

CITY OF PRAIRIE VILLAGE

May 17, 2010

**Committee Meeting
6:00 p.m.**

**Council Meeting
7:30 p.m.**



City Council Meeting

May 17, 2010



Dinner provided by:



O'Neill's
Restaurant & Bar



Irish Pot Roast
Mashed Potatoes
Rolls & Butter

Brownie Tray

**COUNCIL COMMITTEE
May 17, 2010
6:00 p.m.
Council Chambers**

AGENDA

CHARLES CLARK, COUNCIL PRESIDENT

AGENDA ITEMS FOR DISCUSSION

- COU2010-01** **Presentation of concept design for City's Website
MMG Worldwide**
- *COU2010-31** **Consider Project 190890: 2010 Bond Project - Construction Change Order
#1 for Traffic Calming on 71st Street from Cherokee to Belinder
Keith Bredehoeft**
- *COU2010-34** **Consider Project 190890: 2010 Bond Project - Construction Change Order
#2 for Traffic Calming on 82nd Terrace from Somerset to Roe
Keith Bredehoeft**
- *COU2010-30** **Consider Approval of Investment Grade Audit Agreement with Energy
Solutions Professionals (ESP)
Dennis Enslinger**
- *COU2010-32** **Consider Approval of a Contract with Musselman & Hall Contractors for
Project P5001, 2010 Street Repair Program for \$260,000.00
Keith Bredehoeft**
- *COU2010-33** **Consider Approval of a Contract with Musselman & Hall Contractors for the
2010 Crack Seal/Slurry Seal Program
Keith Bredehoeft**
- COU2010-17** **Consider design concepts for Somerset Ave from 83rd St to PW entrance
Keith Bredehoeft**
- 2010 and 2011 Budget Discussion & Presentation
Quinn Bennion and Karen Kindle**

***Council Action Requested the same night**



PUBLIC WORKS DEPARTMENT

Council Committee Meeting Date: May 17, 2010
Council Meeting Date: May 17, 2010

***COU2010-31: CONSIDER PROJECT 190890: 2010 Bond Project- CONSTRUCTION CHANGE ORDER #1 FOR TRAFFIC CALMING ON 71ST FROM CHEROKEE DRIVE TO BELINDER AVENUE**

RECOMMENDATION

Staff recommends the City Council approve construction change order #1, for \$5,340.00 with O'Donnell and Sons Construction for the construction of two speed tables on 71st between Cherokee Drive and Belinder Avenue.

BACKGROUND

The City Council has previously approved funding for the design of Traffic Calming projects in the City. The residents along 71st Street have met the requirement of 60% approval for the construction of speed tables. The Contractor, O'Donnell and Sons Construction, is currently under contract with the City and will construct the asphalt speed tables. The traffic signing and pavement markings would be completed by Public Works and the City's pavement marking contractor, respectively. The 2010 Bond Project has a bid item for installation of speed tables. Adding this work by change order, to an existing contract, allows this work to be performed in a timely matter and potentially at a lower price.

The recommendation by the residents was to install five speed tables. Given the length of 71st Street from Cherokee to Belinder there is enough space for this number. Given that 71st Street is an emergency response route we settled on two speed tables, one near Cherokee and one near Belinder. We will continue to work with the residents of 71st Street to find other traffic calming solutions in the middle of this section of 71st Street that will not affect the emergency response times.

FUNDING SOURCE

Funding is available under project 190867: Traffic Calming.

ATTACHMENTS

1. Construction Change Order #1 with O'Donnell and Sons Construction

PREPARED BY

Keith Bredehoeft, Interim Director of Public Works

May 11, 2010



CITY OF PRAIRIE VILLAGE
PUBLIC WORKS DEPARTMENT
CONSTRUCTION CHANGE ORDER NO. 1

City's Project: 2010 Street Bond Project 190890

Date Requested: May 17, 2010

Contract Date: December 21, 2009

Consultant's Name: N/A

Contractor's Name: O'Donnell and Sons Construction Co., Inc.

REQUIRED CHANGES TO PRESENT CONTRACT

Contract Quantity	Previous Amount	Unit	Item Description	Adj. Quant.	Unit Price	Adjusted Amount
1	\$2,670.00	EA	Asphalt Speed Tables	3	\$2,670.00	\$8,010.00

TOTAL \$2,670.00

TOTAL \$8,010.00
NET Increase \$5,340.00

EXPLANATION OF CHANGE - This change order is to cover the following items:
Speed Tables are to be constructed on 71St from Cherokee to Belinder.
Funding for this work will come from the Traffic Calming Program 190867.

The Consultant does not anticipate a related Engineering Change Order.

	Contract Value	Contract Days
Original Contract	\$6,550,000.00	
Current Contract including previous Change Orders	\$6,550,000.00	
NET This Change Order	\$5,340.00	
New Contract Price	\$6,555,340.00	

Contractor

Date

Engineer

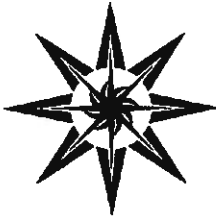
Date

Keith Bredehoeft, Interim Director of Public Works
City of Prairie Village, KS

Date

Ronald L. Shaffer, Mayor
City of Prairie Village, KS

Date



PUBLIC WORKS DEPARTMENT

Council Committee Meeting Date: May 17, 2010
Council Meeting Date: May 17, 2010

***COU2010-34: CONSIDER PROJECT 190890: 2010 Bond Project-
CONSTRUCTION CHANGE ORDER #2 FOR TRAFFIC CALMING ON 82ND
TERRACE FROM SOMERSET DRIVE TO ROE AVENUE**

RECOMMENDATION

Staff recommends the City Council approve construction change order #2, for \$5,340.00 with O'Donnell and Sons Construction for the construction of two speed tables on 82nd Terrace from Somerset to Roe.

BACKGROUND

The City Council has previously approved funding for the design of Traffic Calming projects in the City. The residents along 82nd Terrace have met the requirement of 60% approval for the construction of speed tables. The Contractor, O'Donnell and Sons Construction, is currently under contract with the City and will construct the asphalt speed tables. The traffic signing and pavement markings would be completed by Public Works and the City's pavement marking contractor, respectively. The 2010 Bond Project has a bid item for installation of speed tables. Adding this work by change order, to an existing contract, allows this work to be performed in a timely matter and potentially at a lower price.

FUNDING SOURCE

Funding is available under project 190867: Traffic Calming.

ATTACHMENTS

1. Construction Change Order #2 with O'Donnell and Sons Construction

PREPARED BY

Keith Bredehoeft, Interim Director of Public Works

May 11, 2010



CITY OF PRAIRIE VILLAGE
PUBLIC WORKS DEPARTMENT
CONSTRUCTION CHANGE ORDER NO. 2

City's Project: 2010 Street Bond Project 190890

Date Requested: May 17, 2010

Contract Date: December 21, 2009

Consultant's Name: N/A

Contractor's Name: O'Donnell and Sons Construction Co., Inc.

REQUIRED CHANGES TO PRESENT CONTRACT

Contract Quantity	Previous Amount	Unit	Item Description	Adj. Quant.	Unit Price	Adjusted Amount
3	\$8,010.00	EA	Asphalt Speed Tables	5	\$2,670.00	\$13,350.00

TOTAL \$8,010.00

TOTAL \$13,350.00
NET Increase \$5,340.00

EXPLANATION OF CHANGE - This change order is to cover the following items:
Speed Tables are to be constructed on 82nd Terrace from Somerset to Roe.
Funding for this work will come from the Traffic Calming Program 190867.

The Consultant does not anticipate a related Engineering Change Order.

	Contract Value	Contract Days
Original Contract	\$6,550,000.00	
Current Contract including previous Change Orders	\$6,555,340.00	
NET This Change Order	\$5,340.00	
New Contract Price	\$6,560,680.00	

Contractor

Date

Engineer

Date

Keith Bredehoeft, Interim Director of Public Works
City of Prairie Village, KS

Date

Ronald L. Shaffer, Mayor
City of Prairie Village, KS

Date



ADMINISTRATION

Council Committee Meeting Date: May 17, 2010
City Council Meeting Date: May 17, 2010

***COU2010-30: Consider Approval of Investment Grade Audit Agreement with Energy Solutions Professionals (ESP)**

RECOMMENDATION

Staff recommends the Council authorize the City Administrator to execute an Investment Grade Audit Agreement with Energy Solutions Professionals (ESP) for the sum of \$3,928.00.

SUGGESTED MOTION

The City Council authorizes the Mayor to execute an Investment Grade Audit Agreement with Energy Solutions Professionals (ESP).

BACKGROUND

As part of the 2009 Bond Issuance, the City Council approved the expenditure of \$370,000 for energy efficiency improvements in city facilities. To help with determining which improvements would be the most advantageous, city staff determined that it would be beneficial to conduct an energy audit on its existing facilities.

On March 3, 2010, the City issued a Request for Qualifications to conduct energy performance contracting services. The RFQ contained two elements: Investment Grade Audit and a possible Energy Performance Contract through and ESCO (Energy Service Company). The City solicited qualifications from consultants who meet the National Association of Energy Service Companies, who were prequalified Companies through the State of Kansas Facility Conservation Improvement Program (FCIP), and who had at least 5 years of experience.

The City received RFQ responses from Chevron, Con Edison, Energy Solutions Professionals (ESP), and Trane. City staff reviewed the RFPs and interviewed the short listed firms. City staff is recommending the selection of Energy Solutions Professionals (ESP). The attached Investment Grade Audit Agreement would provide the City with audit of its energy uses and potential improvements for each City facility. Once the audit is completed the City would then determine which improvements would be made and if an Energy Performance Contract is practical given the proposed improvements.

An Energy Performance Contract is an agreement where the Energy Service Company (ESP) would agree to make specific improvements which would result in energy savings. The Energy Performance Contract would provide for the design, installation and monitoring of the Energy Conservation Measure(s) (ECM). ESP would then guarantee the agreed upon energy savings for the life of the project. A separate agreement would be necessary if an Energy Performance Contract is pursued.

ATTACHMENTS

Investment Grade Audit Agreement

FUNDING SOURCE

As part of the 2009 bond issuance \$370,000 was set aside for energy efficiency improvements. The fees associated with the Investment Grade Audit will be taken out of the budgeted funds.

PREPARED BY

Dennis J. Enslinger
Assistant City Administrator
Date: May 12, 2010

INVESTMENT GRADE AUDIT AGREEMENT

This Investment Grade Audit Agreement ("Agreement") is entered into this ____ day of _____, 2010 by and between Energy Solutions Professionals, LLC. ("ESCO"), and The City of Prairie Village, ("Client") for an energy and facility audit, a report on the findings and assistance developing a final scope of work for inclusion in a (potential) Energy Performance Contract for the Client's facilities as set forth in Section 4.

SECTION 1. GENERAL.

The primary objective in completing an Investment Grade Audit (IGA) of the Client's facilities is to provide detailed information regarding the technical, economic and business aspects of proceedings with an Energy Performance Contract at the Client's facilities. The IGA will provide comprehensive information on the existing conditions, cost of implementing a wide array of energy-saving facility-improvement measures, the guaranteed savings associated with each individual measure and a detailed financial picture about the impacts of implementing an energy performance contract. This data enables the Client to make an informed decision about proceeding with a guaranteed Energy Performance Contract.

This agreement is a mutual commitment between the ESCO and the Client. The ESCO commits to conducting the analysis necessary to develop a project that may be fully funded from re-directed energy savings, and that if this is not accomplished the client will not owe the ESCO the IGA Fee identified in Section 5 of this agreement. The Client commits that; if a paid-from-savings project is identified, they will pay for the Audit, or enter into the Energy Performance Contract. If the client proceeds into the Energy Performance Contract, the audit fee will be rolled-into the project cost and will be paid for by savings.

SECTION 2. SCOPE OF WORK.

2.1. Energy Audit Data

ESCO shall prepare a Investment Grade Audit (IGA) of the Client's facilities. The Client will provide its complete cooperation in connection with the preparation of the IGA. To assist ESCO in preparing the IGA, Client shall furnish (or cause others to furnish) to ESCO information pertinent to understanding the energy-consuming characteristics of their facilities. This information will include accurate and complete data concerning utility usage and cost for all facilities for the most current 24-month (minimum) time period. Additional data required will include; but not be limited to: physical access to facilities for conducting field surveys; historical operation and maintenance costs; occupancy information and schedules; description of any changes in the building structure or its heating, cooling, lighting or other systems or energy requirements; descriptions of all energy consuming equipment used at the Facilities; and description of energy management procedures presently utilized. If requested by ESCO, Client will also provide any prior energy audits of the Facilities, existing construction documentation, equipment submittals and any other related data.

2.2 Field Survey

ESCO will conduct a comprehensive field survey of the Facilities to gather information and data pertinent to the analysis of energy usage and preparation of the IGA. The field survey shall include physical review of, but not be limited to, the heating, ventilating, and air conditioning systems, temperature control systems, lighting systems, water-consuming systems, energy plant, and the building envelope. The physical review shall provide equipment quantities, characteristics and all pertinent model or nameplate data, and data-logging of significant energy consuming systems. Descriptions of equipment operation, equipment condition, and comfort levels will be recorded for each Facility. In addition, the survey will include interviews with all key personnel responsible for operating each facility.

2.3 Investment Grade Audit Report and Energy Performance Contract

ESCO shall present to the Client the written IGA Report within 90 days after execution of this Agreement. The IGA Report shall set forth the following information:

- A. An Executive Summary providing an overview of the IGA process, audit findings and a summary of technical and financial parameters associated with the (potential) Energy Performance Contract.
- B. A Technical Section that provides facility write-ups identifying existing conditions, a list and description of potential Energy Conservation Measure (ECM) opportunities, guaranteed cost and savings for each ECM analyzed, even those not recommended for inclusion in project. The costs will be based on firm subcontractor and/or vendor quotes, and the guaranteed savings on a combination of engineering methods, logged-data and/or accepted energy-estimating programs.
- C. A Financial Analysis Section that will summarize various financing options and avenues for funding the potential Energy Performance Contract, including sample pro forma cash flow tables for various combinations of Energy Conservation Measures.
- D. A Project Management Plan Section that will identify the steps necessary to implement the Energy Performance Contract. This plan will include a project time-line associated with completing each step in order to fulfill Client's objectives for an implementation schedule.
- E. Appendices necessary to provide full disclosure on how the savings were calculated and how they will be measured and verified to fulfill the guarantee, field-measured data, cut-sheets or any other pertinent technical information that will help the Client understand the full scope and financial parameters for all ECMs evaluated.
- F. An Energy Performance Contract agreement that will be developed in cooperation with Client's staff. This contract will include firm financing parameters, guaranteed costs, mutually developed Measurement & Verification plan.

SECTION 3. ACCEPTANCE OF THE INVESTMENT GRADE AUDIT REPORT

The IGA Report will be presented with a guaranteed Energy Performance Contract (EPC) agreement. The Client will be given 60 days from the date of presentation of this Report to execute the EPC with ESCO, in which case the IGA Fee will be included in the EPC contract amount and be paid for from savings. If the Client does not execute the EPC with ESCO, the IGA fee will be paid by the Client within 30 days from the date the IGA Report was presented.

- 3.1 If, at any time during the audit it is determined by ESCO that for technical, cost or lack of savings reasons the economics of the project will not meet the stated objectives, or that it does not seem feasible to spend more funds to complete the remaining work of this Agreement, ESCO will advise the Client immediately. Under such circumstances, the Client may; at its option, terminate this Agreement at no expense, or agree to have the ESCO proceed with the work covered in this Agreement subject to mutually agreeable revised financial parameters.
- 3.2 Upon execution of the guaranteed Energy Performance Contract (EPC) agreement, the IGA Report shall become a part of this agreement; and will be attached as a "Schedule".
- 3.3 To Clarify Acceptance and Payment terms: a) the Client will not owe ESCO the IGA Fee if ESCO fails to meet the mutually agreed performance levels; b) the Client may elect to pay the IGA Fee amount directly or roll this Fee into the Energy Performance Contract project so that the IGA is paid for by program savings.

SECTION 4. FACILITIES

The Client Facilities to be evaluated as part of this Agreement include:

<u>Building</u>	<u>Square Feet</u>
City Hall:	17,500
Police Dept:	18,000
Community Center:	2,100
Public Works A:	7,200
Public Works B:	1,300
Public Works G:	3,000
Total:	49,100

SECTION 5. IGA FEE

The fee for all services described herein will be \$3,928.00 (\$0.08 sq. ft.)

NOTE: This Fee will be reduced to \$1,964.00 (\$0.04 sq. ft.) if the Client elects to enter into an Energy Performance Contract with the ESCO.

SECTION 6. GENERAL PROVISIONS.

The general provisions set forth on the attached Exhibit A are incorporated herein by reference.

SECTION 7. ACCEPTANCE.

IN WITNESS WHEREOF, and intending to be legally bound, the parties hereto subscribe their names to this instrument on the date first above written.

City of Prairie Village

Energy Solutions Professionals, LLC.

By: _____

By: _____

Title: _____

Title: _____

Exhibit A
General Provisions

- 1) Insurance. ESCO shall procure and maintain, at its expense, the following insurance coverage: (a) Workers' Compensation -- Statutory Limits, with Employer's Liability limits of \$100,000 each employee, \$500,000 policy limit; (b) Commercial General Liability for bodily injury and property damage liability claims with limits of not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate; and (c) Commercial Automobile Liability for bodily injury and property damage with limits of not less than \$1,000,000 each accident for all owned, non-owned and hired automobiles. Deductibles for any of the above coverage shall not exceed \$25,000 unless approved in writing by City. The insurance required shall be from an insurance carrier acceptable to City, and shall name, by endorsement to be attached to the certificate of insurance, City, and its divisions, departments, officials, officers and employees, and other parties as specified by City as additional insureds as their interest may appear. Each certificate of insurance shall state that such insurance will not be canceled or coverage reduced until after thirty (30) days' unqualified written notice of cancellation or reduction has been given to the City, except in the event of nonpayment of premium, in which case there shall be ten (10) days' unqualified written notice. Subrogation against City shall be waived. ESCO's insurance policies shall be endorsed to indicate that ESCO's insurance coverage is primary and any insurance maintained by City is non-contributing.
- 2) Indemnity: To the fullest extent permitted by law, with respect to the performance of its obligations in this Agreement or implied by law, and whether performed by ESCO, ESCO agrees to indemnify City, and its agents, servants, and employees from and against any and all claims, damages, and losses arising out of personal injury, death, or property damage, caused by the negligent acts, errors, or omissions of ESCO, to the extent and in proportion to the comparative degree of fault of ESCO. ESCO shall also pay for City's reasonable attorneys' fees, expert fees, and costs incurred in the defense of such a claim to the extent and in proportion to the comparative degree of fault of ESCO.
- 3) Termination for Convenience. The City, within its sole discretion, may elect to terminate the Agreement with ESCO for convenience upon three (3) days written notice. In the event of such termination, ESCO 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. ESCO shall not be entitled to any anticipatory profits of other costs.



