoning decision, noting that not all of them need to be found and each factor may not always carry equal weight in any particular case. He noted that one of the factors is to “be in conformance with the comprehensive plan”.

Village Vision Overview

Village Vision was adopted in 2007 with initial work on the plan beginning in 2005.

It is a data driven report that addresses the following major themes:

- Preserve image and character

- Maintain quality neighborhoods
- Diversify housing options
- Strengthen community facilities and services
- Promote more vibrant centers (mix of uses and businesses)
- Improve multi-modal transportation systems
- Targeted redevelopment areas

Mr. Brewster noted the importance of the public realm as stated in Village Vision: “One of the keys to attracting and retaining population, including young families, is to create unique public and private places of increasing and lasting value within the community’s neighborhoods, corridors and commercial centers. This may mean using the private realm (residential and commercial buildings) to better define and enhance the public realm (streets, parks, plazas, etc.)

Future Land Use as presented in Village Vision is the conceptual development framework for the city. Areas of the city are identified as 1) neighborhood conservation and improvement areas including corridor redevelopment and 2) Redevelopment Areas - those identified in the plan include Corinth and Meadowbrook; commercial improvement areas identified were PV Center and Somerset Plaza and Civic Enhancement areas of parks, schools, etc. These framework elements do not relate specifically to zoning districts, and that is a reflection of a plans general nature and its role as a guide to future zoning decisions

Emerging Issues that reflect possible changes since the plan was adopted are:

- Housing Options
 - Market & Demographic changes
 - “Missing Middle” options/small-scale multi-unit buildings - higher density
 - Recent projects (continued lot-scale infill, Meadowbrook, Mission Chateau, Benton House)
- Public Realm Design (many of these have been or are currently being addressed)
 - Complete Streets Policy / Quality of Life Initiatives
 - Bike & Pedestrian Plan
 - Park Improvements
- Commercial Center Reinvestment
- Corridor Reinvestment (75th Street, State Line, Mission Road).

Mr. Brewster stated these are issues that staff is continuing to face with questions from developers regarding possible options.

Staff Assessments

Mr. Brewster stated the major themes presented in Village Vision are still relevant and appropriate. This plan is comprehensive and general in nature. Specific locations for redevelopment were identified, but in concept only. Neighborhoods are addressed generally, but differences in types and patterns are not identified. Urban design aspects of “public realm” are not emphasized.

Current Zoning Issues

Mr. Brewster reviewed the following factors identified in the zoning regulations for consideration in zoning decisions:

1. Character of the neighborhood
2. Zoning and uses of property nearby
3. Suitability of property for uses under current zoning
4. Extent that change would detrimentally affect nearby property
5. Length of time property has been vacant or underutilized as zoned
6. Gain to public health, safety and welfare by keeping restrictions vs. impact or hardship on landowner from restrictions
7. Professional recommendations
8. Conformance of change with Comprehensive Plan

Mr. Brewster noted the top three factors could be most affected by more specific updates to the plan as they are currently addressed generally by the plan. Absent that, they will continue to be addressed on a case-by-case basis as applications are evaluated.

At an earlier meeting, he discussed technical issues that staff felt needed to be addressed. These changes can be made by staff with minimal additional direction from the City Council and include the following:

- Interpretation of setback exceptions
- Coordination of SUP/CUP uses and process
- Sign ordinance update
- Landscape standards
- General interpretation issues (fences, solar panels, decks, etc.)

The Comprehensive Plan does not specifically address the following issues requiring staff and the Planning Commission to deal with them on a case by case basis. They include multi-family infill projects, zoning districts and allowed uses, neighborhood redevelopment in residential single family districts and commercial reinvestment. The increased requests for planned zoning indicate that some current zoning districts are not a good fit. Form based codes have been used by other cities in some commercial areas and similar concepts are the basis of the Meadowbrook plan.

The third area of zoning issues come from special tasks or ongoing issues include wireless facilities standards and updates, requests for neighborhood design focus groups and changes in legislation.

Approaches to Plan Updates

Mr. Brewster stated there are different levels of plans. Annual or periodic reviews or updates are typically performed by a Planning Commission to monitor the progress of plan implementation.

Some plans are based on community surveys. Village Vision was based on an extensive detailed community survey. Updates to a survey can verify current policies or visions identify emerging issues and verify current socio-economic conditions. This is a

budgeted item and could be used to address some of the comprehensive planning topics or questions the council may have.

Strategic Updates are targeted to a specific area or emerging topic. They use a more focused on public engagement strategy and result in more detailed planning for the specific area or topic. An example is a plan that identifies the scale, format or pattern of development of an area, rather than a general plan or land use-based plan.

Comprehensive Plan Updates are typically done every 10 to 20 years and include broad public engagement and visioning. He estimated that a complete update of plan would cost in the range of \$100,000 to \$150,000 depending on the level of public engagement.

Jori Nelson asked what would provide the city with the most benefit and what are the associated costs? Mr. Brewster responded that if budget was not a consideration, the following are options are a possible approach to raise expectations on some of the emerging issues currently being addressed under the plan:

1. Review of Neighborhoods - creation of more focused or targeted plans for specific areas. The biggest cost item for plans is the level of public engagement meetings and gathering of information.
2. Multi-family infill - staff have fielded questions in this area and there isn't a lot of guidance in the existing plan. If an area were going to change, what would that change look like?
3. Big Picture public realm plan - a document that coordinates all investments in streetscapes, public places and civic spaces, and how development in different areas should relate to these different design concepts in different parts of the city.

The biggest cost item for any of these plans is the level of public engagement, extent of meetings and gathering of information. It can vary under any of these options.

Sheila Myers asked if the plan has been reviewed each year. Mr. Brewster replied the Planning Commission typically reviews plans annually or periodically, and is required by statute to do this to determine if changes are needed. This can be a formal action or an informal review and acknowledgement of the plan. Mrs. Myers asked if the Council received a report from the Commission on their review. Mr. Brewster did not recall if that had been done recently.

Wes Jordan noted that one of the challenges is that the Comprehensive Plan is generic. People can abstract parts of the plan to support a multitude number of items. It was formulated to provide general guidance and as a reference document it can be confusing as clear direction is not provided. Some parts of the document do not reflect where the city is today.

Jori Nelson asked if neighborhoods would be identified as wards. Mr. Brewster stated he was referring to neighborhoods in general. If you could zoom over the city with Google maps, you would be able to identify different patterns that reflect physical difference among neighborhoods. He did not have any specific boundaries in mind, but based on distinct patterns.

Eric Mikkelson compared Village Vision to the Bible, noting that you can find support for any action in it. He agrees with Mr. Jordan that perhaps it should have more focus and would recommend redoing the comprehensive plan sooner than later, within the next few years. He noted that Village Vision identified the need for more park land and in the past couple of years, the city has more than doubled the amount of parkland which would probably remove that as a priority for the city. Rebuilds were not as prevalent in 2007 when the plan was done as they are today.

Chris Brewster stated that Village Vision seems to still relevant and strong today as the major themes appear to be consistent with what the community values most about the City:

- Preserving image and character
- Maintaining quality neighborhoods
- Diversify housing options (corridors/ “edges” and mixed use areas)
- Strengthen community facilities and services
- Promote more vibrant centers (mix of uses and businesses)
- Improve multi-modal transportation systems
- Targeted redevelopment areas

The question is how specifically it addresses these topics. It may not provide specific guidance that is desired by staff in answering developers’ questions. This is a 20-year document and needs to be somewhat flexible and not too specific.

Chad Herring agreed with the need for balance and that it may be the right time for an update and asked how much time would be involved to do a plan. Mr. Brewster replied it depended on the level of public engagement desired. The more public involvement, the longer the time period needed. With public engagement plans take 12 to 18 months to complete. He noted, however, that specific updates to identified areas could be done in less time.

Terrence Gallagher stated that he felt the commercial areas of the plan are still acceptable. Mr. Brewster replied the plan most specifically addressed Corinth Square with specific concepts, not a blank slate like Meadowbrook was addressed. What is missing is how to get from A to B.

Mr. Gallagher noted as a member who served on the Village Vision committee that the time commitment is substantial. For every hour of community input meetings, the committee spent an additional three to four hours meeting discussing the findings. He does not feel a complete plan update is needed but an update focused either on residential or commercial areas.

Ted Odell stated that Village Vision is a great resource for the city, but urged caution in changing zoning regulations. The plan needs to address the top three themes. He can see mixed use blending into residential areas if it is done correctly. Mixed-Use needs to be redefined to be certain all of the ordinances mesh.

Dan Runion asked if changes to zoning could wait until the next comprehensive plan is completed to provide more direction or if they could be done now.

Chris Brewster replied a little of both. There are things in the zoning regulations that he is working on that would not be impacted by a plan update. If there isn't a plan update in the near future, other items need more discussion and policy direction from the city council before they can happen. He stated that the "mxd district" is a good example, as it doesn't provide guidance to the development of the mxd as to what should be included. Yet, the comprehensive plan should not be so specific that it states how it is to be done; a specific plan for a particular area could reasonably do so and remove some of the generalities in the mxd district. The mxd district has to be based on a plan, and that can either come from a developer or property owner, or be more directed by a city plan, or a combination of both. This is the concept behind form-based codes.

Dan Runion asked if it was helpful to the Planning Commission to have some interpretation. He views the "golden factors" as very malleable. Can the council give thoughts on what it wants.

Chris Brewster stated these are factors from the code, but noted that the city's ordinances can lay out more specific criteria. Another thing that could be done is that when updating the zoning ordinances emphasize in the intent statements how zoning districts are to relate to the plan or policies.

Courtney McFadden asked what Mr. Brewster recommended. Mr. Brewster noted two major considerations are budget and time elements. The last thing he would like to see is to have the city redo the comprehensive plan and come out with the same type of general guidance in the current plan. The lack of specific guidance is the only issue staff is having with the existing comprehensive plan - and that may be a good or bad thing. It points out how general or specific the planning commission or governing body wants the relationship to planning and zoning to be, and that is a policy issue. If a more specific relationship is desired, he would prefer to see strategic and topical updates. He believes more strategic updates are needed.

Jori Nelson noted a recent developer request and asked if staff was looking for more specific direction on R-1a and R-1b zoning districts or on a bigger basis. Mr. Brewster replied this is a general discussion item we were asked to present, looking at it from a bigger perspective. Staff does not have anything specific in mind. Ms. Nelson asked if staff was seeking a motion or direction.

Wes Jordan responded that Mr. Brewster is currently working on changes to the zoning regulations as listed on the council priority list and on Phase II of the building design standards. The comprehensive plan is also listed on the council priority list and staff would like direction on the time frame council desires for that.

Terrence Gallagher said the community survey would be a good opportunity to get the pulse of the community before the city moves forward with a plan update. Mr. Jordan replied that related questions could be built into the survey. Mr. Gallagher urged caution on how they were stated. Mr. Jordan feels it needs to address what is needed most.

Sheila Myers stated that she doesn't feel that the existing plan should be thrown out. We have a starting point from which to work and identify themes or topics that could be addressed.

Ted Odell stated that moving forward he would like to know the dollar cost. Mr. Brewster replied that would be determined by the public engagement level and noted a full plan cost is in the range of \$100,000 to \$150,000; strategic updates to the plan - either area-specific or topic-specific (Mr. Brewster stated he felt the city needed more than one) range from \$20,000 to \$100,000 each again depending on the level of public involvement.

Brooke Morehead agrees with Mrs. Myers that the Council look at filling the holes. She would like to see tighter more defined zoning residential district, noting the recent approval of a fire station in a zoning district.

Wes Jordan stated that he would talk with the Planning Commission to get their input on areas that they feel need to be updated.

Chad Herring appreciated Mr. Gallagher's comments regarding how labor intensive a plan update was, but he is concerned that within two or three years the city may need to redo the plan, noting that the city's plan is not independent of changes occurring in other cities' plans. He does not want to fall behind or to miss an opportunity.

Sheila Myers stated that it is important to get input from the Planning Commission on things that should be addressed in the plan and feel. She feels discussion on the Comprehensive Plan is needed.

Discuss proposed amendments and changes to the animal control and regulation ordinance

Chief Tim Schwartzkopf recognized Sgt. Ivan Washington and Animal Control Officers Roger Blanchard and Allie Jasminski who were in attendance for their research and input in the proposed code and thanked city attorney Katie Logan and city prosecutor Deb Vermillion for their work on the proposed ordinance. He noted that this item was continued from a previous meeting and he would continue from where discussion ended. He stated that he received a few suggestions from e-mails that he would discuss at the end.

Section 2-122 has no changes.

Section 2-123 if there is no owner or a stray cat, animal control does not deal with it.

Section 2-125 the word "Material" will be added before a) 1. "Material" damages private or public property; and 2. Scatters "bags of solid waste", refuse that is bagged or otherwise contained, or;

Section 2-126 it was felt that 2-126b was redundant and will be removed in the new version.

Jori Nelson asked about Section 2-126 where it addresses adequate care, adequate food, adequate water, adequate health and adequate shelter when a dog is unleashed. Chief Schwartzkopf stated he would come back to those at the end and that they will be covered in definitions.

Section 2-129 there was a question about legality of officers going on private property. The city attorney has reviewed this section and approved the language. There is a state statute that also addresses this.

Chad Herring stated he would like to go back to Section 2-128(e)5. and confirmed that under this section self euthanasia would be allowed. In Section 2-128(e)7. Mr. Herring questioned the word "immediate" threat and suggested that possibly be changed to "material" threat. Chief Schwartzkopf responded staff would review that further.

Section 2-132 Procedure for Failure to Redeem would be address later when Chief comes back with his changes.

Section 2-137 Disease Control (b) the reference to school guards will be removed as the city no longer employs school guards.

Eric Mikkelson confirmed that at the last meeting it was agreed that potentially dangerous animals would not be muzzled or be required to have insurance. He questioned if they should be required to have mandatory training and the recording requirement. Chief Schwartzkopf replied that training is intended to prevent the potentially dangerous animal from becoming dangerous animals.

Chad Herring also noted that potentially dangerous animals are required to be spay or neutered (Section 2-118g). He feels that is dramatic step. Allie Jasminski replied that she sees the value, but would be ok if it were removed. Mr. Herring noted that he saw value in spay and neutering. Chief Schwartzkopf replied that staff would like to see it remain in the ordinance, but the Council could remove it.

Eric Mikkelson stated that he felt that either the definition of a potentially dangerous animal needs to be tightened or the requirements for those animals need to be loosened. As it currently reads, he feels the requirements for a potentially dangerous animal are too extreme. They are almost the same as a declared dangerous animal.

Jori Nelson agreed with Mr. Mikkelson and noted that "menacing fashion" is very subjective. Chief Schwartzkopf replied the ordinance tries to find a common ground, but noted that there will be some subjectivity. The potentially dangerous animal is going to be actively aggressive. Staff needs to be trusted to make the right decision. An ordinance cannot be written to address every instance. Staff will need to conduct an investigation and make a determination.

Sheila Myers suggested removing M(2) from Section 2-102M. Mr. Mikkelson stated that there is no lack of trust in the officers, but noted that there will always be interpretation of ordinances. Chief Schwartzkopf stated that these definitions have been

written in conjunction with the city attorney and the city prosecutor at the direction of the city council and the changes were not done overnight.

Mr. Mikkelson asked if staff would prefer removing section M(2) or leaving it in and reducing the related penalties. Chief Schwartzkopf noted that in M(3) propensity means that the animal has already done this. This act has already happened. This is an aggressive animal that is getting ready to bite. Mr. Mikkelson responded that every dog is ready to bite and has to be trained otherwise. Dogs will growl without any intention to bite and he does not want to see them and their owners suffer all the consequences listed.

Ted Odell suggested the removal of #2 with the remainder of M being left as a compromise and moved that Chapter II entitled Animal Control and Regulation be approved as amended including the removal of 2-106 M(2). The motion was seconded by Brooke Morehead.

Eric Mikkelson confirmed that the motion included all of the changes proposed and approved earlier and was subject to the approval of the final draft of the ordinance.

Andrew Wang said he was supportive of the motion, but asked what animals were omitted with the removal of #2 and if there was anything specific that caused that language to be added. Chief Schwartzkopf said it would probably not have a dramatic effect. However, he did relay a recent situation where an animal was ready to bite an individual had an officer not intervened.

Jori Nelson asked to continue noting that there were items that Chief Schwartzkopf had not yet covered in his presentation. Chief Schwartzkopf stated the information would take five minutes to present.

The motion on floor was voted on and passed by a vote of 11 to 1 with Ms Nelson voting in opposition.

ADJOURNMENT

Eric Mikkelson moved to adjourn the meeting. The motion was seconded by Sheila Myers and passed unanimously. The Council Committee of the Whole meeting was adjourned at 7:28 p.m.

Jori Nelson
Council President



PLANNING COMMISSION

Council Meeting Date: October 2, 2017

PC2017-02 Consider Amendment to Special Use Permit for Kansas City Christian School - 4801 West 79th Street

PLANNING COMMISSION RECOMMENDATION

Recommend the City Council adopt Ordinance 2367 approving an amendment to the Special Use Permit for the operation of a private school by Kansas City Christian School Society, Inc. on the property described as follows: 4801 West 79th Street, subject to the conditions recommended by the Planning Commission.

BACKGROUND

The Special Use Permit for Kansas City Christian School was approved by the City Council on January 18, 1999. It did not have an expiration date, but was subject to four conditions relative to the design, construction and operation of the school, and subject to a Site Plan, subsequently approved on February 2, 1999. A school was originally built on this site in 1954 as a public elementary school. One of the conditions was that expansion of the school, or amending the approved site plan would require an amendment to the Special Use Permit.

In 2008 the school applied for an amended Special Use Permit and Site Plan. At that time, a number of issues related to parking utilization, drop-off procedures and school transportation were raised by the neighbors, and the amended permit and site plan dealt primarily with reconciling those issues. The applicant worked with the City and neighbors to resolve these issues with operational policies.

At this time the distribution of facilities and classrooms, and associated parking requirement was as follows:

- 11 high school classrooms - 88 spaces
- 17 elementary and junior high classrooms - 34 spaces
- 51 employees - 26 spaces
- Total parking need - 148 spaces
- Total parking provided - 171 spaces (exceeding minimum requirements by 23 spaces)

The enrollment numbers associated with these issues were as follows:

- 1999 SUP - 543 students (162 of which were high school)
- 2008 SUP amendment - 469 students (274 of which were high school)
- Current enrollment - 445 students (155 of which are high school)

Through the amended Special Use Permit process, the parking and transportation issues were resolved with better utilization of current parking and facilities, reconfiguration of classrooms, and other associated transportation

policies. No new facilities were built, however parking and capacity was expanded to address these issues. The amended Special Use Permit was approved on September 2, 2008 with the renewal of the four conditions of the original SUP, plus the following conditions:

5. That Kansas City Christian School adopt a policy that all students will park on site and develop a procedure for implementation and enforcement of the policy.
6. The number of high school classrooms shall be limited to 11.
7. No more than four busses shall be parked in the rear of the school when not picking up or dropping off students, and shall not be idling for more than five minutes during pick-up and drop-off.
8. Kansas City Christian provide to the City at the beginning of each school year an updated student count reflecting the number of students in each grade and the number of classrooms used for each grade level.

The current application is for the renovation and expansion of the existing 55,642 square foot building adding 26,353 square feet of new space and renovating 10,268 square feet of the existing building. This will provide new and renovated rooms through the expansion and renovation of interior spaces. Specifically, the expansion involves:

- A second story addition over the center 1/3rd of the existing school building and associated with the primary entrance to the west of the existing gymnasium.
- A two story multi-purpose space to the rear of the existing building (southwest corner over current paved play area above an existing underground space).
- A small single story addition to the southeast corner of the building.

The expansions will occur over some existing parking areas, but through reconfiguration of the existing parking lots, five additional parking spaces will be provided.

The traffic study conducted has been reviewed and approved by the city's traffic engineer and the Director of Public Works and finds that sufficient parking is available for student and staff parking as well as an additional 24 available spaces.

The Storm Drainage Report has been reviewed and approved by the city's engineer and Director of Public Works and finds the proposed project will have a negligible increase in impervious area compared to the existing conditions. Peak runoff and volume will not be substantially affected. No additional detention or improvements to the adjacent storm water sewer system are necessary.

From the standpoint of design, the proposed project is a considerable improvement of the existing facility. The applicant held a neighborhood meeting on August 8, 2017 in conformance with the City's Citizen Participation Policy and provide a report on the meeting and attendees.

The Planning Commission considered the comments from the public and discussed the nine factors required to be considered for a Special Use Permit.

The Planning Commission moved to recommend the Governing Body approve PC2017-02 the requested amendment to the Special Use Permit for Kansas City Christian Private School at 4801 West 79th Street subject to the following conditions (1-5, 7 and 8 being carried over from the 1999 and 2008 Special Use Permits, 6 being revised for this application, and 9 being an additional condition for this application).

1. The applicant shall meet all conditions and requirements of the Planning Commission for the approval of a site plan.
2. The Special Use Permit not have a termination or expiration time established for it.
3. If the applicant violates any conditions of the zoning regulations and requirements as part of the Special Use Permit, the permit may be revoked by the City Council.
4. The applicant cannot further expand or amend the Site Plan without an amendment to the Special Use Permit requiring a public hearing before being approved.
5. Kansas City Christian School adopt a policy that all students will park on site and develop a procedure for implementation and enforcement of the policy.
6. The number of designated high school classrooms shall be limited to 12.
7. No more than four busses shall be parked in the rear of the school when not picking-up or dropping-off, and shall not idle more than five minutes during pick-up and drop-off.
8. Kansas City Christian provide to the City at the beginning of each school year an updated student count reflecting the number of students in each grade and the number of classrooms use for each grade level.
9. The permit anticipates a projected enrollment capacity of 525 students, and any enrollment significantly beyond this capacity or reconfiguring of classrooms that creates impacts beyond those anticipated by this baseline may require a revised site plan or may result in revocation of the permit at the discretion of the City.

The motion was passed by a vote of 5 to 2.

ATTACHMENT

Staff Report & Application
Plans

Draft Minutes from September 12th Planning Commission meeting
Ordinance 2367

PREPARED BY

Joyce Hagen Mundy
City Clerk/Planning Commission Secretary
Date: September 27, 2017

STAFF REPORT

TO: Prairie Village Planning Commission
FROM: Chris Brewster, AICP, Gould Evans, Planning Consultant
DATE: September 12, 2017, Planning Commission Meeting

Application: PC 2017-02

Request: Amendment to Special Use Permit for Private School

Property Address: 4801 W. 79th Street

Applicant: Kansas City Christian School

Current Zoning and Land Use: R-1A Single-Family District- Kansas City Christian School

Surrounding Zoning and Land Use: North: R-1B Single-Family District - Single-Family Dwellings
East: R-1A Single-Family District - Single-Family Dwellings
South: R-1A Single-Family District - Single-Family Dwellings
West: R-1A Single-Family District - Single-Family Dwellings

Legal Description: Metes & Bounds Abbreviation (28-12-25 E 826.75' OF W 1159' OF N 421.50' NE 1/4 NW 1/4 EX N 30' 7.43 ACRES PVC 624A BOTA #0708-87-TX)

Property Area: 7.44 Acres (55,557 s.f.)

Related Case Files: PC 2017-103, PC 2016-108, 2015-105, and 2014-110 Temporary Use Permits for ADHD Summer Treatment Program
PC 2008-08 Amendment to SUP
PC 98-07 Original SUP for Private School

Attachments: Application, Site Plan, Traffic Memo & Drainage Letter, Neighborhood Meeting Information

General Location Map



Aerial Map



COMMENTS:

The Special Use Permit for Kansas City Christian School was approved by the City Council on January 18, 1999. It did not have an expiration date, but was subject to four conditions relative to the design, construction and operation of the school, and subject to a Site Plan, subsequently approved on February 2, 1999. A school was originally built on this site in 1954 as a public elementary school. One of the conditions was that expansion of the school, or amending the approved site plan would require an amendment to the Special Use Permit.

Growth of the school, the acquisition of other school properties further south led to reconfiguration of this campus and its operations. In 2008 the school applied for an amended Special Use Permit and Site Plan. At that time, a number of issues related to parking utilization, drop-off procedures and school transportation were raised by the neighbors, and the amended permit and site plan dealt primarily with reconciling those issues. The applicant worked with the City and neighbors to resolve these issues with operational policies and redistribution of classrooms in association with other school properties outside of Prairie Village. At this time the distribution of facilities and classrooms, and associated parking requirement was as follows:

- 11 high school classrooms – 88 spaces
- 17 elementary and junior high classrooms – 34 spaces
- 51 employees – 26 spaces
- Total parking need – 148 spaces
- Total parking provided – 171 spaces (exceeding minimum requirements by 23 spaces)

The enrollment numbers associated with these issues were as follows:

- 1999 SUP – 543 students (162 of which were high school)
- 2008 SUP amendment – 469 students (274 of which were high school)

In addition, at this time plans for future growth of the school, in association with new construction at other campuses was anticipated in the schools long-range plans.

Through the amended Special Use Permit process, the parking and transportation issues were resolved with better utilization of current parking and facilities, reconfiguration of classrooms, and other associated transportation policies. No new facilities were built, however parking and capacity was expanded to address these issues. The amended Special Use Permit was approved on September 2, 2008 with the renewal of the four conditions of the original SUP, plus the following conditions:

5. That Kansas City Christian School adopt a policy that all students will park on site and develop a procedure for implementation and enforcement of the policy.
6. The number of high school classrooms shall be limited to 11.
7. No more than four busses shall be parked in the rear of the school when not picking up or dropping off students, and shall not be idling for more than five minutes during pick-up and drop-off.
8. Kansas City Christian provide to the City at the beginning of each school year an updated student count reflecting the number of students in each grade and the number of classrooms used for each grade level.

The current application is for the renovation and expansion of the existing 55,990 square foot building to add an additional 31,455 square feet. This will provide new and renovated rooms through the expansion and renovation of interior spaces. Specifically, the expansion involves:

- A second story addition over the center 1/3rd of the existing school building and associated with the primary entrance to the west of the existing gymnasium.
- A two story multi-purpose space to the rear of the existing building (southwest corner over current paved play area above an existing underground space).
- A small single story addition to the southeast corner of the building.

The expansions will occur over some existing parking areas, but through reconfiguration of the existing parking lots, five additional parking spaces will be provided.

The applicant held a neighborhood meeting on August 8, 2017 in conformance with the City's Citizen Participation Policy. A summary of this meeting and comments is provided with the application, and the applicant will be able to comment further on this meeting and how any neighborhood concerns are being addressed at the public hearing.

FACTORS FOR CONSIDERATION:

The Planning Commission shall make findings of fact to support its recommendation to approve, conditionally approve, or disapprove this Special Use Permit. It is not necessary that a finding of fact be made for each factor. However, there should be a conclusion that the request should be approved or denied based upon consideration of as many factors as are applicable. The factors to be considered in approving or disapproving a Special Use Permit shall include the following:

A. The character of the neighborhood.

This site is located on the south side of West 79th Street between Roe Avenue and Nall Avenue. The surrounding area is all single-family neighborhoods. In general, schools are compatible and contribute to the character of single-family neighborhoods provided the location, access, and site design is managed in a way that is compatible with residential living in neighborhood environments.

B. The zoning and uses of property nearby.

- North: R-1B Single-Family District – Single-family dwellings
- East: R-1A Single-Family District – Single-family dwellings
- West: R-1A Single-Family District – Single-family dwelling
- South: R-1A Single-Family District – Single-family dwelling

The Prairie Village Zoning Ordinance allows private schools in the R-1A and R-1B zoning district through a special use permit.

C. The extent that a use will detrimentally affect neighboring property

The site has been a school since the building was originally constructed in 1954. It became a private school in 1986 and received an original Special Use Permit in 1999. In 2008 the SUP and site plan were renewed due to some specific concerns regarding parking, transportation and operations of the school in the neighborhood. Outside of these concerns, this campus has existed within this neighborhood without detrimental effects on the surrounding property. This is due primarily to the school addressing growth through additional campus facilities outside of the City, allocating space on this campus in relation to the scale of the building and site, and managing the intensity of the use with transportation and operational policies that limit traffic and parking impacts on the neighborhood.

D. The relative gain to public health, safety and welfare by destruction of value of the applicant's property as compared to the hardship on other individual landowners.

This application involves the expansion and remodeling of an existing school building, and allows affective utilization of an older school site within the neighborhood. Provided the parking, transportation and operational intensity is limited similarly to past approvals, it is reasonable to expect the school to contribute positively to the neighborhood.

E. The proposed special use complies with all applicable provisions of these regulations, including intensity of use regulations, yard regulations and use limitations.

Private schools are permitted through a special use process by the Prairie Village zoning ordinance. The existing building and the proposed expansion meets all other standards applicable to the building and site relating to height, setback, and lot coverage.

F. The proposed special use at the specified location will not adversely affect the welfare or convenience of the public.

The site has been used as a school for approximately 63 years and the approval of this amended special use permit will be consistent with that use. Since this is the continuation of a current condition, it is not expected that the use will cause any new issues with respect to the compatibility of uses, provided that the expansion of the building and the potential increase on capacity is adequately addressed through other criteria and conditions.

G. The location and size of the special use, the nature and intensity of the operation involved in or conducted in connection with it, and the location of the site with respect to streets giving access to it are such as the special use will not cause substantial injury to the value of the property in the immediate neighborhood so as to hinder development and use of neighboring property in accordance with the applicable zoning district regulations. In determining whether the special use will cause substantial injury to the value of property in the immediate neighborhood, consideration shall be given to:

- 1. The location, size, nature and height of buildings, structures, walls, and fences on the site; and**
- 2. The nature and extent of landscaping and screening on the site.**

The modification of the building improves the overall appearance and utilization of the building in relation to the public streetscape and homes to the north fronting on 79th street. Residential lots to the east of the building are well screened by landscape. Residents to the west are separated by the existing play field and parking area, which are a suitable transition between school campuses and housing. Residential lots to the south are lower than the school site, and a combination of grades, street configurations in this area, and the back yards and landscape help screen the campus from housing. The building expansion – in footprint and height is proposed internal to the campus site (within the current footprint and the internal area to the south and west over the existing blacktop play area). The second story addition is lower than the current gymnasium and is only proposed on a portion of the current footprint, so the scale of the building should not have a significant impact on the site. Provided the parking, transportation, and operational intensity is limited similarly to past approvals, this should not have an adverse impact.

West 79th Street is a neighborhood street, but it has good connectivity to other collector-level and arterial street connections to Roe, Nall, Mission, Lamar and Metcalf. This network, as well as other well-connected east-west streets to the north (75th Street) and south (83rd Street) provide good access for this use. The applicant has submitted a traffic memo dated 8/11/17 to provide specific analysis of the transportation impacts of this expansion relative to the current conditions.

H. Off-street parking and loading areas will be provided in accordance with the standards set forth in these regulations and such areas will be screened from adjoining residential uses and located so as to protect such residential uses from any injurious effect.

The ordinance requires that elementary, junior high and equivalent schools provide two spaces for each classroom, and high schools provide eight spaces for each classroom, plus one space for each two employees. The application adds new classrooms, one of which is a high school classroom. By ordinance, this would mean a minimum 21 additional spaces, assuming 6 new employee / faculty positions. The 2008 indicated a surplus of 23 spaces based on the capacity of the school at the time and the site configuration. The new site plan includes 5 additional spaces. Therefore, although some of the existing surplus will be used up, the application meets the ordinance requirement for parking. Additionally, the applicant has included a parking analysis base on a utilization rate and study over a 3-year period using past enrollment numbers. Based on this rate, and projecting a full enrollment of 525 students, they project that the lot will ordinarily operate at 87% capacity at peak times, leaving a surplus of 24 spaces based on utilization rates.

I. Adequate utility, drainage, and other such necessary facilities have been or will be provided.

Much of the new construction is occurring on existing impervious areas, either an additional story within the current footprint or expansion into current paved areas. The applicant has supplied a drainage letter comparing existing and proposed conditions, and expected impacts on drainage. Public Works has reviewed this letter and concurs with the findings, subject to a final drainage permit prior to building permits.

J. Adequate access roads or entrance and exist drives will be provided and shall be so designed to prevent traffic hazards and to minimize traffic congestion in public streets and alleys.

The site access from 79th street will not change. A traffic memo supplied by the applicant has projected traffic conditions (including access, parking, and drop-off / pick-up procedures) based on a projected enrollment capacity of 525 students (current is 444). The highest change in volume is expected to be during the morning peak hours. Public Works has reviewed this memo and concurs with the findings, and does not expect any significant traffic impacts beyond those currently experienced in the area or beyond with the overall network can handle.

K. Adjoining properties and the general public shall be adequately protected from any hazardous or toxic materials, hazardous manufacturing processes, obnoxious odors or unnecessarily intrusive noises.

This particular use is not expected to produce any hazardous or toxic materials, hazardous processes, obnoxious odors, or intrusive noises beyond what is ordinarily associated with a school. The use is compatible with surrounding neighborhood properties with regard to these criteria.

L. Architectural design and building materials are compatible with such design and materials used in the neighborhood in which the proposed facility is to be built or located.

The addition to the building includes the following:

- Two story, multipurpose spaces to the rear of existing building, near the southwest corner. The addition lies within an existing paved area. The height of the addition will be equivalent to a two-story volume, but it is not visible from 79th Street as it sits behind the 2nd story addition to the school.
- Second story addition over the center 1/3 of the existing school building. The height of the addition from 79th Street will be less than the existing gymnasium space to the east of the proposed addition. The addition will house new classroom and lobby space.
- Small single story addition to the southeast corner of the building. The addition lies completely within an existing paved area of the site. The addition will allow the expansion of classroom spaces.
- Small two story addition to the front of the building, at the center of the existing school building. The addition will tie into the second story addition to the school and provide additional entry/ lobby space.

The materials proposed include – wood (rain/shade screen), glazing, brick veneer, EIFS and metal (facia). New brick veneer and EIFS will match the existing brick veneer and EIFS used on the gymnasium. The proposed design is consistent with and enhances the existing character of the building, and there for will improve the degree of compatibility with the neighborhood.

M. Conformance with the Comprehensive Plan

One of the primary objectives of Village Vision is to encourage reinvestment in the community to maintain the quality of life in Prairie Village. This application is for reinvestment and expansion of an existing institution within the community, and provided the impacts from additional enrollment are adequately mitigated and capacity is limited it is consistent with Village Vision in encouraging reinvestment.

N. City Staff recommendations.

Staff believes that with the proposed improvements this site will be near maximum development for a school site within a neighborhood. However, the parking utilization and access strategies, based on proposed enrollment projections appear to adequately address any potential impacts on the surrounding area. The investments in the building and the design are appropriately scaled for the neighborhood and improve the appearance of the site. Subject to appropriate limitations on capacity beyond projections, and the operational and intensity limitations of previous Special Use Permit approvals, staff recommends approval.

Site Plan Approval

The applicant has also submitted a site plan for approval by the Planning Commission. In its consideration of the site plan, the Planning Commission shall address the following criteria:

A. The site is capable of accommodating the buildings, parking areas, and drives with the appropriate open space and landscape.

See previous analysis in special use permit.

B. Utilities are available with adequate capacity to serve the proposed development.

This site is currently served by utilities and they should be adequate to serve the proposed expansion.

C. The plan provides for adequate management of stormwater runoff.

This is a second story addition with some expansion of the footprint over existing paved areas. The impervious surface will be increasing very little.

D. The plan provides for safe ingress/egress and internal traffic circulation.

See previous analysis in special use permit.

E. The plan is consistent with good land planning and site engineering design principles.

The expansion is within the current footprint of the building or impervious surfaces, and produces very little impact on grade, drainage, open space or relationships of the building and site to surrounding areas. It represents the effective utilization of an existing neighborhood campus site, in a manner that is compatible with the character of the surrounding area.

F. An appropriate degree of compatibility will prevail between the architectural quality of the proposed building and the surrounding neighborhood.

See Special Use Permit analysis.

G. The plan represents an overall development pattern that is consistent with Village Vision and other adopted planning policies.

See Special Use Permit analysis.

Recommendations

Staff recommends approval of the Special Use Permit, subject to the following conditions (1-5, 7 and 8 being carried over from the 1999 and 2008 Special Use Permits, 6 being revised for this application, and 9 being an additional condition for this application).

1. The applicant shall meet all conditions and requirements of the Planning Commission for the approval of a site plan.
 2. The Special Use Permit not have a termination or expiration time established for it.
 3. If the applicant violates any conditions of the zoning regulations and requirements as part of the Special Use Permit, the permit may be revoked by the City Council.
 4. The applicant cannot further expand or amend the Site Plan without an amendment to the Special Use Permit requiring a public hearing before being approved.
 5. Kansas City Christian School adopt a policy that all students will park on site and develop a procedure for implementation and enforcement of the policy.
 6. The number of high school classrooms shall be limited to 12.
 7. No more than four busses shall be parked in the rear of the school when not picking-up or dropping-off, and shall not idle more than five minutes during pick-up and drop-off.
 8. Kansas City Christian provide to the City at the beginning of each school year an updated student count reflecting the number of students in each grade and the number of classrooms use for each grade level.
-

9. The permit be based on a projected enrollment capacity of 525 students, and any significant reconfiguration of enrollment capacity, classroom configuration or impacts beyond those from the projected enrollment shall require a revised site plan or may result in revocation of the permit.

Staff recommends approval of the Site Plan included in the application subject to the following:

1. Signs are approved in concept. The applicant shall submit a sign permit application demonstrating that the proposed wall signs comply with the Prairie Village sign ordinance, specifically showing the dimensions of the signs and the dimensions of the walls.
 2. A drainage permit be finalized and approved by Public Works prior to issuance of a building permit.
-

To: Mr. Keith Bredehoeft, P.E – City of Prairie Village, Kansas
Mr. John Ho, AIA – Hollis + Miller

From: Shashi Gannavaram, P.E, PTP, AICP, PTOE

CC: Brian Hill, P.E. – MKEC Engineers
Brian Hochstein – MKEC Engineers

Date: 8/11/2017 08-11-2017

Re: Traffic Flow Documentation for the Kansas City Christian School, Prairie Village,
Kansas

1 Introduction

R^3C Design Group, LLC was requested to complete a traffic evaluation for the remodeling of the Kansas City Christian School, located west of the 79th Street and Roe Avenue intersection in Prairie Village, Kansas.

Kansas City (KC) Christian School accommodates students from kindergarten to 12th grade. The enrollment for the 2016-2017 academic school year was 445 students. The school's enrollment capacity will increase to 525 students upon completion of the remodeling. The increase of students is expected to occur in all grade levels.

The city of Prairie Village requested a traffic memo including current traffic counts, computation and documentation of trip rates and assurance that sufficient parking will accommodate the increase of student enrollment to 525. This memo documents these items.

2 Existing Conditions

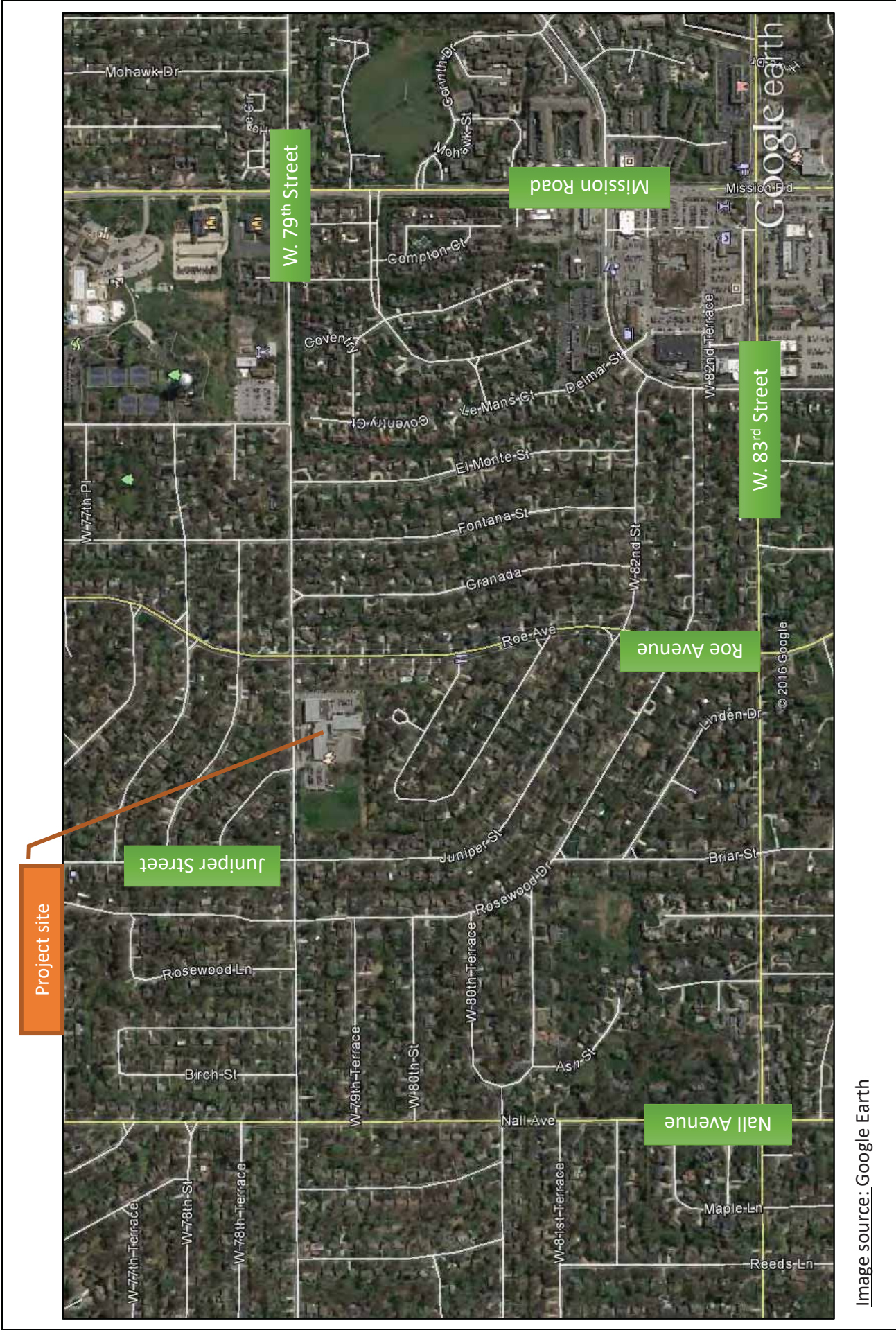
2.1 Roadway network

Exhibit 1 is a Google Earth snapshot of the school location. The school is located mid-block on W. 79th Street between Roe Avenue to the east and Juniper Street to the west. The school can only be accessed by W. 79th Street using one of two driveways that function as a one-way pair. The west driveway has one lane entering the campus leading to the parking lot while serving as the car rider lane. The east driveway serves as a two-lane exit from the campus. All city streets adjacent to the school are two lane facilities.

2.2 School traffic conditions

2.2.1 Traffic flow during pickup and drop-off

School hours are from 8:10 AM to 3:10 PM Monday through Friday. Two school busses service the school. However, most students are car-riders. Pick-up and drop-off activities are monitored by school staff. Exhibit 2 shows the current waiting/loading areas for car traffic coming to the school. During field observations, no traffic spilled over to W. 79th Street during either pickup or drop-off. Exhibit 3 contains a few pictures showing the queueing occurring within the school.



<p>Exhibit 1: Study area and vicinity map</p>		<p>Project: Kansas City Christian School Prairie Village, Kansas</p>	
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Image source: Google Earth

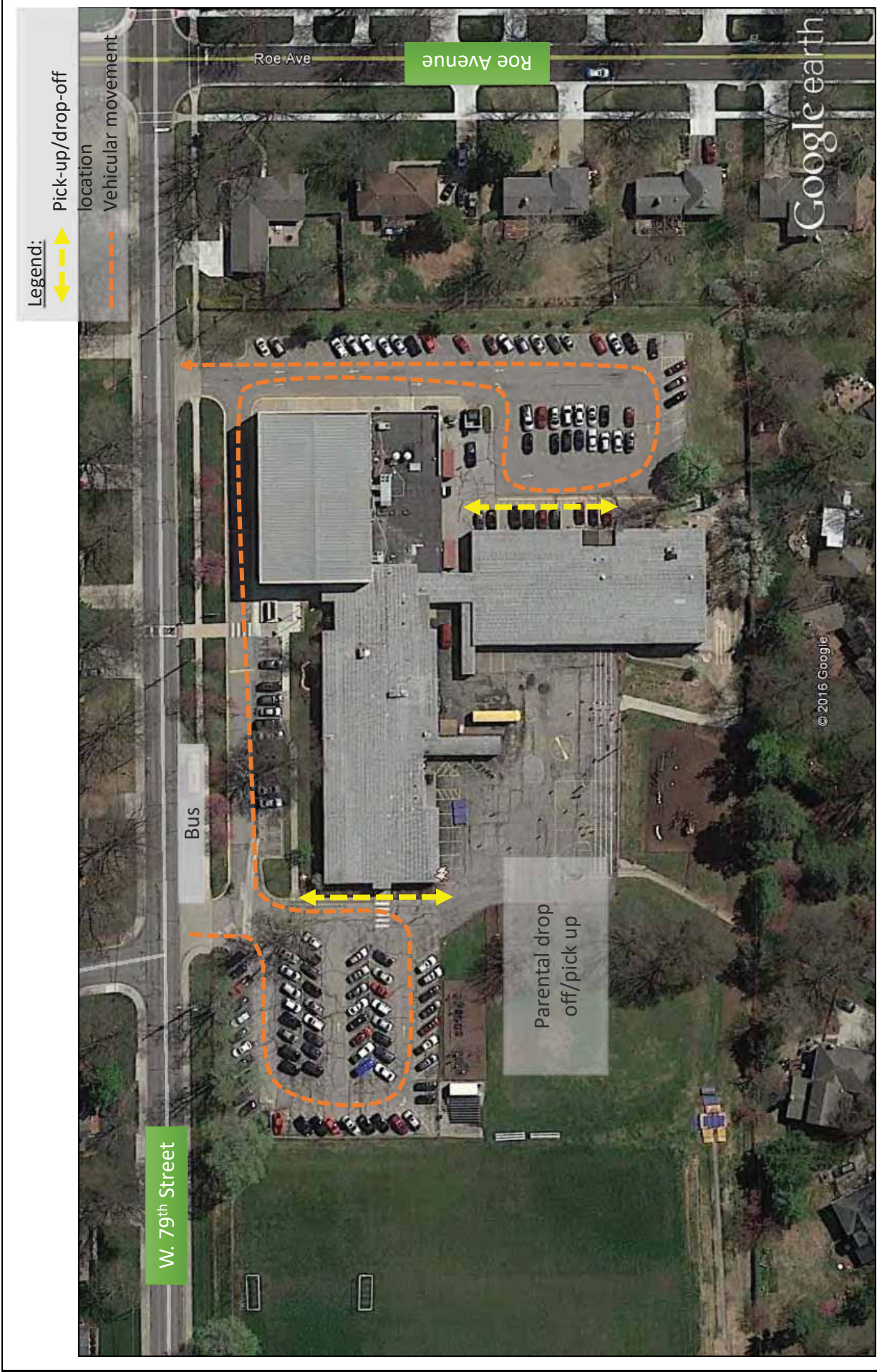


Image source: Google Earth

Project:

**Kansas City Christian School
Prairie Village, Kansas**



No scale

**Exhibit 2:
Current waiting/loading areas**





2.2.2 Traffic counts

Existing traffic counts were collected in May 2017 by T.J. Brown and Associates. Data collected included car, pedestrian and school bus traffic at the following four intersections or W. 79th Street:

1. Juniper Street
2. School West Entrance – one-way into the campus
3. School East Entrance – one-way out of the campus and
4. Roe Avenue.

The counts are summarized in Exhibit 4. The school’s morning peak hour occurred for one hour between 7:15 and 8:15 AM. This overlaps with the commuter peak hour traffic on W. 79th Street which occurs between 7:30 and 8:30 AM. During the afternoon peak hour, the school traffic volumes peaked between 2:45 and 3:45 PM while the commuter peak hour was observed between 4:30 PM and 5:30 PM. Exhibit 4 summarizes only the school traffic peak hour information. The analysis is for the school; therefore, the school dismissal peak hour is presented in Exhibit 4.

2.2.3 Trip rates

Using the available data and the current enrollment of 445 students, trip rates per student are computed for entering and exiting traffic from the school site. This is shown in the table below.

Existing trip rates						
Scenario	Peak hour	Enrollment	Total entering traffic	Total exiting traffic	Trip rate per student (A)	
					Enter	Exit
Current	Morning	445	257	152	58%	34%
	Afternoon	445	127	159	29%	36%

(A): Trip calculated as 'Total entering (or exiting) traffic / Enrollment

It is noted from the table that during the morning peak hour, each student generates 0.58 entering trips and 0.34 exiting trips. Correspondingly, during the afternoon peak hour, each student generates 0.29 entering trips and 0.36 exiting trips. These trip rates per student include staff, parent pickup/drop-off and student traffic.

2.2.4 Parking rates

School site parking needs vary based on numerous factors such as before/after school activities, car-pooling efforts by parents and students. To develop a comprehensive parking rate per student, it was decided to use historical imagery available from either Johnson County, Kansas Automated Information Mapping System (AIMS) website or Google Earth.

2.2.4.1 Parking supply

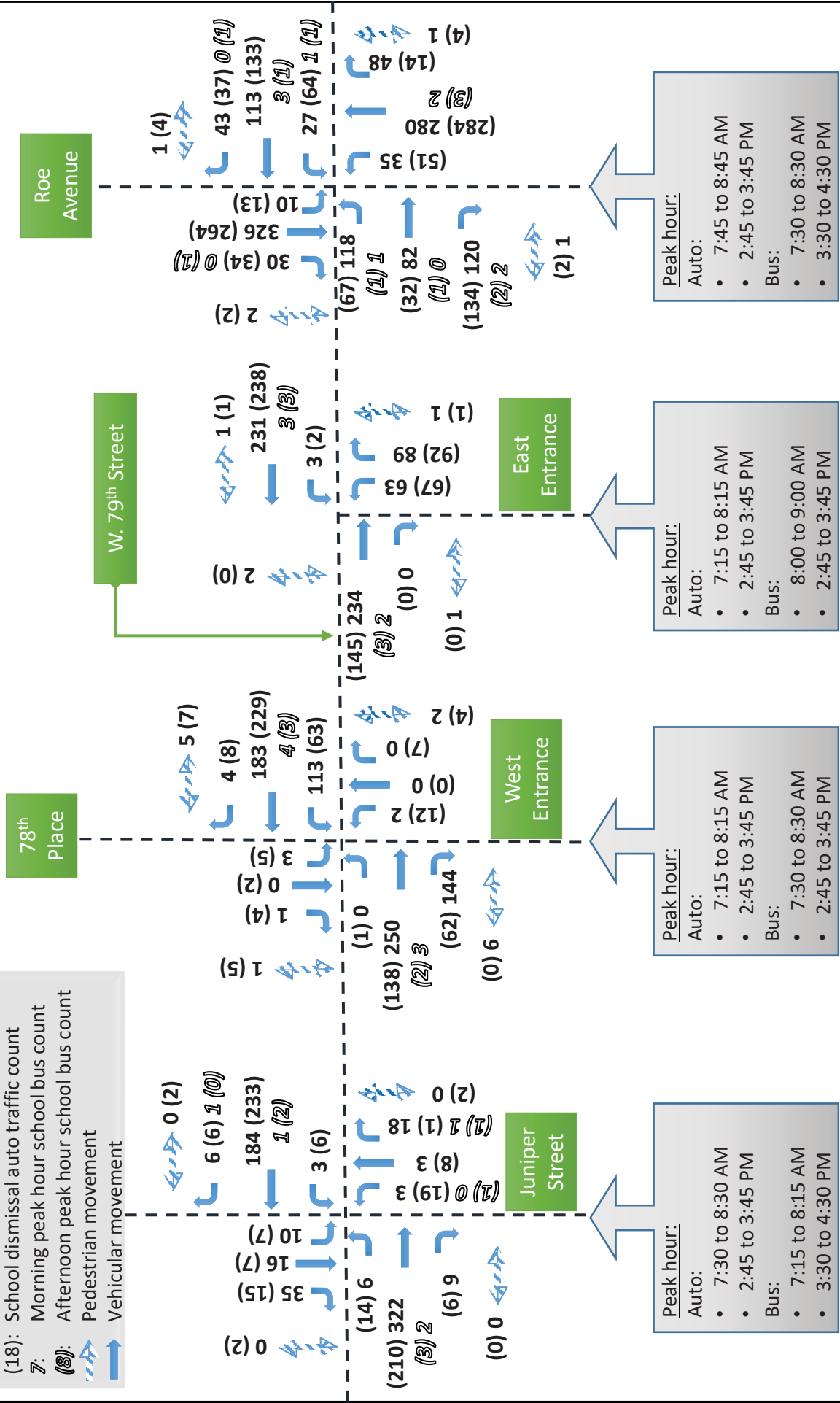
The available parking spots were counted using the most current Google Earth imagery. This is summarized in Exhibit 5. Currently, a total of 164 spaces are available around the school site.


The parking lots are used as follows:

- West lot is used by high school students
- South lot is used for overflow
- North lot is used for visitor and/or staff parking and the
- East lot is used either for student parking or staff assigned parking.

Legend:

- 22: Morning peak hour auto traffic count
- (18): School dismissal auto traffic count
- 7: Morning peak hour school bus count
- (8): Afternoon peak hour school bus count
- Blue arrow with zig-zag: Pedestrian movement
- Blue arrow: Vehicular movement






R3C DESIGN GROUP

Project:

**Kansas City Christian School
Prairie Village, Kansas**



No scale

Exhibit 4:

**Existing auto/pedestrian & school bus
traffic counts**



Image source: Google Earth



Project:
 Kansas City Christian School
 Prairie Village, Kansas



Exhibit 5:
 Available parking

Further, during special events the KC Christian School uses the Mission Road Bible Church located northwest of the W. 79th Street and Mission Road intersection, parking lot for overflow parking. Patrons are then bussed from the Church during special events.

2.2.4.2 *Parking demand*

Aerial photography from the past three years was used to determine the number of parked cars. This data is summarized in the table below. Aerial imagery for each of the dates below is included in Exhibit 6.