PUBLIC WORKS DEPARTMENT

Council Committee Meeting Date: May 17, 2010

Council Meeting Date: May 17, 2010

***COU2010-32: CONSIDER APPROVAL OF A CONTRACT WITH MUSSELMAN & HALL CONTRACTORS FOR THE 2010 STREET REPAIR PROGRAM.**

RECOMMENDATION

Move to authorize the Mayor to sign the construction contract with Musselman & Hall Contractors for Project P5001, 2010 Street Repair Program for \$260,000.00.

COUNCIL ACTION REQUESTED MAY 17, 2010

BACKGROUND

On April 30, 2010, the City Clerk opened bids for Project P5001, 2010 Street Repair Program. This program consists of repairs to deteriorated asphalt pavement throughout the City. Three bids were received:

Musselman & Hall Contractors	\$143,685.00
Little Joe's Asphalt, Inc.	\$172,915.26
O'Donnell & Sons Construction	\$174,925.00
Engineer's Estimate	\$278,100.00

There is \$260,000. budgeted for this project and the contract will be awarded for that amount.

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

FUNDING SOURCE

Funding is available in the 2010 Capital Infrastructure Program Project P5001.

ATTACHMENTS

1. Construction Agreement with Musselman & Hall Contractors

PREPARED BY

Keith Bredehoeft, Interim Public Works Director

May 10, 2010

PROJECT P5001:

2010 STREET REPAIR PROGRAM

CONSTRUCTION AGREEMENT

BETWEEN

CITY OF PRAIRIE VILLAGE, KS

AND

MUSSELMAN AND HALL CONTRACTORS

**CONSTRUCTION AGREEMENT
BETWEEN
THE CITY OF PRAIRIE VILLAGE, KANSAS
AND
MUSSELMAN AND HALL CONTRACTORS
FOR
PROJECT P5001 - 2010 STREET REPAIR PROGRAM**

THIS AGREEMENT, is made and entered into this ____ day of _____, 2010, by and between the City of Prairie Village, Kansas, hereinafter termed the "City", and Musselman and Hall Contractors, hereinafter termed in this agreement, "Contractor", for the construction and completion of Project , designated, described and required by the Project Manual and Bid proposal, to wit:

CONTRACT COST: The City shall pay the Contractor for the performance of the Work embraced in this Contract, and the Contractor will accept in full compensation therefore the sum (subject to adjustment as provided by the Contract) of **Two Hundred and Sixty Thousand 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.

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

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

Contractor agrees that time is of the essence and any term pertaining to Contractor timely performing so as to achieve Total Completion when required under the Contract is a material provision of this Contract. Further, the parties acknowledge that City's damages in the event of delay are difficult to ascertain and consequently agree that, in the event and to the extent that actual date of Total Completion is delayed beyond the required date for Total Completion for the Total Project or Project Segments attributable solely or concurrently to (i) an act or omission of Contractor or any of its subcontractors or suppliers, or (ii) in whole or in part, to any other event or

condition within the Contractor's reasonable control (and not for reasons solely attributable to City), the Contractor shall be assessed a liquidated damage, and not as a penalty, in the amount set forth in the Special Conditions for each calendar day beyond the applicable Total Completion date. Such amount shall be deducted from any amounts due Contractor under this agreement.

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

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

1. DEFINITIONS:

1.1 Following words are given these definitions:

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

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

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

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

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

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

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

CONTRACT PRICE shall be the amount identified in the Construction Agreement between the

City and the Contractor as the total amount due the Contractor for total completion of the Work as per the Contract Documents.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

specified.

2. ENTIRE AGREEMENT:

- 2.1 The Contract Documents, together with the Contractor's Performance, Maintenance and Statutory bonds for the Work, constitute the entire and exclusive agreement between the City and the Contractor with reference to the Work. Specifically, but without limitation, this Contract supersedes all prior written or oral communications, representations and negotiations, if any, between the City and the Contractor. The Contract may not be amended or modified except by a modification as hereinabove defined. These Contract Documents do not, nor shall they be construed to, create any contractual relationship of any kind between the City and any Subcontractor or remote tier Subcontractor.
- 2.2 The Contract shall be construed in accordance with the laws of the state of Kansas.

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 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 Engineer of any inconsistency, ambiguity, error or omission, which the Contractor may discover, or should have discovered, with respect to these documents before proceeding with the affected Work. The review, issuance, or the express or implied approval by the City or the Engineer of the Contract Documents shall not relieve the Contractor of the continuing duties imposed hereby, nor shall any such review be evidence of the Contractor's compliance with this Contract.
- 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 Engineer 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 Pursuant to K.S.A. No. 16-133, if the Contractor to whom the Contract is awarded is not a resident firm of the State of Kansas, he shall execute and file "Certificate of Appointment of Process of Agent" with the Clerk of the District Court at the Johnson County Courthouse. These forms may be obtained at the Office of the Clerk of the District Court. After execution of the documents, they shall be filed with the Clerk of the District Court. A filing fee of Five Dollars (\$5.00) is required. These certificates are pursuant to the General Statutes of Kansas, and shall be filed prior to the formal execution of the Contract Documents. Failure to comply with

these requirements shall disqualify the Contractor for the awarding of this Contract.

4. WORK SUPERINTENDENT

- 4.1 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.
- 4.2 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.
- 4.3 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.
- 4.4 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.
- 4.5 The Contractor will be required to contact the Engineer daily to advise whether and/or where the Contractor and/or the Subcontractor's crews will be working that day, in order that the Engineer's representative is able to monitor properly the Work.

5. ENGINEER

- 5.1 It is mutually agreed by and between the parties to this Contract Agreement that the Engineer shall act as the representative of the City and shall observe, as required, the work included herein.
- 5.2 In order to prevent delays and disputes and to discourage litigation, it is further agreed by and between the parties to this Contract that the Engineer shall, in good faith and to the best of its ability, determine the amount and quantities of the several kinds of work which are to be paid for under this Contract; that the Engineer shall determine, where applicable, questions in relation to said Work and the construction thereof; that Engineer shall, where applicable decide questions which may arise relative to the execution of this Contract on the part of said Contractor; that the Engineer's decisions and findings shall be the conditions precedent to the rights of the parties hereto, to any action on the Contract, and to any rights of the Contractor to receive any money under this Contract provided, however, that should the Engineer render any decision or give any direction which, in the opinion of either party hereto, is not in accordance with the meaning and intent of this Contract, either party may file with the Engineer and with the other party, within

- thirty (30) days a written objection to the decision or direction so rendered and, by such action, may reserve the right to submit the question to determination in the future.
- 5.3 The Engineer, unless otherwise directed or agreed to by the City in writing, will perform those duties and discharge those responsibilities allocated to the Engineer as set forth in this Contract. The Engineer shall be the City's representative from the effective date of this Contract until final payment has been made. The Engineer shall be authorized to act on behalf of the City only to the extent provided in this Contract.
- 5.4 The City and the Contractor shall communicate with each other in the first instance through the Engineer.
- 5.5 The Engineer shall be the initial interpreter of the requirements of the Project Manual and the judge of the performance by the Contractor. The Engineer shall render written graphic interpretations necessary for the proper execution or progress of the Work with reasonable promptness on request of the Contractor.
- 5.6 The Engineer will review the Contractor's Applications for Payment and will certify to the City for payment to the Contractor those amounts then due the Contractor as provided in this Contract. The Engineer's recommendation of any payment requested in an Application for Payment will constitute a representation by Engineer to City, based on Engineer's on-site observations of the Work in progress as an experienced and qualified design professional and on Engineer's review of the Application for Payment and the accompanying data and schedules that the Work has progressed to the point indicated; that, to the best of the Engineer's knowledge, information and belief, the quality of the Work is in accordance with the Project Manual (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, to the results of any subsequent tests called for in the Project Manual, to a final determination of quantities and classifications for Unit Price Work if such is called for herein, and to any other qualifications stated in the recommendation); and that Contractor is entitled to payment of the amount recommended. However, by recommending any such payment Engineer will not thereby be deemed to have represented that exhaustive or continuous on-site inspections have been made to check the quality or the quantity of the Work beyond the responsibilities specifically assigned to Engineer in the Project Manual or that there may not be other matters or issues between the parties that might entitle Contractor to be paid additionally by the City or the City to withhold payment to Contractor.
- 5.7 The Engineer may refuse to recommend the whole or any part of any payment if, in Engineer's opinion, it would be incorrect to make such representations to City. Engineer may also refuse to recommend any such payment, or, because of subsequently discovered evidence or the results of subsequent inspections or tests, nullify any such payment previously recommended, to such extent as may be necessary in the Engineer's opinion to protect the City from loss because:
- The Work is defective, or completed Work has been damaged requiring correction or replacement,
 - The Contract Price has been reduced by Written Amendment or Change Order,
 - The City has been required to correct defective Work or complete Work in accordance with the Project Manual.
- 5.8 The City may refuse to make payment of the full amount recommended by the Engineer because claims have been made against City on account of Contractor's performance or

furnishing of the Work or liens have been filed in connection with the Work or there are other items entitling City to a set-off against the amount recommended, but City must give Contractor written notice (with a copy to Engineer) stating the reasons for such action.

- 5.9 The Engineer will have the authority to reject Work, which is defective or does not conform to the requirements of this Contract. If the Engineer deems it necessary or advisable, the Engineer shall have authority to require additional inspection or testing of the Work for compliance with Contract requirements.
- 5.10 The Engineer will review, or take other appropriate action as necessary, concerning the Contractor's submittals, including Shop Drawings, Product Data and Samples. Such review, or other action, shall be for the sole purpose of determining general conformance with the design concept and information given through the Project Manual.
- 5.11 The Engineer shall have authority to order minor changes in the Work not involving a change in the Contract Price or in Contract Time and consistent with the intent of the Contract. Such changes shall be effected by verbal direction and then recorded on a Field Order and shall be binding upon the Contractor. The Contractor shall carry out such Field Orders promptly.
- 5.12 The Engineer, upon written request from the Contractor shall conduct observations to determine the date of substantial completion and the date of final acceptance. The Engineer will receive and forward to the City for the City's review and records, written warranties and related documents from the Contractor required by this Contract and will issue a final Certificate for Payment to the City upon compliance with the requirements of this Contract.
- 5.13 The Engineer's decisions in matters relating to aesthetic effect shall be final if consistent with the intent of this Contract.
- 5.14 The Engineer will NOT be responsible for Contractor's means, methods, techniques, sequences, or procedures or construction, or the safety precautions and programs incident thereto and will not be responsible for Contractor's failure to perform the work in accordance with the Project Manual. The Engineer will not be responsible for the acts or omissions of the Contractor or any Subcontractor or any of its or their agents or employees, or any other person at the site or otherwise performing any of the work except as may otherwise be provided.
- 5.15 Any plan or method of work suggested by the Engineer, or other representatives of the City, to the Contractor, but not specified or required, if adopted or followed by the Contractor in whole or in part, shall be used at the risk and responsibility of the Contractor, and the Engineer and the City will assume no responsibility therefore.
- 5.16 It is agreed by the Contractor that the City shall be and is hereby authorized to appoint or employ, either directly or through the Engineer, such City representatives or observers as the City may deem proper, to observe the materials furnished and the work performed under the Project Manual, and to see that the said materials are furnished, and the said work performed, in accordance with the Project Manual therefore. The Contractor shall furnish all reasonable aid and assistance required by the Engineer, or by the resident representatives for proper observation and examination of the Work and all parts thereof.
- 5.17 The Contractor shall comply with any interpretation of the Project Manual by the Engineer, or

any resident representative or observer so appointed, when the same are consistent with the obligations of the Project Manual. However, should the Contractor object to any interpretation given by any subordinate engineer, resident representative or observer, the Contractor may appeal in writing to the City Director of Public Works for a decision.

- 5.18 Resident representatives, observers, and other properly authorized representatives of the City or Engineer shall be free at all times to perform their duties, and intimidation or attempted intimidation of any one of them by the Contractor or by any of its employees, shall be sufficient reason, if the City so decides, to annul the Contract.
- 5.19 Such observation shall not relieve the Contractor from any obligation to perform said work strictly in accordance with the Project Manual.

6. WORK SCHEDULE:

- 6.1 The Contractor, within ten (10) calendar days after being instructed to do so in a written notice from the City, shall commence work to be done under this Contract.
- 6.2 The rate of progress shall be such that the Work shall have been completed in accordance with the terms of the Contract Documents on or before the completion date for the construction period named in the contract agreement, subject to any extension or extensions of such time made as hereinafter provided.
- 6.3 The Contractor shall be required to furnish the Engineer with a schedule setting forth in detail (in the critical path method) the sequences proposed to be followed, and giving the dates on which it is expected that portions of the work will be started and completed.
- 6.4 If at any time, in the opinion of the Engineer or City, proper progress is not being maintained; such changes shall be made in the schedule and resubmitted for consideration.
- 6.5 If the Contractor has not completed Work segments and is within a non-performance penalty period, he/she shall not be allowed to undertake a new Work segment until the Work segment in dispute is completed, unless expressly permitted by the City.
- 6.6 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.
- 6.7 No work shall be undertaken on Saturdays, Sundays and Holidays (Christmas, New Years, Martin Luther King's Birthday, President's Day, Memorial Day, Independence Day, Labor Day and Thanksgiving) without the express written approval of the City Engineer. If it is necessary to perform proper care, maintenance, or protection of work already completed or of equipment used, or in the case of an emergency verbal permission may be obtained through the Engineer.
- 6.8 Night work may be established by the Contractor, as a regular procedure, with the written permission of the City; such permission, however, may be revoked at any time by the City if the Contractor fails to maintain adequate equipment for the proper prosecution and control of all operations performed as part of the Work.

- 6.9 The Contractor shall provide 24 hours notice prior to commencing any work to the City Engineer. The Contractor shall communicate immediately any changes in the work schedule to the City Engineer.

7. DELAYS AND EXTENSIONS OF TIME

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

8. ADVERSE WEATHER:

- 8.1 Extensions of time for adverse weather shall be granted only under the conditions as hereinafter provided.
- 8.2 For conditions of weather or conditions at the site, so unusual as not to be reasonably anticipated, as determined by the Engineer, an average or usual number of inclement days when work cannot proceed are to be anticipated during the construction period and are not to be considered as warranting extension of time.
- 8.3 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.
- 8.4 Unusually Severe Weather is defined as weather, which is more severe than the adverse weather anticipated for the season, location, or activity involved.
- 8.5 Time Extensions for Unusually Severe Weather:
- In order for any request for time extension due to unusually severe weather to be valid, the Contractor must document both of the following conditions:

- The weather experienced at the Work site during the Contract period is more severe than the adverse weather anticipated for the Work location during any given month.
- The unusually severe weather actually caused a delay to the completion of the Work. The delay must be beyond the control and without fault or negligence by the Contractor.

8.6 The following schedule of monthly-anticipated adverse weather delays will constitute the baseline for monthly weather time evaluations. The Contractor's Progress Schedule must reflect these anticipated adverse weather delays in all weather affected activities:

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

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

- 8.7 Upon receipt of the Notice to Proceed, and continuing throughout the Contract, the Contractor shall record on their daily construction report, the occurrence of adverse weather and resultant impact to normally scheduled work.
- 8.8 The number of actual adverse weather delay days shall include days affected by actual adverse weather (even if adverse weather occurred in the previous month), and shall be calculated chronologically from the first to the last day of each month, and be recorded as full workdays.
- 8.9 If the number of actual adverse weather delay days in a given month exceeds the number of days anticipated above, the difference shall be multiplied by 7/5 to convert any qualifying workday delays to calendar days. The resulting number of qualifying lost days shall be added to the Contract Time.
- 8.10 The determination that unusually severe weather occurred does not automatically mean an extension of time will be granted. The Contractor must substantiate the unusually severe weather delayed work activities on the critical path of the Progress Schedule.
- 8.11 Full consideration for equivalent fair weather workdays shall be given. If the number of actual adverse weather delays in a given month is less than the number of days anticipated as indicated above, the difference shall be multiplied by 7/5 to convert any workday increases to calendar days. The resulting number of qualifying extra days will be accumulated and subtracted from any future month's days lost due to unusually severe weather.
- 8.12 The net cumulative total of extra days/lost days shall not result in a reduction of Contract Time and the Date of Substantial Completion shall not be changed because of unusually favorable weather.
- 8.13 In converting workdays to calendar days, fractions 0.5 and greater shall be rounded up to the next whole number. Fractions less than 0.5 shall be dropped.

- 8.14 The Contractor shall summarize and report all actual adverse weather delay days for each month to the Engineer by the tenth (10th) day of the following month. A narrative indicating the impact of adverse weather conditions on the scheduled critical activities shall be included.
- 8.15 Any claim for extension of time due to unusually severe weather shall be submitted to the Engineer within 7 days of the last day of the commencement of the event giving rise to the delay occurred. Resolution of any claim shall follow the procedures established by the Regulations of the Contract and Special Conditions and as described above.
- 8.16 The Contractor shall include and indicate the monthly-anticipated adverse weather days, listed above, in their Progress Schedule. (Reference Section 3.1.1 for Progress Schedule requirements)
- 8.17 The Contractor shall indicate the approved adverse weather days (whether less or more than the anticipated days) in their monthly Progress Schedule update.

9. PAYMENT PROCEDURE:

- 9.1 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the City no later than the time of payment. The Contractor further warrants that upon submittal on the first day of each month of an Application for Payment, all Work for which payments have been received from the City shall be free and clear of liens, claims, security interest or other encumbrances in favor of the Contractor or any other person or entity whatsoever.
- 9.2 Each application for payment must be submitted with Contractor's waiver for period of construction covered by application. Each progress payment will be submitted with executed waivers from the subcontractors or sub-contractors and suppliers for the previous period of construction covered by the previous application. The final payment application must be submitted together with or preceded by final or complete waivers from every entity involved with performance of the work covered by the payment request.
- 9.3 The Contractor will submit waivers on forms, and executed in a manner, acceptable to City.
- 9.4 The Contractor shall promptly pay each Subcontractor out of the amount paid to the Contractor because of such Subcontractor's Work the amount to which such Subcontractor is entitled. In the event the City becomes informed that the Contractor has not paid a Subcontractor as herein provided, the City shall have the right, but not the duty, to issue future checks in payment to the Contractor of amounts otherwise due hereunder naming the Contractor and such Subcontractor as joint payees. Such joint check procedure, if employed by the City, shall be deemed payment to the Contractor but shall create no rights in favor of any person or entity beyond the right of the named payees to payment of the check and shall not be deemed to commit the City to repeat the procedure in the future.
- 9.5 The Engineer will, upon receipt of a written Application for Payment from the Contractor, review the amount of work performed during the preceding period and the value thereof at the unit prices contracted. From the amounts so ascertained, there shall be deducted ten percent (10%) to be retained until after final completion of the entire work to the satisfaction of the City. The Engineer will submit an estimate each month to the City for payment to the Contractor, except

that no amount less than \$500.00 will be submitted unless the total amount of the Contract remaining unpaid is less than \$500.00.