Image		Student enrollment ¹	Total number of spaces	Number of parked cars	Parking rate per student ²	Occupancy rate ³
Source	Date					
Google Earth	March 2016	441	164	118	27%	72%
Google Earth	March 2015	430	164	111	26%	68%
Google Earth	May 2014	439	164	107	24%	65%
JoCo AIMS	2014	439	164	102	23%	62%
Average rates				109.5	25%	67%

1: Data provided by Kansas City Christian School

2: Parking rate per student = number of parked cars/student enrollment

3: Occupancy rate = number of parked cars/total number of spaces

It is noted from the table that the average parking rate per student is 25%. On average, for the past three years, 67% of the available parking spots are occupied. The highest parking rate per student was observed to be 27% in 2016 and the corresponding occupancy rate was 72%. To ensure no overflow occurs to the public street system, the highest rates are used for further analysis.

3 Future conditions

Exhibit 7 shows the proposed remodeling efforts for the KC Christian School. Traffic flow changes or roadway changes are not being proposed as part of this plan. Upon completion, the school's student capacity will increase to 525 students. It is assumed that the increase of 80 students would be equally distributed amongst all 13 grade levels resulting in an average increase of 6 students per grade.

The south overflow parking lot with 19 stalls currently will be relocated to the south and east edge of the proposed New Multi-Purpose Building. The relocation results in 23 stalls. Two parking stalls in the north lot are lost for easy access the lobby. Therefore, the total proposed parking stalls available upon completion of the remodeling is $164 - 19 - 2 + 23 = 166$ stalls. Exhibit 8 shows the proposed changes made to the site.

3.1 Traffic volumes

If the increase in student capacity is reached, a modest increase in traffic volumes is anticipated. The rate of increase is computed using the trip rates computed in Section 2.2.3. The new anticipated traffic volumes are summarized in the table below.

Proposed traffic volumes						
Scenario	Peak hour	Enrollment	Total entering traffic	Total exiting traffic	Change in entering traffic	Change in exiting traffic
Proposed	Morning	525	305 (B)	179	48	27
	Afternoon	525	152	189	25	30

(B): Proposed volumes calculated as 'Trip rate x proposed enrollment'

I herefore, up to 48 more cars could be entering the facility during the morning peak hour while 25 more cars could enter the school during the afternoon peak hour. Correspondingly, 27 more cars could exit the facility during the morning peak hour and 30 more cars during the afternoon peak hour.

3.2 Parking demand

The highest parking demand was computed as 27% per student in Section 2.2.4.2 of this memo. The corresponding occupancy rate of the parking lot is 72%. The historical data used student enrollment during the academic year as the basis for computation. In March 2016, this enrollment was 441 students.

After remodeling, and as explained above, the number of available parking stalls is 166 caused by the relocation of the south lot and the removal of two stalls for better access to the lobby.

At the proposed full capacity of 525 students the number of cars parking and the parking spots occupied are computed as follows:

- Number of cars parking = 525 students at capacity * 27% = 142 cars
- Number of parking spots occupied = 142 cars
- Number of non-occupied spots = 166 – 142 = 24 spots
- Occupancy rate = 142/166 = 87%

After the school is remodeled and the full capacity of 525 students is reached, it is anticipated that 24 parking spots will still be available for use.

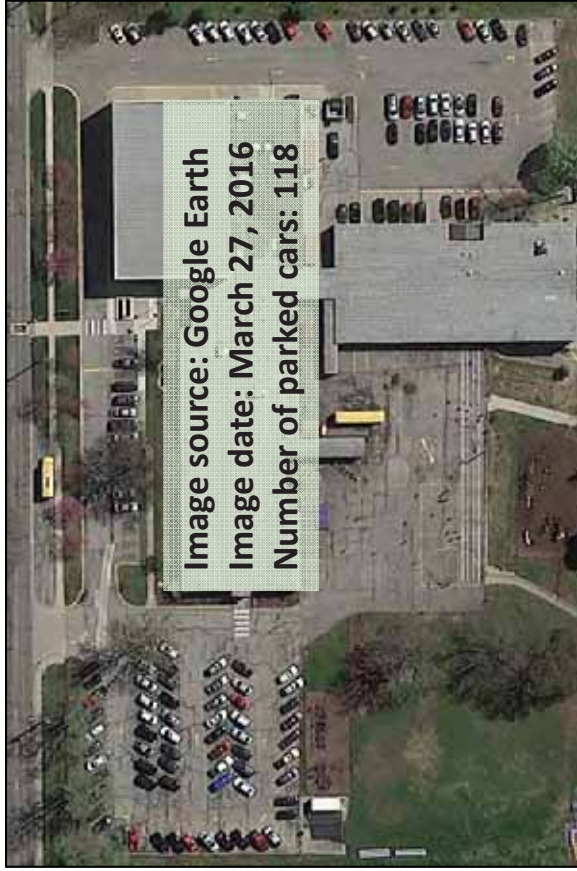


Image source: Google Earth
 Image date: March 27, 2016
 Number of parked cars: 118

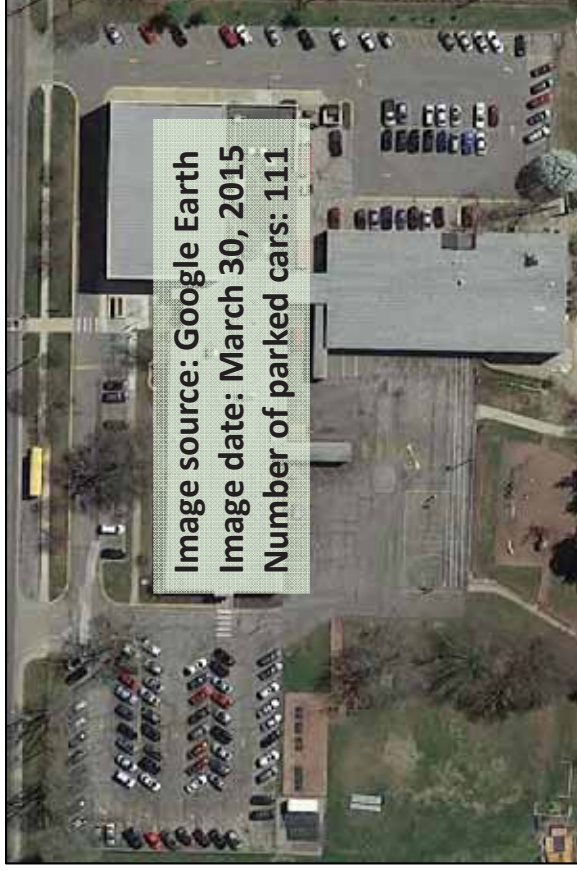


Image source: Google Earth
 Image date: March 30, 2015
 Number of parked cars: 111



Image source: Google Earth
 Image date: May 6, 2014
 Number of parked cars: 107

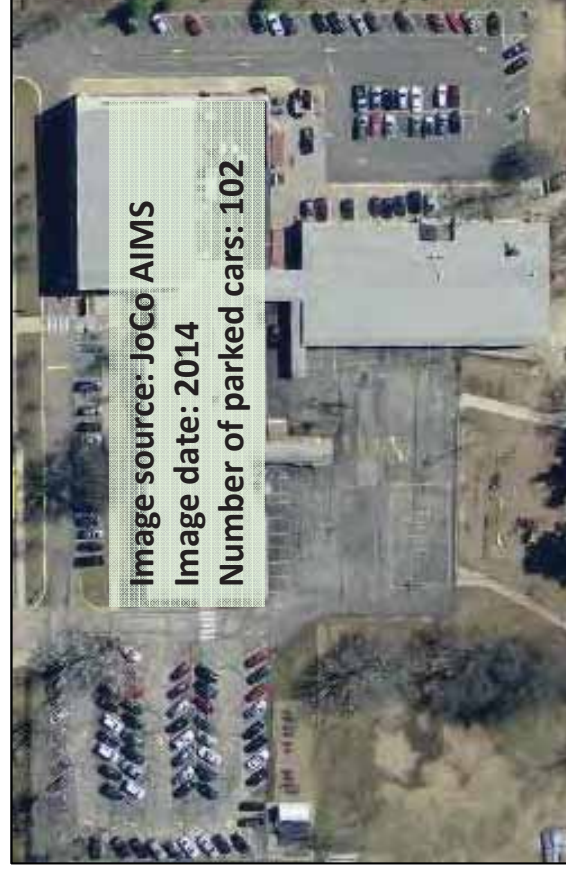


Image source: JoCo AIMS
 Image date: 2014
 Number of parked cars: 102



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hollis architects miller

SITE PLAN AO

17050

Kansas City Christian School

08.07.2017

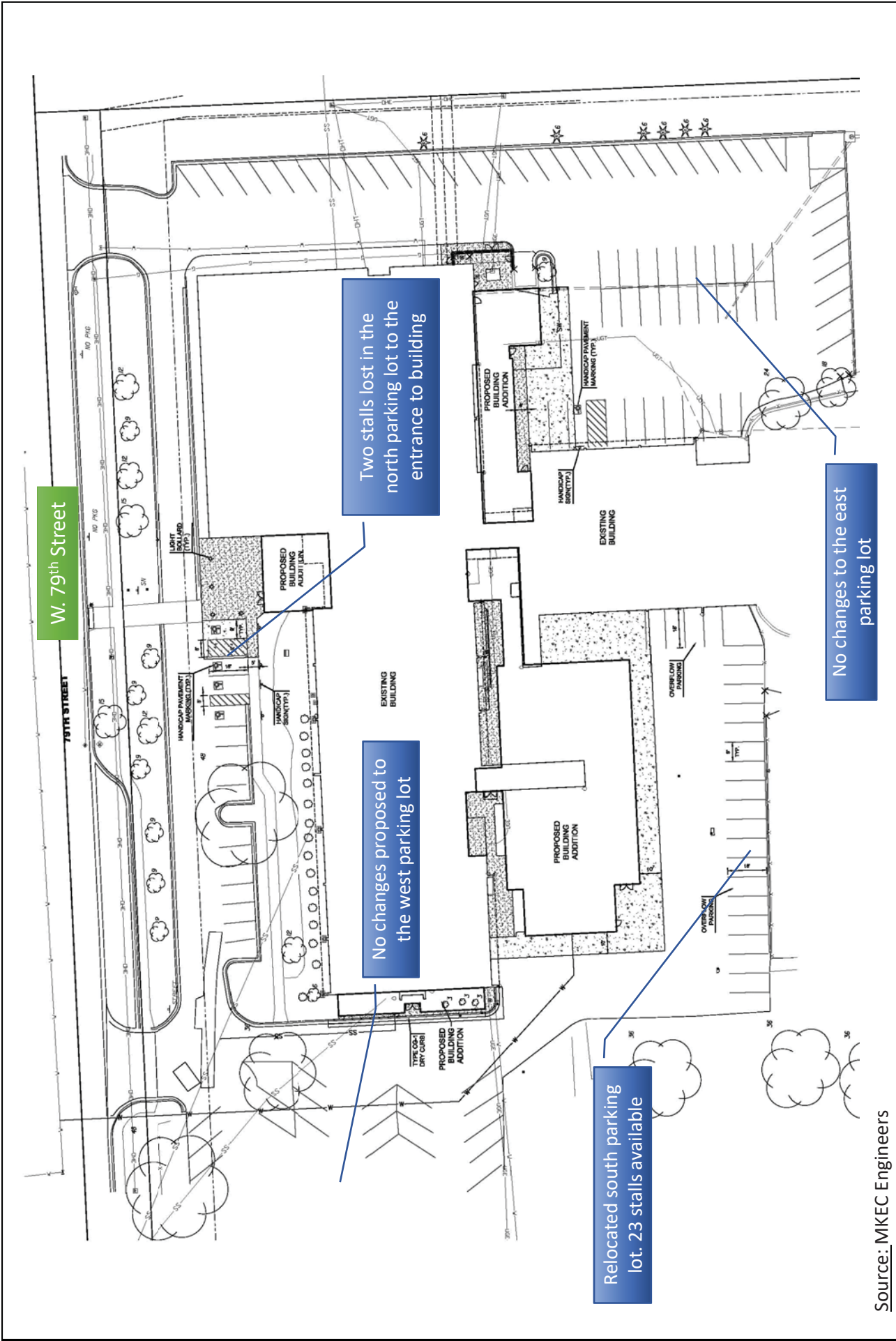
Source: Hollis and Miller Architects

Project:
 Kansas City Christian School
 Prairie Village, Kansas



Exhibit 7:
 Proposed remodeling plan





W. 79th Street

Two stalls lost in the north parking lot to the entrance to building

No changes proposed to the west parking lot

Relocated south parking lot. 23 stalls available

No changes to the east parking lot

Exhibit 8:
Proposed parking plan



Project:
Kansas City Christian School
Prairie Village, Kansas



Source: MKEC Engineers

4 Summary

The Kansas City Christian School is proposing to remodel and upgrade its current school facility located west of the W. 79th Street and Roe Avenue intersection in Prairie Village, Kansas. As part of this proposal, student capacity will be increased to 525 students over the 13 grade levels offered at the school.

Existing traffic counts and current enrollment data was used to compute entering and exiting trip rates. These trip rates were then used to compute anticipated traffic volumes when the school reaches the 525-student enrollment. The highest change in volume could be traffic entering the facility during the morning peak hour. It is anticipated that up to 48 additional cars could enter the facility.

The existing parking rates per student and the occupancy rate of the parking lot was also computed using historical imagery available at Johnson County Automated Information Mapping System (JoCo AIMS) and Google Earth. The highest observed parking rate over three years was 27% per student with an occupancy rate of 72% for the parking lot. As part of the remodeling, the south overflow parking lot will be relocated south of the proposed multi-purpose building. The number of stalls increases from 19 to 23 stalls. Further, two stalls are lost for access into the new lobby. Therefore, the number of available stalls after changes to 166 stalls.

When the school enrollment increases to 525 students, 142 cars are anticipated to park their cars resulting in an occupancy rate of 87%. The total available supply within the school is 166 parking spaces. Therefore, even after the enrollment increases to 525 students, it is anticipated that 24 spots will be available.



August 11, 2017

Mr. Keith Bredehoeft
City of Prairie Village, KS
7700 Mission Road
Prairie Village, KS 66208

RE: Drainage Memo
Kansas City Christian School Renovation & Additions
4801 W. 79th Street, Prairie Village, KS 66208

Mr. Bredehoeft:

MKEC Engineering, Inc. has analyzed impervious conditions for the proposed renovations and building additions to Kansas City Christian School in Prairie Village, KS. The additions, new cafeteria and classrooms, will be constructed as shown on the site plan submittal. Utility improvements as necessary will be installed and minimal grading and pavement improvements will be installed.

Existing Conditions

The existing 7.4 acre site includes a school building structure, parking areas, open space, playgrounds and a sports field. Parking is located on all sides of the school building. Drainage generally runs north to south on the site. On the east side of the building the drainage pattern flows southeast to a drain inlet in the southeast corner of the property. On the west and south sides the drainage is generally north to south to the south property line. No existing detention facilities are on the site.

Proposed Conditions

The construction of new additions will primarily take place in areas of existing impervious area. Minimal impervious area will be added with the north and west building additions. The total increase in impervious area will be 0.026 acres. Roof drains and surface drainage will follow similar patterns in both the pre-development and post-development condition. The only storm sewer proposed will be piping to handle roof drains.

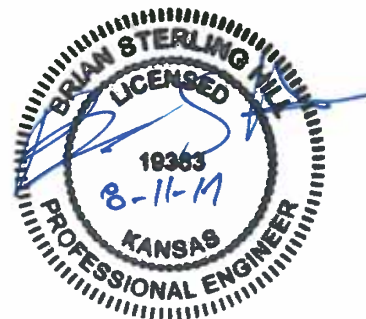
Conclusions

The proposed project will have a negligible increase in impervious area when compared to existing conditions. Peak runoff and volume will not be substantially affected, resulting in the lack of need for detention or improvements to the adjacent storm water sewer system. The improvements will not have a detrimental affect on the overall drainage patterns for the site. No storm water quality (BMP) or detention facilities are recommended.

Please let me know if you have any questions.

Sincerely,

MKEC Engineering, Inc.



Brian S. Hill, P.E.

Encl: Site Plan Submittal and Special Use Permit Application



CITY OF PRAIRIE VILLAGE

The Star of Kansas

Planning Commission Application

For Office Use Only
Case No.:
Filing Fee:
Deposit:
Date Advertised:
Date Notices Sent:
Public Hearing Date:

Please complete this form and return with Information requested to:

Assistant City Administrator
City of Prairie Village
7700 Mission Rd.
Prairie Village, KS 66208

Applicant: Kelly VanElders, Owners Rep. for KCCSA Phone Number: 816.260.9927

Address: 11710 w. 102nd Place, Overland Park, KS 66214 E-Mail kdvanelders@gmail.com

Owner: Kansas City Christian School Association Phone Number: (913) 648-5227

Address: 4801 W 79th St, Prairie Village, KS Zip: 66208

Location of Property: 4801 W 79th St, East of Nall, West of Roe on the South side of 79th Street.

Legal Description: Legal Desc. 28-12-25 E 826.75' OF W 1159' OF N 421.50' NE 1/4 NW 1/4 EX N 30' (abbreviated) 7.43 ACRES PVC 624A BOTA #0708-87-TX

Applicant requests consideration of the following: (Describe proposal/request in detail) The Renovation and expansion of 31,455 s.f. added to 55,990 existing s.f. to provide new and renovated rooms to foster better collaboration and learning spaces for music and arts programs, classrooms, community spaces, athletics, and cafeteria. Project will include exterior aesthetic enhancements to reflect the character of Prairie Village.

AGREEMENT TO PAY EXPENSES

APPLICANT intends to file an application with the PRAIRIE VILLAGE PLANNING COMMISSION or the PRAIRIE VILLAGE BOARD OF ZONING APPEALS of the CITY OF PRAIRIE VILLAGE, KANSAS (City) for \$600.

As a result of the filing of said application, CITY may incur certain expenses, such as publication costs, consulting fees, attorney fees and court reporter fees.

APPLICANT hereby agrees to be responsible for and to CITY for all cost incurred by CITY as a result of said application. Said costs shall be paid within ten (10) days of receipt of any bill submitted by CITY to APPLICANT. It is understood that no requests granted by CITY or any of its commissions will be effective until all costs have been paid. Costs will be owing whether or not APPLICANT obtains the relief requested in the application.

Kelly VanElders August 9, 2017
Applicant's Signature/Date

Kelly VanElders August 9, 2017
Owner's Signature/Date

SPECIAL USE PERMIT APPLICATION

CITY OF PRAIRIE VILLAGE, KANSAS

For Office Use Only

Case No.: _____

Filing Fees: _____

Deposit: _____



Date Advertised: 8.21.2017

Date Notices Sent: 8.21.2017

Public Hearing Date: 9.12.2017

APPLICANT: Kelly VanElders, Owners Rep. for KCCSA PHONE: 816.260.9927

ADDRESS: 11710 w. 102nd Place, Overland Park, KS 66214 E-MAIL: kdvanelders@gmail.com

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28-12-25 E 826.75' OF W 1159' OF N 421.50' NE 1/4 NW 1/4 EX N 30'

(abbreviated) 7.43 ACRES PVC 624A BOTA #0708-87-TX

ADJACENT LAND USE AND ZONING:

	<u>Land Use</u>	<u>Zoning</u>
North	<u>Single Family Residential</u>	<u>R-1B</u>
South	<u>Single Family Residential</u>	<u>R-1A</u>
East	<u>Single Family Residential</u>	<u>R-1A</u>
West	<u>Single Family Residential</u>	<u>R-1A</u>

Present Use of Property: K-12 School

Please complete both pages of the form and return to:

Planning Commission Secretary
City of Prairie Village
7700 Mission Road
Prairie Village, KS 66208

Attachment for KCCS Special Use Permit – Compliance Standards

1. *Is deemed necessary for the public convenience at this location:* Yes. This location has been a school since 1966. KCC has been in this location since 1986, this project is to make improvements to the existing conditions.
2. *Is so designed, located and proposed to be operated that the public health, safety, and welfare will be protected:* Yes. This location has been a school since 1966. KCC has been in this location since 1986, this project is to make improvements to the existing conditions.
3. *Is found to be generally compatible with the neighborhood in which it is proposed.* Yes. This location has been a school since 1966. KCC has been in this location since 1986, this project is to make improvements to the existing conditions. In addition, the exterior is being redesign to better fit the "Prairie Village" aesthetic.
4. *Will comply with the height and area regulation of the district in which it is proposed:* Yes. The building has been designed to meet the current regulations for Height and Area.
5. *Off-street parking and loading areas will be provided in accordance with the standards set forth in the zoning regulations, and such areas will be screened from adjoining residential uses and located so as to protect such residential use from any injurious effect:* Yes. Traffic patterns and parking review are included in the attached traffic memo and shall meet standards shown in the zoning regulations.
6. *Adequate utility, drainage, and other such necessary facilities have been or will be provided.* Yes. The site utilities are serviced through existing utility lines. Site drainage patterns shall follow current site conditions and no detention will be required.

Application No. _____

Ky UDEm., being duly sworn upon his oath, deposes and states:

1. I am the (owner of) (attorney for) (agent of) the property described in the attached notice upon which an application has been filed before the Planning Commission of the City of Prairie Village, Kansas.
2. On the 8th day of August, 2017a public information meeting was held pursuant to the Citizen Participation Policy adopted on June 6, 2000, by the Planning Commission
3. On the 21st day of August, 2017, I did comply with notification requirements to landowners as stated Section 19.28.020, of the Prairie Village Zoning Regulations and notified in letter by certified mail all owners of land located within 200 feet of the described real property. Notice was mailed to the following:

Name

Address

See Attached List

I certify that the foregoing is true and correct.

Kelly VanElders

Name

11710 w. 102nd Place, Overland Park

Address

816.260.9927

Phone

NOTICE TO OWNERS OF AFFECTED PROPERTY

PLANNING COMMISSION

PRAIRIE VILLAGE, KANSAS

August 9, 2017

(DATE)

APPLICATION NO. _____

An application for An ordinance approving an amendment to the Special Use Permit
as applied to the property at 4801 W 79th St, Prairie Village, KS
has been filed by Kansas City Christian School Association
and would authorize Kansas City Christian School to operate a Private School at 4801 w. 79th Street.

The property is located in a Single Family Residential Zoning District.

A public hearing will be held by the Planning Commission on Sept. 9, 2017
at 7:00 pm, in the Council Chamber of the City Hall, 7700 Mission Road, at
which time you may appear, if you so desire, either in person and/or by attorney.

The hearing of this application is not limited to those receiving copies of this notice, and
if you know of any neighbor or affected property owner who, for any reason, has failed to
receive a copy, it would be appreciated if you would inform them of this public hearing.

At the time of the scheduled public hearing persons interested may be present, or may
submit their comments in writing to the Planning Commission prior to the date of the
scheduled hearing.

Signed: 
Applicant

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**KANSAS CITY CHRISTIAN
EXPANSION PLAN OPEN HOUSE**

Tuesday, August 8th

@ the Gymnasium.

7 pm - 8:30 pm



Kansas City Christian School Expansion Neighborhood Open House

Summary of Comments

On August 8, 2017 Kansas City Christian School held a neighborhood open house for the Corinth Hills and Prairie Ridge Homes Associations. Below is a summary of the comments left by the participants.



Overall comments

Very nice-pleased

Beautiful design

Looks great-looking forward to watching progress

The plans look very well thought out. I like the building exterior. Good luck from a neighbor.

Great ideas and design. Sounds as though they have thought of everything. Good job.

I am pleased. Looks like a very good, well planned expansion

Possible concern about water run off. Great plan.

Looks great. Good addition to the neighborhood street scope. Huge improvement

Okay

Design is great. Will property taxes be affected?

Attractive and not overwhelming to the surroundings. Thanks for the opportunity to visit

Love the prairie look

Really rethink approach to energy efficiency and drainage. Please don't put more water in neighbor's yards. Design looks more like a hospital than a school.

Thanks for hosting this event and sharing your plans. The renderings look good. Hard to tell the impact of additional second floor.

Drainage on the south side of property is inadequate. SE corner drain does not catch water due to being too high

I am adjacent neighbor. The plan seems fine. The open house was informative and answered my many questions about parking, traffic, drainage, design and construction. It sounds overall like a nice addition to the facility.

It blends and fits the neighborhood, thank you

Very well thought out. Thank you

I think it is well thought out. I like the minimal expanse of the footprint. Like the second floor. Most importantly, looks like improved learning spaces.

Looks good

It's going to look nice, but worried about looking up from our yard and seeing buses parked in back.

Visually pleasing, good use of space without significantly expanding the footprint, appears to have thought through many logistics issues, only concern is the traffic bottlenecks on 79th street, thanks for letting us see plans

Wish there more energy efficient measures

We love the design, the new fresh look at the front of the school will be a welcoming upgrade

Wonderful. Totally support it being that we look at the school from our home.

overall, very appealing design inside and out, great approach going up one level to maximize your space CAUTION-skywalk (in lobby) needs to be reinforced. The visual looks like it is "suspended" *Save the miracle sycamore! (in the parking lot)

Favorite idea

The front entrance with the two levels "bridge span"

Utilizing existing footprint and separate spaces for elementary, middle and high school

The additional building footprint was in the area behind the school and up

Lots of natural lighting. Room for faculty to visit with each other and brainstorm.

Consideration of round about at 79th & Roe (note: no one representing KCC recommended this, unsure of comment context)

The new entrance

No impact on existing neighborhoods

Going up

the updates on front of building

Raising the roof, going up-love it

Second story and blending architectural elements

Minimal increase of footprint, use of glass and wood.

More "green" design, in room heating and cooling, LED

Expanding strategically in place, keeping water garden, handsome façade

All the wood to match the Corinth shops

Great architecture, energy efficient, windows!!!, roof and line is appealing, façade & excellent lobby

Something I learned about KCC

It's now a K-12 school

I liked the idea that the administration, in making an effort to separate the levels of elementary, middle and high school to give students a good experience.

Two goals for students-articulate faith and educated to ability

That they've been in the black for a couple of years. They are Christian based but not with any particular church.

I appreciate them writing the community to see and hear what's going on.

They will be closing the south OP school and consolidating

K-12 with over 400 students

450 students

450 children attend with possible 75 more. Great!

High school is located here

It is all in one building. I favor K-12 in one place for what kids of all ages get from one another.