- 9.6 Deductions will be made from progress payments if the Contract includes a provision for a lump sum or a percentage deduction. Lump sum deductions will be that portion of the stated lump sum computed as the ratio that the amount earned bears to the Contract amount. Percentage deductions will be computed at the stated percentage of the amount earned.
- 9.7 No progress payment, nor any use or occupancy of the Work by the City, shall be interpreted to constitute an acceptance of any Work not in strict accordance with this Contract.
- 9.8 The City may decline to make payment, may withhold funds, and, if necessary, may demand the return of some or all of the amounts previously paid to the Contractor, to protect the City from loss because of:
- Defective Work not remedied by the Contractor;
 - Claims of third parties against the City or the City's property;
 - Failure by the Contractor to pay Subcontractors or others in a prompt and proper fashion;
 - Evidence that the balance of the Work cannot be completed in accordance with the Contract for the unpaid balance of the Contract Price;
 - Evidence that the Work will not be completed in the time required for substantial or final completion;
 - Persistent failure to carry out the Work in accordance with the Contract;
 - Damage to the City or a third party to whom the City is, or may be, liable;
 - Evidence that the work is not progressing according to agreed upon schedule by both parties.
- 9.9 In the event that the City makes written demand upon the Contractor for amounts previously paid by the City as contemplated in this subparagraph, the Contractor shall promptly comply with such demand and refund such monies to the City.
- 9.10 Neither the observation by the City or any of the City's officials, employees, or agents, nor any order by the City for payment of money, nor any payment for, or acceptance of, the whole or any part of the work by the City or Engineer, nor any extension of time, nor any possession taken by the City or its employees, shall operate as a waiver of any provision of this Contract, or of any power herein reserved to the City, or any right to damages herein provided, nor shall any waiver of any breach in this Contract be held to be a waiver of any other or subsequent breach.

10. COMPLETION AND FINAL PAYMENT

- 10.1 Work completion shall be defined as all elements of the Work or work segment, being complete including all subsidiary items and "punch-list" items.
- 10.2 When all of the Work is finally complete and the Contractor is ready for a final inspection, it shall notify the City and the Engineer thereof in writing. Thereupon, the Engineer will make final inspection of the Work and, if the Work is complete in accordance with this Contract, the Engineer will promptly issue a final Certificate for Payment certifying to the City that the Work is complete and the Contractor is entitled to the remainder of the unpaid Contract Price, less any

amount withheld pursuant to this Contract. If the Engineer is unable to issue its final Certificate for Payment and is required to repeat its final inspection of the Work, the Contractor shall bear the cost of such repeat final inspection(s), which cost may be deducted by the City from the Contractor's full payment.

- 10.3 The Contractor shall not be entitled to any payment unless and until it submits to the Engineer its affidavit that all payrolls, invoices for materials and equipment, and other liabilities connected with the Work for which the City, or the City's property might be responsible, have been fully paid or otherwise satisfied; releases and waivers of lien from all Subcontractors and Suppliers of the Contractor and of any and all other parties required by the City; and consent of Surety, if any, to final payment. If any third party fails or refuses to provide a release of claim or waiver of lien as required by the City, the Contractor shall furnish a bond satisfactory to the City to discharge any such lien or indemnify the City from liability.
- 10.4 The City shall make final payment of all sums due the Contractor within thirty days of the later of the Engineer's execution of a final Certificate for Payment.
- 10.5 Acceptance of final payment shall constitute a waiver of all claims against the City by the Contractor except for those claims previously made in writing against the City by the Contractor, pending at the time of final payment, and identified in writing by the Contractor as unsettled at the time of its request for final inspection.

11. CLAIMS BY THE CONTRACTOR

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

such claim within seven (7) days after the occurrence of the event, or the first appearance of the condition, giving rise to such claim. Such notice shall be given by the Contractor before proceeding to execute any additional or changed Work. The failure by the Contractor to give such notice and to give such notice prior to executing the Work shall constitute a waiver of any claim for additional compensation.

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

such suspension or suspensions shall be extended for a period equivalent to the time lost by reason of such suspension or suspensions; but such order of the City or Engineer shall not otherwise modify or invalidate in any way, any of the provisions of this Contract. In the event that the work shall be stopped by written order of the City, any expense, which, in the sole opinion and judgment of the City, is caused by the City, shall be paid by the City to the Contractor.

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

12. CHANGES IN THE WORK

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

Contractor or others, permit fees, and sales, use or other taxes related to the Work, and reasonable cost of direct supervision and job site field office overhead directly attributable to the change. In no event shall any standby time or any expenditure or savings associated with the Contractor's home office or other non-job site overhead expense be included in any change in the Contract Price. Further, in no event shall the Contractor's overhead expense exceed ten (10%) percent of the reasonable expenditures. Pending final determination of reasonable expenditures or savings to the City, payments on account shall be made to the Contractor on the Engineer's Certificate for Payment.

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

13. INSURANCE AND HOLD HARMLESS.

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

difficulties, or any other natural or existing circumstances either known or unforeseen, which may be encountered in the prosecution of the said work shall be sustained and borne by the Contractor at its own cost and expense.

- 13.5 The Contractor shall give reasonable notice to the City or owners of public or private property and utilities when such property is liable to injury or damage through the performance of the Work, and shall make all necessary arrangements with such City or owners relative to the removal and replacement or protection of such property or utilities.
- 13.6 The Contractor shall satisfactorily shore, support, and protect all structures and all pipes, sewers, drains, conduits, and other utility facilities, and shall be responsible for any damage resulting thereto. The Contractor shall not be entitled to any damages or extra compensation because of any postponement, interference, or delay caused by any such structures and facilities being on the line of the Work whether they are shown on the plans or not, specifically including, but not limited to, damages due to delay in utility relocation.
- 13.7 The Contractor shall secure and maintain, throughout the duration of this Contract, insurance from a company authorized to do business in the State of Kansas. Such insurance shall be of such types and in such amounts as may be necessary to protect himself and the interests of the City and agents of the City against all hazards or risks of loss as hereinafter specified including an endorsement covering explosion, collapse, blasting and damage to underground property if applicable as specified in these Contract Documents. The form and limits of such insurance, together with the underwriter thereof in each case, shall be approved by the City, but regardless of such approval, it shall be the responsibility of the Contractor to maintain adequate insurance coverage at all times. Failure of the Contractor to maintain adequate insurance coverage shall not relieve it of any contractual responsibility or obligation. The insurance shall be provided on an occurrence basis and, not claims made basis.
- 13.8 The City and the Engineer shall be a named insured on such policies. Satisfactory certificates of insurance shall be filed with the City prior to starting any construction work on this Contract. The certificates shall state that thirty (30) days written notice will be given to the City before any policy coverage thereby is changed or canceled.
- 13.9 The Contractor shall secure and maintain through the duration of this Contract insurance on an occurrence basis of such types and in such amounts as may be necessary to protect the Contractor and the City and agents of the City against all hazards or risks of loss as hereinafter specified. The form and limits of such insurance, together with the underwriter thereof in each case, shall be approved by the City, but regardless of such approval, it shall be the responsibility of the Contractor to maintain adequate insurance coverage at all times. Failure of the Contractor to maintain adequate coverage shall not relieve it of any contractual responsibility or obligation, including but not limited to, the indemnification obligation.
- 13.10 Satisfactory certificates of insurance shall be filled with the City prior to the Contractor starting any construction work on this Contract. The Certificates shall state that the thirty (30) days written notice will be given to the City before any policy covered thereby is changed or cancelled. Failure by the Contractor to furnish the required insurance within the time specified in the notice of award of the Contract by the City, at the City option, may be the basis for the City exercising its right to terminate the Contract.

13.11 The liability limits shall be as stated:

- **Worker's Compensation and Employer's Liability:** This insurance shall protect the Contractor against all claims under applicable state worker's compensation laws. The Contractor shall also be protected against claims for injury, disease, or death of employees, which, for any reason, may not fall within the provisions of a worker's compensation law. This policy shall include an "all states" endorsement.
- **Automobile Liability:** This insurance shall be written in comprehensive form and shall protect the Contractor against all claims for injuries to members of the public and damage to property of others arising from the use of motor vehicles, and shall cover operation on and off the site of all motor vehicles licensed for highway use, whether they are owned, non-owned, or hired. Unless otherwise specified, Contractor's insurance shall include the following:

\$300,000 single limit (on contracts less than \$100,000)
\$1,000,000 single limit (on contracts \$100,000 and more)

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

\$2,000,000 combined single limit (on contracts in excess of \$100,000)
\$300,000 combined single limit (on contracts in excess of \$10,000 to \$100,000)
\$100,000 combined single limit (on contracts of \$10,000 and less)

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

14. INDEMNITY

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

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

arising before or after the completion of the work required hereunder.

- 14.2 For purposes of this Contract, and without in any way limiting indemnification obligations that may be set forth elsewhere in the Contract, the Contractor hereby agrees to indemnify, defend and hold harmless the City and County from any and all Loss where Loss is caused or incurred or alleged to be caused or incurred in whole or in part as a result of the negligence or other actionable fault of the Contractor, his/her employees, agents, Subcontractors and suppliers.
- 14.3 It is agreed as a specific element of consideration of this Contract that this indemnity shall apply notwithstanding the joint, concurring or contributory or comparative fault or negligence of the City and County or any third party and, further, notwithstanding any theory of law including, but not limited to, a characterization of the City's or County's or any third party's joint, concurring or contributory or comparative fault or negligence as either passive or active in nature.
- 14.4 Nothing in this section shall be deemed to impose liability on the Contractor to indemnify the City or County for Loss when the negligence or other actionable fault the City is the sole cause of Loss.
- 14.5 With respect to the City's or County's rights as set forth herein, the Contractor expressly waives all statutory defenses, including, but not limited to, those under workers compensation, contribution, comparative fault or similar statutes to the extent said defenses are inconsistent with or would defeat the purpose of this section.

15. SUCCESSORS AND ASSIGNS

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

Contract Price and shall perform within its own organization work amounting to not less than fifty-five percent (55%) of the total Contract Price. Approval by the City of any Subcontractor shall not constitute a waiver of any right of the City to reject defective work, material or equipment not in compliance with the requirements of the Contract Documents. The Contractor shall not make any substitution for any Subcontractor accepted by the City unless the City so agrees in writing.

- .15.5 The Contractor shall not subcontract, sell, transfer, assign or otherwise dispose of the Contract or any portion thereof without previous written consent from the City. In case such consent is given, the Contractor, shall be permitted to subcontract a portion thereof, but shall perform with his/her own organization work amounting to not less than fifty five (55%) of the total Contract Price. No subcontracts, or other transfer of Contract, shall release the Contractor of its liability under the Contract and bonds applicable thereto.
- 15.6 The Contractor shall cause appropriate provisions to be inserted in all subcontracts relative to the Work to bind Subcontractors to the Contractor by the terms of the Contract Documents insofar as applicable to the work of the Subcontractor and to give the Contractor the same power to terminate any Subcontract as the City has to terminate the Contractor under any provisions of the Contract Documents.
- 15.7 Prior to the City's approval of the Contract bid, the successful bidder shall submit to the City for acceptance, a list of names of all Subcontractors proposed for portions of the work and shall designate which work each is to perform.
- 15.8 The City shall, prior to the City's approval of the Contract bid, notify the successful bidder, in writing, if the City, after due investigation, has reasonable objection to any Subcontractor on such list, and the Contractor shall substitute a Subcontractor acceptable to the City at no additional cost to the City or shall be allowed to withdraw his/her Bid, and the City shall either re-bid the Work or accept the next best lowest and responsible bidder. The failure of the City to make objection to a Subcontractor shall constitute an acceptance of such Subcontractor but shall not constitute a waiver of any right of the City to reject defective work, material or equipment not in conformance with the requirements of the Project Manual.

16. NON-DISCRIMINATION LAWS

- 16.1 The Contractor further agrees that the Contractor shall abide by the Kansas Age Discrimination in Employment Act (K.S.A. 44-1111 et seq.) and the applicable provision of the Americans With Disabilities Act (42 U.S.C. 1201 et seq.) as well as all other federal, state and local laws, ordinances and regulations applicable to this Work and furnish any certification required by any federal, state or local governmental agency in connection therewith.
- 16.2 In all solicitations or advertisements for employees, the Contractor shall include the phrase, "equal opportunity employer", or similar phrase to be approved by the Kansas Human Rights Commission (Commission);
- 16.3 If the Contractor fails to comply with the manner in which the Contractor reports to the Commission in accordance with the provisions of K.S.A. 44-1031 and amendments thereto, the Contractor shall be deemed to have breached the present contract and it may be cancelled, terminated or suspended, in whole or in part, by the contracting agency;

- 16.4 If the Contractor is found guilty of a violation of the Kansas Act Against Discrimination under a decision or order of the Commission which has become final, the Contractor shall be deemed to have breached the present Contract and it may be cancelled, terminated or suspended, in whole or in part, by the contracting agency; and
- 16.5 The Contractor shall include the provisions of this section in every subcontract or purchase order so that such provisions will be binding upon such Subcontractor or vendor.
- 16.6 The provisions of this section shall not apply to a contract entered into by a Contractor who employs fewer than four employees during the terms of such contract; or whose contracts with the City cumulatively total \$5,000 or less during the fiscal year of the City.

17. RELATIONS WITH OTHER CONTRACTORS:

- 17.1 The Contractor shall cooperate with all other contractors who may be performing work on behalf of the City, and workers who may be employed by the City, or any other entity on any work in the vicinity of the Work to be done under this Contract, and the Contractor shall so conduct his/her operations as to interfere to the least possible extent with the work of such contractors or workers. The Contractor shall be responsible for any injury or damage, that may be sustained by other contractors, workers, their work or employees of the City, because of any fault or negligence on the Contractor's part, and shall, at his/her own expense, repair or pay for such injury or damage. If the work of the Contractor is delayed because of any acts or omissions of any other Contractor or Contractors, the Contractor shall have no claim against the City on that account other than for an extension of time.
- 17.2 When two or more Contracts are being executed at one time in such manner that work on one Contract may interfere with that on another, the City shall decide which Contractor shall progress at which time.
- 17.3 Other projects the Contractor may have to coordinate with may include, but are not limited to:
- Project # 191024 - 2010 Concrete Repair Program
 - Project # P5000 - 2010 Crack Seal/Slurry Seal Program
- 17.4 When the territory of one Contract is the necessary or convenient means of access for the transportation or movement of workers, materials, or appliances required for the execution of another Contract, such privileges of access or any other responsible privilege may be granted by the City to the Contractor so desiring, to the extent such may be reasonably necessary.
- 17.5 Upon execution of the Contract, the Contractor shall furnish the City, in writing, the names of persons or entities proposed by the Contractor to act as a Subcontractor on the Work. The City shall promptly reply to the Contractor, in writing, stating any objections the City may have to such proposed Subcontractor. The Contractor shall not enter into a Subcontract with a proposed Subcontractor with reference to whom the City has made timely objection. The Contractor shall not be required to Subcontract with any party to whom the Contractor has objection.

18. RIGHT OF CITY TO TERMINATE

- 18.1 If the Contractor persistently or repeatedly refuses or fails to prosecute the Work in a timely manner, or supply enough properly skilled workers, supervisory personnel or proper equipment or materials, or if it fails to make prompt payment to Subcontractors or for materials or labor, or persistently disregards laws, ordinances, rules, regulations or orders of any public authority having jurisdiction, or if this Contract is assigned by Contractor without authorization or if Contractor is adjudged as bankrupt, or if a general assignment of assets be made for the benefit of creditors; or if a receiver is appointed, or otherwise is guilty of a substantial violation of a provision of this Contract, then the City may by written notice to the Contractor, without prejudice to any right or remedy, terminate the employment of the Contractor and take possession of the site and of all materials, equipment, tools, construction equipment and machinery thereon owned by the Contractor and may finish the Work by whatever methods it may deem expedient. In such case, the Contractor and its surety shall be liable to the City for all excess cost sustained by the City because of such prosecution and completion including any additional legal, engineering or bid-letting costs therefore. In such case, the Contractor shall not be entitled to receive further payment. In the event the Contractor is found in a court of law to have been wrongfully terminated for cause, then such termination shall be deemed a termination for convenience and the Contractor shall be compensated as provided herein.
- 18.2 The City, within its sole discretion, may elect to terminate the Contract with the Contractor for convenience upon three (3) days written Notice to Contractor. In the event of such termination, Contractor shall cease immediately all operations and shall be compensated for all work performed as of the date of termination in accordance with the terms of payment in this contract. Contractor shall not be entitled to any anticipatory profits of other costs other than direct costs of demobilization.

19. MISCELLANEOUS:

- 19.1 The Contractor warrants to the City that all labor furnished to progress the Work under the Contract will be competent to perform the tasks undertaken, that the product of such labor will yield only first-class results, that materials and equipment furnished will be of good quality and new unless otherwise permitted by this Contract, and that the Work will be of good quality, free from faults and defects and in strict conformance with the Project Manual. All Work not conforming to these requirements may be considered defective.
- 19.2 The Contractor shall obtain and pay for all permits, fees and licenses necessary or ordinary for the Work. The Contractor shall comply with all lawful requirements, including federal and state laws, City and County laws and ordinances and building codes, applicable to the Work and shall give and maintain copies of all notices required by applicable law pertaining to the Work.
- 19.3 Both the business address of the Contractor given in the Bid or proposal upon which this Contract is founded, and the Contractor's Office near the Work, is hereby designated as the places to which all notices, letters, and other communications to the Contractor may be mailed or delivered. The delivering at either of the above named addresses, or depositing in any mailbox regularly maintained by the Post Office, of any notice, letter or other communication so addressed to the Contractor, and the date of said service shall be the date of such delivery or mailing. Such addresses may be changed at any time by an instrument in writing, executed by the Contractor, presented, and delivered to the Engineer and to the City. Nothing herein

contained shall be deemed to preclude or render inoperative the service of any notice, letter, or communication upon the Contractor personally.

- 19.4 It is mutually agreed by and between the parties to this Contract that all royalties and fees for and in connection with patents, or patent infringement, claims for materials, articles, apparatus, devices or equipment (as distinguished from processes) used in or furnished for the work shall be included in the Contract amount and the Contractor shall satisfy all demands that may be made at any time for such, and the Contractor shall at its cost and expense, defend any and all suits or proceedings that may be instituted at any time against the City for infringement or alleged infringement of any such patents involved in the work, and Contractor shall pay any award of damages.
- 19.5 The right of general administration of the City shall not make the Contractor an agent of the City, and the liability of the Contractor for all damages to persons, firms, and corporations, arising from the Contractor's execution of the Work, shall not be lessened because of such general administration, but as to all such persons, firms, and corporations, and the damages, if any, to them or their property. The Contractor herein is an independent Contractor in respect to the work.
- 19.6 For a period of time, from the inception of the Contract to three (3) years from the date of final payment under the Contract, the Contractor and subcontractors shall maintain books, accounts, ledgers, invoices, drafts, pages and other records pertaining to the performance of this Contract. At all reasonable times during this period these records shall be available within the State of Kansas at a field or permanent business office for inspection by authorized representatives of the City or of any other agency, which has contributed funds in connection with the Contract or to which the City is obligated to make such inspections available. In addition, this requirement shall be included in all subcontracts entered into in connection with this Contract.
- 19.7 Titles, subheadings used herein, and other Contract Documents are provided only as a matter of convenience and shall have no legal bearing on the interpretation of any provision of the Contract Documents.
- 19.8 No waiver of any breach of this Contract shall be construed to be a waiver of any other subsequent breach.
- 19.9 Should any provision of this Agreement or other Contract Documents be determined to be void, invalid, unenforceable or illegal for whatever reason, such provision(s) shall be null and void; provided, however, that the remaining provisions of this Agreement and/or the other Contract Documents shall be unaffected thereby and shall continue to be valid and enforceable.
- 19.10 The Contractor shall keep fully informed of all existing and current regulations of the City, and County, State, and National Laws, which in any way limit or control the actions or operations of those engaged upon the work, or affecting materials supplied, to or by them. The Contractor shall at all times observe and comply with all ordinances, laws, and regulations, and shall protect and indemnify the City and the City's officers and agents against any claims or liability arising from or based on any violation of the same.

- 19.11 Nothing contained in these Project Manual shall create, or be interpreted to create, privity or any other contractual agreement between the City and any person or entity other than the Contractor.
- 19.12 Duties and obligations imposed by the Contract Documents, rights, and remedies available hereunder shall be in addition to and not a limitation of duties, obligations, rights and remedies otherwise imposed or available by law.
- 19.13 No action or failure to act by the City, Engineer or Contractor shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval or acquiescence in a breach hereunder, except as may be specifically agreed in writing.
- 19.14 Contractor specifically acknowledges and confirms that: 1.) he/she has visited the site, made all inspections he deems appropriate and has read and fully understands the Contract Documents, including all obligations and responsibilities undertaken by he as specified herein and in other Contract Documents and knowingly accepts the same; 2.) he/she has furnished copies of all Contract Documents to his/her insurance carrier(s) and his/her surety(ies); and 3.) his/her insurance carrier(s) and surety(ies) agree to be bound as specified herein, in the Contract Documents and in the insurance policy(ies) and bonds as to liability and surety coverage.
- 19.15 It is specifically agreed between the parties executing this Agreement that the Contract Documents are not intended to create any third party beneficiary relationship nor authorize anyone not a party to this Agreement to maintain a suit for personal injuries or property damage pursuant to the terms or provisions of this Agreement. The duties, obligations and responsibilities of the parties to this Agreement with respect to third parties shall remain as imposed by law.
- 19.16 This agreement is entered into, under and pursuant to, and is to be construed and enforceable in accordance with the laws of the State of Kansas.

WITNESSETH:

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

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

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

WHEREAS, the Contractor has agreed to furnish at its own cost and expense all labor, tools,

equipment , materials and transportation required to construct and complete in good, first class and workmanlike manner, the Work in accordance with the Project Manual; and.

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

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

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

CITY OF PRAIRIE VILLAGE

MUSSELMAN AND HALL CONTRACTORS

By: _____
(signed)

By _____
(signed)

Ronald L. Shaffer _____

(typed name)

Mayor _____

(typed title)

City of Prairie Village _____

(typed company name)

7700 Mission Road _____

(typed address)

Prairie Village, Kansas, 66208 _____

(typed city, state, zip)

(date of execution)

(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 or general partner of the partnership, please provide documentation, which authorizes the signatory to bind the corporation or partnership. If a corporation, the Contractor shall furnish the City a current certificate of good standing, dated within ten (10) days of the date of this Contract.)

MAINTENANCE BOND

Bond Number _____

Bond _____

KNOW ALL MEN BY THESE PRESENTS:

That we, _____, as Principal and _____, as Surety, are held and firmly bound unto the City of Prairie Village, Kansas, in the full and just sum of _____ (\$ _____) for the payment of which, well and truly to be made, we, and each of us, bind ourselves, our heirs, executors and assigns, themselves, and its successors and assigns, jointly and severally, firmly by these presents.

Dated this _____ day of _____, 20____.

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

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

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

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

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

By: _____

Countersigned: _____

By: _____

By: _____

Kansas Resident Agent

Attorney-in-Fact

Power of Attorney attached.

STATUTORY BOND

KNOW ALL MEN BY THESE PRESENTS: That we _____ as Contractor, and _____ with General Offices in the City of _____, and authorized to transact business in the State of Kansas, as surety, are held and firmly bound unto the CITY OF PRAIRIE VILLAGE, KANSAS, and the STATE OF KANSAS, in the penal sum of _____ DOLLARS (\$ _____) lawful money of the United States of America, plus any change orders in excess thereof as approved by the City, for the payment of which sum well and truly to be made, we bind ourselves and our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents:

THE CONDITION OF THE FOREGOING OBLIGATION IS SUCH THAT:

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

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

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

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

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

_____ CONTRACTOR	_____ SURETY COMPANY
BY: _____ (SEAL)	BY: _____ (SEAL)
BY: _____ Attorney-in-Fact	BY: _____ Kansas Agent

PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS that we, the undersigned _____, hereinafter referred to as the "Contractor", and _____, a Corporation organized under the laws of the State of _____, and authorized to transact business in the State of Kansas as Surety, are held firmly bound unto the City of Prairie Village, Kansas, hereinafter referred to as "City", in the penal sum of _____ DOLLARS (\$ _____), lawful money of the United States of America, for the payment of which sum, well and truly to be made, we bind ourselves and our heirs, executors, administrators, successors, and assigns, jointly and severally, by these presents:

THE CONDITION OF THE FOREGOING OBLIGATION IS SUCH THAT:

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

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

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

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

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

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

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

CONTRACTOR

SURETY COMPANY

BY: _____
(SEAL)

BY _____
(SEAL)

(Official Title)

Attorney-in-Fact

BY: _____
(State Representative)

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



PUBLIC WORKS DEPARTMENT

Council Committee Meeting Date: May 17, 2010

Council Meeting Date: May 17, 2010

***COU2010-33: CONSIDER APPROVAL OF A CONTRACT WITH MUSSELMAN & HALL CONTRACTORS FOR THE 2010 CRACK SEAL/SLURRY SEAL PROGRAM.**

RECOMMENDATION

Move to authorize the Mayor to sign the construction contract with Musselman & Hall Contractors for Project P5000, 2010 Crack Seal/Slurry Seal Program for \$180,000.

COUNCIL ACTION REQUESTED MAY 17, 2010

BACKGROUND

On April 30, 2010, the City Clerk opened bids for Project P5000, 2010 Crack Seal/Slurry Seal Program. Two bids were received:

Musselman & Hall Contractors	\$162,144.00
Ballou Construction	\$323,295.00
Engineer's Estimate	\$196,715.00

There is \$180,000.00 budgeted for this project and the contract will be awarded for that amount.

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

FUNDING SOURCE

Funding is available in the 2010 Capital Infrastructure Program Project P5000.

ATTACHMENTS

1. Construction Agreement with Musselman & Hall Contractors

PREPARED BY

Keith Bredehoeft, Interim Public Works Director

May 10, 2010

PROJECT P5000:

2010 CRACK SEAL/SLURRY SEAL PROGRAM

CONSTRUCTION AGREEMENT

BETWEEN

CITY OF PRAIRIE VILLAGE, KS

AND

MUSSELMAN AND HALL CONTRACTORS

**CONSTRUCTION AGREEMENT
BETWEEN
THE CITY OF PRAIRIE VILLAGE, KANSAS
AND
MUSSELMAN AND HALL CONTRACTORS
FOR
PROJECT P5000 - 2010 CRACK SEAL/SLURRY SEAL PROGRAM**

THIS AGREEMENT, is made and entered into this ____ day of _____, 2010, by and between the City of Prairie Village, Kansas, hereinafter termed the "City", and Musselman and Hall Contractors, hereinafter termed in this agreement, "Contractor", for the construction and completion of Project , designated, described and required by the Project Manual and Bid proposal, to wit:

CONTRACT COST: The City shall pay the Contractor for the performance of the Work embraced in this Contract, and the Contractor will accept in full compensation therefore the sum (subject to adjustment as provided by the Contract) of One Hundred and Eighty Thousand 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.

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

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

Contractor agrees that time is of the essence and any term pertaining to Contractor timely performing so as to achieve Total Completion when required under the Contract is a material provision of this Contract. Further, the parties acknowledge that City's damages in the event of delay are difficult to ascertain and consequently agree that, in the event and to the extent that actual date of Total Completion is delayed beyond the required date for Total Completion for the Total Project or Project Segments attributable solely or concurrently to (i) an act or omission of Contractor or any of its subcontractors or suppliers, or (ii) in whole or in part, to any other event or condition within the Contractor's reasonable control (and not for reasons solely attributable to City),

the Contractor shall be assessed a liquidated damage, and not as a penalty, in the amount set forth in the Special Conditions for each calendar day beyond the applicable Total Completion date. Such amount shall be deducted from any amounts due Contractor under this agreement.

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

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

1. DEFINITIONS:

1.1 Following words are given these definitions:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SPECIFICATIONS shall mean those portions of the Project Manual consisting of written technical descriptions of materials, equipment, construction methods, standards and workmanship as applied to the Work and certain administrative details applicable thereto. They may include, but not necessarily be limited to: design specifications, e.g. measurements, tolerances, materials, inspection requirements and other information relative to the work; performance specifications, e.g., performance characteristics required, if any; purchase

description specifications, e.g. products or equipment required by manufacturer, trade name and/or type; provided, however, equivalent alternatives (including aesthetics, warranty and manufacturer reputation) may be substituted upon written request and written approval thereof by the City.

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

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

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

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

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

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

2. ENTIRE AGREEMENT:

2.1 The Contract Documents, together with the Contractor's Performance, Maintenance and Statutory bonds for the Work, constitute the entire and exclusive agreement between the City and the Contractor with reference to the Work. Specifically, but without limitation, this Contract supersedes all prior written or oral communications, representations and negotiations, if any, between the City and the Contractor. The Contract may not be amended or modified except by a modification as hereinabove defined. These Contract Documents do not, nor shall they be construed to, create any contractual relationship of any kind between the City and any Subcontractor or remote tier Subcontractor.

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

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 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 Engineer of any inconsistency, ambiguity, error or omission, which the Contractor may discover, or should have discovered, with respect to these documents before proceeding with the affected Work. The review, issuance, or the express or implied approval by the City or the Engineer of the Contract Documents shall not relieve the Contractor of the continuing duties imposed hereby, nor shall any such review be evidence of the Contractor's compliance with this Contract.

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 Engineer 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 Pursuant to K.S.A. No. 16-133, if the Contractor to whom the Contract is awarded is not a resident firm of the State of Kansas, he shall execute and file "Certificate of Appointment of Process of Agent" with the Clerk of the District Court at the Johnson County Courthouse. These forms may be obtained at the Office of the Clerk of the District Court. After execution of the documents, they shall be filed with the Clerk of the District Court. A filing fee of Five Dollars (\$5.00) is required. These certificates are pursuant to the General Statutes of Kansas, and shall be filed prior to the formal execution of the Contract Documents. Failure to comply with these requirements shall disqualify the Contractor for the awarding of this Contract.

4. WORK SUPERINTENDENT

- 4.1 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.

- 4.2 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.
- 4.3 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.
- 4.4 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.
- 4.5 The Contractor will be required to contact the Engineer daily to advise whether and/or where the Contractor and/or the Subcontractor's crews will be working that day, in order that the Engineer's representative is able to monitor properly the Work.

5. ENGINEER

- 5.1 It is mutually agreed by and between the parties to this Contract Agreement that the Engineer shall act as the representative of the City and shall observe, as required, the work included herein.
- 5.2 In order to prevent delays and disputes and to discourage litigation, it is further agreed by and between the parties to this Contract that the Engineer shall, in good faith and to the best of its ability, determine the amount and quantities of the several kinds of work which are to be paid for under this Contract; that the Engineer shall determine, where applicable, questions in relation to said Work and the construction thereof; that Engineer shall, where applicable decide questions which may arise relative to the execution of this Contract on the part of said Contractor; that the Engineer's decisions and findings shall be the conditions precedent to the rights of the parties hereto, to any action on the Contract, and to any rights of the Contractor to receive any money under this Contract provided, however, that should the Engineer render any decision or give any direction which, in the opinion of either party hereto, is not in accordance with the meaning and intent of this Contract, either party may file with the Engineer and with the other party, within thirty (30) days a written objection to the decision or direction so rendered and, by such action, may reserve the right to submit the question to determination in the future.
- 5.3 The Engineer, unless otherwise directed or agreed to by the City in writing, will perform those duties and discharge those responsibilities allocated to the Engineer as set forth in this Contract. The Engineer shall be the City's representative from the effective date of this Contract until final payment has been made. The Engineer shall be authorized to act on behalf of the City only to

the extent provided in this Contract.

- 5.4 The City and the Contractor shall communicate with each other in the first instance through the Engineer.
- 5.5 The Engineer shall be the initial interpreter of the requirements of the Project Manual and the judge of the performance by the Contractor. The Engineer shall render written graphic interpretations necessary for the proper execution or progress of the Work with reasonable promptness on request of the Contractor.
- 5.6 The Engineer will review the Contractor's Applications for Payment and will certify to the City for payment to the Contractor those amounts then due the Contractor as provided in this Contract. The Engineer's recommendation of any payment requested in an Application for Payment will constitute a representation by Engineer to City, based on Engineer's on-site observations of the Work in progress as an experienced and qualified design professional and on Engineer's review of the Application for Payment and the accompanying data and schedules that the Work has progressed to the point indicated; that, to the best of the Engineer's knowledge, information and belief, the quality of the Work is in accordance with the Project Manual (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, to the results of any subsequent tests called for in the Project Manual, to a final determination of quantities and classifications for Unit Price Work if such is called for herein, and to any other qualifications stated in the recommendation); and that Contractor is entitled to payment of the amount recommended. However, by recommending any such payment Engineer will not thereby be deemed to have represented that exhaustive or continuous on-site inspections have been made to check the quality or the quantity of the Work beyond the responsibilities specifically assigned to Engineer in the Project Manual or that there may not be other matters or issues between the parties that might entitle Contractor to be paid additionally by the City or the City to withhold payment to Contractor.
- 5.7 The Engineer may refuse to recommend the whole or any part of any payment if, in Engineer's opinion, it would be incorrect to make such representations to City. Engineer may also refuse to recommend any such payment, or, because of subsequently discovered evidence or the results of subsequent inspections or tests, nullify any such payment previously recommended, to such extent as may be necessary in the Engineer's opinion to protect the City from loss because:
- The Work is defective, or completed Work has been damaged requiring correction or replacement,
 - The Contract Price has been reduced by Written Amendment or Change Order,
 - The City has been required to correct defective Work or complete Work in accordance with the Project Manual.
- 5.8 The City may refuse to make payment of the full amount recommended by the Engineer because claims have been made against City on account of Contractor's performance or furnishing of the Work or liens have been filed in connection with the Work or there are other items entitling City to a set-off against the amount recommended, but City must give Contractor written notice (with a copy to Engineer) stating the reasons for such action.
- 5.9 The Engineer will have the authority to reject Work, which is defective or does not conform to the requirements of this Contract. If the Engineer deems it necessary or advisable, the Engineer shall have authority to require additional inspection or testing of the Work for compliance with Contract requirements.

- 5.10 The Engineer will review, or take other appropriate action as necessary, concerning the Contractor's submittals, including Shop Drawings, Product Data and Samples. Such review, or other action, shall be for the sole purpose of determining general conformance with the design concept and information given through the Project Manual.
- 5.11 The Engineer shall have authority to order minor changes in the Work not involving a change in the Contract Price or in Contract Time and consistent with the intent of the Contract. Such changes shall be effected by verbal direction and then recorded on a Field Order and shall be binding upon the Contractor. The Contractor shall carry out such Field Orders promptly.
- 5.12 The Engineer, upon written request from the Contractor shall conduct observations to determine the date of substantial completion and the date of final acceptance. The Engineer will receive and forward to the City for the City's review and records, written warranties and related documents from the Contractor required by this Contract and will issue a final Certificate for Payment to the City upon compliance with the requirements of this Contract.
- 5.13 The Engineer's decisions in matters relating to aesthetic effect shall be final if consistent with the intent of this Contract.
- 5.14 The Engineer will NOT be responsible for Contractor's means, methods, techniques, sequences, or procedures or construction, or the safety precautions and programs incident thereto and will not be responsible for Contractor's failure to perform the work in accordance with the Project Manual. The Engineer will not be responsible for the acts or omissions of the Contractor or any Subcontractor or any of its or their agents or employees, or any other person at the site or otherwise performing any of the work except as may otherwise be provided.
- 5.15 Any plan or method of work suggested by the Engineer, or other representatives of the City, to the Contractor, but not specified or required, if adopted or followed by the Contractor in whole or in part, shall be used at the risk and responsibility of the Contractor, and the Engineer and the City will assume no responsibility therefore.
- 5.16 It is agreed by the Contractor that the City shall be and is hereby authorized to appoint or employ, either directly or through the Engineer, such City representatives or observers as the City may deem proper, to observe the materials furnished and the work performed under the Project Manual, and to see that the said materials are furnished, and the said work performed, in accordance with the Project Manual therefore. The Contractor shall furnish all reasonable aid and assistance required by the Engineer, or by the resident representatives for proper observation and examination of the Work and all parts thereof.
- 5.17 The Contractor shall comply with any interpretation of the Project Manual by the Engineer, or any resident representative or observer so appointed, when the same are consistent with the obligations of the Project Manual. However, should the Contractor object to any interpretation given by any subordinate engineer, resident representative or observer, the Contractor may appeal in writing to the City Director of Public Works for a decision.
- 5.18 Resident representatives, observers, and other properly authorized representatives of the City or Engineer shall be free at all times to perform their duties, and intimidation or attempted intimidation of any one of them by the Contractor or by any of its employees, shall be sufficient reason, if the City so decides, to annul the Contract.