Patient people, have been through many ideas over the years

Theater program

They are striving to be good neighbors

Plans are 3+ years in making, ~450 students coming and about 500/525 with expansion, soccer field 2nd phase needs \$\$, great stewards of this building and land, good neighbors

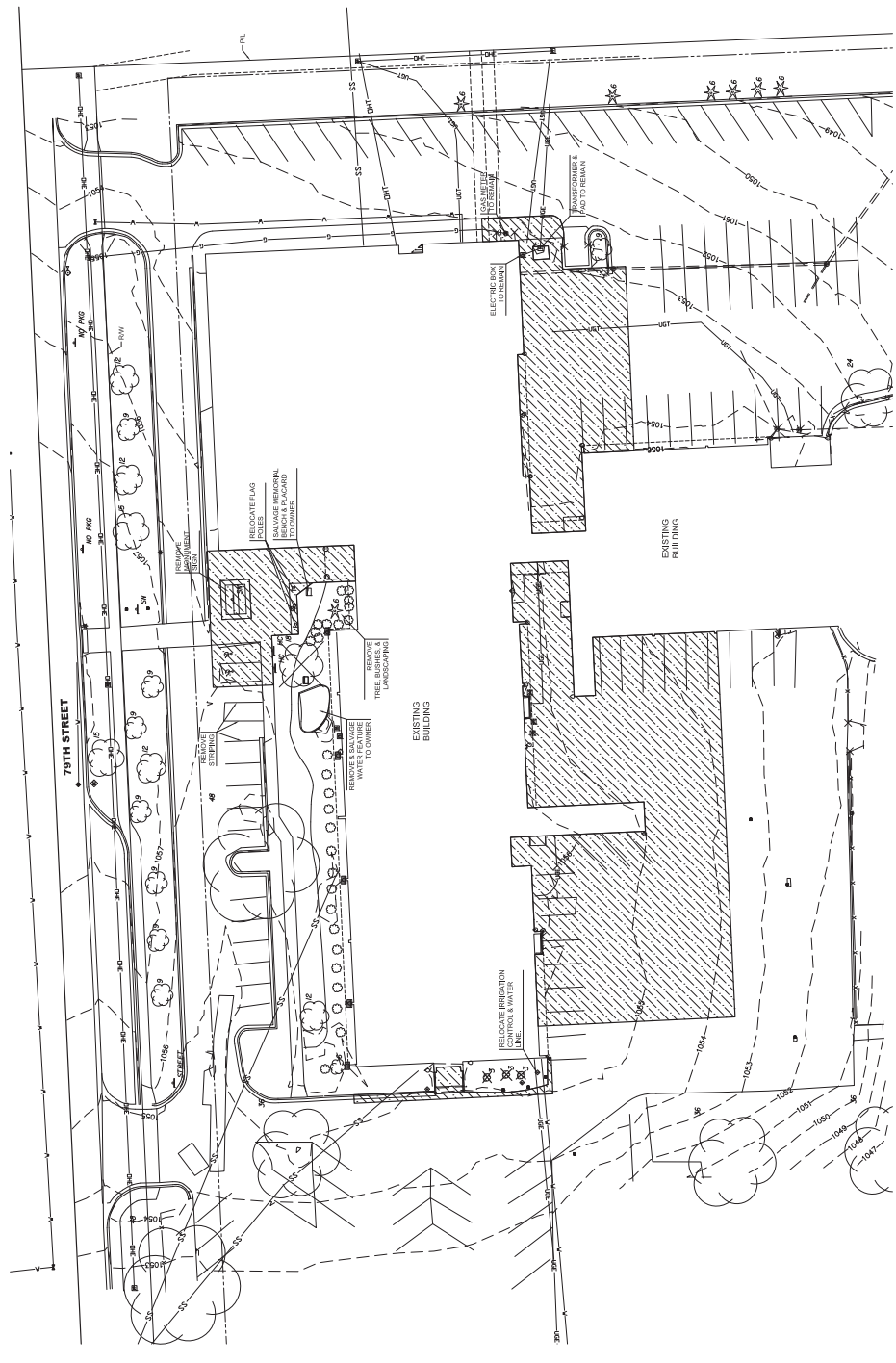
Kansas City Christian School
Expansion Open House

Name	Address	E-Mail or Phone	HOA:	Prairie Ridge	Corinth Hills	Other
Bill & Kathleen Wilkes	4718 W 80th St. P.U.	913-6448-4038			✓	
Julie Taylor	4812 W. 77 St. P.V.K.S	913-284-1823		✓		
Dale & Emma Peterson	4802 W. 80th St P.V.K.S	913-341-2565			✓	
Peggy Cunk	4401 W. 78 St.	913-649-452		✓		
Randy Liper	4018 W 80th St	816 442 9711		✓		
Deanne Hollander	7601 Sunspur			✓		
Vonnahms	7908 Roe	816 289 9013			✓	
Jan + Mark Morgan	5808 W. 79th Terrace	816 820 0586			✓	
Karin McAdams & Ray	4916 W. 78th Place	913-642-7536		✓		
		ect70g33@gmail.com		✓		

OWNERS
 MANASSAH CHRISTIAN SCHOOL ASSOCIATION
 4801 W. 79TH ST., LANSING, MISSOURI
 KELLY WATERS, OWNER REP.
 HOWANDELS@GMAIL.COM



LEGEND
 X-Ø = TREE AND DIAMETER
 Ø = TREE AND DIAMETER
 T/P = TREE STUMP AND DIAMETER
 ○ = BUSH
 □ = MAIL BOX
 □ = POLE
 □ = GATE
 □ = POST / BOLLARD
 R = FLAG POLE
 --- = FENCE
 --- = EDGE OF TREES
 --- = TELEPHONE RISER
 --- = UNDERGROUND TELEPHONE LINE
 --- = UNDERGROUND TELEPHONE LINE
 --- = CABLE TV RISER
 --- = FIBER OPTICS INDICATOR SON
 --- = UNDERGROUND CABLE TV LINE
 --- = UNDERGROUND FIBER OPTIC CABLE
 --- = POWER POLE AND DEADMAN
 ☆ = LIGHT POLE
 ☆ = ELECTRIC TRANSFORMER
 ☆ = SCHOOL ZONE SIGNAL LIGHT
 ☆ = TRAFFIC CONTROL BOX
 ☆ = TRAFFIC SIGNAL LIGHT POLE
 --- = UNDERGROUND ELECTRIC LINE
 --- = OVERHEAD ELECTRIC LINE
 --- = GAS METER
 --- = GAS VALVE
 --- = SANITARY SEWER MANHOLE
 --- = CLEANOUT
 --- = SANITARY SEWER LINE
 --- = INLET
 --- = STORM WATER MANHOLE
 --- = ROOF DRAIN
 --- = GATE INLET
 --- = STORM SEWER PIPE
 --- = FIRE IRRIANT
 --- = WATER VALVE
 --- = WATER METER
 --- = MONITORING WELL
 --- = WATER METER VAULT
 --- = WATER SPOUT
 --- = WATER LINE
 --- = IRRIGATION CONTROL VALVE



SHEET NUMBER	SHEET TITLE
DC101	CIVIL DEMOLITION PLAN
C100	UTILITY PLAN
C101	PAVING PLAN
C102	GRADING & EROSION CONTROL PLAN
L100	LANDSCAPE PLAN
A1	EXTERIOR ELEVATIONS
A2	RENDERING FROM NW
A3	RENDERING FROM NE
A4	RENDERING FROM SE
A5	RENDERING FROM SW
A6	

CONTROL POINTS & BENCHMARKS
 CPBM #100 - 60' REBAR WITH 2" ALUMINUM MESC CONTROL CAP IN GRASS WEST OF ENTRANCE FROM 79TH STREET, 7' SOUTH-EAST OF STREET, 1/2' NORTHWEST OF CURB. ELEVATION: 1027.18.
 CPBM #101 - 60' REBAR WITH 2" ALUMINUM MESC CONTROL CAP IN GRASS WEST OF ENTRANCE FROM 79TH STREET, 7' SOUTH-EAST OF STREET, 1/2' NORTHWEST OF CURB. ELEVATION: 1027.18.
 CPBM #102 - CHECKED IN SOUTHWEST CORNER OF CURB INLET NORTHWEST CORNER OF SW. ELEVATION: 1027.18.
 CPBM #103 - 60' REBAR WITH 2" ALUMINUM MESC CONTROL CAP IN GRASS WEST OF SOUTHWEST CORNER OF SOFT PLAY AREA NORTHWEST CORNER OF SW. ELEVATION: 1027.18.

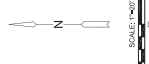
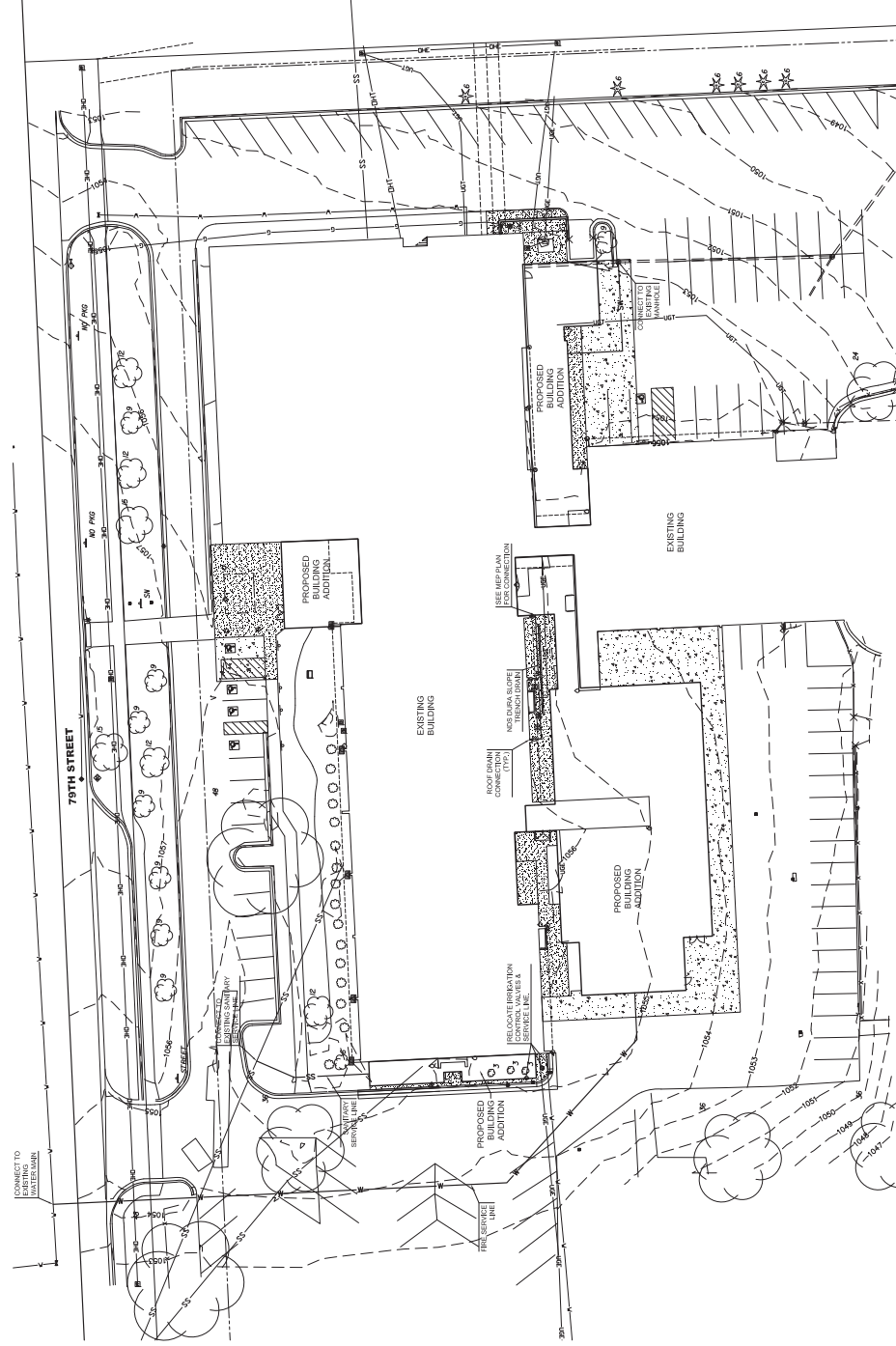


DC101
 JOB NO.: 18-01
 PROJECT NO.: BSH
 DATE: APRIL 11, 2017



UTILITY NOTES:

1. WATERLINES SHALL MEET WATERLINE MATERIAL SPECIFICATIONS.
2. HOSE ENDORSEMENT SHALL BE CONGRUENT DIA. WALL HOPE IN-12 WITH SMOOTH END. HOSE ENDORSEMENT SHALL BE CONGRUENT DIA. WALL HOPE IN-12 WITH SMOOTH END. HOSE ENDORSEMENT SHALL BE CONGRUENT DIA. WALL HOPE IN-12 WITH SMOOTH END. HOSE ENDORSEMENT SHALL BE CONGRUENT DIA. WALL HOPE IN-12 WITH SMOOTH END.
3. ROOF BRANCHES SHALL BE SMALL JOHNSON COUNTY WASTEWATER MATERIAL. ROOF BRANCHES SHALL BE SMALL JOHNSON COUNTY WASTEWATER MATERIAL. ROOF BRANCHES SHALL BE SMALL JOHNSON COUNTY WASTEWATER MATERIAL.
4. ROOF BRANCHES SHALL BE CONNECTED TO STORM DRAINAGE LINE WITH PRE-INSULATED JVE MATCHING THE MATERIAL AND JOINT TYPE IN LINE OF THE EXISTING ROOF DRAINAGE LINE. ROOF BRANCHES SHALL BE CONNECTED TO STORM DRAINAGE LINE WITH PRE-INSULATED JVE MATCHING THE MATERIAL AND JOINT TYPE IN LINE OF THE EXISTING ROOF DRAINAGE LINE.





MKEC
 Mechanical, Electrical, & Civil
 1000 West 10th Street, Suite 100
 Lawrence, KS 66044
 Phone: 785.843.1234
 Fax: 785.843.1235
 Email: info@mkec.com
 Website: www.mkec.com

hollis + miller architects
 1000 West 10th Street, Suite 100
 Lawrence, KS 66044
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 Fax: 785.843.1235
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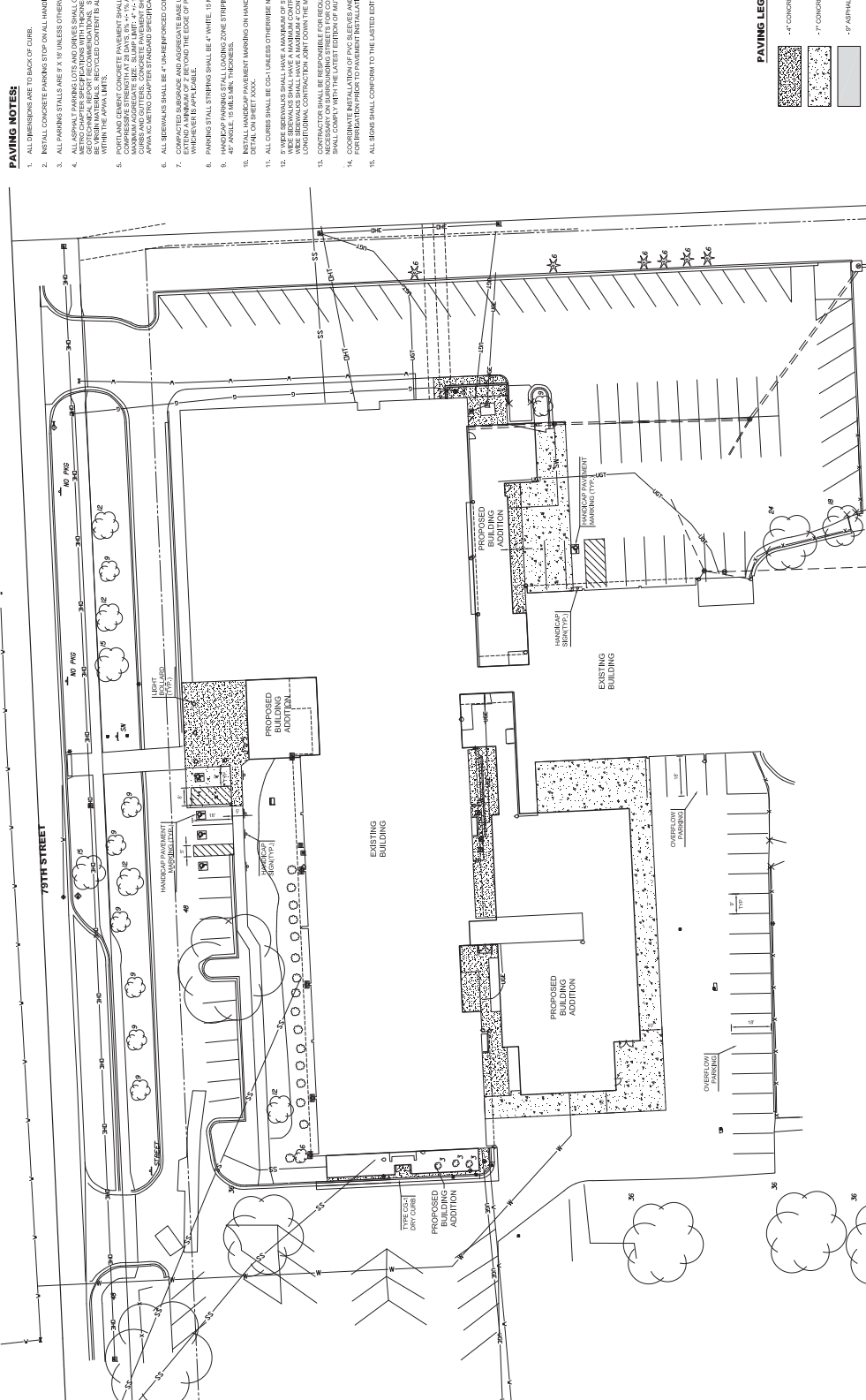
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- PAVING NOTES:**
1. ALL DIMENSIONS ARE TO BACK OF CURB.
 2. INSTALL CONCRETE PARKING STOP ON ALL HANDICAP PARKING STALLS.
 3. ALL PARKING STALLS ARE 8' X 18' UNLESS OTHERWISE NOTED.
 4. ALL ASPHALT PARKING LOTS AND DRIVES SHALL CONFORM TO CURRENT KSA 11C GEOTECHNICAL REPORT RECOMMENDATIONS. SURFACE COURSE ASPHALT SHALL BE 1.5" MINIMUM THICKNESS. ALL OTHERS SHALL BE AS SPECIFIED WITHIN THE APPLICABLE SPECIFICATIONS.
 5. PORTLAND CEMENT CONCRETE PAVEMENT SHALL HAVE ALUMINUM 4000 (PS) FINISH. ALL CONCRETE SHALL BE 4" MINIMUM THICKNESS UNLESS OTHERWISE SPECIFIED. ALL CONCRETE SHALL BE 4" UNREINFORCED CONCRETE. EXTERIOR A MINIMUM OF 2" BEYOND THE EDGE OF PAVEMENT OR BACK OF CURB.
 6. PARKING STALL STRIPING SHALL BE 4" WHITE, 1/2" HOLLOW, 1" THICKNESS.
 7. HANDICAP ZONE STRIPING SHALL BE 4" WHITE, 2" C/C, 6" 45° ANGLE, 1/2" MINIMUM THICKNESS.
 8. INSTALL HANDICAP PAVEMENT MARKING ON HANDICAP PARKING STALLS PER DETAIL ON SHEET XXXX.
 9. ALL CURBS SHALL BE C/C UNLESS OTHERWISE NOTED.
 10. ALL CURBS SHALL HAVE A MINIMUM 1/4" RADIUS. ALL CURBS SHALL BE 4" MINIMUM THICKNESS UNLESS OTHERWISE SPECIFIED. ALL CURBS SHALL BE 4" UNREINFORCED CONCRETE. EXTERIOR A MINIMUM OF 2" BEYOND THE EDGE OF PAVEMENT OR BACK OF CURB.
 11. CONTRACTOR SHALL BE RESPONSIBLE FOR RECONSTRUCTING TRAFFIC CONTROL NECESSARY ON SURROUNDING STREETS FOR CONSTRUCTION TRAFFIC CONTROL. CONTRACTOR SHALL BE RESPONSIBLE FOR RECONSTRUCTING TRAFFIC CONTROL NECESSARY FOR INSTALLATION OF PAVEMENT AND CURBS AND REGULAR TRENCH BACKFILL.
 12. COORDINATE INSTALLATION OF PAVEMENT AND CURBS TO THE LATEST EDITION OF MUTCD.



PROPOSED BUILDING ADDITION

EXISTING BUILDING

HANDICAP PARKING

OVERLAP PARKING

79TH STREET

PROPOSED BUILDING ADDITION

EXISTING BUILDING

HANDICAP PARKING

OVERLAP PARKING

PROPOSED BUILDING ADDITION

EXISTING BUILDING

HANDICAP PARKING

OVERLAP PARKING

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hollis + miller
 architects
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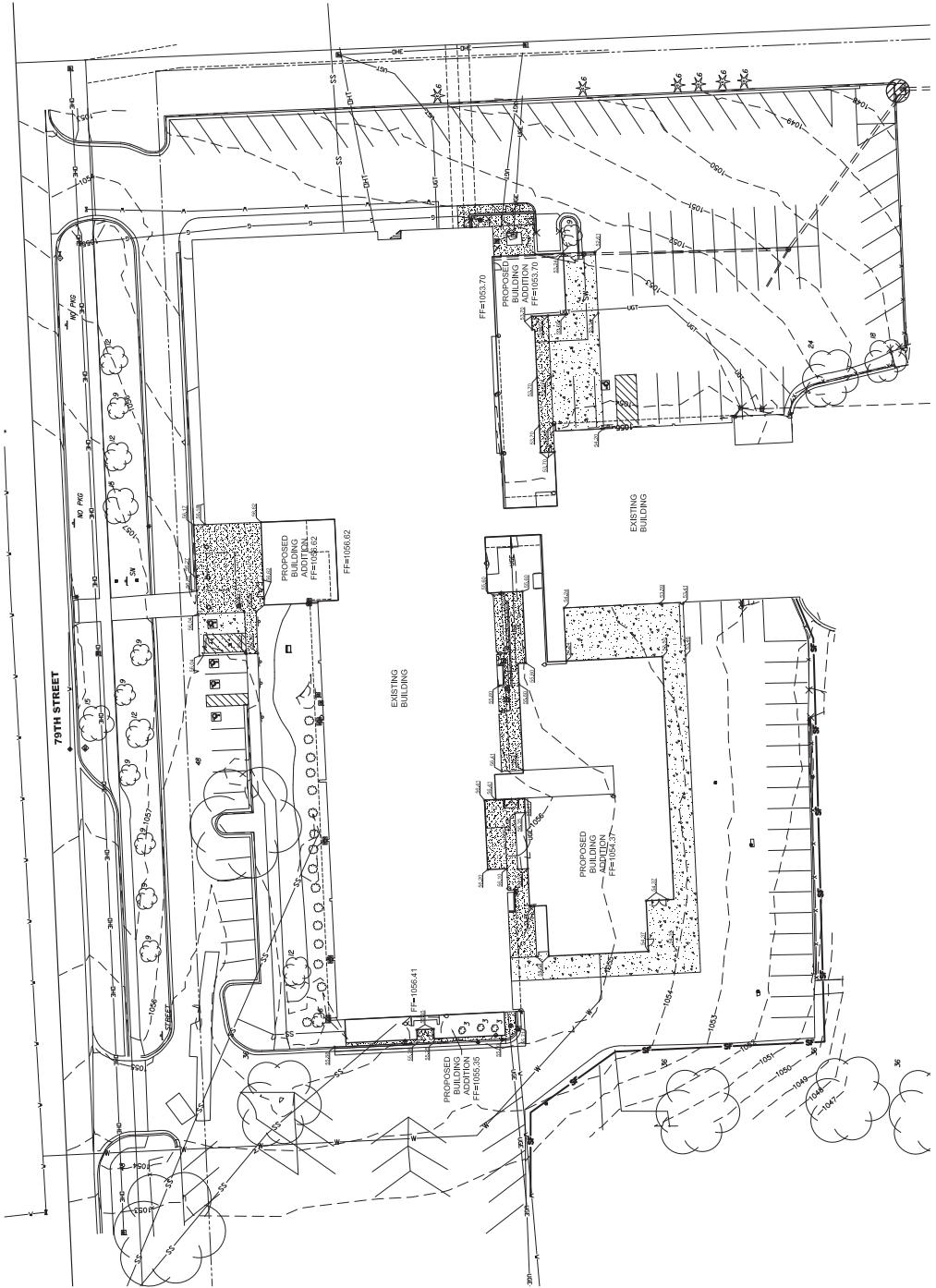
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GRADING NOTES:

1. ALL SPOT ELEVATIONS REPRESENT FINISHED GRADE.
2. ALL CURB TOP ELEVATIONS ARE TOP OF CURB UNLESS OTHERWISE NOTED.
3. ALL SPOT ELEVATIONS ARE TO BE VERIFIED BY THE CONTRACTOR. A GEOTECHNICAL REPORT IS NOT REQUIRED FOR ALL LIFT THICKNESS.
4. ALL SPOT ELEVATIONS ARE TO BE VERIFIED BY THE CONTRACTOR. ALL GRADING AND EROSION CONTROL MEASURES SHALL BE INSTALLED AND MAINTAINED THROUGHOUT THE CONSTRUCTION PERIOD AND SHALL BE REMOVED UPON COMPLETION OF THE PROJECT.
5. THE CONTRACTOR SHALL BE RESPONSIBLE FOR DETERMINING EARTHWORK QUANTITIES. ALL IMPACT AND REPORT OF SOF MATERIAL SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR ON THE EXISTING SITE.
6. SUBGRADE SHALL BE PREPARED AND COMPACTED PER THE GEOTECHNICAL REPORT.
7. ALL EXISTING UTILITIES SHALL BE MAINTAINED AND PROTECTED. PRESENT, CONTINUE EXCAVATION AND REPLACE WITH COMPACTED BACKFILL OR FILL MATERIAL AS DIRECTED.
8. ALL EXISTING UTILITIES SHALL BE MAINTAINED AND PROTECTED. PRESENT, CONTINUE EXCAVATION AND REPLACE WITH COMPACTED BACKFILL OR FILL MATERIAL AS DIRECTED.
9. PROPOSED SUBGRADE ARE ONE PROPOSED PARALLEL WITH AN EXISTING SUBGRADE. PREPARE AND LOAD ON WHEEL, MANEUVERABLE DUMP TRUCK WEIGHING MORE THAN 14,000 LBS. INITIAL STABILIZATION SHALL BE COMPLETED WITHIN 14 DAYS. INITIAL STABILIZATION SHALL BE COMPLETED WITHIN 14 DAYS. INITIAL STABILIZATION SHALL BE COMPLETED WITHIN 14 DAYS. INITIAL STABILIZATION SHALL BE COMPLETED WITHIN 14 DAYS.
10. COMPLETELY PROPOSED SUBGRADE IN ONE DIRECTION. RESPECTING ALL VEHICLE SPEEDS TO 3 MPH. ANY EXISTING UTILITY SHALL BE MAINTAINED AND PROTECTED. PRESENT, CONTINUE EXCAVATION AND REPLACE WITH COMPACTED BACKFILL OR FILL MATERIAL AS DIRECTED.
11. ALL EXISTING UTILITIES SHALL BE MAINTAINED AND PROTECTED. PRESENT, CONTINUE EXCAVATION AND REPLACE WITH COMPACTED BACKFILL OR FILL MATERIAL AS DIRECTED.
12. ALL EXISTING UTILITIES SHALL BE MAINTAINED AND PROTECTED. PRESENT, CONTINUE EXCAVATION AND REPLACE WITH COMPACTED BACKFILL OR FILL MATERIAL AS DIRECTED.