5.19 Such observation shall not relieve the Contractor from any obligation to perform said work strictly in accordance with the Project Manual.

6. WORK SCHEDULE:

- 6.1 The Contractor, within ten (10) calendar days after being instructed to do so in a written notice from the City, shall commence work to be done under this Contract.
- 6.2 The rate of progress shall be such that the Work shall have been completed in accordance with the terms of the Contract Documents on or before the completion date for the construction period named in the contract agreement, subject to any extension or extensions of such time made as hereinafter provided.
- 6.3 The Contractor shall be required to furnish the Engineer with a schedule setting forth in detail (in the critical path method) the sequences proposed to be followed, and giving the dates on which it is expected that portions of the work will be started and completed.
- 6.4 If at any time, in the opinion of the Engineer or City, proper progress is not being maintained; such changes shall be made in the schedule and resubmitted for consideration.
- 6.5 If the Contractor has not completed Work segments and is within a non-performance penalty period, he/she shall not be allowed to undertake a new Work segment until the Work segment in dispute is completed, unless expressly permitted by the City.
- 6.6 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 Facia Violation of City Municipal Code 11-202.
- 6.7 No work shall be undertaken on Saturdays, Sundays and Holidays (Christmas, New Years, Martin Luther King's Birthday, President's Day, Memorial Day, Independence Day, Labor Day and Thanksgiving) without the express written approval of the City Engineer. If it is necessary to perform proper care, maintenance, or protection of work already completed or of equipment used, or in the case of an emergency verbal permission may be obtained through the Engineer.
- 6.8 Night work may be established by the Contractor, as a regular procedure, with the written permission of the City; such permission, however, may be revoked at any time by the City if the Contractor fails to maintain adequate equipment for the proper prosecution and control of all operations performed as part of the Work.
- 6.9 The Contractor shall provide 24 hours notice prior to commencing any work to the City Engineer. The Contractor shall communicate immediately any changes in the work schedule to the City Engineer.

7. DELAYS AND EXTENSIONS OF TIME

- 7.1 In executing the Contract, the Contractor expressly covenants and agrees that, in undertaking the completion of the work within the time herein fixed, he has taken into consideration and made allowances for all of the ordinary delays and hindrances incident to such work, whether growing out of delays in securing materials, workers, weather conditions or otherwise. No

charge shall be made by the Contractor for hindrances or delays from any cause during the progress of the Work, or any portion thereof, included in this Contract.

- 7.2 Should the Contractor, however, be delayed in the prosecution and completion of the work by reason of delayed shipment orders, or by any changes, additions, or omissions therein ordered in writing by the City, or by strikes or the abandonment of the work by the men engaged thereon through no fault of the Contractor, or by any act taken by the U.S. Government such as the commandeering of labor or materials, embargoes, etc., which would affect the fabrication or delivery of materials and/or equipment to the work; or by neglect, delay or default of any other contractor of the City, or delays caused by court proceedings; the Contractor shall have no claims for damages or additional compensation or costs for any such cause or delay; but he shall in such cases be entitled to such extension of the time specified for the completion of the work as the City and the Engineer shall award in writing on account of such delays, provided, however, that claim for such extension of time is made by the Contractor to the City and the Engineer in writing within one (1) week from the time when any such alleged cause for delay shall occur.

8. ADVERSE WEATHER:

- 8.1 Extensions of time for adverse weather shall be granted only under the conditions as hereinafter provided.
- 8.2 For conditions of weather or conditions at the site, so unusual as not to be reasonably anticipated, as determined by the Engineer, an average or usual number of inclement days when work cannot proceed are to be anticipated during the construction period and are not to be considered as warranting extension of time.
- 8.3 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.
- 8.4 Unusually Severe Weather is defined as weather, which is more severe than the adverse weather anticipated for the season, location, or activity involved.
- 8.5 Time Extensions for Unusually Severe Weather:
- In order for any request for time extension due to unusually severe weather to be valid, the Contractor must document both of the following conditions:
 - The weather experienced at the Work site during the Contract period is more severe than the adverse weather anticipated for the Work location during any given month.
 - The unusually severe weather actually caused a delay to the completion of the Work. The delay must be beyond the control and without fault or negligence by the Contractor.
- 8.6 The following schedule of monthly-anticipated adverse weather delays will constitute the baseline for monthly weather time evaluations. The Contractor's Progress Schedule must reflect these anticipated adverse weather delays in all weather affected activities:

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

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

- 8.7 Upon receipt of the Notice to Proceed, and continuing throughout the Contract, the Contractor shall record on their daily construction report, the occurrence of adverse weather and resultant impact to normally scheduled work.
- 8.8 The number of actual adverse weather delay days shall include days affected by actual adverse weather (even if adverse weather occurred in the previous month), and shall be calculated chronologically from the first to the last day of each month, and be recorded as full workdays.
- 8.9 If the number of actual adverse weather delay days in a given month exceeds the number of days anticipated above, the difference shall be multiplied by 7/5 to convert any qualifying workday delays to calendar days. The resulting number of qualifying lost days shall be added to the Contract Time.
- 8.10 The determination that unusually severe weather occurred does not automatically mean an extension of time will be granted. The Contractor must substantiate the unusually severe weather delayed work activities on the critical path of the Progress Schedule.
- 8.11 Full consideration for equivalent fair weather workdays shall be given. If the number of actual adverse weather delays in a given month is less than the number of days anticipated as indicated above, the difference shall be multiplied by 7/5 to convert any workday increases to calendar days. The resulting number of qualifying extra days will be accumulated and subtracted from any future month's days lost due to unusually severe weather.
- 8.12 The net cumulative total of extra days/lost days shall not result in a reduction of Contract Time and the Date of Substantial Completion shall not be changed because of unusually favorable weather.
- 8.13 In converting workdays to calendar days, fractions 0.5 and greater shall be rounded up to the next whole number. Fractions less than 0.5 shall be dropped.
- 8.14 The Contractor shall summarize and report all actual adverse weather delay days for each month to the Engineer by the tenth (10th) day of the following month. A narrative indicating the impact of adverse weather conditions on the scheduled critical activities shall be included.
- 8.15 Any claim for extension of time due to unusually severe weather shall be submitted to the Engineer within 7 days of the last day of the commencement of the event giving rise to the delay occurred. Resolution of any claim shall follow the procedures established by the Regulations of the Contract and Special Conditions and as described above.
- 8.16 The Contractor shall include and indicate the monthly-anticipated adverse weather days, listed above, in their Progress Schedule. (Reference Section 3.1.1 for Progress Schedule)

requirements)

- 8.17 The Contractor shall indicate the approved adverse weather days (whether less or more than the anticipated days) in their monthly Progress Schedule update.

9. PAYMENT PROCEDURE:

- 9.1 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the City no later than the time of payment. The Contractor further warrants that upon submittal on the first day of each month of an Application for Payment, all Work for which payments have been received from the City shall be free and clear of liens, claims, security interest or other encumbrances in favor of the Contractor or any other person or entity whatsoever.
- 9.2 Each application for payment must be submitted with Contractor's waiver for period of construction covered by application. Each progress payment will be submitted with executed waivers from the subcontractors or sub-contractors and suppliers for the previous period of construction covered by the previous application. The final payment application must be submitted together with or preceded by final or complete waivers from every entity involved with performance of the work covered by the payment request.
- 9.3 The Contractor will submit waivers on forms, and executed in a manner, acceptable to City.
- 9.4 The Contractor shall promptly pay each Subcontractor out of the amount paid to the Contractor because of such Subcontractor's Work the amount to which such Subcontractor is entitled. In the event the City becomes informed that the Contractor has not paid a Subcontractor as herein provided, the City shall have the right, but not the duty, to issue future checks in payment to the Contractor of amounts otherwise due hereunder naming the Contractor and such Subcontractor as joint payees. Such joint check procedure, if employed by the City, shall be deemed payment to the Contractor but shall create no rights in favor of any person or entity beyond the right of the named payees to payment of the check and shall not be deemed to commit the City to repeat the procedure in the future.
- 9.5 The Engineer will, upon receipt of a written Application for Payment from the Contractor, review the amount of work performed during the preceding period and the value thereof at the unit prices contracted. From the amounts so ascertained, there shall be deducted ten percent (10%) to be retained until after final completion of the entire work to the satisfaction of the City. The Engineer will submit an estimate each month to the City for payment to the Contractor, except that no amount less than \$500.00 will be submitted unless the total amount of the Contract remaining unpaid is less than \$500.00.
- 9.6 Deductions will be made from progress payments if the Contract includes a provision for a lump sum or a percentage deduction. Lump sum deductions will be that portion of the stated lump sum computed as the ratio that the amount earned bears to the Contract amount. Percentage deductions will be computed at the stated percentage of the amount earned.
- 9.7 No progress payment, nor any use or occupancy of the Work by the City, shall be interpreted to constitute an acceptance of any Work not in strict accordance with this Contract.
- 9.8 The City may decline to make payment, may withhold funds, and, if necessary, may demand the return of some or all of the amounts previously paid to the Contractor, to protect the City from

loss because of:

- Defective Work not remedied by the Contractor;
- Claims of third parties against the City or the City's property;
- Failure by the Contractor to pay Subcontractors or others in a prompt and proper fashion;
- Evidence that the balance of the Work cannot be completed in accordance with the Contract for the unpaid balance of the Contract Price;
- Evidence that the Work will not be completed in the time required for substantial or final completion;
- Persistent failure to carry out the Work in accordance with the Contract;
- Damage to the City or a third party to whom the City is, or may be, liable;
- Evidence that the work is not progressing according to agreed upon schedule by both parties.

9.9 In the event that the City makes written demand upon the Contractor for amounts previously paid by the City as contemplated in this subparagraph, the Contractor shall promptly comply with such demand and refund such monies to the City.

9.10 Neither the observation by the City or any of the City's officials, employees, or agents, nor any order by the City for payment of money, nor any payment for, or acceptance of, the whole or any part of the work by the City or Engineer, nor any extension of time, nor any possession taken by the City or its employees, shall operate as a waiver of any provision of this Contract, or of any power herein reserved to the City, or any right to damages herein provided, nor shall any waiver of any breach in this Contract be held to be a waiver of any other or subsequent breach.

10. COMPLETION AND FINAL PAYMENT

10.1 Work completion shall be defined as all elements of the Work or work segment, being complete including all subsidiary items and "punch-list" items.

10.2 When all of the Work is finally complete and the Contractor is ready for a final inspection, it shall notify the City and the Engineer thereof in writing. Thereupon, the Engineer will make final inspection of the Work and, if the Work is complete in accordance with this Contract, the Engineer will promptly issue a final Certificate for Payment certifying to the City that the Work is complete and the Contractor is entitled to the remainder of the unpaid Contract Price, less any amount withheld pursuant to this Contract. If the Engineer is unable to issue its final Certificate for Payment and is required to repeat its final inspection of the Work, the Contractor shall bear the cost of such repeat final inspection(s), which cost may be deducted by the City from the Contractor's full payment.

10.3 The Contractor shall not be entitled to any payment unless and until it submits to the Engineer its affidavit that all payrolls, invoices for materials and equipment, and other liabilities connected with the Work for which the City, or the City's property might be responsible, have been fully paid or otherwise satisfied; releases and waivers of lien from all Subcontractors and Suppliers of the Contractor and of any and all other parties required by the City; and consent of Surety, if any, to final payment. If any third party fails or refuses to provide a release of claim or waiver of lien as required by the City, the Contractor shall furnish a bond satisfactory to the City to discharge any such lien or indemnify the City from liability.

- 10.4 The City shall make final payment of all sums due the Contractor within thirty days of the later of the Engineer's execution of a final Certificate for Payment.
- 10.5 Acceptance of final payment shall constitute a waiver of all claims against the City by the Contractor except for those claims previously made in writing against the City by the Contractor, pending at the time of final payment, and identified in writing by the Contractor as unsettled at the time of its request for final inspection.

11. CLAIMS BY THE CONTRACTOR

- 11.1 All Contractor claims shall be initiated by written notice and claim to the Engineer. Such written notice and claim must be furnished within seven calendar days after occurrence of the event, or the first appearance of the condition, giving rise to the claim.
- 11.2 The Contractor shall diligently proceed with performance of this Contract whether or not there be such a claim pending and the City shall continue to make payments to the Contractor in accordance with this Contract. The resolution of any claim shall be reflected by a Change Order executed by the City, the Engineer and the Contractor.
- 11.3 Should concealed and unknown conditions which could not, with reasonable diligence, have been discovered in the performance of the Work (a) below the surface of the ground or (b) in an existing structure differ materially with the conditions indicated by this Contract, or should unknown conditions of an unusual nature differing materially from those ordinarily encountered in the area and generally recognized as inherent in Work of the character provided by this Contract, be encountered, the Contract Price shall be equitably adjusted by the Change Order upon the written notice and claim by either party made within seven (7) days after the first observance of the condition. As a condition precedent to the City having any liability to the Contractor for concealed or unknown conditions, the Contractor must give the City written notice of, and an opportunity to observe, the condition prior to disturbing it. The failure by the Contractor to make the written notice and claim as provided in this Subparagraph shall constitute a waiver by the Contractor of any claim arising out of or relating to such concealed or unknown condition.
- 11.4 If the Contractor wishes to make a claim for an increase in the Contract Price, as a condition precedent to any liability of the City therefore, the Contractor shall give the City written notice of such claim within seven (7) days after the occurrence of the event, or the first appearance of the condition, giving rise to such claim. Such notice shall be given by the Contractor before proceeding to execute any additional or changed Work. The failure by the Contractor to give such notice and to give such notice prior to executing the Work shall constitute a waiver of any claim for additional compensation.
- 11.5 The City reserves the right to increase or decrease quantities, and alter the details of construction including grade and alignment as the Engineer may consider necessary or desirable, by approved Change Order. Such modifications shall not invalidate the Contract nor release the surety. Unless such alterations and increases or decreases change the total cost of the Work, based on the originally estimated quantities and the unit prices bid, by more than 25 percent, or change the total cost of any major item, based on the originally estimated quantities and the unit price bid, by more than 25 percent, the Contractor shall perform the work altered, increased or decreased, at a negotiated price or prices. (A major item shall mean any bid item, the total cost of which exceeds 12-1/2 percent of the total Contract amount based on the

- proposed quantity and the contract unit price).
- 11.6 When the alterations cause an increase or decrease in excess of the 25 percent indicated above, either the Contractor or the Engineer may request an adjustment of the unit price to be paid for the item or items.
- 11.7 If a mutually agreeable adjustment cannot be obtained, the City reserves the right to terminate the Contract as it applies to the items in question and make such arrangements as may be deemed necessary to complete the Work.
- 11.8 In connection with any claim by the Contractor against the City for compensation in excess of the Contract Price, any liability of the City for the Contractor's costs shall be strictly limited to direct costs incurred by the Contractor and shall not include standby costs, indirect costs or consequential damages of the Contractor. The City shall not be liable to the Contractor for claims of third parties.
- 11.9 If the Contractor is delayed in progressing any task which at the time of the delay is then critical or which during the delay becomes critical, as the sole result of any act or neglect to act by the City or someone acting in the City's behalf, or by changes ordered in the Work, unusual delay in transportation, unusually adverse weather conditions not reasonably anticipated, fire or any causes beyond the Contractor's control, then the date for achieving Final Acceptance of the Work shall be extended upon the written notice and claim of the Contractor to the City, for such reasonable time as the City may determine. Any notice and claim for an extension of time by the Contractor shall be made not more than seven calendar days after the occurrence of the event or the first appearance of the condition-giving rise to the claim and shall set forth in detail the Contractor's basis for requiring additional time in which to complete the Work. In the event the delay to the Contractor is a continuing one, only one notice and claim for additional time shall be necessary. If the Contractor fails to make such claim as required in this subparagraph, any claim for an extension of time shall be waived.
- 11.10 The Contractor shall delay or suspend the progress of the work or any part thereof, whenever so required by written order of the City, and for such periods of time as required; provided, that in the event of such delay or delays or of such suspension or suspensions of the progress of the work, or any part thereof, the time for completion of work so suspended or of work so delayed by such suspension or suspensions shall be extended for a period equivalent to the time lost by reason of such suspension or suspensions; but such order of the City or Engineer shall not otherwise modify or invalidate in any way, any of the provisions of this Contract. In the event that the work shall be stopped by written order of the City, any expense, which, in the sole opinion and judgment of the City, is caused by the City, shall be paid by the City to the Contractor.
- 11.11 In executing the Contract Documents, the Contractor expressly covenants and agrees that, in undertaking to complete the Work within the time herein fixed, it has taken into consideration and made allowances for all hindrances and delays incident to such work, whether growing out of delays in securing materials or workers or otherwise. No charge shall be made by the Contractor for hindrances or delays from any cause during the progress of the work, or any portion thereof, included in this Contract, except as provided herein.
- 11.12 In addition to the Project Manual particular to Mobilization found elsewhere in this document, additional mobilization shall not be compensable for work outside of the designated areas for

work deemed essential by the City. A quantity of work equal to as much as 10% of the total Contract may be required to be performed beyond the boundaries of the designated work areas

12. CHANGES IN THE WORK

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

and forever releases any claim including impact against the City for additional time or compensation for matters relating to or arising out of or resulting from the Work included within or affected by the executed Change Order.

13. INSURANCE AND HOLD HARMLESS.

- 13.1 The Contractor shall assume full responsibility for the protection of all public and private property, structures, sewers, and utilities, both above and below the ground, along, beneath, above, across or near the site or sites of the work being performed under this Contract, or which are in any manner affected by the prosecution of the Work or the transportation of men/women or materials in connection therewith. Barriers shall be kept placed at all times to protect persons other than those engaged on or about the Work from accident, and the Contractor will be held responsible for all accidents to persons or property resulting from the acts of Contractor or its employees.
- 13.2 To the fullest extent permitted by law, the Contractor shall indemnify, defend, and hold harmless the City, the Engineer, and their agents and employees from and against all claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from the performance of the Work, provided that any such claim, damage, loss or expense (1) is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of property (other than the Work itself) including the loss of use resulting there-from, and (2) is caused in whole or in part by any intentional or negligent act or omission of the Contractor, any Subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity, which would otherwise exist.
- 13.3 All property damaged shall be repaired or replaced to a condition immediately prior to the time of damage, and to the satisfaction of the City.
- 13.4 All loss or damage arising out of the nature of the work to be done, or from the action of the elements, or from floods or overflows, or from ground water, or from unusual obstructions or difficulties, or any other natural or existing circumstances either known or unforeseen, which may be encountered in the prosecution of the said work shall be sustained and borne by the Contractor at its own cost and expense.
- 13.5 The Contractor shall give reasonable notice to the City or owners of public or private property and utilities when such property is liable to injury or damage through the performance of the Work, and shall make all necessary arrangements with such City or owners relative to the removal and replacement or protection of such property or utilities.
- 13.6 The Contractor shall satisfactorily shore, support, and protect all structures and all pipes, sewers, drains, conduits, and other utility facilities, and shall be responsible for any damage resulting thereto. The Contractor shall not be entitled to any damages or extra compensation because of any postponement, interference, or delay caused by any such structures and facilities being on the line of the Work whether they are shown on the plans or not, specifically including, but not limited to, damages due to delay in utility relocation.
- 13.7 The Contractor shall secure and maintain, throughout the duration of this Contract, insurance from a company authorized to do business in the State of Kansas. Such insurance shall be of

such types and in such amounts as may be necessary to protect himself and the interests of the City and agents of the City against all hazards or risks of loss as hereinafter specified including an endorsement covering explosion, collapse, blasting and damage to underground property if applicable as specified in these Contract Documents. The form and limits of such insurance, together with the underwriter thereof in each case, shall be approved by the City, but regardless of such approval, it shall be the responsibility of the Contractor to maintain adequate insurance coverage at all times. Failure of the Contractor to maintain adequate insurance coverage shall not relieve it of any contractual responsibility or obligation. The insurance shall be provided on an occurrence basis and, not claims made basis.

- 13.8 The City and the Engineer shall be a named insured on such policies. Satisfactory certificates of insurance shall be filed with the City prior to starting any construction work on this Contract. The certificates shall state that thirty (30) days written notice will be given to the City before any policy coverage thereby is changed or canceled.
- 13.9 The Contractor shall secure and maintain through the duration of this Contract insurance on an occurrence basis of such types and in such amounts as may be necessary to protect the Contractor and the City and agents of the City against all hazards or risks of loss as hereinafter specified. The form and limits of such insurance, together with the underwriter thereof in each case, shall be approved by the City, but regardless of such approval, it shall be the responsibility of the Contractor to maintain adequate insurance coverage at all times. Failure of the Contractor to maintain adequate coverage shall not relieve it of any contractual responsibility or obligation, including but not limited to, the indemnification obligation.
- 13.10 Satisfactory certificates of insurance shall be filled with the City prior to the Contractor starting any construction work on this Contract. The Certificates shall state that the thirty (30) days written notice will be given to the City before any policy covered thereby is changed or cancelled. Failure by the Contractor to furnish the required insurance within the time specified in the notice of award of the Contract by the City, at the City option, may be the basis for the City exercising its right to terminate the Contract.
- 13.11 The liability limits shall be as stated:
- Worker's Compensation and Employer's Liability: This insurance shall protect the Contractor against all claims under applicable state worker's compensation laws. The Contractor shall also be protected against claims for injury, disease, or death of employees, which, for any reason, may not fall within the provisions of a worker's compensation law. This policy shall include an "all states" endorsement.
 - Automobile Liability.: This insurance shall be written in comprehensive form and shall protect the Contractor against all claims for injuries to members of the public and damage to property of others arising from the use of motor vehicles, and shall cover operation on and off the site of all motor vehicles licensed for highway use, whether they are owned, non-owned, or hired. Unless otherwise specified, Contractor's insurance shall include the following:
 - \$300,000 single limit (on contracts less than \$100,000)
 - \$1,000,000 single limit (on contracts \$100,000 and more)
 - Commercial General Liability. This insurance shall be written in comprehensive form including Products, completed operations and Personal and Advertising injury and shall protect the

Contractor against all claims arising from injuries to members of the public or damage to property of others arising out of any act or omission of the Contractor or its agents, employees, or subcontractors. In addition, this policy shall specifically insure the contractual liability assumed by the Contractor under this Contract entitled "Insurance and Hold Harmless." The property damage liability coverage shall contain no exclusion relative to blasting, explosion, collapse of building, or damage to underground property. Unless otherwise specified, Contractor's insurance shall include the following:

\$2,000,000 combined single limit (on contracts in excess of \$100,000)
\$300,000 combined single limit (on contracts in excess of \$10,000 to \$100,000)
\$100,000 combined single limit (on contracts of \$10,000 and less)

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

14. INDEMNITY

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

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

- 14.2 For purposes of this Contract, and without in any way limiting indemnification obligations that may be set forth elsewhere in the Contract, the Contractor hereby agrees to indemnify, defend and hold harmless the City and County from any and all Loss where Loss is caused or incurred or alleged to be caused or incurred in whole or in part as a result of the negligence or other actionable fault of the Contractor, his/her employees, agents, Subcontractors and suppliers.
- 14.3 It is agreed as a specific element of consideration of this Contract that this indemnity shall apply notwithstanding the joint, concurring or contributory or comparative fault or negligence of the City and County or any third party and, further, notwithstanding any theory of law including, but not limited to, a characterization of the City's or County's or any third party's joint, concurring or contributory or comparative fault or negligence as either passive or active in nature.
- 14.4 Nothing in this section shall be deemed to impose liability on the Contractor to indemnify the City or County for Loss when the negligence or other actionable fault the City is the sole cause of Loss.
- 14.5 With respect to the City's or County's rights as set forth herein, the Contractor expressly waives all statutory defenses, including, but not limited to, those under workers compensation,

contribution, comparative fault or similar statutes to the extent said defenses are inconsistent with or would defeat the purpose of this section.

15. SUCCESSORS AND ASSIGNS

- 15.1 The City and Contractor bind themselves, their successors, assigns and legal representatives to the other party hereto and to successors, assigns and legal representatives of such other party in respect to covenants, agreements and obligations contained in this Contract.
- 15.2 The Contractor shall not assign or sublet the work, or any part thereof, without the previous written consent of the City, nor shall it assign, by power of attorney or otherwise, any of the money payable under this Contract unless by and with the like written consent of the City. In case the Contractor assigns all, or any part of any moneys due or to become due under this Contract, the instrument of assignment shall contain a clause substantially to the 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.
- 15.3 Should any Subcontractor fail to perform in a satisfactory manner, the work undertaken, its subcontract shall be immediately terminated by the Contractor upon notice from the City. Performing in an unsatisfactory manner is defined as consistently having more than 10% of work unacceptable. The Contractor shall be as fully responsible to the City for the acts and omissions of the subcontractors, and of persons either directly or indirectly employed by them, as Contractor is for the acts and omissions of persons directly employed. Nothing contained in this Contract shall create any contractual relations between any Subcontractor and the City, nor shall anything contained in the Contract Documents create any obligation on the part of the City to pay or to see to the payment of any sums due any Subcontractor.
- 15.4 The Contractor shall not award subcontracts which total more than forty-five (45%) of the Contract Price and shall perform within its own organization work amounting to not less than fifty-five percent (55%) of the total Contract Price. Approval by the City of any Subcontractor shall not constitute a waiver of any right of the City to reject defective work, material or equipment not in compliance with the requirements of the Contract Documents. The Contractor shall not make any substitution for any Subcontractor accepted by the City unless the City so agrees in writing.
- 15.5 The Contractor shall not subcontract, sell, transfer, assign or otherwise dispose of the Contract or any portion thereof without previous written consent from the City. In case such consent is given, the Contractor, shall be permitted to subcontract a portion thereof, but shall perform with his/her own organization work amounting to not less than fifty five (55%) of the total Contract Price. No subcontracts, or other transfer of Contract, shall release the Contractor of its liability under the Contract and bonds applicable thereto.
- 15.6 The Contractor shall cause appropriate provisions to be inserted in all subcontracts relative to the Work to bind Subcontractors to the Contractor by the terms of the Contract Documents insofar as applicable to the work of the Subcontractor and to give the Contractor the same power to terminate any Subcontract as the City has to terminate the Contractor under any provisions of the Contract Documents.
- 15.7 Prior to the City's approval of the Contract bid, the successful bidder shall submit to the City for

acceptance, a list of names of all Subcontractors proposed for portions of the work and shall designate which work each is to perform.

- 15.8 The City shall, prior to the City's approval of the Contract bid, notify the successful bidder, in writing, if the City, after due investigation, has reasonable objection to any Subcontractor on such list, and the Contractor shall substitute a Subcontractor acceptable to the City at no additional cost to the City or shall be allowed to withdraw his/her Bid, and the City shall either re-bid the Work or accept the next best lowest and responsible bidder. The failure of the City to make objection to a Subcontractor shall constitute an acceptance of such Subcontractor but shall not constitute a waiver of any right of the City to reject defective work, material or equipment not in conformance with the requirements of the Project Manual.

16. NON-DISCRIMINATION LAWS

- 16.1 The Contractor further agrees that the Contractor shall abide by the Kansas Age Discrimination in Employment Act (K.S.A. 44-1111 et seq.) and the applicable provision of the Americans With Disabilities Act (42 U.S.C. 1201 et seq.) as well as all other federal, state and local laws, ordinances and regulations applicable to this Work and furnish any certification required by any federal, state or local governmental agency in connection therewith.
- 16.2 In all solicitations or advertisements for employees, the Contractor shall include the phrase, "equal opportunity employer", or similar phrase to be approved by the Kansas Human Rights Commission (Commission);
- 16.3 If the Contractor fails to comply with the manner in which the Contractor reports to the Commission in accordance with the provisions of K.S.A. 44-1031 and amendments thereto, the Contractor shall be deemed to have breached the present contract and it may be cancelled, terminated or suspended, in whole or in part, by the contracting agency;
- 16.4 If the Contractor is found guilty of a violation of the Kansas Act Against Discrimination under a decision or order of the Commission which has become final, the Contractor shall be deemed to have breached the present Contract and it may be cancelled, terminated or suspended, in whole or in part, by the contracting agency; and
- 16.5 The Contractor shall include the provisions of this section in every subcontract or purchase order so that such provisions will be binding upon such Subcontractor or vendor.
- 16.6 The provisions of this section shall not apply to a contract entered into by a Contractor who employs fewer than four employees during the terms of such contract; or whose contracts with the City cumulatively total \$5,000 or less during the fiscal year of the City.

17. RELATIONS WITH OTHER CONTRACTORS:

- 17.1 The Contractor shall cooperate with all other contractors who may be performing work on behalf of the City, and workers who may be employed by the City, or any other entity on any work in the vicinity of the Work to be done under this Contract, and the Contractor shall so conduct his/her operations as to interfere to the least possible extent with the work of such contractors or workers. The Contractor shall be responsible for any injury or damage, that may be sustained by other contractors, workers, their work or employees of the City, because of any fault or

negligence on the Contractor's part, and shall, at his/her own expense, repair or pay for such injury or damage. If the work of the Contractor is delayed because of any acts or omissions of any other Contractor or Contractors, the Contractor shall have no claim against the City on that account other than for an extension of time.

- 17.2 When two or more Contracts are being executed at one time in such manner that work on one Contract may interfere with that on another, the City shall decide which Contractor shall progress at which time.
- 17.3 When the territory of one Contract is the necessary or convenient means of access for the transportation or movement of workers, materials, or appliances required for the execution of another Contract, such privileges of access or any other responsible privilege may be granted by the City to the Contractor so desiring, to the extent such may be reasonably necessary.
- 17.4 Upon execution of the Contract, the Contractor shall furnish the City, in writing, the names of persons or entities proposed by the Contractor to act as a Subcontractor on the Work. The City shall promptly reply to the Contractor, in writing, stating any objections the City may have to such proposed Subcontractor. The Contractor shall not enter into a Subcontract with a proposed Subcontractor with reference to whom the City has made timely objection. The Contractor shall not be required to Subcontract with any party to whom the Contractor has objection.

18. RIGHT OF CITY TO TERMINATE

- 18.1 If the Contractor persistently or repeatedly refuses or fails to prosecute the Work in a timely manner, or supply enough properly skilled workers, supervisory personnel or proper equipment or materials, or if it fails to make prompt payment to Subcontractors or for materials or labor, or persistently disregards laws, ordinances, rules, regulations or orders of any public authority having jurisdiction, or if this Contract is assigned by Contractor without authorization or if Contractor is adjudged as bankrupt, or if a general assignment of assets be made for the benefit of creditors; or if a receiver is appointed, or otherwise is guilty of a substantial violation of a provision of this Contract, then the City may by written notice to the Contractor, without prejudice to any right or remedy, terminate the employment of the Contractor and take possession of the site and of all materials, equipment, tools, construction equipment and machinery thereon owned by the Contractor and may finish the Work by whatever methods it may deem expedient. In such case, the Contractor and its surety shall be liable to the City for all excess cost sustained by the City because of such prosecution and completion including any additional legal, engineering or bid-letting costs therefore. In such case, the Contractor shall not be entitled to receive further payment. In the event the Contractor is found in a court of law to have been wrongfully terminated for cause, then such termination shall be deemed a termination for convenience and the Contractor shall be compensated as provided herein.
- 18.2 The City, within its sole discretion, may elect to terminate the Contract with the Contractor for convenience upon three (3) days written Notice to Contractor. In the event of such termination, Contractor shall cease immediately all operations and shall be compensated for all work performed as of the date of termination in accordance with the terms of payment in this contract. Contractor shall not be entitled to any anticipatory profits of other costs other than direct costs of demobilization.

19. MISCELLANEOUS:

- 19.1 The Contractor warrants to the City that all labor furnished to progress the Work under the Contract will be competent to perform the tasks undertaken, that the product of such labor will yield only first-class results, that materials and equipment furnished will be of good quality and new unless otherwise permitted by this Contract, and that the Work will be of good quality, free from faults and defects and in strict conformance with the Project Manual. All Work not conforming to these requirements may be considered defective.
- 19.2 The Contractor shall obtain and pay for all permits, fees and licenses necessary or ordinary for the Work. The Contractor shall comply with all lawful requirements, including federal and state laws, City and County laws and ordinances and building codes, applicable to the Work and shall give and maintain copies of all notices required by applicable law pertaining to the Work.
- 19.3 Both the business address of the Contractor given in the Bid or proposal upon which this Contract is founded, and the Contractor's Office near the Work, is hereby designated as the places to which all notices, letters, and other communications to the Contractor may be mailed or delivered. The delivering at either of the above named addresses, or depositing in any mailbox regularly maintained by the Post Office, of any notice, letter or other communication so addressed to the Contractor, and the date of said service shall be the date of such delivery or mailing. Such addresses may be changed at any time by an instrument in writing, executed by the Contractor, presented, and delivered to the Engineer and to the City. Nothing herein contained shall be deemed to preclude or render inoperative the service of any notice, letter, or communication upon the Contractor personally.
- 19.4 It is mutually agreed by and between the parties to this Contract that all royalties and fees for and in connection with patents, or patent infringement, claims for materials, articles, apparatus, devices or equipment (as distinguished from processes) used in or furnished for the work shall be included in the Contract amount and the Contractor shall satisfy all demands that may be made at any time for such, and the Contractor shall at its cost and expense, defend any and all suits or proceedings that may be instituted at any time against the City for infringement or alleged infringement of any such patents involved in the work, and Contractor shall pay any award of damages.
- 19.5 The right of general administration of the City shall not make the Contractor an agent of the City, and the liability of the Contractor for all damages to persons, firms, and corporations, arising from the Contractor's execution of the Work, shall not be lessened because of such general administration, but as to all such persons, firms, and corporations, and the damages, if any, to them or their property. The Contractor herein is an independent Contractor in respect to the work.
- 19.6 For a period of time, from the inception of the Contract to three (3) years from the date of final payment under the Contract, the Contractor and subcontractors shall maintain books, accounts, ledgers, invoices, drafts, pages and other records pertaining to the performance of this Contract. At all reasonable times during this period these records shall be available within the State of Kansas at a field or permanent business office for inspection by authorized representatives of the City or of any other agency, which has contributed funds in connection with the Contract or to which the City is obligated to make such inspections available. In addition, this requirement shall be included in all subcontracts entered into in connection with this Contract.

- 19.7 Titles, subheadings used herein, and other Contract Documents are provided only as a matter of convenience and shall have no legal bearing on the interpretation of any provision of the Contract Documents.
- 19.8 No waiver of any breach of this Contract shall be construed to be a waiver of any other subsequent breach.
- 19.9 Should any provision of this Agreement or other Contract Documents be determined to be void, invalid, unenforceable or illegal for whatever reason, such provision(s) shall be null and void; provided, however, that the remaining provisions of this Agreement and/or the other Contract Documents shall be unaffected thereby and shall continue to be valid and enforceable.
- 19.10 The Contractor shall keep fully informed of all existing and current regulations of the City, and County, State, and National Laws, which in any way limit or control the actions or operations of those engaged upon the work, or affecting materials supplied, to or by them. The Contractor shall at all times observe and comply with all ordinances, laws, and regulations, and shall protect and indemnify the City and the City's officers and agents against any claims or liability arising from or based on any violation of the same.
- 19.11 Nothing contained in these Project Manual shall create, or be interpreted to create, privity or any other contractual agreement between the City and any person or entity other than the Contractor.
- 19.12 Duties and obligations imposed by the Contract Documents, rights, and remedies available hereunder shall be in addition to and not a limitation of duties, obligations, rights and remedies otherwise imposed or available by law.
- 19.13 No action or failure to act by the City, Engineer or Contractor shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval or acquiescence in a breach hereunder, except as may be specifically agreed in writing.
- 19.14 Contractor specifically acknowledges and confirms that: 1.) he/she has visited the site, made all inspections he deems appropriate and has read and fully understands the Contract Documents, including all obligations and responsibilities undertaken by he as specified herein and in other Contract Documents and knowingly accepts the same; 2.) he/she has furnished copies of all Contract Documents to his/her insurance carrier(s) and his/her surety(ies); and 3.) his/her insurance carrier(s) and surety(ies) agree to be bound as specified herein, in the Contract Documents and in the insurance policy(ies) and bonds as to liability and surety coverage.
- 19.15 It is specifically agreed between the parties executing this Agreement that the Contract Documents are not intended to create any third party beneficiary relationship nor authorize anyone not a party to this Agreement to maintain a suit for personal injuries or property damage pursuant to the terms or provisions of this Agreement. The duties, obligations and responsibilities of the parties to this Agreement with respect to third parties shall remain as imposed by law.

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

WITNESSETH:

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

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

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

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

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

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

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

CITY OF PRAIRIE VILLAGE

MUSSELMAN AND HALL CONTRACTOS

By: _____
(signed)

By _____
(signed)

Ronald L. Shaffer _____

(typed name)

Mayor _____

(typed title)

City of Prairie Village

(typed company name)

7700 Mission Road

(typed address)

Prairie Village, Kansas, 66208

(typed city, state, zip)

(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 or general partner of the partnership, please provide documentation, which authorizes the signatory to bind the corporation or partnership. If a corporation, the Contractor shall furnish the City a current certificate of good standing, dated within ten (10) days of the date of this Contract.)