EROSION CONTROL NOTES:

1. THE CONTRACTOR SHALL BE RESPONSIBLE FOR DETERMINING EARTHWORK QUANTITIES. ALL IMPACT AND REPORT OF SOF MATERIAL SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR ON THE EXISTING SITE.
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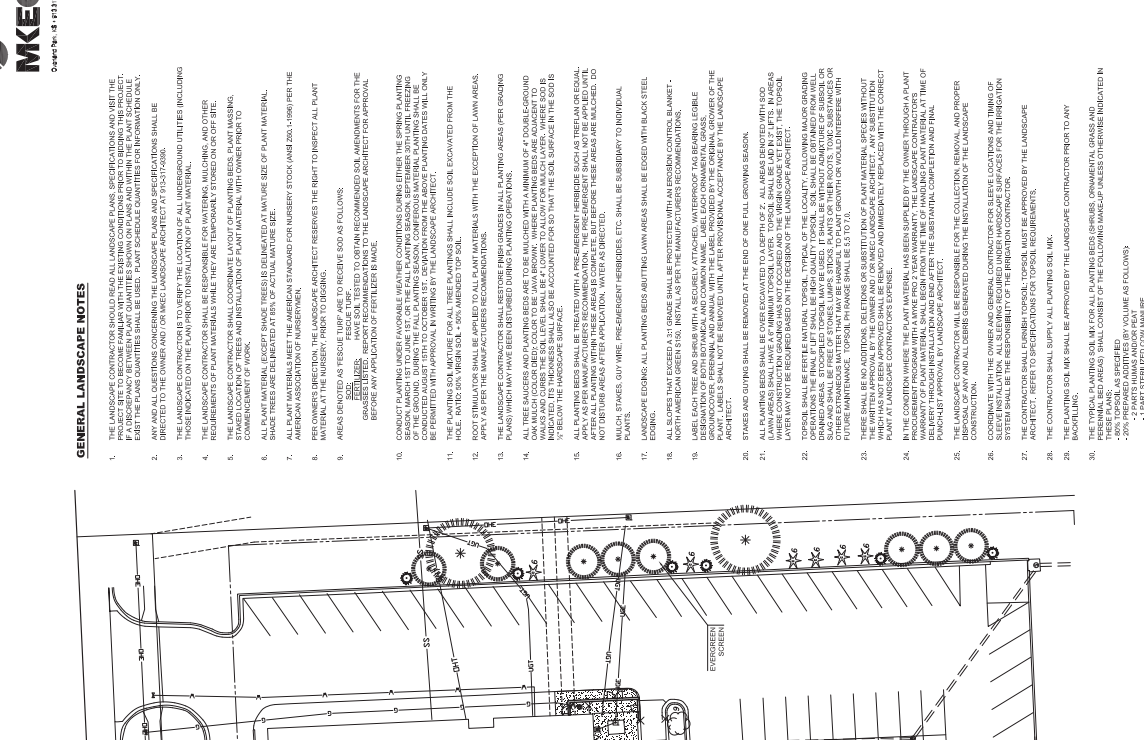
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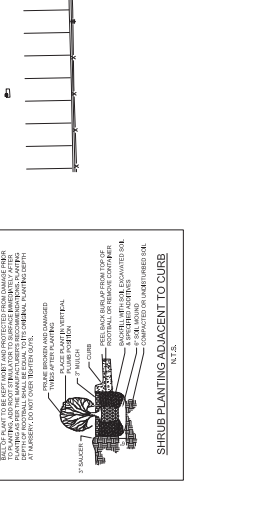
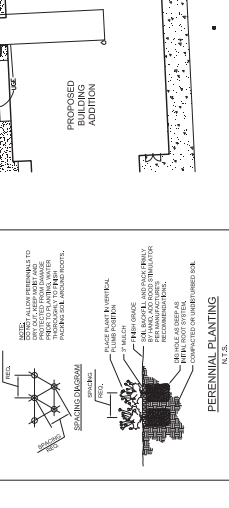
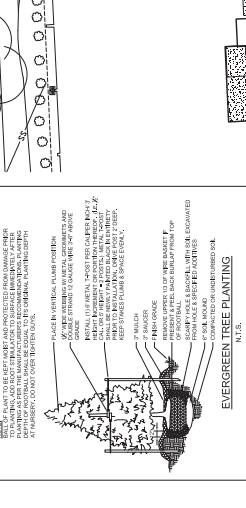
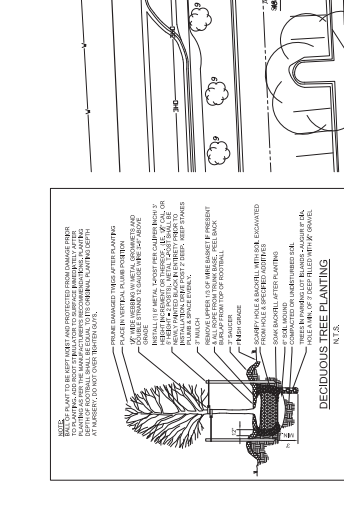
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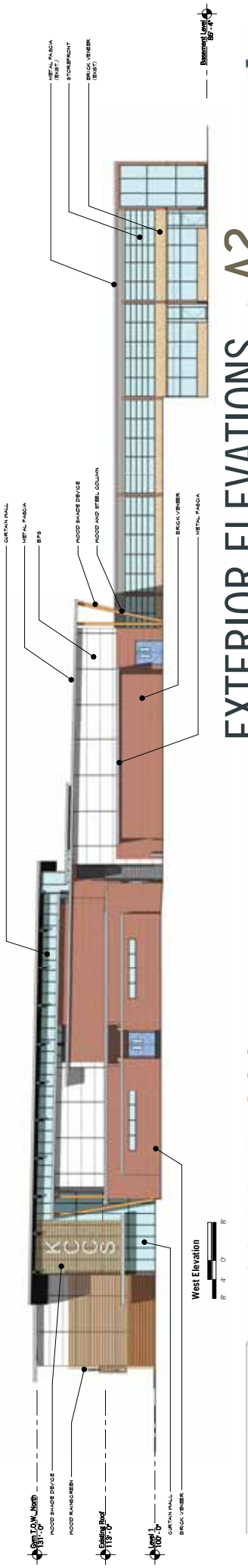
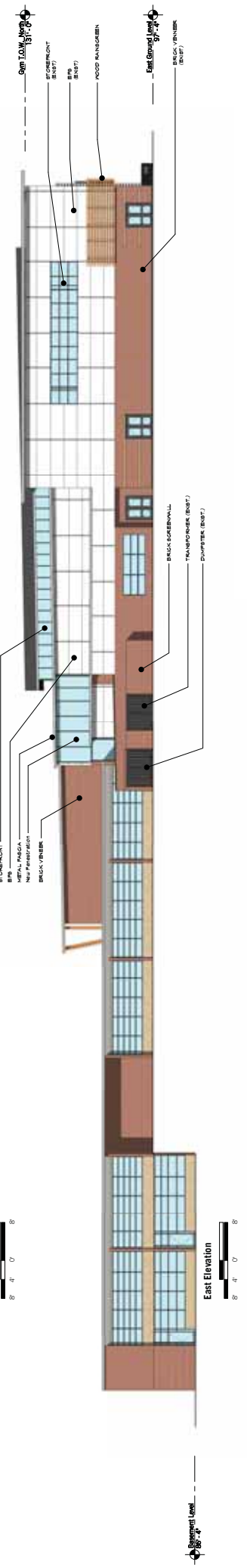
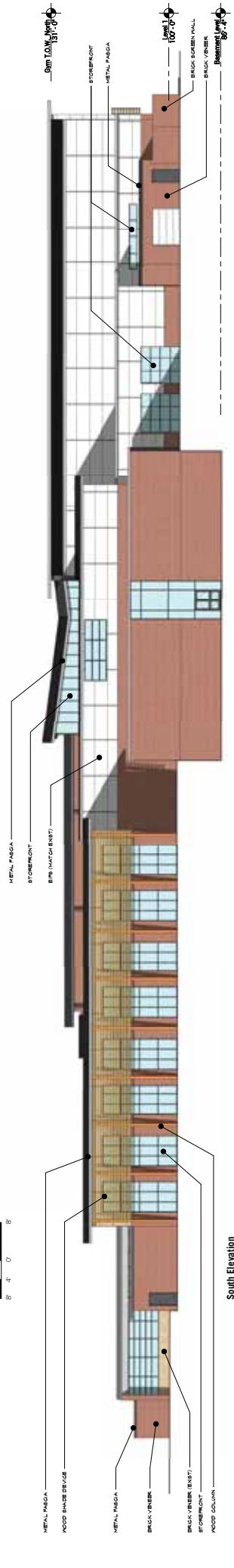
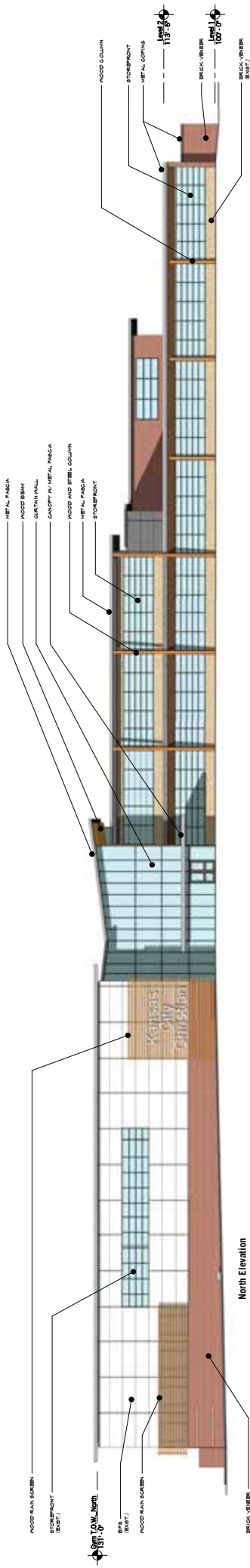
1. THE LANDSCAPE CONTRACTOR SHALL RESTORE FIRM GRASS IN ALL PLANTING AREAS WITH THE EXCEPTION OF ALL UNDERGROUND UTILITIES INCLUDING... (text continues)
2. ANY AND ALL QUESTIONS CONCERNING THE LANDSCAPE PLANS AND SPECIFICATIONS SHALL BE DIRECTED TO THE OWNER AND OR MKEC LANDSCAPE ARCHITECT AT 1100 W. 15TH STREET...
3. THE LANDSCAPE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE CITY OF OVERLAND PARK...
4. THE LANDSCAPE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE CITY OF OVERLAND PARK...
5. THE LANDSCAPE CONTRACTOR SHALL COORDINATE LAYOUT OF PLANTING BEDS, PLANT MASSING, AND INSTALLATION OF PLANT MATERIAL WITH OTHER TRADES AT THE COMMENCEMENT OF WORK.
6. ALL PLANT MATERIAL, EXCEPT SHADE TREES IS DELIVERED AT 1 1/2" INCHES PER THE TRADE SPECIFICATIONS FOR NURSERY STOCK (ANSI Z60.1-1999) PER THE AMERICAN ASSOCIATION OF NURSERYMEN.
7. PER OWNER'S DIRECTION, THE LANDSCAPE ARCHITECT RESERVES THE RIGHT TO INSPECT ALL PLANT MATERIAL AT THE NURSERY, PRIOR TO BEGINNING.
8. AREAS IDENTIFIED AS TESTE DUMP ARE TO RECEIVE 500# AS FOLLOWS: (text continues)
9. (text continues)
10. (text continues)
11. (text continues)
12. (text continues)
13. (text continues)
14. (text continues)
15. (text continues)
16. (text continues)
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20. (text continues)
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22. (text continues)
23. (text continues)
24. (text continues)
25. (text continues)
26. (text continues)
27. (text continues)
28. (text continues)
29. (text continues)
30. (text continues)



PLANT SCHEDULE

KEY	COMMON NAME	BOTANICAL NAME	SIZE & METHOD OF HANDLING
EV	EVERGREEN TREES		
BHS	BLACK HILLS SPRUCE	PICEA GLAUCA VENSATA	6" @ 10'
SAJ	SPARTAN JASMINE	JAPANESE CHIMENIS SPARTAN	6" @ 10'
SHR	SHRUBS		
GA	GOLDEN GLOBE AMORPHITE	THILIA OCCIDENTALIS 'GOLDEN GLOBE'	3 GALLON
OR	ORNAMENTAL GRASSES		
IND	INDICANTHUS	IBISCANTHUS SINENSIS 'VARD'	1 GALLON
HRS	HAPPY RETURNS DAVALL	HEMOCALUS WAPPY RETURNS	1 GALLON
GC	GROUND COVER		
TURF	FESCUE TURF GRASS	SEE LAWN NOTES	500'







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VIEW from NORTH-WEST A3

Kansas City Christian School - Addition and Renovation

Kansas City Christian School

08.11.2017





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VIEW from NORTH-EAST A4

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Kansas City Christian School - Addition and Renovation

Kansas City Christian School

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VIEW from SOUTH-EAST A5

we design the future[®]



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r miller

Kansas City Christian School - Addition and Renovation

Kansas City Christian School

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VIEW from SOUTH-WEST A6

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Kansas City Christian School - Addition and Renovation

Kansas City Christian School

08.11.2017



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Joyce Hagen Mundy

From: Catherine Dayton [catdayton@outlook.com]
Sent: Thursday, September 07, 2017 1:44 AM
To: Joyce Hagen Mundy
Subject: RE: Request for Amendment to Special Use Permit for Kansas City Christian School, 4801 West 79 Street
Attachments: KCCS Facility Request Form 2pg.pdf; KCCS Pathway.pdf

September 6, 2017

Planning Commission
The City of Prairie Village, Kansas
Municipal Building
7700 Mission Road
Prairie Village, Kansas 66208

Catherine R. Dayton
4808 West 79 Street
Prairie Village, Kansas

RE: Request for Amendment to Special Use Permit for Kansas City Christian School, 4801 West 79 Street

Thank you so much for the opportunity to comment. I am generally in favor of the portion of the amendment of the special use permit for Kansas City Christian School (KCCS) that would allow the school to renovate and significantly expand their school building. However, I do not agree with the portion that would allow KCCS to increase its enrollment from the current 445 students to a maximum of 525. I also believe it is in the best interest of the entire community that the planning commission incorporate some explicit requirements into the current proposal. I have detailed my specific issues of interest below.

BACKGROUND:

I have been a homeowner in Prairie Village for 24 years. In my opinion, Prairie Village is a wonderful place to live because it is a well-managed, beautiful, and quiet community. I am very happy here. I live directly across the street from KCCS at 4808 West 79 Street. I purchased my current home in 2002.

My understanding is that KCCS was approved for its first special use permit in 1999. The reason a special use permit is necessary is because the building and site were not originally designed for a K-12 school with such high enrollment numbers. It was originally a small neighborhood elementary school. As such, the building location and site is small and not designed with the surrounding space desirable to comfortably accommodate the traffic and activity that come with a school of 445 students in grades K through 12. Back in 2008, when renewing the special use permit, the Prairie Village Planning Commission determined that the current number of students was the reasonable maximum number for the property, the street, and the neighborhood.

I greatly respect and appreciate the people at KCCS and their mission. I have had a very good relationship with the management of the school over the years. They have been excellent neighbors and very responsive to my concerns.

ISSUES:

Maximum Number of Students:

I must admit that I do not agree with allowing KCCS to increase its number of students by 80 to a maximum of 525. This is an 18% increase in number of students. I think it is simply too many students for this location. That number of students brings too much additional traffic to the site during both the routine drop off and pick up of school days as well as the traffic inherent in parents and children coming to school facilities for other school activities.

On the KCCS fundraising page titled "Advancing Our Legacy" <http://legacy.kccchristianschool.org> there is an attached "Building Expansion Presentation". On pages 9 and 10 titled "Pathway to a Solution", they discuss how the previous plans for expansion of the school to other sites have not worked out. They explicitly state their current solution: "Our focus is on maxing out the Prairie Village expansion". As a homeowner directly across the street from the school's property, the idea of them "maxing out" this location does not appeal to me. I have attached the .pdf to this message.

Such a large increase in enrollment would cause increases in traffic that bring more air pollution, more noise, and more traffic congestion to the area. Per the traffic study, at least 48 more cars will come through each morning and will sit idling at the end of the day waiting to pick up students. The exhaust from these cars will significantly impact the air quality in the area.

Back in 2008, when renewing the special use permit, the Prairie Village Planning Commission determined that the current number of students was the reasonable maximum number for the property, the street, and the neighborhood. In my opinion, the non-school traffic on West 79 Street has increased significantly since 2008. In addition, congestion and accidents at the interchange of West 79 Street and Roe Avenue have increased as well. Adding more traffic volume to this area does not seem to be in the best interest of the neighborhood at large.

Noise and Air Quality Issues:

I believe the amended special use permit should explicitly address requirements to reduce unnecessary bus engine fumes, bus noise, and viewing an unsightly "wall of buses" in front of my home. In particular, school buses should only be allowed in the bus lane to pick up or drop off students. They should not be allowed to idle more than five minutes.

I live directly across the street from KCCS. My living room is a mere 23 yards from the bus lane. The bus lane is right on the street. When the buses sit with their engines running, it literally vibrates my living room.

I ask for these requirements to be implemented especially for the buses that come from other schools to drop off students for sporting and other types of events at KCCS. Many of these buses engage in unnecessary and unhealthy long term engine idling in front of the school. For some reason, the bus drivers from other schools would prefer to sit in their buses with them idling for hours than to get out and go inside. Any unnecessary idling causes me immediate and severe breathing problems. It also causes excessive, ongoing noise outside of my residence.

I acknowledge that KCCS management has taken steps to achieve great improvement in this area over the past years. But, because key members of management change over the years, I feel it is essential that this topic be explicitly included in the special use permit.

Facility Rental to Outside Groups for Fees:

I believe that the amended special use permit should explicitly prohibit facility rentals to outside groups for fees. The traffic and noise related to the school's numerous activities is enough. There is no need to permit use by outside groups as well.

On the current website of the school, I see they have a page which includes rates for rental of multiple areas of their facilities, including the gymnasium, to outside groups and the fees associated with those rentals. It is my understanding that renting out the facilities in such a way is a violation of the terms of the current special use permit. I have attached the forms detailing application instructions and rental rates to this letter. This is the link to the page on the website. <http://www.kcchristianschool.org/About-KCC/Facility-Requests.aspx>

For the record, I want to state that I do not believe this is an intentional violation on the part of KCCS. But, nonetheless, they are responsible for complying with the requirements they agreed to during the special use permit renewal process in 2008. Again, I feel it is essential that this topic be explicitly addressed in the special use permit.

Parking Issues:

I believe that the amended special use permit should explicitly prohibit staff or student parking outside of the parking lot during school days. I believe this is the current policy of the school.

Years ago, staff and students were allowed to park on side streets, especially West 78th Place, across from the school. This prior practice made West 78th Place packed with parked cars during the day and caused unsightly congestion for homeowners.

In conclusion, it is my intention to make a positive contribution to this process. I have faith the professionals with the City of Prairie Village to direct this process to accommodate the reasonable needs of those concerned. I plan to attend the public hearing on September 12.

Thank you very much for your attention. I appreciate it.

/Signed/

Catherine R. Dayton
4808 West 79 Street
Prairie Village, Kansas

Attachments:
KCCS Facility Request Form.pdf (2 pages)
KCCS Pathway.pdf

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Facility Rental/Use Request Form

Person Requesting (please print)	Date Applied	E-mail Address	
Name of Organization/Group/Agency/Tax Exempt # (if non profit)		Title	
Address		City	State Zip
Home Phone	Cell/Business Phone	Signature of Representative	
Description of Activity	Number Expected	Person in Charge of Activity Day Phone	

Gymnasium		/
Lunchroom		/
Classroom: _____		/
Other: _____		/
<input type="checkbox"/> Set-up	Must complete the Room	
<input type="checkbox"/> Breakdown	Set-Up Form	

Front of Building		
High School West		
Concession East		
Parking Lot East		
Recess Door West		
Lower Elementary		

- Maintain order, protect property, and assure the safety of those in attendance.
- Allow **NO SMOKING** on school property
- Allow **NO ALCOHOLIC BEVERAGES** on school property
- Pay for unnecessary wear and tear, damage, or destruction
- Not sponsor an activity of lewd or morally objectionable nature
- Report a cancellation at the earliest possible time
- Pay the established fee(s) prior to the activity
- Pay for the preparation and clean-up of the facility, if any
- Return checked out keys in a timely fashion (if applicable)
- Provide a certificate of liability insurance naming KC Christian as an additionally insured site
- Renter shall defend, indemnify, and hold harmless Kansas City Christian (KCC) from and against any and all claims, liabilities, judgements, costs, damages, expenses, and attorneys' fees ("Claims") in connection with any proceeding, to which KCC is, was, or at any time becomes a party or is threatened to be made a party arising out of this agreement, but only in proportion to and to the extent that such claims arise from the negligent or intentional acts or omissions of renter or its employees.

Applicant's Signature	Date
-----------------------	------

Cash					
Check	Check #				
Credit Card:			VISA		Amer Ex
			Discover		MC
Exp. Date	C.C. #		Pin #		

(FOR OFFICE USE ONLY)

Insurance Certificate: <input type="checkbox"/> Yes <input type="checkbox"/> No	
Approved <input type="checkbox"/>	Denied <input type="checkbox"/>
Athletic Director Signature	
Date Received	
Keys Out	



Facility Rental Information Sheet

Administrative Office: 4801 West 79th Street • Prairie Village, KS 66208 • 913-648-5227
Website: www.kccchristianschool.org

Kansas City Christian School offers the use of their facility for rental including but not limited to the gymnasium, cafeteria, classrooms and concession area. For information, please contact Josh Poteet, Athletic Director, at jpoteet@mykccs.org.

- Please fill out the Facility Request/Use Request Form in it's entirety and turn in to the Athletic Director
- Please fill out the Set-Up Request Form for each room requesting - as it provides the equipment needed and layout of room requesting
- Requests for each room must be made at least one week in advance of event
- Payment for all rental is due 24 hours in advance
- Events cancelled less than 12 hours in advance will forfeit the rental fees
- Kansas City Christian reserves the right to refuse rental activities that are not of good character, illegal or may be detrimental to the group or the facility.

Gymnasium	\$80/hour
Room/Other	\$35/hour
Set-up/Breakdown	\$30/hour

The facility is not available for rental on Sunday.

- Current KCC Personnel conducting meetings/activities not open to the general public, such as receptions, private parties, etc.
- Civic groups include: (1) non-profit service organizations meeting the IRS qualification for 501(c)(3) status. (2) County, state and federal government agencies (for uses other than public meetings) are included in this group.
- Private groups include: families, groups, organizations conducting meetings/activities not open to the general public, such as receptions, private parties, etc.
- Commercial groups are persons, businesses and organizations whose activities are profit-making in nature. Political, industrial and professional organizations are included in this group.



ADVANCING

OUR LEGACY

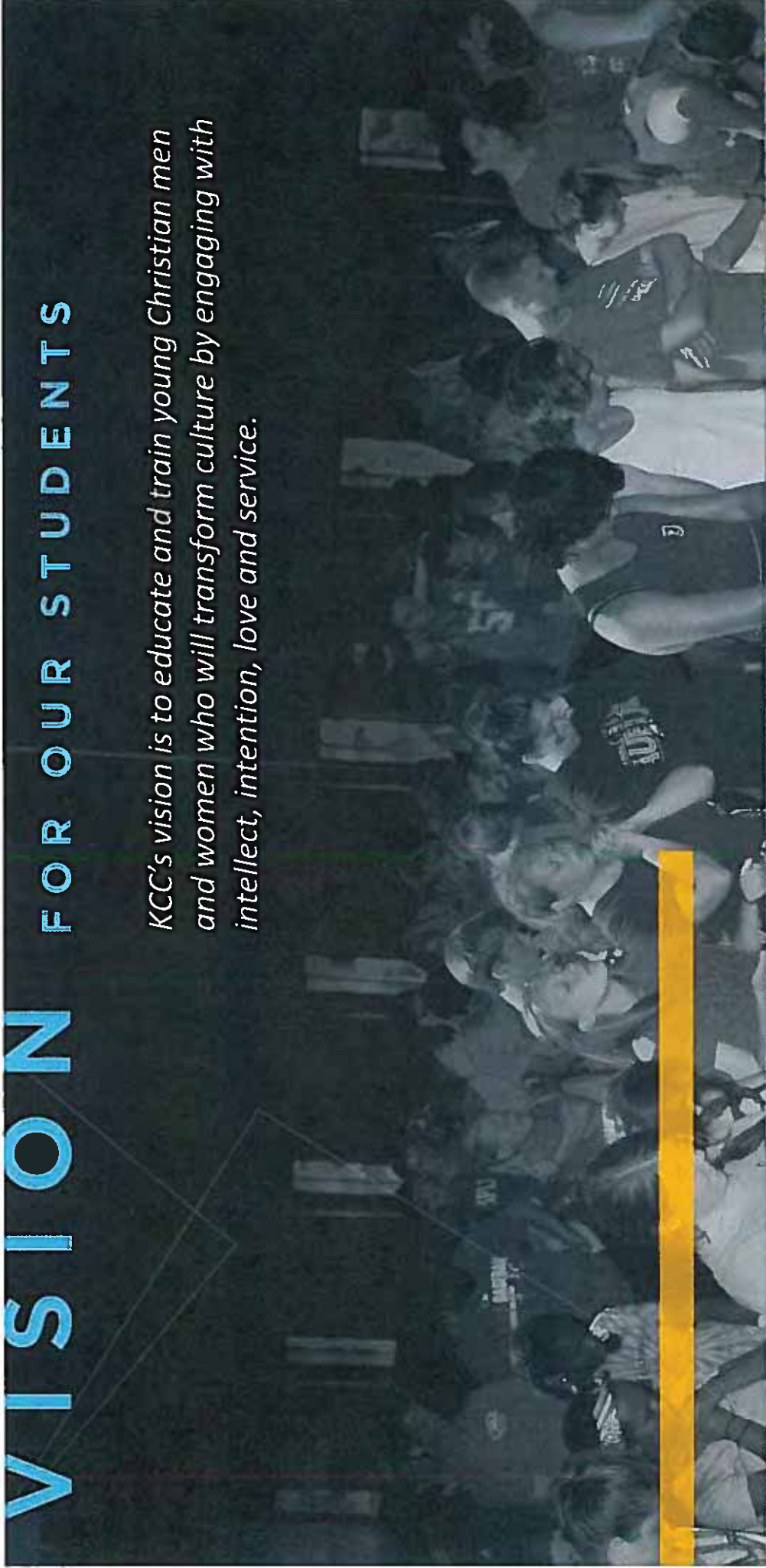
KANSAS CITY CHRISTIAN SCHOOL
FACILITIES THAT ENHANCE EDUCATION



VISION

FOR OUR STUDENTS

KCC's vision is to educate and train young Christian men and women who will transform culture by engaging with intellect, intention, love and service.