MAINTENANCE BOND

Bond Number _____

Bond _____

KNOW ALL MEN BY THESE PRESENTS:

That we, _____, as Principal and _____, as Surety, are held and firmly bound unto the City of Prairie Village, Kansas, in the full and just sum of _____ (\$ _____) for the payment of which, well and truly to be made, we, and each of us, bind ourselves, our heirs, executors and assigns, themselves, and its successors and assigns, jointly and severally, firmly by these presents.

Dated this _____ day of _____, 20__.

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

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

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

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

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

By: _____

Countersigned: _____

By: _____

By: _____

Kansas Resident Agent

Attorney-in-Fact

Power of Attorney attached.

STATUTORY BOND

KNOW ALL MEN BY THESE PRESENTS: That we _____ as Contractor, and _____ with General Offices in the City of _____, and authorized to transact business in the State of Kansas, as surety, are held and firmly bound unto the CITY OF PRAIRIE VILLAGE, KANSAS, and the STATE OF KANSAS, in the penal sum of _____ DOLLARS (\$ _____) lawful money of the United States of America, plus any change orders in excess thereof as approved by the City, for the payment of which sum well and truly to be made, we bind ourselves and our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents:

THE CONDITION OF THE FOREGOING OBLIGATION IS SUCH THAT:

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

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

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

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

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

_____ CONTRACTOR	_____ SURETY COMPANY
BY: _____ (SEAL)	BY: _____ (SEAL)
BY: _____ Attorney-in-Fact	BY: _____ Kansas Agent

PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS that we, the undersigned _____, hereinafter referred to as the "Contractor", and _____, a Corporation organized under the laws of the State of _____, and authorized to transact business in the State of Kansas as Surety, are held firmly bound unto the City of Prairie Village, Kansas, hereinafter referred to as "City", in the penal sum of _____ DOLLARS (\$_____), lawful money of the United States of America, for the payment of which sum, well and truly to be made, we bind ourselves and our heirs, executors, administrators, successors, and assigns, jointly and severally, by these presents:

THE CONDITION OF THE FOREGOING OBLIGATION IS SUCH THAT:

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

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

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

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

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

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

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

CONTRACTOR

SURETY COMPANY

BY: _____
(SEAL)

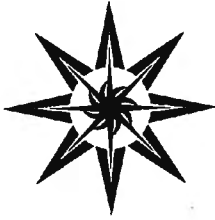
BY _____
(SEAL)

(Official Title)

Attorney-in-Fact

BY: _____
(State Representative)

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



PUBLIC WORKS DEPARTMENT

Council Committee Meeting Date: May 17, 2010

Council Meeting Date: June 7, 2010

COU2010-17: CONSIDER DIRECTING STAFF TO MODIFY THE TYPICAL SECTION OF SOMERSET DRIVE TO A THREE LANE SECTION FROM 83rd STREET TO EAST OF MISSION ROAD.

RECOMMENDATION

Council authorize staff to proceed with design plans to change the typical section of Somerset Drive to a three lane section from 83rd Street to east of Mission Road.

BACKGROUND

Somerset Drive from 83rd Street to east of Mission Road is the only four lane section of Somerset Drive. This section of Somerset Drive is planned to be rehabilitated in 2010 and includes new asphalt and replacement of deteriorated curb and sidewalk. The traffic volumes, 9000 ADT, would not typically require a four lane section.

Several traffic and pedestrian challenges and complaints are attributed to this segment of Somerset drive and are listed below:

- Ingress/Egress to Corinth Shops
- Ingress/Egress to Claridge Court
- Parks Mater Plan calls for an 8 foot trail along Somerset
- Ingress/Egress to Public Works/Montessori school
- Lane 4 desires a more pedestrian friendly environment

With the recent discussions about "Road Diets" and increasing pedestrian options/green space, staff views Somerset Drive as a potential segment to convert to a three lane section to improve traffic/pedestrian flow.

A discussion on the cost impacts of this change will be discussed at the council meeting.

This project is slated for construction this year.

FUNDING SOURCE

Funding for this project will come from the 2010 Bond project and the CARS Program.

RELATION TO VILLAGE VISION

- TR1a. *Ensure that infrastructure improvements meet the needs of all transportation users.*

ATTACHMENTS

Conceptual Drawing of a three lane section on Somerset Drive.

PREPARED BY

Keith Bredehoeft

May 13, 2010

2011 Budget

Trends, Gaps and
Budget Strategies

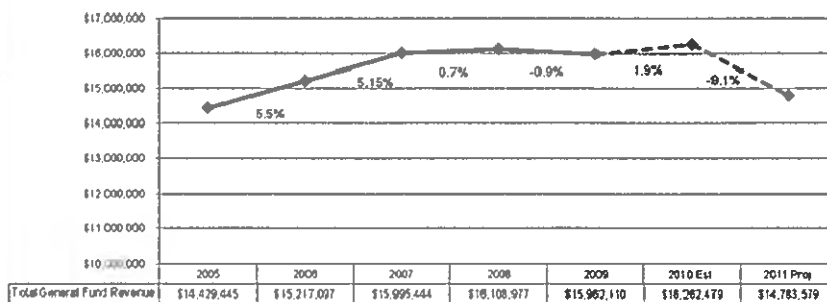
Agenda

- Trends / Status
- 2009 - 2010 Strategies/Status
- Gap Discussion
- 2011 Budget Gap Reduction Strategies
- Next Steps

Trends / Status

2005 – 2011 Projected

Total General Fund Revenue 2005 - 2011 Projected



Increase 2005-2006 - Due to increase in Fines & Fees because of the first full year of the Traffic Unit. Also better interest rates resulted in increased interest earnings.

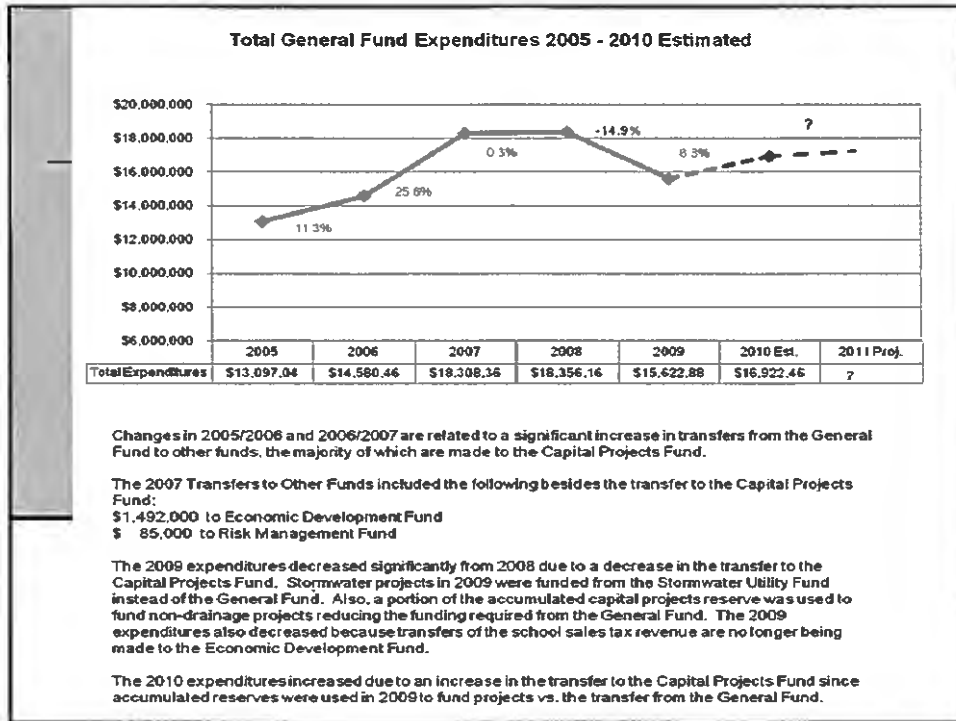
Increase 2006-2007 - Due to accounting for CARS Grant in the General Fund instead of the Capital Projects Fund as had been the practice in the past. CARS Grants will be accounted for in the Capital Projects Fund in 2008 and beyond.

Increase 2007-2008 - Due to accounting for the CARS Grant in the Capital Projects Fund and a mill levy increase of 2 mills.

Increase 2008-2009 - Due to addition of a transfer from the Stormwater Fund to reimburse for stormwater operating expenditures paid from the General Fund. Also reflects increase in almost all of the user fees. Includes an increase in property tax revenue to reflect small increase in assessed valuation and bond & interest mill levy rate savings in the General Fund.

Increase 2009-2010 estimate - Reflects an increase in the Mission Hills contract due to increases in police costs. Reflects an increase in franchise fees for the Natural Gas Transport fee, AT&T Video Franchise Fees and KCP&L franchise fees. Reflects delinquent property tax collections to date.

Decrease 2010 estimate-2011 Budget - Due to decrease in property taxes that are now in the Bond and Interest Fund to cover the bond payments vs. being in the General Fund. Also due to a decrease in County sales and use taxes as a result of the down economy

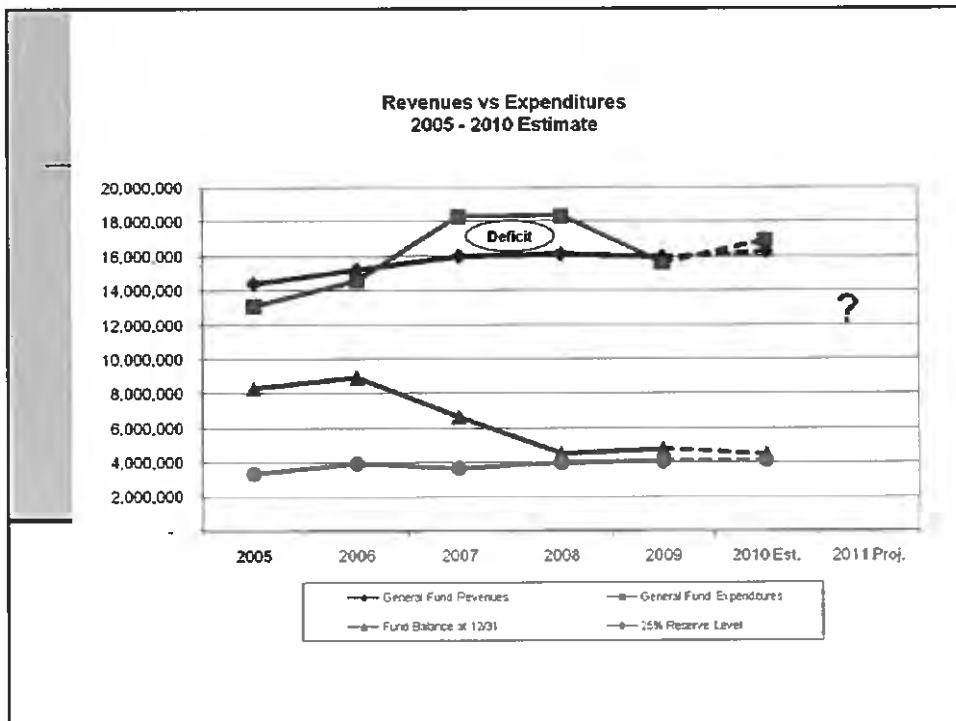


2009 – 2010 Strategies

Review Status / Comment

2011 Budget

Gap Discussion



2011 Budget Objectives

- Maintain high quality services and programs
- Maintain quality streets, parks and infrastructure
- Continue strong financial condition
- Maintain AAA bond rating
- Reduce reliance on fund balance and reserves

Gap Discussion

- Projected Gap in the 2011 Budget:
 - \$1.55 million
- Other side of the equation = expenditures
 - Continue to reduce expenditures and review department budgets
 - Highlights and recommendations will be discussed June 14th
 - Staff has made some assumptions in order to forecast the gap

Gap Discussion (con't.)

■ Expenditure Assumptions

- Salary increases: 0% - 4%
- Health insurance increase: 10%
- Police Pension Contribution: \$450,000
- Contract Services increase: 5.6% (\$50k 5yr Traffic Study)
- Commodities increase: 3% (0.4% w/o fuel increase)
- Capital Outlay increase: 59.8% (0% w/o dump trucks)
- Transfer to Capital Projects: Same level as 2010 less the non-drainage, non-refunding bond payment amount for 2011

2011 Budget

Budget Gap Reduction Strategies
Presentation & Discussion

Item # 01:

Use Some or All of the Jail Tax 2 Proceeds

- 2011 Estimated Revenue: \$390,000
- Staff's Recommendation:
 - Use \$190,000 to fund one-time technology upgrades as was done in 2009 - 2010
 - Use \$200,000 to fund one time large ticket items (i.e. dump trucks, police vehicles, etc) to relieve Gen. Fund

■? Decision Point:

- Is Council comfortable with staff's recommendation regarding use of the 2011 Jail Sales Tax 2 proceeds?

Item # 02:

CIP Reduction – transfer from Gen. Fund

- City Hall Patio Project
- Reduce Funding to Traffic Calming
- Parks Projects
- 75th Street (State Line to Mission Rd)
- Replace Mission Road crosswalks
- Street Rehab/Paving
- Community Center Feasibility Study

Item # 03: Use of Fund Balance

- ? ■ **Decision Points:**
 - What level of fund balance does the Council wish to maintain? (25% in 2010 with excess designated to fund 2010 operations)
 - Does the Council wish to use fund balance in excess of that level, if available, to reduce the 2011 budget gap?
 - Staff does not anticipate a fund balance above 25% at the end of 2010 with the sales tax trends and rebates.

Item # 04: Mill Rate Increase

- 1.0 mills = \$281,000 additional revenue
- Average home in Prairie Village = \$205,983
 - 1.0 mills = \$23.69 per year / \$1.97 month
 - 2.0 mills = \$47.38 per year / \$3.94 month
 - 3.0 mills = \$71.07 per year / \$5.91 month

Item # 05: Sales Tax Referendum

- ¼ cent = \$500,000
- ½ cent = \$1,000,000
- For Special Purpose (parks and/or streets)

- 7.525% = Current Rate
- 8.525% = Rate beginning July 1

- LANE4 is requesting an additional 1% for CID at Village and Corinth centers. (Total of 9.525%)

Items # 6 - 9: Gap Reduction Strategies

- MPR Renovation = \$30,000 (deferred)
- Mercer Group = \$17,500
- Close Pool on weekdays after SMSD starts = ~\$7000
- Workers Comp plan change = \$10,000 - \$20,000

Item # 10: Elimination of Positions / Services

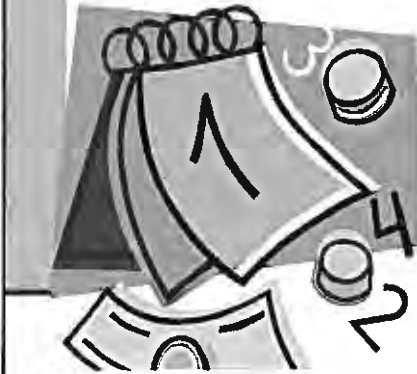
- Eliminated 3 FTEs in 2010 budget - \$145,000
- Staffing at a level where any staff reductions will impact service levels.

List of Items Previously Considered

- **Decision Point:**
 - Are there any items on the list of strategies previously considered that should be reconsidered?



Next Steps



- June 14th – Operating Budget (special meeting)
- June 21st – CIP Budget
- July 19th – Permission to publish the budget
- August 2nd – Public hearing and adoption of the budget

City of Prairie Village
Possible Budget Gap Reduction Strategies
As of 5-6-10

Potential Reduction in the Budget Gap	
2010	2011

Item	Description	Background/Impact on Operations	2010	2011	Comments
2010 & 2011 Budget Strategies					
1	Use of Jail Sales Tax 2	Technology projects = \$190,000 3 police vehicles (\$24k ea.) = \$72,000 PW large dump truck = \$100,000 PW dump truck (partial) = \$28,000			Estimated revenue for 2011: \$390,000 Currently the equipment replacements are included in the General Fund. This action would result in a relief to the General Fund.
				\$ (200,000)	
2	Reduce transfer to the Capital Improvement Program (CIP)	CIP projects in 2010 & 2011 plan: REMINDER: The CIP plan for 2011 thru 2014 is still under review. Draft plan will be ready for June 21st mtg.			In 2010, \$3.1M was transferred from the General Fund to the CIP and Bond & Interest Fund of which \$1.34M was used for bond payments, leaving \$1.8M for project use. Other revenue sources in CIP include gas tax, CARS and alcohol fund.
		City Hall / Police Dept patio replacement	\$ (210,000)	\$ (240,000)	The numbers are net of the maint budget.
		Reduce funding of Traffic Calming Program		\$ (40,000)	2010 Allocation = 0 Available balance in project at 5/6/10 = \$75,000
		Park projects: Franklin Park uncommitted = \$100,000 Weltner = \$270,000 Other projects = \$660,000	\$ (100,000)	\$ (830,000)	Portions of the plan could be delayed or cancelled
		75th Street - State Line to Mission Road	\$ (847,000)	\$ (600,000)	Portions of the project could be postponed such as the landscaping, sidewalk on both sides, amenities. It is recommended that at minimum a mill / overlay and concrete repair project be done for \$800,000.
		Replace Mission Road crosswalks	\$ (130,000)		
		Street Rehabs/Paving		\$ (160,000)	
		Community Center Feasibility Study	\$ (50,000)		
3	Use of fund balance	During the 2010 budget process, the City Council established a reserve level of 25% budgeted revenues. To balance the 2010 budget, the City used the reserves in excess of the 25% reserve level. While this is an appropriate use of fund balance, it is not sustainable. Reserves in excess of the 25% will not be available for the 2011 budget. Lowering reserves below 25% could affect the City's new AAA bond rating. In addition, reserves used would need to be replenished. Staff is not forecasting any reserves in excess of the requirement at the end of 2010 due to revenue declines.		?	Fund Balance at 12/31/09 = \$4,934,235 which is 29.4% of 2009 budgeted revenues. However, \$690,000 of fund balance was used to balance the 2010 budget and the rest will likely need to be used to cover the shortfalls in 2010. 5.4% of 2009 Budgeted Revenues = \$906,841