KANSAS CITY CHRISTIAN SCHOOL
FACILITIES THAT ENHANCE EDUCATION

MISSION

to partner with parents to prepare their children to be:

Followers of Christ

who engage the world around
them with leadership, service,
truth, compassion, beauty

for the Glory of God



KANSAS CITY CHRISTIAN SCHOOL
FACILITIES THAT ENHANCE EDUCATION

Because our world needs these kinds of people

*“The most dangerous ideas in a society
are not the ones being argued, but the
ones that are assumed.”*

C.S. LEWIS



KANSAS CITY CHRISTIAN SCHOOL
FACILITIES THAT ENHANCE EDUCATION

WE ARE SUCCEEDING

65 years

- *98% College Attendance*
- *Average ACT score 25.0*
- *95% students participating in 14 extracurricular offerings*
- *State championships in soccer, cross country, and tennis*
- *Students winning awards and receiving scholarships in the arts*

KANSAS CITY CHRISTIAN SCHOOL
FACILITIES THAT ENHANCE EDUCATION



A SCHOOL FOR THE WHOLE CITY

- *Students from diverse churches, neighborhoods, socio-economic backgrounds*
- *Our students serve widely*
- *Great schools attract great employers to a city*



KANSAS CITY CHRISTIAN SCHOOL
FACILITIES THAT ENHANCE EDUCATION

OBSTACLES

to our mission

Our Current facilities constrain the pursuit of our vision

- *Over-utilization of classrooms and gym*
- *Not enough learning environments, both formal and informal*
- *Building is over 60 years old*



KANSAS CITY CHRISTIAN SCHOOL
FACILITIES THAT ENHANCE EDUCATION

OPPORTUNITY

to advance our school

- *Provide spaces that support our already strong parent community*
- *Places for prayer, gathering, projects*
- *Compelling vision for prospective families the moment they walk in the door*



KANSAS CITY CHRISTIAN SCHOOL
FACILITIES THAT ENHANCE EDUCATION

PATHWAY

to a solution

The History

- The facilities have been a challenge at KCC for some time
- This has not been lost on the Board and we have spent a considerable time trying to address facilities

The Options

- We have pursued greenfield projects and learned that they are cost prohibitive
- We have pursued buying local public schools and learned that it takes a willing seller
- We have pursued creative repurposing of other buildings and learned it can be more expensive than greenfield projects

The Focus

- Centered around the theme of 'efficient utilization of assets', given how much we've mined out of this facility
- Also evident to the Board is a confirmation that we love our current location



KANSAS CITY CHRISTIAN SCHOOL
FACILITIES THAT ENHANCE EDUCATION

PATHWAY

to a solution

The Solution

- Focused on two projects - an expansion at Prairie Village and a Sports Complex at Oxford Park
- We went to a Private Fundraising round late last year with ambitious plans across both projects (\$17-20M)
- The Sports Complex plan was also focused on efficient utilization of assets looking for partnering opportunities with 3rd parties
- The plan called for soccer, tennis, and a future fieldhouse (baseball and track were too difficult to fit on the plot)
- We were approached with a separate exciting partnership opportunity for baseball on a different site
- The tennis club we had been talking to offered to let us use their expansion site as our home courts at no cost
- Given a \$2M site development cost on the site, that left us allocating \$3M of our scarce resources just to solve soccer which didn't seem prudent
- We will now look to sell the Oxford Park site to help get more done at Prairie Village now
- Our focus is on maxing out the Prairie Village expansion



KANSAS CITY CHRISTIAN SCHOOL
FACILITIES THAT ENHANCE EDUCATION



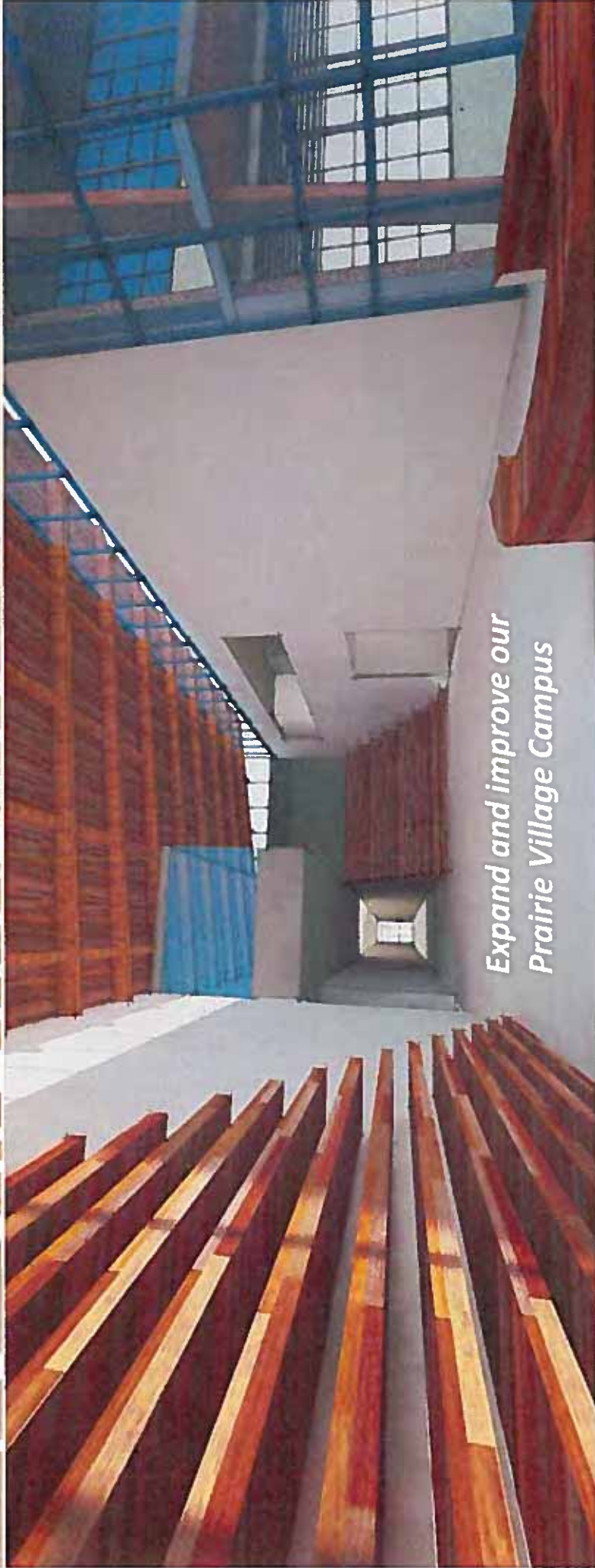
hollis architects
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Transformed North Facade Perspective

KANSAS CITY CHRISTIAN SCHOOL
FACILITIES THAT ENHANCE EDUCATION



TO CREATE



*Expand and improve our
Prairie Village Campus*



KANSAS CITY CHRISTIAN SCHOOL
FACILITIES THAT ENHANCE EDUCATION

Entry Lobby Perspective

TO CREATE



Physical spaces that reflect both the quality of the KCC program and our values



Facilities that reinforce the value of a Christian education

KANSAS CITY CHRISTIAN SCHOOL
FACILITIES THAT ENHANCE EDUCATION





Enhanced/Updated Curb Appeal



Lunchroom/Aux. Gym



Locker Rooms



Community Gathering Spaces



Student Hub Spaces



Additional Learning Spaces



KANSAS CITY CHRISTIAN SCHOOL
FACILITIES THAT ENHANCE EDUCATION

KEY FEATURES



Façade Enhancements



Expanded Music & Arts Rooms

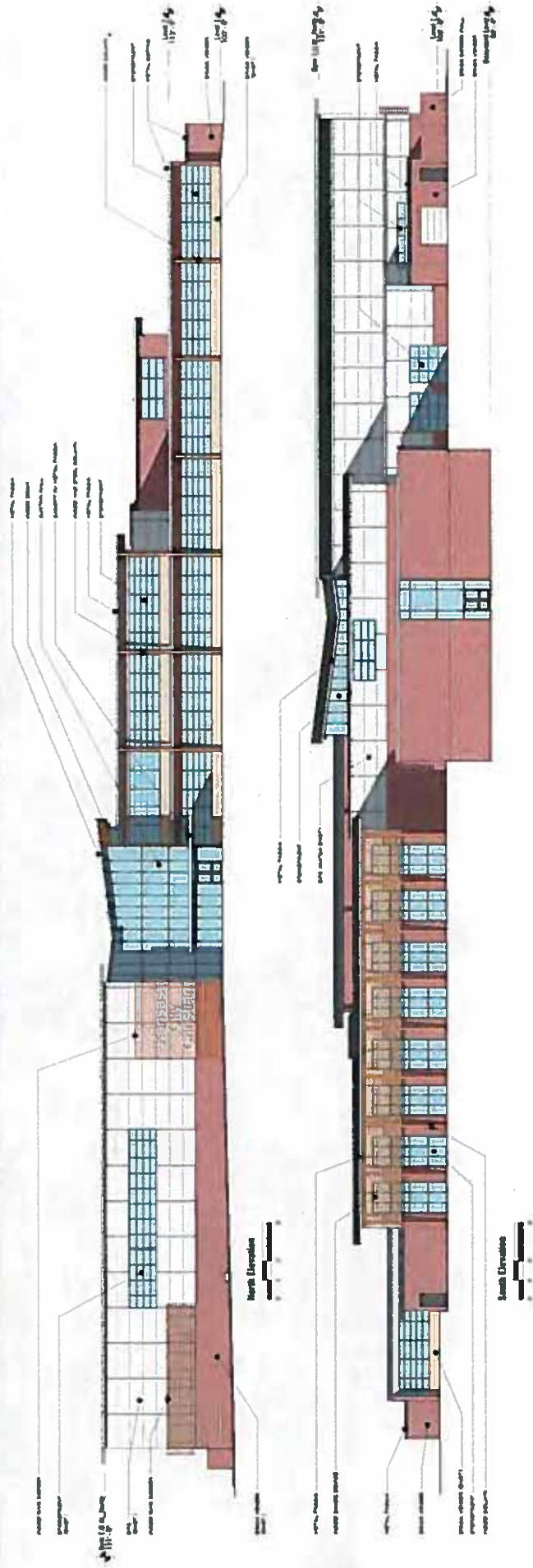


Multi-Purpose / Commons



KANSAS CITY CHRISTIAN SCHOOL
FACILITIES THAT ENHANCE EDUCATION

KEY FEATURES

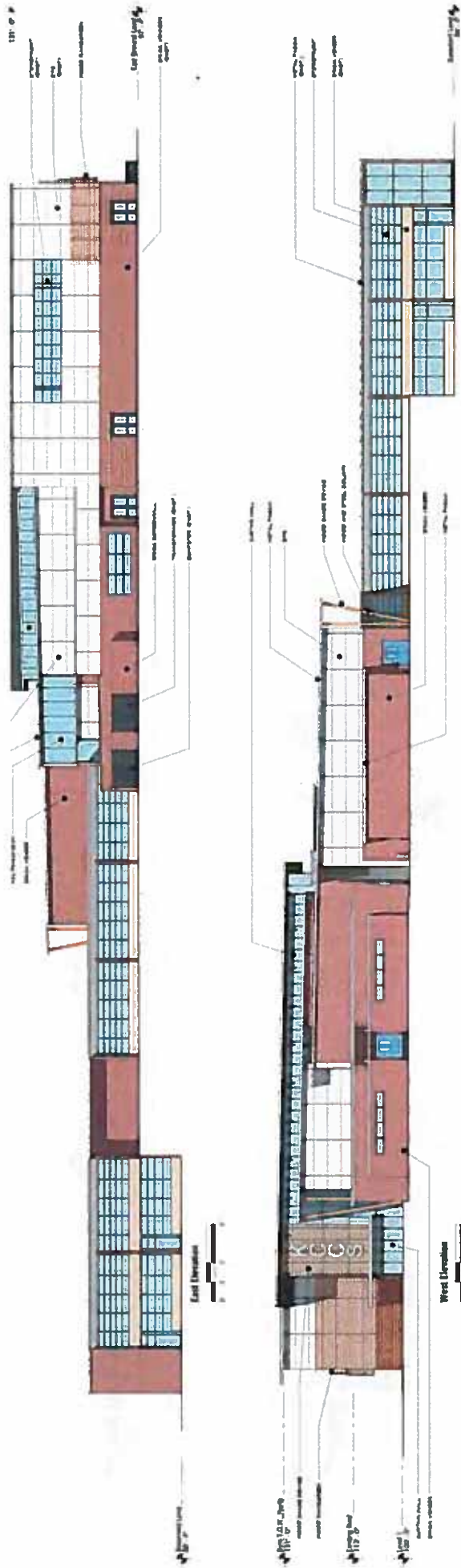


Exterior Flexations

KANSAS CITY CHRISTIAN SCHOOL
FACILITIES THAT ENHANCE EDUCATION



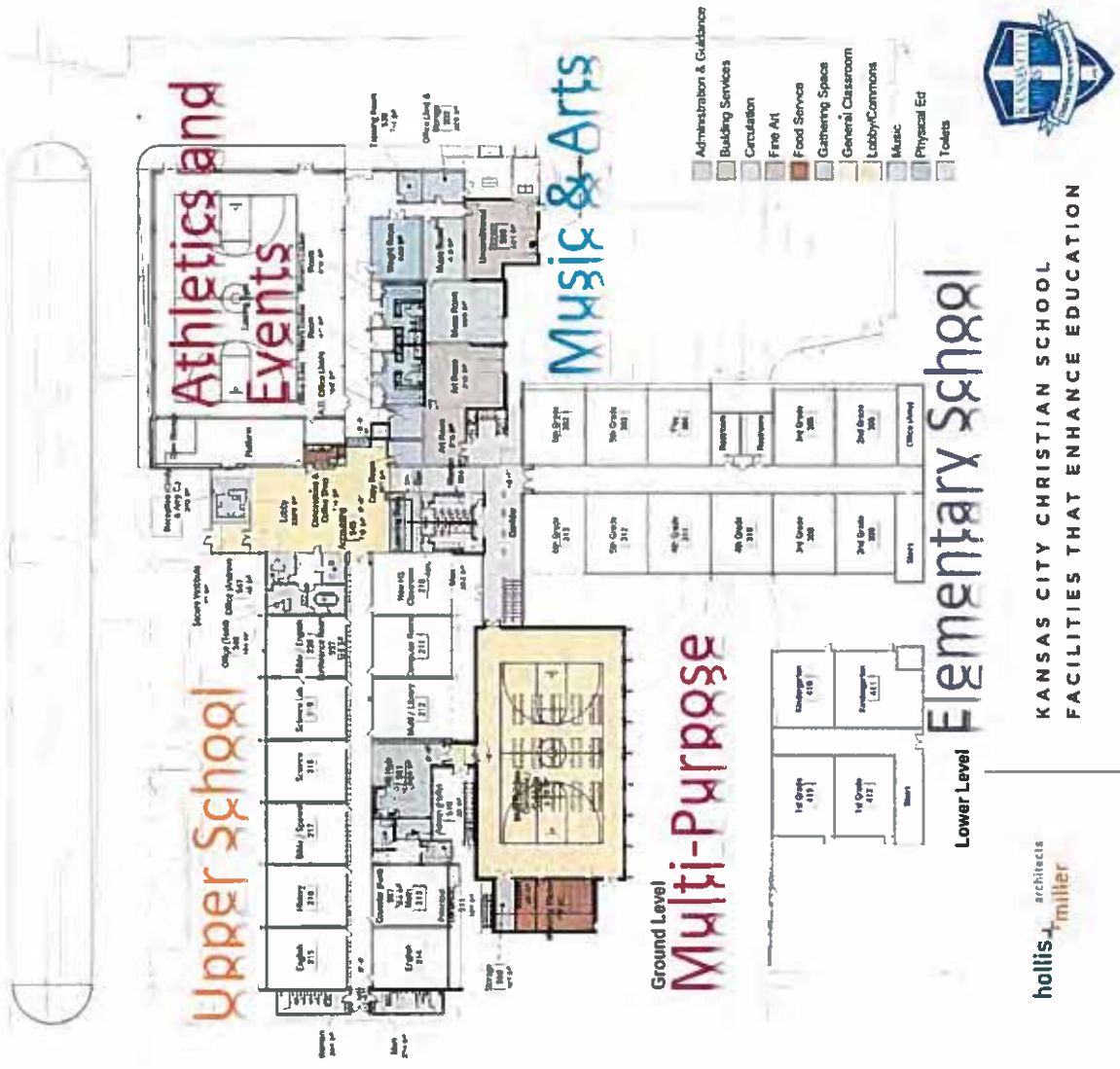
KEY FEATURES



Exterior Flexations



KANSAS CITY CHRISTIAN SCHOOL
FACILITIES THAT ENHANCE EDUCATION

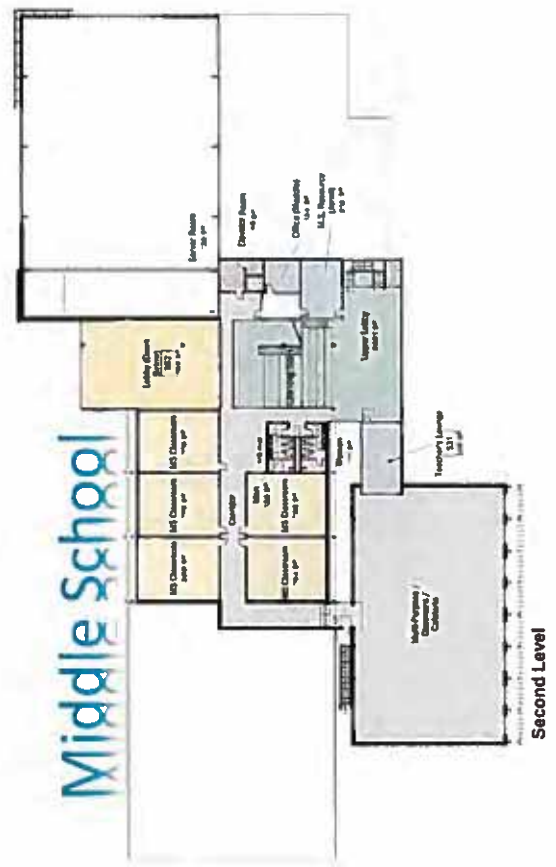


- Administration & Guidance
- Building Services
- Circulation
- Fire A/E
- Food Service
- Gathering Space
- General Classroom
- Lobby/Commons
- Music
- Physical Ed
- Totals



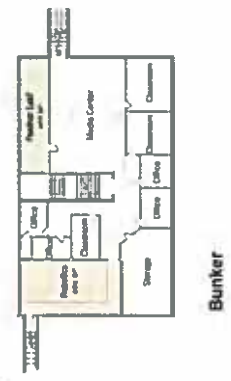
KANSAS CITY CHRISTIAN SCHOOL
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miller

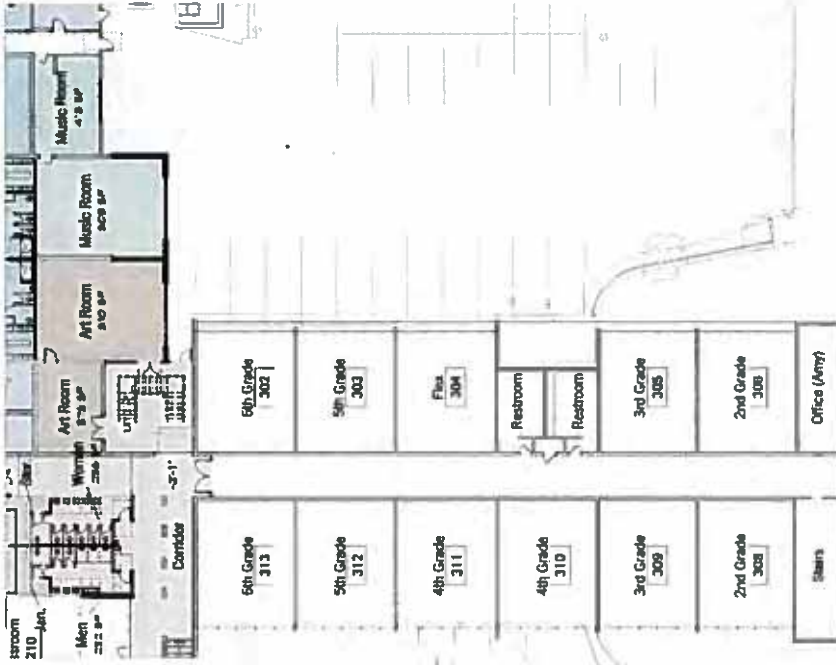


27k sf. added to 51k existing sf.

- Learning spaces – 15k sf
- Arts programs – 3k sf
- Community spaces – 2k sf
- Athletics – 2k sf
- Bathrooms – 1k sf
- Cafeteria/kitchen – 1k sf
- Public spaces – 2k sf



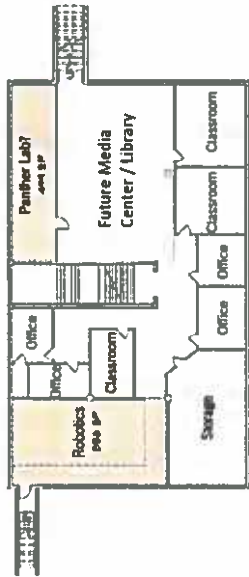
KEY FEATURES



Elementary School



Lower Level

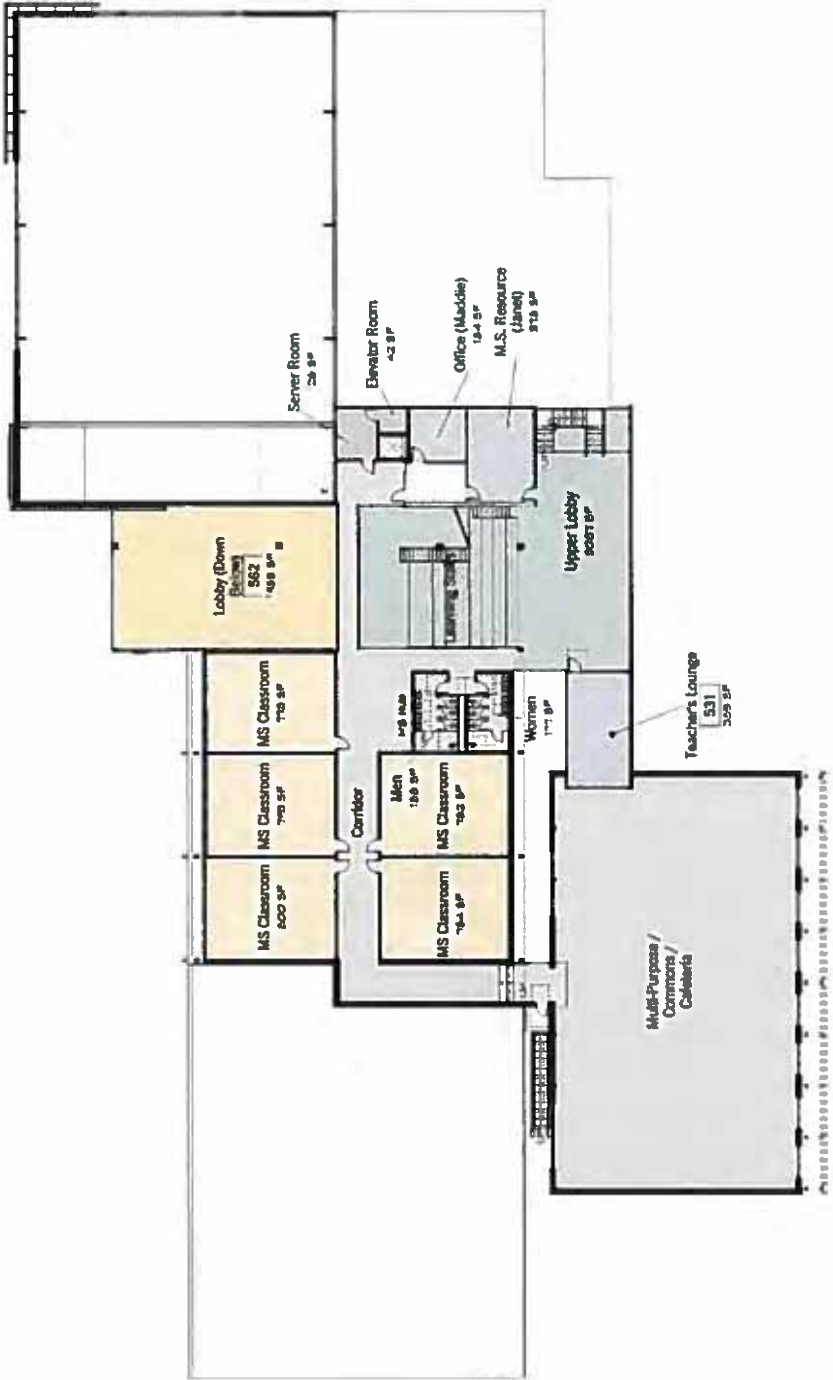


Bunker



KANSAS CITY CHRISTIAN SCHOOL
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Middle School



Second Level

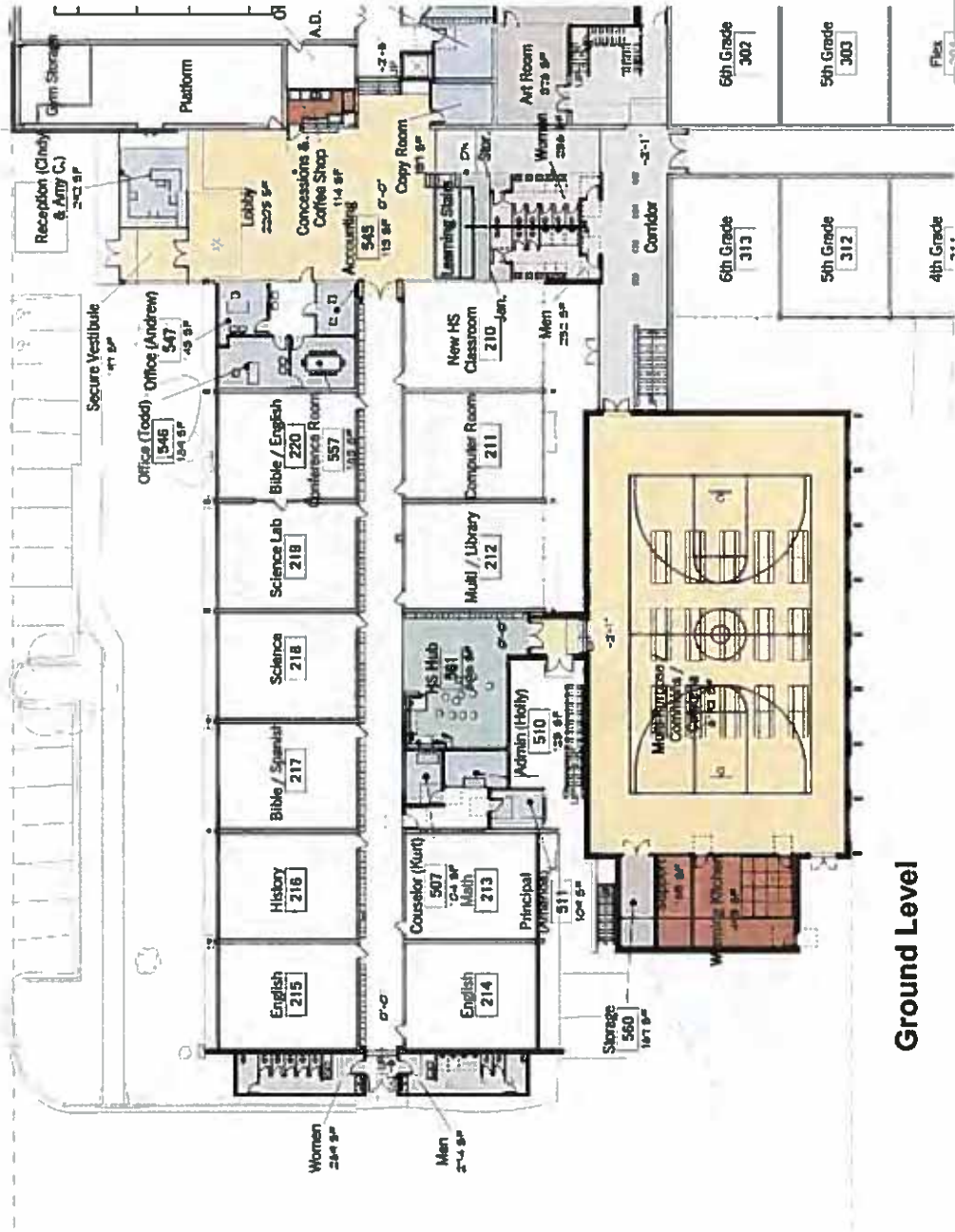


KANSAS CITY CHRISTIAN SCHOOL
FACILITIES THAT ENHANCE EDUCATION

KEY FEATURES

Upper School

Multi-Purpose



Ground Level

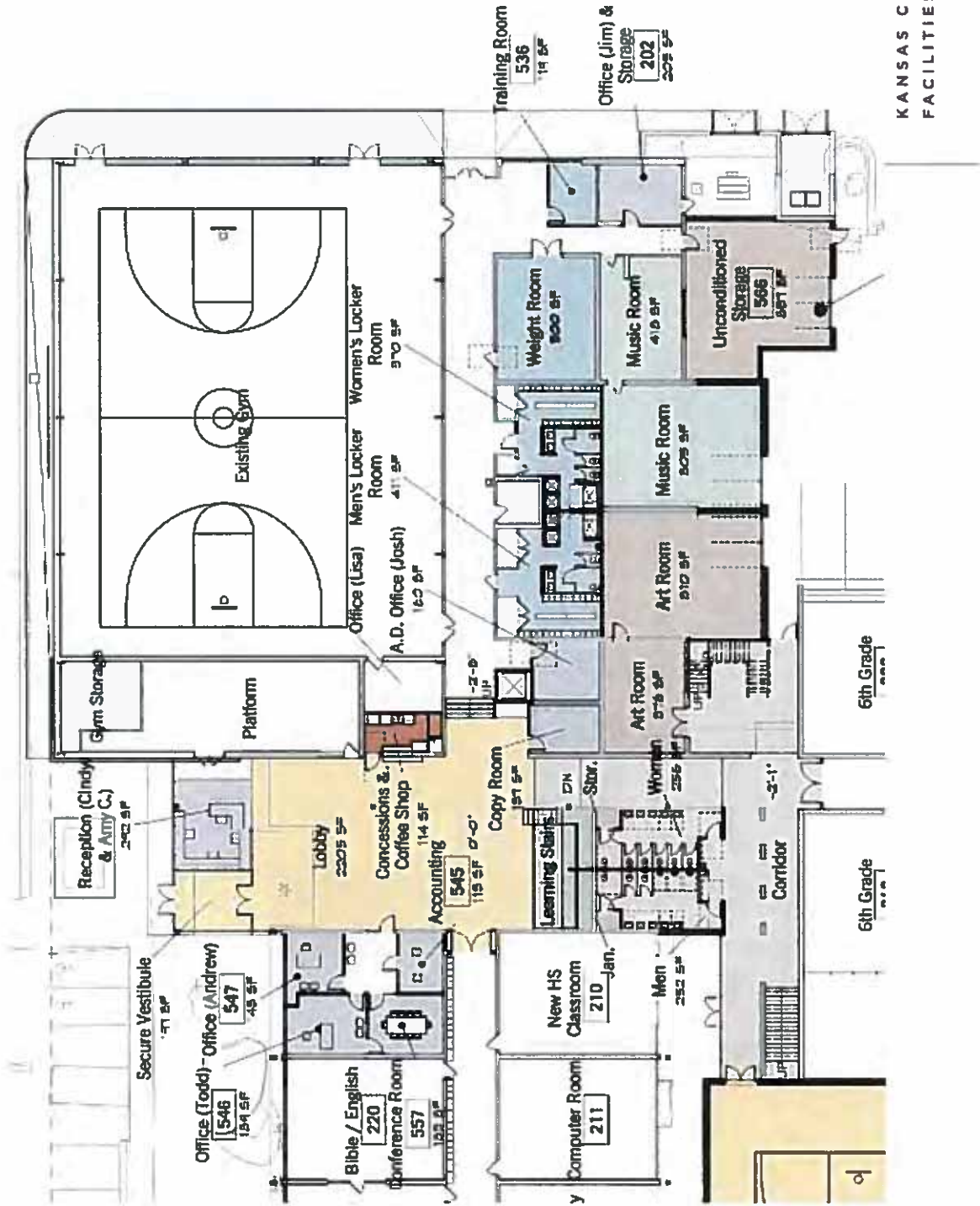


KANSAS CITY CHRISTIAN SCHOOL
FACILITIES THAT ENHANCE EDUCATION

KEY FEATURES

Athletics and Events

Music & Arts



KANSAS CITY CHRISTIAN SCHOOL
FACILITIES THAT ENHANCE EDUCATION



SPORTS ADDITIONS

BASEBALL

- *Partnership with local organization*
- *Home Field for Practice & Games*
- *\$200k one-time investment and \$15k annual maintenance*

TENNIS

- *Local Club Partnership*
- *Home Courts for Practice & Matches*
- *\$0 Cost*



TIMELINE

- *Aug '17 (KCC Public Launch, Neighbor Meetings)*
- *Sept '17 (PV Planning Council)*
- *Nov-Dec '17 (Initial Bidding)*
- *Jan '18 (Sign Contracts)*
- *May '18 (Start Construction)*
- *Oct '18 (Complete Construction)*



MOMENTUM

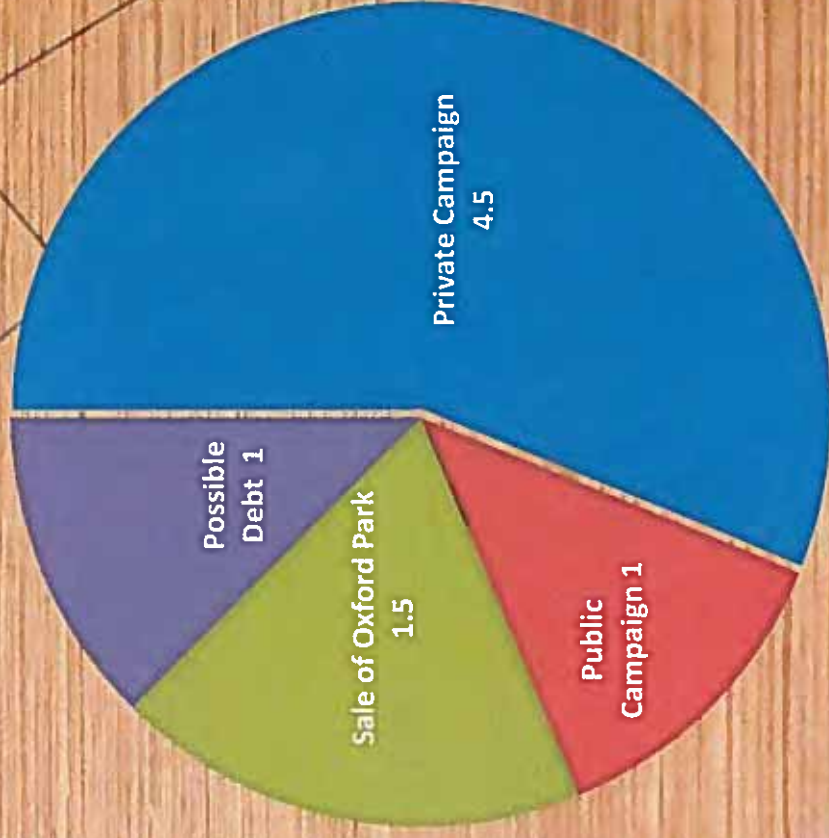
- *\$7.4M Project Costs*
- *100% Board Commitment*
- *100% Private Donor Commitment*
- *~\$4.0M Raised to Date*



FUNDING PLAN

- *\$4.5M Private Campaign*
- *\$1.0M Public Campaign*
- *\$1.5M Sale of Oxford Park*
- *Sub-total - \$7.0M*
- *\$1.0M Possible Debt*
- *\$8.0M Total Capacity*

SOURCES



TIME TO ACT

100% KCC Community Support - goal

- We are looking for commitment from 100% of the KCC community
- This is not just about raising money – it is about driving alignment, partnership
- The commitment will be in the form of a 3-year pledge
- We are asking folks to pray over at what level they are called to support

Army of Askers

- This is a unique opportunity to leverage our networks
- It can be awkward to ask for money – we understand
- We have seen God work miracles in the process
- This is the time to ask grandparents, aunts, uncles, and friends who might have a passion for this ministry
- we will give you tools to help tell the story



TIME TO ACT

Transformational Opportunity

- *We have been living off of the investment of those who came before us; we have not added material investment to the building in years*
- *Now is our chance to set up the next generation*
- *Look at what our teachers and staff are accomplishing with all these building limitations; how much more might they accomplish with those barriers removed?*
- *We are so close to having to turn families away because we were out of room; that would be heartbreaking - this plan takes that risk off the table*
- *The facilities aren't who we are but they may be limiting us from becoming all that we can be*
- *This is our chance to participate in a transformational opportunity - please consider how you'll build with us*





hollis architects
r miller

ADVANCING OUR LEGACY STARTS HERE



**PLANNING COMMISSION EXCERPT MINUTES
SEPTEMBER 12, 2017**

ROLL CALL

The Planning Commission of the City of Prairie Village met in regular session on Tuesday, September 12, 2017 in the Municipal Building Council Chambers at 7700 Mission Road. Chairman Nancy Wallerstein called the meeting to order at 7:00 p.m. with the following members present: Melissa Brown, Gregory Wolf, James Breneman, Patrick Lenahan, Jeffrey Valentino and Jonathan Birkel.

The following persons were present in their advisory capacity to the Planning Commission: Chris Brewster, City Planning Consultant; Wes Jordan, Assistant City Administrator; Serena Schermoly, Council Liaison, Mitch Dringman, Building Official and Joyce Hagen Mundy, Commission Secretary.

PUBLIC HEARINGS

PC2017-02 Amendment to Special Use Permit for Kansas City Christian Private School Site Plan Approval for Expansion of the building 4801 West 79th Street

Ty Tywater, Vice Chair of the Kansas City Christian School Board, provided background information on the school which was formed in 1951 and moved to its current location at 4801 West 79th Street in 1986. The school currently has 435 students in grades Pre-K through high school. The focus of the school is based on character, faith and knowledge. They offer a strong academic curriculum with Advanced Placement classes offered to the 98% of their graduating students who go on to attend college.

The proposed project is designed to create a better educational experience for their students and affects both the interior and exterior of the building. The program will allow for distinct elementary, middle school and high school classroom areas. They have been exploring options over the past two years and believe the proposed option to be the best alternative. It would be cost prohibitive to relocate to another facility, they like their current location and have designed a project that is attractive and will not only improve their property, but the neighborhood as a whole.

Kelly VanElders, 11710 West 102nd Place, the owners' representative for the project introduced others in attendance including: Mr. Tywater, Todd Zylstra, Head of the School; Bill Glotzbach, Director of Development; Consultants John Ho with Hollis & Miller and Brian Hochstein, with MKEC.

Mr. VanElders stated that over the past decade they have several options. The purchase of another facility is cost prohibitive and most of their students live in the northeast Johnson County area. Mr. VanElders presented the proposed project beginning with a review of the new building façade which features a significant amount

of wood, similar to the look of Corinth Square. The proposed addition transitions well from the big box configuration of the gymnasium, to the new larger entrance area that is closer to the street and the second story addition. A materials board was available for review by the Commission. All of the schools' windows will be replaced with new energy efficient windows; the current HVAC (boiler system) will be replaced. On the back southeast side of the building an enclosed structure will be added that will contain the dumpsters, HVAC equipment, etc. The new roofline introduces soffits for a more residential appearance.

Mr. VanElders reviewed the proposed floor plan which creates a designated area for elementary students, middle school students and high school students. Currently the middle school and high school students share classrooms. The proposed floor plan does not just add square footage, it allows for the creation of community within the school. A big change in the design will be the main entry which will double in width and be taller. Locker rooms will be added for the students - none currently exist. A music room and art room are being added.

Gregory Wolf asked when the construction would take place. Mr. VanElders responded the construction is expected to take five months. The project will go out to bid and materials will be purchased prior to the close of school. Demolition will begin immediately after the close of school. They will have a delayed start of school in the fall and are speaking with area churches regarding possibly using their classroom facilities if additional time and space is needed. They anticipate completion in October

James Breneman confirmed that the window air conditioning units will no longer be necessary.

Gregory Wolf asked how they planned to keep the neighbors from being impacted by the additional student population. Mr. VanElders responded that no parking spaces are being lost in the project and showed the proposed parking locations. They have 24 more parking spaces than are required by code. James Breneman asked for the breakdown of student enrollment for elementary, middle school and high school. Mr. VanElders did not have the breakdown. Enrollment in grades changes annually as students progress and he does not foresee a significant change in any grade, particularly in high school students. Students do not tend to change schools during high school. They used a baseline of a maximum of six new students at each grade, though due to conditions #1 and #2 there will not be an immediate impact. Mr. Wolf asked how many buses the school had. Mr. VanElders replied the school has a bus that services students in southern Overland Park and a van that services students in the Kansas City area.

Nancy Wallerstein noted that condition number #7 allows four buses. Mr. Brewster responded that that condition was carried over from the existing special use permit. Mr. VanElders stated that other schools will come with buses during athletic events. Mr. Wolf asked what sports were offered. Mr. VanElders responded basketball, volleyball and soccer.

Chris Brewster stated the Special Use Permit for Kansas City Christian School was approved by the City Council on January 18, 1999. It did not have an expiration date, but was subject to four conditions relative to the design, construction and operation of the school, and subject to a Site Plan, subsequently approved on February 2, 1999. A school was originally built on this site in 1954 as a public elementary school. One of the conditions was that expansion of the school, or amending the approved site plan would require an amendment to the Special Use Permit.

Growth of the school, the acquisition of other school properties further south led to reconfiguration of this campus and its operations. In 2008 the school applied for an amended Special Use Permit and Site Plan. At that time, a number of issues related to parking utilization, drop-off procedures and school transportation were raised by the neighbors, and the amended permit and site plan dealt primarily with reconciling those issues. The applicant worked with the City and neighbors to resolve these issues with operational policies. At this time the distribution of facilities and classrooms, and associated parking requirement was as follows:

- 11 high school classrooms - 88 spaces
- 17 elementary and junior high classrooms - 34 spaces
- 51 employees - 26 spaces
- Total parking need - 148 spaces
- Total parking provided - 171 spaces (exceeding minimum requirements by 23 spaces)

The enrollment numbers associated with these issues were as follows:

- 1999 SUP - 543 students (162 of which were high school)
- 2008 SUP amendment - 469 students (274 of which were high school)

In addition, at this time plans for future growth of the school and the possibility of new construction at other campuses were anticipated in the schools long-range plans.

Through the amended Special Use Permit process, the parking and transportation issues were resolved with better utilization of current parking and facilities, reconfiguration of classrooms, and other associated transportation policies. No new facilities were built, however parking and capacity was expanded to address these issues. The amended Special Use Permit was approved on September 2, 2008 with the renewal of the four conditions of the original SUP, plus the following conditions:

5. That Kansas City Christian School adopt a policy that all students will park on site and develop a procedure for implementation and enforcement of the policy.
6. The number of high school classrooms shall be limited to 11.
7. No more than four busses shall be parked in the rear of the school when not picking up or dropping off students, and shall not be idling for more than five minutes during pick-up and drop-off.
8. Kansas City Christian provide to the City at the beginning of each school year an updated student count reflecting the number of students in each grade and the number of classrooms used for each grade level.

The current application is for the renovation and expansion of the existing 55,990 square foot building adding an additional 31,455 square feet. This will provide new and

renovated rooms through the expansion and renovation of interior spaces. Specifically, the expansion involves:

- A second story addition over the center 1/3rd of the existing school building and associated with the primary entrance to the west of the existing gymnasium.
- A two story multi-purpose space to the rear of the existing building (southwest corner over current paved play area above an existing underground space).
- A small single story addition to the southeast corner of the building.

The expansions will occur over some existing parking areas, but through reconfiguration of the existing parking lots, five additional parking spaces will be provided.

The traffic study conducted has been reviewed and approved by the city's traffic engineer and the Director of Public Works and finds that sufficient parking is available for student and staff parking as well as an additional 24 available spaces.

The Storm Drainage Report has been reviewed and approved by the city's engineer and Director of Public Works and finds the proposed project will have a negligible increase in impervious area compared to the existing conditions. Peak runoff and volume will not be substantially affected. No additional detention or improvements to the adjacent storm water sewer system are necessary.

From the standpoint of design, the proposed project is a considerable improvement of the existing facility. The applicant held a neighborhood meeting on August 8, 2017 in conformance with the City's Citizen Participation Policy and provided a report on the meeting and attendees.

Gregory Wolf questioned the difference in the enrollment numbers from to initial permit to the existing permit. Mr. Brewster stated the initial numbers were a reflection of the enrollment at the time. The 2008 reduction in numbers reflected enrollment at that time and a condition of the Governing Body was added requiring enrollment figures be given to the city annually. The proposed permit is not based on the number of students enrolled, but on the related impact as it relates to land use. Mr. VanElders noted that the limit on the number of high school classrooms will limit the number of high school students able to be served.

Nancy Wallerstein noted that condition #9 on the site plan approval is based on a capacity of 525. Mr. Valentino stated this is not an enrollment limit. Mr. VanElders replied the 525 is the basis on which the traffic study was conducted. Mr. Wolf asked what happens if enrollment increases to 535. Mr. Brewster replied that the permit is not intended to limit enrollment to 525, but if problems arise from the operation of the school or there is a significant increase in enrollment then the permit needs to be re-evaluated. Mr. VanElders noted that enrollment generally grows from the lower level to the higher level as students continue to attend throughout the years. Mrs. Wallerstein stated she was concerned with the wording of #9. Mr. Brewster #9 is not about the number of students, but the impact of those students. Melissa Brown noted that as #9 is worded the change could be a significant decrease as well as an increase.

Suggested rewordings were discussed including changed "is based on" to "anticipates" referencing the change as a percentage, stipulating the change be an increase. Mr. Brewster continued to stress that the number of students is not important, that the impact of those students on the land use is the important factor.

Mrs. Wallerstein asked how many high school classrooms currently exist. Mr. Valentino noted that middle school students share the high school classrooms. The applicant responded eight designated classrooms with six shared classrooms. Mr. VanElders noted the project will allow for separate classrooms for middle and high school students. Mrs. Wallerstein noted there are currently 14 classrooms being used and the proposed permit limits the number of classrooms to 12. Mrs. Wallerstein questioned the need for condition #6. Mr. Brewster replied that is condition is a carryover from the previous permit with the addition of 1 additional classroom based on the parking that can be accommodated. Mrs. Wallerstein suggested changing the language to reflect "dedicated" classrooms, providing some flexibility if needed in the future.

Chris Brewster proposed the following change to the language in condition #9: "The permit anticipates a projected enrollment of 525 students, and any enrollment significantly beyond this capacity or reconfiguring of classroom that create impacts beyond those anticipated by this baseline may require a revised site plan or may result in revocation of the permit at the discretion of the City."

Nancy Wallerstein questioned the proposed signage. Mr. VanElders reviewed the proposed location of the façade signs and confirmed that there will not be a monument sign.

Jonathan Birkel asked if the city would need to make any changes to 79th Street with the increased in and out traffic. He noted this is a primary east west street for the city. Mr. Brewster responded that Public Works Director Keith Bredehoeft reviewed the traffic study and stated he agreed with the findings and did not foresee any significant issues. Mrs. Wallerstein noted the traffic covered only a 30 minute window of time during the day.

Chairman Nancy Wallerstein opened the public hearing for comments on this application advising speakers to come to the microphone and state their name and address prior to making their comments.

Joan Harr, 7911 Juniper, noted her home is near the soccer field. She stressed that this school was originally built as an elementary school. There is no buffer between the school property and hers. There is significant noise coming from the use of the soccer field that she feels is an encroachment on her property. She feels the city should be supportive of the residents surrounding the school and feels the proposed expansion is too large an undertaking. In 2008, the school said that it would be moving its high school campus to another location in southern Overland Park. She is against the project and concerned with its impact on traffic, parking and noise.

Catherine Dayton, 4808 West 79th Street, confirmed the Commission member had received her comments submitted prior to the meeting. The biggest thing about this project is that it is a monumental shift in the intended use for this site, which began as an elementary school site. She is concerned that in addition to the school's use of the property, they lease their space out for others to use. This should not be allowed as it creates additional noise particularly in the evenings and on weekends. This increases the impact on the neighbors. There are traffic issues related to after school and special events when tons of cars park in the neighborhoods on both sides of the street creating a safety hazard. The increased enrollment from 445 to 525 is a significant increase of 18% and concerns her.

In 2008, the City restricted the enrollment to its current level feeling that was a reasonable maximum for this site and this neighborhood. She does not agree with allowing an enrollment of 525 and feels it needs to be lower. There are buses in front of the building all of the time. She feels there needs to be a person overseeing traffic and parking during student activities and events.

Mrs. Dayton stated she appreciated all of the students parking on the site and the thorough evaluation of the application by staff. She believes that a balance can be found that will be acceptable to both the neighborhood and the school. She feels the application is being rushed and noted the first she heard about it was August 1st and that the school has not talked with her. She appreciates the opportunity to express her concerns.

James Luce, 4822 West 78th Place, lives adjacent to Mrs. Dayton and stated that he is unable to turn left onto 79th Street because of the stacked parent parking on 79th Street. He noted that many of the residents in the neighborhood are retired, stay at home moms, or parents who work from home and are impacted by activities at the school the entire day. He expressed concern with a potential large increase in high school enrollment and the related increase in student parking. He would like to see parking on 78th Place restricted from school parking.

Stephen Spencer, 4804 West 79th Street, stated that the school has been a great neighbor. It is an excellent school which his children have attended. He is pleased to see the proposed exterior upgrade to the building that he has a direct view of from his windows. He acknowledged that there are traffic issues, which can be found at any school, and feels that they can be worked out with the school. The school is not looking to grow its high school. It is looking to provide a better educational experience for all students. The school currently has 75 middle school students and 215 elementary students. The enrollment varies from year to year and the school has worked hard to be a good neighbor. He strongly supports the project.

Bill Wilkes, 4718 West 80th Street, which backs up to the school expressed concern with increased high school enrollment and an increased number of student drivers. Traffic and parking has to be considered. He also noted the noise when the school lets out. He referred to it as "school bingo" as numbers are called out on an ongoing basis. It can

be heard throughout the neighborhood. He reviewed the plans August 1st and noted increase in square footage is significant increase.

Brian Holy, 4700 West 79th Street, stated the school is a great part of the community. Traffic builds up and subsides. He does not want to see a traffic light placed at 79th and Roe. He doesn't see the increased enrollment as a problem.

With no one else wishing to address the Commission, the public hearing was closed at 8:29 p.m.

Jeffrey Valentino asked for clarification on the traffic study process and report noting the reported data is from 2014, 2015 and trends upward and questioned the conclusion. He noted that if all 12 designated high school classrooms were full with 20 students that would reflect an increase of 50 high school driving students. Brian Hochstein, with MKEC Engineers, explained the process noting that the city's parking regulations are based on the number of classrooms so that is the data they used along with the condition of the site and applied standard factors. He repeated the earlier comment that it is a realistic assumption that the increase in student enrollment will be distributed throughout all grades and not focused on high school students. The 87% maximum level assumes six additional students per grade. This is reflective of national trends. Mr. Valentino continued to question the accuracy of the calculation and assumptions. Mrs. Brown noted in Mr. Valentino's scenario, there would be 156 cars. Mr. Hochstein responded available parking has been increased 166 to 171. Mrs. Wallerstein confirmed that included staff parking.

Wes Jordan noted that at the 2008 hearing on this application there was significant resident concern with the number of cars parking on the street. The school made a renewed commitment to pull parking back onto their property and monitor event parking. In his discussion with the applicant, they do not want to take a step backward and return to that situation. Staff has advised the school that they have to be a good neighbor in respect to parking and traffic.

Nancy Wallerstein noted that she had read that the school used off-site parking at Mission Bible Church and ran a shuttle during events. Mr. Glotzbach responded that they do have a partnership with for off-site parking for certain events as well as other procedures in place. During day events, i.e. grandparents' day, students are required to park in the Mission Bible Church parking lot. Mrs. Wallerstein asked about sporting events. Mr. Glotzbach replied they do provide parking attendants.

Mrs. Brown and Mrs. Wallerstein asked for further information on the "bingo" referenced by one of the speakers. Mr. Van Elder responded the school uses of method of identifying cars ready for pick up so that students can be ready to get into the vehicle immediately making pick-up more efficient and take less time. Mrs. Brown stated she can see how that would be annoying. Mrs. Wallerstein urged the school to look into other, less noisy, options for this process.

Mrs. Wallerstein agreed that the increase in square footage is significant. Mr. VanElders noted that that percentage includes existing renovated space and is not all additional space.

Mr. VanElders stated that in addition to the required certified mailing to residents within 200 feet, the school distributed flyers to homes in the neighborhood.

Nancy Wallerstein asked if any additional landscaping was proposed, noting that landscaping serves as a good buffer both visually and for noise. Mr. VanElders reviewed the proposed landscape plan submitted with additional landscaping being added on the east property line, which came about from a request made at the neighborhood meeting.

The Commission reviewed the required findings for a special use permit as presented in the staff report:

A. The character of the neighborhood.

This site is located on the south side of West 79th Street between Roe Avenue and Nall Avenue. The surrounding area is all single-family neighborhoods. In general, schools are compatible and contribute to the character of single-family neighborhoods provided the location, access, and site design is managed in a way that is compatible with residential living in neighborhood environments.

B. The zoning and uses of property nearby.

- North: R-1B Single-Family District - Single-family dwellings
- East: R-1A Single-Family District - Single-family dwellings
- West: R-1A Single-Family District - Single-family dwelling
- South: R-1A Single-Family District - Single-family dwelling

The Prairie Village Zoning Ordinance allows private schools in the R-1A and R-1B zoning district through a special use permit.

C. The extent that a use will detrimentally affect neighboring property

The site has been a school since the building was originally constructed in 1954. It became a private school in 1986 and received an original Special Use Permit in 1999. In 2008 the SUP and site plan were renewed due to some specific concerns regarding parking, transportation and operations of the school in the neighborhood. Outside of these concerns, this campus has existed within this neighborhood without detrimental effects on the surrounding property. This is due primarily to the school addressing growth through additional campus facilities outside of the City, allocating space on this campus in relation to the scale of the building and site, and managing the intensity of the use with transportation and operational policies that limit traffic and parking impacts on the neighborhood.

D. The relative gain to public health, safety and welfare by destruction of value of the applicant's property as compared to the hardship on other individual landowners.

This application involves the expansion and remodeling of an existing school building, and allows affective utilization of an older school site within the neighborhood. Provided the parking, transportation and operational intensity is limited similarly to past approvals, it is reasonable to expect the school to contribute positively to the neighborhood.

E. The proposed special use complies with all applicable provisions of these regulations, including intensity of use regulations, yard regulations and use limitations.

Private schools are permitted through a special use process by the Prairie Village zoning ordinance. The existing building and the proposed expansion meets all other standards applicable to the building and site relating to height, setback, and lot coverage.

F. The proposed special use at the specified location will not adversely affect the welfare or convenience of the public.

The site has been used as a school for approximately 63 years and the approval of this amended special use permit will be consistent with that use. Since this is the continuation of a current condition it is not expected that the use will cause any new issues with respect to the compatibility of uses, provided that the expansion of the building and the potential increase on capacity is adequately addressed through other criteria and conditions.

G. The location and size of the special use, the nature and intensity of the operation involved in or conducted in connection with it, and the location of the site with respect to streets giving access to it are such as the special use will not cause substantial injury to the value of the property in the immediate neighborhood so as to hinder development and use of neighboring property in accordance with the applicable zoning district regulations. In determining whether the special use will cause substantial injury to the value of property in the immediate neighborhood, consideration shall be given to:

- 1. The location, size, nature and height of buildings, structures, walls, and fences on the site; and**
- 2. The nature and extent of landscaping and screening on the site.**

The modification of the building improves the overall appearance and utilization of the building in relation to the public streetscape and homes to the north fronting on 79th street. Residential lots to the east of the building are well screened by landscape. Residents to the west are separated by the existing play field and parking area, which are a suitable transition between school campuses and housing. Residential lots to the south are lower than the school site, and a combination of grades, street configurations in this area, and the back yards and landscape help screen the campus from housing. The building expansion - in footprint and height is proposed internal to the campus site (within the current footprint and the internal area to the south and west over the existing blacktop play area). The second story addition is lower than the current gymnasium and is only proposed on a portion of the current footprint, so the scale of the building should not have a significant impact on the site. Provided the parking, transportation, and operational intensity is limited similarly to past approvals, this should not have an adverse impact.

West 79th Street is a neighborhood street, but it has good connectivity to other collector-level and arterial street connections to Roe, Nall, Mission, Lamar and Metcalf. This network, as well as other well-connected east-west streets to the north (75th Street) and south (83rd Street) provide good access for this use. The applicant has submitted a traffic memo dated 8/11/17 to provide specific analysis of the transportation impacts of this expansion relative to the current conditions.

- H. Off-street parking and loading areas will be provided in accordance with the standards set forth in these regulations and such areas will be screened from adjoining residential uses and located so as to protect such residential uses from any injurious effect.**

The ordinance requires that elementary, junior high and equivalent schools provide two spaces for each classroom, and high schools provide eight spaces for each classroom, plus one space for each two employees. The application adds new classrooms, one of which is a high school classroom. By ordinance, this would mean a minimum 21 additional spaces, assuming 6 new employee / faculty positions. The 2008 indicated a surplus of 23 spaces based on the capacity of the school at the time and the site configuration. The new site plan includes 5 additional spaces. Therefore, although some of the existing surplus will be used up, the application meets the ordinance requirement for parking. Additionally, the applicant has included a parking analysis base on a utilization rate and study over a 3-year period using past enrollment numbers. Based on this rate, and projecting a full enrollment of 525 students, they project that the lot will ordinarily operate at 87% capacity at peak times, leaving a surplus of 24 spaces based on utilization rates.

- I. Adequate utility, drainage, and other such necessary facilities have been or will be provided.**

Much of the new construction is occurring on existing impervious areas, either an additional story within the current footprint or expansion into current paved areas. The applicant has supplied a drainage letter comparing existing and proposed conditions, and expected impacts on drainage. Public Works has reviewed this letter and concurs with the findings, subject to a final drainage permit prior to building permits.

- J. Adequate access roads or entrance and exist drives will be provided and shall be so designed to prevent traffic hazards and to minimize traffic congestion in public streets and alleys.**

The site access from 79th street will not change. A traffic memo supplied by the applicant has projected traffic conditions (including access, parking, and drop-off / pick-up procedures) based on a projected enrollment capacity of 525 students (current is 444). The highest change in volume is expected to be during the morning peak hours. Public Works has reviewed this memo and concurs with the findings, and does not expect any significant traffic impacts beyond those currently experienced in the area or beyond with the overall network can handle.

K. Adjoining properties and the general public shall be adequately protected from any hazardous or toxic materials, hazardous manufacturing processes, obnoxious odors or unnecessarily intrusive noises.

This particular use is not expected to produce any hazardous or toxic materials, hazardous processes, obnoxious odors, or intrusive noises beyond what is ordinarily associated with a school. The use is compatible with surrounding neighborhood properties with regard to these criteria.

L. Architectural design and building materials are compatible with such design and materials used in the neighborhood in which the proposed facility is to be built or located.

The addition to the building includes the following:

- Two story, multipurpose spaces to the rear of existing building, near the southwest corner. The addition lies within an existing paved area. The height of the addition will be equivalent to a two-story volume, but it is not visible from 79th Street as it sits behind the 2nd story addition to the school.
- Second story addition over the center 1/3 of the existing school building. The height of the addition from 79th Street will be less than the existing gymnasium space to the east of the proposed addition. The addition will house new classroom and lobby space.
- Single story addition to the southeast corner of the building. The addition lies completely within an existing paved area of the site. The addition will allow the expansion of classroom spaces.
- Two story addition to the front of the building, at the center of the existing school building. The addition will tie into the second story addition to the school and provide additional entry/ lobby space.

The materials proposed include - wood (rain/shade screen), glazing, brick veneer, EIFS and metal (fascia). New brick veneer and EIFS will match the existing brick veneer and EIFS used on the gymnasium. The proposed design is consistent with and enhances the existing character of the building, and there for will improve the degree of compatibility with the neighborhood.

M. Conformance with the Comprehensive Plan

One of the primary objectives of Village Vision is to encourage reinvestment in the community to maintain the quality of life in Prairie Village. This application is for reinvestment and expansion of an existing institution within the community, and provided the impacts from additional enrollment are adequately mitigated and capacity is limited it is consistent with Village Vision in encouraging reinvestment.

N. City Staff recommendations.

Staff believes that with the proposed improvements this site will be near maximum development for a school site within a neighborhood. However, the parking utilization and access strategies, based on proposed enrollment projections appear to adequately address any potential impacts on the surrounding area. The investments in the building and the design are appropriately scaled for the neighborhood and improve the appearance of the site. Subject to appropriate limitations on capacity beyond

projections, and the operational and intensity limitations of previous Special Use Permit approvals, staff recommends approval.

Melissa Brown moved the Planning Commission recommend the Governing Body approve PC2017-02 the requested amendment to the Special Use Permit for Kansas City Christian Private School at 4801 West 79th Street subject to the following conditions (1-5, 7 and 8 being carried over from the 1999 and 2008 Special Use Permits, 6 being revised for this application, and 9 being an additional condition for this application).

1. The applicant shall meet all conditions and requirements of the Planning Commission for the approval of a site plan.
2. The Special Use Permit not have a termination or expiration time established for it.
3. If the applicant violates any conditions of the zoning regulations and requirements as part of the Special Use Permit, the permit may be revoked by the City Council.
4. The applicant cannot further expand or amend the Site Plan without an amendment to the Special Use Permit requiring a public hearing before being approved.
5. Kansas City Christian School adopt a policy that all students will park on site and develop a procedure for implementation and enforcement of the policy.
6. The number of designated high school classrooms shall be limited to 12.
7. No more than four busses shall be parked in the rear of the school when not picking-up or dropping-off, and shall not idle more than five minutes during pick-up and drop-off.
8. Kansas City Christian provide to the City at the beginning of each school year an updated student count reflecting the number of students in each grade and the number of classrooms use for each grade level.
9. The permit anticipates a projected enrollment capacity of 525 students, and any enrollment significantly beyond this capacity or reconfiguring of classrooms that creates impacts beyond those anticipated by this baseline may require a revised site plan or may result in revocation of the permit at the discretion of the City.

The motion was seconded by Gregory Wolf and passed by a vote of 5 to 2 with Mr. Birkel and Mr. Valentino voting in opposition.

Site Plan Approval

Mr. Brewster noted along with the amended Special Use Permit a revised site plan for the proposed expansion needs to be reviewed and approved by the Planning Commission. Many of the factors for consideration were covered in under the Special Use Permit. This is a separate action that does not go forward to the City Council. The following staff comments address the site plan analysis:

A. The site is capable of accommodating the buildings, parking areas, and drives with the appropriate open space and landscape.

Addressed in special use permit analysis.

B. Utilities are available with adequate capacity to serve the proposed development.

This site is currently served by utilities and they should be adequate to serve the proposed expansion.

C. The plan provides for adequate management of stormwater runoff.

This is a second story addition with some expansion of the footprint over existing paved areas. The impervious surface will be increasing very little.

D. The plan provides for safe ingress/egress and internal traffic circulation.

Addressed in special use permit analysis.

E. The plan is consistent with good land planning and site engineering design principles.

The expansion is within the current footprint of the building or impervious surfaces, and produces very little impact on grade, drainage, open space or relationships of the building and site to surrounding areas. It represents the effective utilization of an existing neighborhood campus site, in a manner that is compatible with the character of the surrounding area.

F. An appropriate degree of compatibility will prevail between the architectural quality of the proposed building and the surrounding neighborhood.

Addressed in special use permit analysis.

G. The plan represents an overall development pattern that is consistent with Village Vision and other adopted planning policies.

Addressed in special use permit analysis.

Gregory Wolf moved the Planning Commission approve the Site Plan submitted for application PC2017-02 for the expansion of Kansas City Christian School at 4801 West 79th Street subject to the following conditions:

1. Signs are approved in concept. The applicant shall submit a sign permit application demonstrating that the proposed wall signs comply with the Prairie Village sign ordinance, specifically showing the dimensions of the signs and the dimensions of the walls.
2. A drainage permit be finalized and approved by Public Works prior to issuance of a building permit.

The motion was seconded by James Breneman and passed by a vote of 5 to 2 with Mr. Birkel and Mr. Valentino voting in opposition.

ADJOURNMENT

With no further business to come before the Commission, Chairman Nancy Wallerstein adjourned the meeting at 9:10 p.m.

Nancy Wallerstein
Chairman

ORDINANCE 2367

AN ORDINANCE APPROVING AN AMENDMENT TO THE SPECIAL USE PERMIT FOR THE OPERATION OF A PRIVATE SCHOOL BY KANSAS CITY CHRISTIAN SCHOOL SOCIETY, INC. ON THE PROPERTY DESCRIBED AS FOLLOWS: 4801 WEST 79TH STREET, PRAIRIE VILLAGE, KANSAS.

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

Section I. Planning Commission Recommendation. At its regular meeting on September 12, 2017, the Prairie Village Planning Commission held a public hearing, found the findings of fact to be favorable and recommended that the City Council approve an amendment to the Special Use Permit for the operation of a private school by Kansas City Christian School Society, Inc at 4801 West 79th Street subject to the following conditions:

1. The applicant shall meet all conditions and requirements of the Planning Commission for the approval of a site plan.
2. The Special Use Permit not have a termination or expiration time established for it.
3. If the applicant violates any conditions of the zoning regulations and requirements as part of the Special Use Permit, the permit may be revoked by the City Council.
4. The applicant cannot further expand or amend the Site Plan without an amendment to the Special Use Permit requiring a public hearing before being approved.
5. Kansas City Christian School adopt a policy that all students will park on site and develop a procedure for implementation and enforcement of the policy.
6. The number of designated high school classrooms shall be limited to 12.
7. No more than four busses shall be parked in the rear of the school when not picking-up or dropping-off, and shall not idle more than five minutes during pick-up and drop-off.
8. Kansas City Christian provide to the City at the beginning of each school year an updated student count reflecting the number of students in each grade and the number of classrooms use for each grade level.
9. The permit anticipates a projected enrollment capacity of 525 students, and any enrollment significantly beyond this capacity or reconfiguring of classrooms that creates impacts beyond those anticipated by this baseline may require a revised site plan or may result in revocation of the permit at the discretion of the City.

Section II. Findings of the Governing Body. At its meeting on October 2, 2017, the Governing Body adopted by specific reference the findings of fact as contained in the Minutes of the Planning Commission Meeting of September 12, 2017, and the recommendations of the Planning Commission including conditions and approved the amendment to the Special Use Permit as docketed PC2017-02.

Section III. Granting of Special Use Permit. Be it therefore ordained that the City of Prairie Village grant an amendment to the Special Use Permit originally approved January 18, 1999, by Ordinance 1964 and amended September 2, 2018 by Ordinance 2175 which remains in effect to Kansas City Christian School Society, Inc. for the operation of a private school at 4801 West 79th Street, Prairie Village, Kansas subject to the specific conditions listed above.

Section V. Take Effect. That this ordinance shall take effect and be in force from and after its passage, approval and publication in the official City newspaper as provided by law.

PASSED AND ADOPTED THIS 2nd DAY OF OCTOBER 2, 2017.

CITY OF PRAIRIE VILLAGE, KANSAS

By: _____
Laura Wassmer, Mayor

ATTEST:

APPROVED AS TO FORM:

Joyce Hagen Mundy, City Clerk

Catherine P. Logan, City Attorney

MAYOR'S ANNOUNCEMENTS
October 2, 2017

Committee meetings scheduled for the next two weeks include:

Planning Commission	10/03/2017	7:00 p.m.
JazzFest Committee	10/05/2017	5:30 p.m.
Prairie Village Foundation	10/10/2017	5:30 p.m.
Park & Recreation Committee	10/11/2017	6:30 p.m.
Environment/Recycle committee on Education	10/12/2017	5:30 p.m.
Council Committee of the Whole	10/16/2017	6:00 p.m.
City Council	10/16/2017	7:30 p.m.

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The Prairie Village Arts Council is pleased to present the 11th annual State of the Arts Exhibit in the R.G. Endres Gallery during the month of October. The artist reception will be from 6 to 8 p.m. on Friday, October 13th.

The 33rd Annual Prairie Village Peanut Butter Week in support of Harvesters Food Bank will be held October 9th - 13th. Support the drive through donations at City Hall or at your local church or school.

Mark your Calendars for the Shawnee Mission Education Foundation 25th Annual Fall Breakfast on October 10.

Save the Date for the Annual National League of Cities Conference in Charlotte, November 15-18, 2017. RSVP to Meghan Boom.

Save the Date for the Annual NEJC Chamber Gala on Saturday, November 18 at the Overland Park Marriott

INFORMATIONAL ITEMS
October 2, 2017

1. Planning Commission Agenda - October 3, 2017
2. Environment / Recycle Committee - July 26, 2017
3. JazzFest Committee Minutes - August 30, 2017
4. October Plan of Action
5. Mark Your Calendar

**PLANNING COMMISSION AGENDA
CITY OF PRAIRIE VILLAGE
TUESDAY, OCTOBER 2, 2017
7700 MISSION ROAD
7:00 P.M.**

I. ROLL CALL

II. APPROVAL OF SEPTEMBER 12, 2017 MINUTES

III. PUBLIC HEARINGS

IV. NON-PUBLIC HEARINGS

PC2017-111 Request for Site Plan Approval
Silvercrest Retirement Community
9300 Parkside Drive
Zoning: MXD
Applicant: Doug Ubben, Phelps Engineering for Dial
Retirement Communities

V. OTHER BUSINESS

VI. ADJOURNMENT

Plans available at City Hall if applicable
If you cannot be present, comments can be made by e-mail to
Cityclerk@Pvkansas.com

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

PRAIRIE VILLAGE ENVIRONMENT AND RECYCLE COMMITTEE

July 26, 2017

Thomas O'Brien, for the Steering Committee, opened the meeting at 5:35 p.m.

Members attending were Tom, Karin McAdams, Devin Scrogum, Pete Jarchow, Margaret Goldstein, Robert Roberge, Linda Marcusen, Penny Mahon and Al Pugsley. Also in attendance were City Council members Jori Nelson and Eric Mikkelson and, from City staff, Gabe Attenberger and Alley Williams. Margaret Thomas, former PVERC member, and resident Tucker Poling were also present.

The minutes were approved as written.

Committee report: Community Forum:

- The forum will be held on Thursday, October 5 at 5:30. The location is new; it will be at the Johnson County Arts and Heritage Center. Attenders are invited to come early to explore the museum and the facility.
- The title will be "Crisis in Cowtown; Coping with Climate Change. What to expect locally and how to build resilient communities", dealing with local adaptation to climate change.
- Broadmoor Technical Center's Culinary Program will make hearty hors d'oeuvre, as they did once before, and the charge for the evening will be \$20.00 per person.

Given the serious state of the environment at this time, how can Prairie Village best contribute to preventing climate change and mitigating its effects? A planning session with help from city representatives:

Erik Mikkelson, Prairie Village City Council:

- Erik had unanimous approval from the City Council to confer with this committee. He suggested a number of factors that we could consider:
 - Some feel that the City Council gives insufficient weight to climate issues when making decisions.
 - Given the United States' withdrawal from the Paris Climate Accord, many cities and states are proceeding on their own to follow its guidelines.
 - A major consideration should be the possibility of Mayor Wassmer signing the new Climate Mayors Agreement.
 - The PVERC should bring very specific recommendations to the council, including cost-benefit analyses.
 - We would do well to approach the council with clear, concise presentations with Power-Point illustrations.
 - Given that the city is still in the process of trimming the number of city committees, this would be a good time to enhance our visibility and communication with the council.

Discussion: central to our action is the place of the two mayors' climate agreements:

- The U.S. Mayors Climate Protection Agreement, as endorsed by the U.S. Conference of Mayors, 2005

- Signed by Prairie Village Mayor Ron Shaffer in 2007
- Urges action by state and federal governments to take action to reduce pollution levels to 7 percent below 1990 levels by 2012.
- Encourages the signers' cities to take steps to reduce global warming pollution at the local level.
- Climate Mayors Network
 - The purpose of the network is to encourage each of these cities to uphold the goals from the Paris Climate Accord of 2016.
 - Each city will work out its own goals, but they will share their goals and progress in a monthly conference call with others. They suggest that the city manager and the environmental director participate in the call, but absent the latter position and given the time constraints of city staff, members of the PVERC could participate.
 - Next step: Urge Prairie Village to continue the commitment made in 2005 by becoming a member of the Climate Mayors Network and make that step meaningful by adopting climate change reduction measures.
 - [Secretary's note: do we need a motion to formalize this decision?]
- Members present favored a presentation to the City Council this fall, probably at the November 6 meeting. Comments on how to do the presentation:
 - Many people: keep it clear and concise, with Power Point slides that complement the oral presentation.
 - Erik: Avoid references to partisan politics, emphasize conservation of natural resources, and be mindful that city staff have full schedules and cannot take on extra work.
 - Pete and Jori: Be mindful of the cost of the projects that we propose. Perhaps leave the higher cost items until others are decided on.
 - Tucker: Recommending some bold steps to start may be wise. It can be thought of as a negotiation, and sometimes the bold steps have so many advantages that they will be well received.
 - Margaret Thomas: This year's Community Forum would be very instructive to the City Council members in this regard.
 - Others: Of course we will invite them. But in case they don't come, a summary of that discussion could be a good introduction to our presentation.
 - Gabe: The sustainability directors from Douglas County and Johnson County would both be very willing to help us.
 - Al: it's important to emphasize the cost savings in many environmental measures. For instance, an electric vehicle has vastly fewer moving parts than an internal combustion one, so maintenance is much less.
 - Devin: Another example is permeable concrete. It's been shown that permeable sidewalks are cheaper to maintain and safer because they're less prone to freezing.

- Suggested format for presentation;
 - Information from the Forum
 - What PVERC has done already – advantages to the city
 - Long-term goals
 - Reaffirmation of mayors agreement
 - Possible actions as part of said agreement
- Additional notes:
 - Erik spoke to the question of adding electric car charging stations near City Hall. Although KCPL originally offered to put them in, they opted out on a technicality. Now seems like a good time to reopen discussion. Cindy Circo would be a good resource at Kansas City, MO. Devin offered to call her.
 - Tom suggested that we each write to him with our priorities for action. There was a list of suggestions on the agenda for this meeting.

The meeting was adjourned at 7:00. The next meeting will be held at 5:30 on Wednesday, September 27.

Respectfully submitted,

Karin McAdams

JazzFest Committee Minutes
August 30, 2017

Present: JD Kinney, John Wilinski, Meghan Boom, Dan Andersen, Amanda Hassett, Dave Hassett, Alex Toepfer, Brian Peters, Brooke Morehead and Joyce Hagen Mundy.

Budget

JD reported that as of today, revenue in the bank continues to be above estimated expenditures for the event.

Talent

Sound check times were confirmed. John reported that transportation and hotel accommodations have been made. He and Amanda will coordinate the items required by Oleta Adams and food for sound checks.

Event

There was a request for a table to register voters. The committee confirmed its stance of no political activities at the Festival. There was a late request for a vendor table. JD stated that if they were willing to pay the vendor fee, they could have a table. Dan reviewed the location of tents and arrangement of the VIP area. Table signs will be placed in the VIP area recognizing event sponsors. The WireCo table will be identified. Brian Peters confirmed the ATM would be on site from 12 to 9 p.m. The ice will arrive on Friday and be picked up on Sunday. Dan will be picking up the furniture for backstage. Amanda confirmed the arrangements for the talent and for backstage food. Hy-Vee will deliver food and drinks on Saturday. Two scout troops will be handling trash - one will work from 2:30 to 6 and the other from 6 to closing.

Dave stated the food trucks would be arriving between 12:30 and 1 p.m. The alcohol truck will arrive on Friday. Committee members need to be aware of anyone leaving the area with alcohol.

Volunteers

Meghan reported volunteers have been secured for most spots. The volunteers will check in at the main gate and get their t-shirts. Volunteers at the gates will be allowed to go the middle of the last set.

Public Works will complete the setup work on Friday. The Arts Council will set up Art Work for sale on Saturday.

Next Meetings: The wrap-up meeting will be held after all festival invoices have been received.

Adjournment: The meeting was adjourned at 6:20 p.m.



THE CITY OF PRAIRIE VILLAGE

STAR OF KANSAS

DATE: September 29, 2017

TO: Mayor Wassmer
City Council

FROM: Wes Jordan 

SUBJECT: OCTOBER PLAN OF ACTION

The following projects will be initiated during the month of October:

- Village Voice Articles - Staff (10/17)
- Active Shooter Training - Capt. Roberson (10/17)
- Ward I Meeting - Meghan/Wes (10/17)
- Village Square Presentation - Alley/Wes (10/17)
- Website Update by Ward - Meghan (10/17)
- Codes Update Presentation - Codes/Wes (10/17)
- Meadowbrook Expenditure Review - Lisa/Keith/Wes (10/17)
- KC Christian SUP Presentation - Chris (10/17)
- KC Christian No Parking Signage - Chief Schwartzkopf (10/17)
- State of the Arts - Staff (10/17)
- Prosecutor(s) Appointment - Wes/Joyce (10/17)
- Brush Creek Flooding Presentation - Keith (10/17)
- YMCA Council Presentation - Jamie Parrett (10/17)
- Drone Ordinance - David Waters (10/17)
- KCP&L Presentation - Cindy Circo (10/17)
 - Electric Vehicle Charging Stations

In Progress

- Citizen Survey - Dan/Alley (09/17)
- Collections/Court Consideration - Deanna (09/17)
- Assistant City Admin. Hiring Process - Wes/Alley/Amy (09/17)
- 68th Street Flooding Follow Up - Keith/Wes (09/17)
- KCP&L Infrastructure - Wes (09/17)
- Animal Enumerations - Joyce (08/17)
- First Washington Proposed Expansion - Wes (08/17)

- Meeting With SME Concerning Baseball Field - Staff (08/17)
- Community Forum Planning - Alley (08/17)
- Animal Ordinance Presentation - Tim (08/17)
- 2018 Health Insurance Renewal - Amy/Wes (08/17)
- Skate Park Usage Project - Alley (07/17)
- Tyler/Encode Upgrade - Deana/IT Staff (07/17)
- Meadowbrook Transit Stop - Keith/Wes (07/17)
- KC Christian Expansion - Chris/Wes (07/17)
- Annual Report - Meghan (07/17)
- Council Chamber AV Equipment Project - Alley (07/17)
- Statuary Maintenance - Alley (07/17)
- Statuary Donation - Alley/Keith/Wes (07/17)
- Park Acquisition - Alley/Wes (07/17)
- Small Cell Franchise Fees - David Waters/Wes (06/17)
- Trash Cart Screening Flyer - Codes Staff/Wes (06/17)
- Rental License Form Revision - City Clerks/Wes (04/17)
- City Hall Roof Replacement - PW/Mitch (04/15)
- Update and amend Job Description(s) - Amy/Wes (02/17)
- Franchise Agreements for Small Cells - David W./Quinn/Wes (02/17)
- Cell Tower SUP's - Shannon/Wes (11/16)
- Revise Cell Tower Contracts - Shannon/Wes (10/16)
- Zoning Ordinance Update on SUP's/CUP's - Chris (10/16)
- Amend Wireless Facilities Zoning - David Waters/Wes (10/16)

Completed

- Handbook Benefit Update - Amy (06/17)
- Village Square Design Concept(s) - Alley/Keith/Wes (06/17) JazzFest - Staff (09/17)
- Lancer Day Parade - Staff (09/17)
- YMCA Management Meeting - Alley/Wes (09/17)
- Immigration Proclamation - Joyce/Wes (09/17)
- Zoning Presentation - Chris (09/17)
- Prosecutor Reference Checks - Deana (09/17)
- Law Enforcement Leadership Panel Presentation - Wes (09/17)
- Council Priority List Presentation - Wes (08/17)
- Countryside East Overlay Repeal Process - Wes (02/17)
- Meadowbrook Trail Update - Keith (09/17)

Tabled

- MARC Solar Initiative - Wes (05/15)
- Site Plan Audit/Reinspection Process (Per Mayor) - Wes (09/15)
- Abatement limitations on Private Property - Wes/Katie (06/16)

- ADP Replacement Presentation - Amy (03/17)
- Art Council Reappointments - Joyce/Wes (03/17)
- Planning Commission Reappointments - Joyce/Wes (03/17)

Ongoing Long-Term

- Meadowbrook
- Mission Chateau
- National Fitness Campaign Equipment/Grant - Keith/Wes (07/17)

**Council Members
Mark Your Calendars
October 2, 2017**

October 2017	State of the Arts in the R.G. Endres Gallery
October 9-13	Peanut Butter Week
October 10	Shawnee Mission Education Foundation 25th Annual Fall Breakfast
October 10	Environmental Community Forum at Johnson County Heritage Center 5:30 - 8:30 p.m.
October 11	LKM Regional Supper - Lawence
October 13	State of the Arts Reception in the R.G. Endres Gallery
October 16	City Council Meeting
November 2017	Shelley Preston & Gary Beaumont in the R.G. Endres Gallery
November 6	City Council Meeting
November 7	General Election
November 15-18	National League of Cities Conference in Charlotte, NC
November 18	NEJC Chamber Gala on Saturday, November 18 at the Overland Park Marriott
November 20	City Council Meeting
November 23 & 24	City Offices closed for Thanksgiving Holiday.
November 30	Mayor's Holiday Tree Lighting
December 2017	Pastel Society in the R.G. Endres Gallery
December 3	Gingerbread House event
December 4	City Council Meeting
December 8	Mayor's Holiday Volunteer Party
December 18	City Council Meeting
December 25	City Offices closed for Christmas Holiday