City of Prairie Village
Possible Budget Gap Reduction Strategies
 As of 5-6-10

Potential Reduction in the Budget Gap
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Item	Description	Background/Impact on Operations	Potential Reduction in the Budget Gap		Comments
			2010	2011	
2010 & 2011 Budget Strategies					
4	Mill levy increase	With the assessed valuation estimate for 2011 as of 2-28-10, 1 mill would raise \$281,000. The property tax collections have declined the past two years.		?	1 mill = approx. \$281,000
5	Sales tax referendum for a dedicated purpose such as parks and / or streets	Would require a vote of the citizens KS State approved a 1% increase, which takes the City's rate to 8.525%. If 1% is granted for the CIDs, the City's sales tax rate at the two centers would be 9.525%. A half cent for a dedicated purpose would take the City's rate to 10.025%.	-	?	1/4 cent = \$500,000 1/2 cent = \$1,000,000
6	MPR Renovation		\$ (30,000)	\$ -	postpone renovation
7	Mercer Group - PW Director Search	Cancel contract and proceed with search managed by staff / Council	\$ (17,500)	\$ -	\$20,000 less the \$2,500 cancelation fee
8	Pool closing on weekdays after the start of school	Closing the pool Mon-Thurs. would save wages of concession and life guards less lost revenue	\$ (7,000)	\$ (7,000)	Pool salaries only - doesn't factor in chemicals, utilities, etc.
9	WC Insurance Coverage	The Insurance Committee explored the possibility of joining KERIT insurance pool for workers comp insurance, but decided to wait until next year. KERIT's premiums are less than the latest renewal premium. In addition, it is first dollar coverage with no deductibles.	\$ (10,000)	\$ (20,000)	Reflects transferring to KERIT and 2010 savings reflects cancelation penalty.
10	Elimination of positions with elimination of an associated program	Positions (3FTE's) were eliminated in the 2010 budget. Any further reductions in staff would affect programs and could not be done without reducing or eliminating services or programs.	?	?	At critical staffing point where eliminating positions will eliminate programs or services
			\$ (1,401,500)	\$ (2,097,000)	Total

**COUNCIL MEETING AGENDA
CITY OF PRAIRIE VILLAGE
May 17, 2010
7:30 p.m.**

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

Chairman Annabeth Surbaugh - Presentation and Flag Exchange

Presentation of former Chief Louis LeManske's firearm to the Police Department

Presentation of Proclamation recognizing A. J. LoScalzo

- V. PUBLIC HEARING**
Public Hearing for the Establishment of a Community Improvement District at Village Shops - COU2010-21

Public Hearing for the Establishment of a Community Improvement District at Corinth Shopping Center - COU2010-22

- VI. CONSENT AGENDA**

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

By Staff:

1. Approve Regular Council Meeting Minutes - May 3, 2010
2. Approve Claims Ordinance 2871
3. Approve the issuance of a Cereal Malt Beverage license for Walgreen's Store #13032 located at 4016 W 95th St for the remainder of 2010.
4. Approve the School Resource Officer contract with Shawnee Mission School District for the 2010-2011 school year.
5. Approve two VillageFest contracts.
6. Ratify the Mayor's appointment of Max Rieper to the Park & Recreation Committee for a two year term ending April, 2012.
7. Approve the purchase of two Riding Mowers from Bledsoe's Rental Inc. for \$24,558.00 and the disposal of Asset #1359 and #996 by auction.

By Committee:

8. Approve a waiver to allow the serving of alcoholic beverages at Harmon Park on Saturday, September 11, 2010 in conjunction with the JazzFest celebration (Council Committee of the Whole Minutes - May 3, 2010)

- VII. MAYOR'S REPORT**
Authorize the Mayor to execute a proclamation recognizing May 16 - May 22, 2010 as National Public Works Week

- VIII. COMMITTEE REPORT**
COU2010-31 Consider Project 190890: 2010 Bond Project - Construction Change Order #1 for Traffic Calming on 71st Street from Cherokee to Belinder - Michael Kelly

COU2010-34 Consider Project 190890: 2010 Bond Project - Construction Change Order #2 for Traffic Calming on 82nd Terrace from Somerset to Roe - Michael Kelly

COU2010-30 Consider Approval of Investment Grade Audit Agreement with Energy Solutions Professionals (ESP) - Michael Kelly

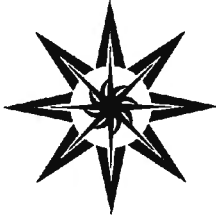
COU2010-32 Consider Approval of a Contract with Musselman & Hall Contractors for Project P5001, 2010 Street Repair Program for \$260,000.00 - Michael Kelly

COU2010-33 Consider Approval of a contract with Musselman & Hall Contractors for the 2010 Crack Seal/Slurry Seal Program - Michael Kelly

- IX. STAFF REPORTS**
- X. OLD BUSINESS**
- XI. NEW BUSINESS**
- XII. EXECUTIVE SESSION**
- 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 381-6464, Extension 4616, no later than 48 hours prior to the beginning of the meeting.

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



ADMINISTRATION

City Council Meeting Date: May 17, 2010

COU2010-21 Conduct a Public Hearing for the Establishment of a Community Improvement District at Village Shops

COU2010-22 Conduct a Public Hearing for the Establishment of a Community Improvement District at Corinth Shopping Center

RECOMMENDATIONS:

The City Council should conduct the Public Hearing as required State Statutes. Staff is recommending that the City Council consider any related draft Ordinance(s) along with related Development Agreement(s). No formal vote is necessary at this time.

BACKGROUND:

On April 2, 2010, Lane4 Property Group submitted petitions for the establishment of Community Improvement Districts at the Village Shops and at the Corinth Square Shopping Center. The petitions requested a 1% sales tax CID for 22 years at both of the shopping centers. Lane4 Property Group also submitted the necessary application materials as required under the Council Policy CP059 - City Assistance and Redevelopment Projects.

As part of the review process under the CID State Statute provisions, the City is required hold public hearings allowing for comment on the proposed Community Improvement Districts. The City Council approved resolutions setting the public hearing dates for May 17, 2010. Per State Statutes, the resolutions were published twice in the Legal Record (April 27th and May 4th) and the property owners within the district received a copy of the resolution.

Copies of the CID applications have been attached to the City Council packet information. The applications contain the projects which the property owners within each district plan to complete as part of the CID plans. The City staff and representatives from the Council are currently working with the property owners of the districts to develop a draft Redevelopment Agreement which will be considered by the City Council at a future date. The Development Agreement will outline a number of issues including which projects are eligible for reimbursement. As part of the public hearing process, the City Council should take comments regarding the proposals and have a discussion about the requested sales tax amount (1%) and the length of the proposed CID sales tax (22 years).

Upon completion of the public hearing process, the process for establishment of the Community Improvement Districts is as follows and is anticipated to occur during the next several months:

- Adoption of an Ordinance creating the CID, establishing the CID sales tax rate, and the number of years the CID sales tax shall be in place

- Approval of a Development Agreement which outlines any additional requirements. Typically the Adoption of the Ordinance establishing the CID and the approval of the Development Agreement are approved at the same meeting.
- Publication of the Ordinance
- Protest Period for establishment of CID (30 days after publication of ordinance)
- Recording of the Ordinance and the Development of Agreement with the County Register of Deeds
- Ordinance levying the CID sales tax sent to the State Director of Taxation
- CID Sales Tax takes effect (one clear quarter after notification to the State Director of Taxation)

ATTACHMENTS:

CID Application Materials for the Prairie Village Shopping District

CID Application Materials for the Corinth Square Shopping District

PREPARED BY:

Dennis J. Enslinger
Assistant City Administrator
Date: May 12, 2010

CONSENT AGENDA

CITY OF PRAIRIE VILLAGE, KS

May 17, 2010

**CITY COUNCIL
CITY OF PRAIRIE VILLAGE
May 3, 2010**

The City Council of Prairie Village, Kansas, met in regular session on Monday, May 3, 2010, at 7:30 p.m. in the Council Chambers of the Municipal Building.

ROLL CALL

Mayor Ron Shaffer called the meeting to order and roll call was taken with the following Council members present: Al Herrera, Dale Warman, Ruth Hopkins, Steve Noll, Andrew Wang, Laura Wassmer, Dale Beckerman, Charles Clark, David Morrison, Diana Ewy Sharp and David Belz.

Also present were: Wes Jordan, Chief of Police; Keith Bredehoeft, Interim Public Works Director; Katie Logan, City Attorney; Quinn Bennion, City Administrator; Dennis Enslinger, Assistant City Administrator; Karen Kindle, Finance Director; Chris Engel, Assistant to the City Administrator and Joyce Hagen Mundy, City Clerk.

Mayor Shaffer led all those present in the Pledge of Allegiance.

PUBLIC PARTICIPATION

Presentation by Sixth Grade Prairie Elementary students

Mayor Shaffer welcomed four students from the Prairie Elementary School 6th Grade Democracy in Action Committee (Molly Blake, Keylee Mack, Luke Ehly, Caroline Brit) and their parent advisor Cheryl Commerford. After researching serious head injuries caused by bike accidents, the students proposed the City adopt an ordinance that will require all individuals under the age of 15 to wear bike helmets while riding bikes in Prairie Village. The ordinance would have police officers giving coupons to

students biking without a helmet. The helmets would be provided by "Headstrong for Jake". They have contacted Fire Chief Hodgdon and received permission to use the main fire station as a distribution site. The Police would also give coupons for free gifts from Prairie Village merchants to individuals found wearing helmets while biking. The students have spoken with Prairie Village merchants and received commitments for donations.

Laura Wassmer and Dale Warman commended the students for their presentation and research on this important issue. Mayor Shaffer thanked the students for their presentation and advised that their suggestions will be moved to committee for consideration and noted they would be invited to attend the meeting when it is formally discussed.

Request from Christie Development Associates, LLC for Economic Development Consideration

Mayor Shaffer announced they have decided not to move forward at this time.

CONSENT AGENDA

Charles Clark moved the approval of the Consent Agenda for May 3, 2010:

1. Approve Regular Council Meeting Minutes - April 19, 2010
2. Ratify the Mayor's appointment of Tim O'Tolle to the Park & Recreation Committee as a student representative for a one-year term to expire in April, 2011.
3. Approve a 2010 VillageFest entertainment contract with Eric Price in the amount of \$300.
4. Approve the purchase of a replacement pick-up truck from Shawnee Mission Ford at a cost of \$24,925.00 and the disposal of a 2000 Ford F250 ¾ ton truck, asset number 0927 by auction

A roll call vote was taken with the following members voting "aye": Herrera, Warman, Hopkins, Noll, Wang, Wassmer, Beckerman, Clark, Morrison, Ewy Sharp, and Belz.

MAYOR'S REPORT

Mayor Shaffer distributed \$1 checks to council members Dale Warman, Ruth Hopkins, Charles Clark and Diana Ewy Sharp for their service during the past year.

Mayor Shaffer congratulated councilmen Dale Warman, Ward 1 and Charles Clark, Ward 5 on their recent re-election and administered the Oath of Office.

Mayor Shaffer reviewed the several activities and events he attended during the past weeks representing the City including Highland Elementary DARE graduation; Intrust Bank 2010 Small Business Event; 9th Annual Crawfish Festival Fundraiser, where \$18,500 was raised for Head Start of Shawnee Mission; MARC Board of Directors; Arbor Day Celebration honoring Ben Munday and Indian Fields Homes Association Island Renovation Day.

COMMITTEE REPORTS

Council Committee of the Whole

COU2010-28 Consider approval of a contract with Vanum Construction Co, Inc. for Project 190659: Franklin Park Improvements and the transfer of \$500,000 from the 2010 Street Program to Project 190659.

On behalf of the Council Committee of the Whole, Charles Clark moved the Governing Body authorize the Mayor to sign the construction contract with Vanum Construction Co., Inc. for Project 190659: Franklin Park Improvements in the amount of \$860,000.00 and the transfer of \$500,000 from the 2010 Street Program to Project

190659. The motion was seconded by Laura Wassmer and passed by a vote of 10 to 1 with David Morrison voting “nay” due to the cost of the restroom facility and the public safety issues they create.

Community Center Sub Committee

David Belz reported the committee conducted interviews with BWR, 360 Architecture, Hollis + Miller Architecture, & WNB (Warner, Nease, Bost Architects) on Thursday, April 29th. All of the firms also had presentations from subcontractors. The 360 Architecture team with Larkin Aquatics, Bollard King and Indigo Design were selected. Staff will prepare the agreement and interlocal agreements for Council approval in June.

Park & Recreation Committee

Diana Ewy Sharp announced on Wednesday, May 12th, there will be a celebration honoring A.J. LoScalzo for 30 years of service on the Park & Recreation Committee at Franklin Park. That evening will also include a ground breaking ceremony for the Franklin Park Improvements.

VillageFest Committee

Diana Ewy Sharp reported plans are going well for the annual VillageFest Celebration. She announced that \$6000 in sponsorship funding has been received. This year’s event will include the Shawnee Mission East Robotics Team.

STAFF REPORTS

Legal

- Katie Logan reported on the status of the Charter Ordinance lawsuit, noting the Judge has not finalized the journal entry on his ruling. Once that is finalized and filed, the 30 day protest period begins.

Public Safety

- Chief Jordan gave follow-up information on the incident this past weekend at Harmon Park. Staff is continuing their investigation. Similar incidents have not been reported in other cities.
- Chief Jordan announced the review of the “officer involved shooting” has been completed. The District Attorney will be holding a press conference to release their findings on Tuesday, May 4th at 4 o’clock.
- The Internal Review conducted by a Captain from the Lenexa Police Department is complete and the officer will return to work on Wednesday.
- The Department has completed its promotion process with Corporal Dan Stewart being promoted to Sergeant and Officer Brady Sullivan promoted to Corporal. Corporal Jason Kuder will serve as an acting sergeant replacing Sgt. Myron Ward while he is on military leave.
- The city’s police fleet is being redesigned to encourage police visibility. The new design was shared with Council. The cars will have the PD motto “A tradition of service” on them.
- May 13th is the annual “Tip-a-Cop” fundraiser at Johnny’s for Special Olympics.
- The annual Special Olympics Run will be held on June 1st

Public Works

- Keith Bredehoeft provided an update on the pool leak. Repair will not be able to be made until fall. The pool will be monitored during the season and staff will continue to investigate solutions.
- The drawings on the possible redesign of Somerset Drive will be presented at the May 17th meeting.

Administration

- Dennis Enslinger reported the request for the variance on the equipment compound for the 150’ cellular tower at the Fire District Offices at 63rd and Mission has been withdrawn. The application for the tower will be heard by the Planning Commission May 4th.

Charles Clark confirmed the Public Hearing is held at the Planning Commission and not before the City Council. Laura Wassmer suggested that the City should respond to the e-mails council members are receiving advising them that comments should be made to the Planning Commission. Mr. Enslinger responded the City may not have copies of all the e-mails received by council members. Al Herrera stated that he responded to those he received. City Attorney Katie Logan advised the Council they may attend the Planning Commission meeting, but are not to participate.

- Quinn Bennion distributed a report on time codes and a summary of city services for last year and a list of community events that involve staff time.
- Mr. Bennion noted the Prairie Village/Meadowbrook Gold Tournament on May 19th and encouraged council members to attend.

Laura Wassmer questioned the large number of hours spent on animal licensing and on Sister City activities. Quinn Bennion noted the implementation of the new licensing software has impacted the amount of time spent in some areas. Joyce Hagen Mundy stated a significant amount of time was spent preparing the data base for a clean transport from the existing system to the new system. She added the hours also include the hours spent by enumerators during the annual enumeration.

Chris Engel noted the hours under Sister City were primarily his time. Quinn Bennion noted it does include time spent during the visit to Dolyana and visits to Prairie Village from Dolyana representatives.

Al Herrera questioned the two entries for environment committee and environment initiatives. Dennis Enslinger responded the committee hours are for committee meetings and events. The environment initiatives are generally his time for meetings, seminars related to energy initiatives through MARC or through stimulus programs. It also includes work on the energy audit the City will be conducting.

Dale Beckerman noted the number of hours spent on "Court Services" and asked if this was for ticket entering and would it be impacted by e-ticketing. Quinn Bennion responded ticket entry is a separate number and would be impacted by e-ticketing. Court services are a broader category including the preparation, operation and follow-up from court.

Quinn Bennion clarified "Codes Administration" refers to the work related to property codes whereas "Building Codes Administration" refers to building codes.

Laura Wassmer stated she felt the Council needs to have more conversation on how staff receives service requests. She is concerned with the amount of staff time being spent on volunteer committees. The Council, not committees, should be providing direction on amount of time used by staff for volunteer activities. Ruth Hopkins noted she raised the concern last Monday with going directly to staff asking for assistance. Dale Beckerman suggested that requests go through the City Administrator. Diana Ewy Sharp added Council members also need to be sensitive to their requests of staff. Quinn Bennion acknowledged there are items such as "Economic Development" on which staff need to spend more time.

OLD BUSINESS

Al Herrera asked for an update on the sidewalk/wall along 83rd Street. Keith Bredehoeft reported this is part of the 2010 CARS project. He has received the plans from Affinis and needs to prepare the change order for submittal to the county and city for the additional costs. Dale Beckerman confirmed the existing wall will remain.

NEW BUSINESS

Student Presentation

David Morrison asked how the City would be following up on the student presentation. Mayor Shaffer responded it will be discussed internally by staff to determine the most appropriate plan for implementation. The primary concern is the request for adoption of an ordinance. Chief Jordan stated the police department is on board with the concept, but has concerns with the implementation and enforcement. Mayor Shaffer asked Katie Logan to gather information on how the program is working in Lawrence, Kansas.

2011 BUDGET PRESENTATION - REVENUE TRENDS

Karen Kindle led the Council in a review of projected general revenues and trends from 2005 to 2011. She noted there is a decrease in the 2010 estimate and 2011 budget due to a decrease in property taxes that have been removed from the Bond and Interest Fund to cover the bond payments and a decrease in the County sales and use taxes as a result of the down economy. The assessed value of property for 2011 is almost the same as 2010 with a minimal decrease. Mrs. Kindle stated she would have a better estimate of property tax levels after receipt of the next distribution from the county in June. Again, she noted the significant decrease in 2011 reflects reappraisal and reallocation of property tax to the Bond and Interest Fund to cover debt services for the Series 2009A bonds.

Two factors are impacting the 2010 estimate and the 2011 budget for sales tax revenue. First, the refunds that were to be processed by the State in 2009, will be processed in May of 2010 and at the end of the year. This will result in an \$8 million decrease in the funds given to Johnson County with the City's share decreasing by \$220,000. Secondly, the county is projecting a decrease in revenues in addition to the refunds due to the economy which will decrease the City's total sales tax share by \$400,000.

Quinn Bennion stated staff felt the initial projected decrease in funds could be absorbed by the City; however, an additional reduction of \$600,000 will require some significant changes in the budget.

Karen Kindle reviewed the sales tax revenues received by type and noted a slight improvement in revenue is projected for 2011. It is difficult to project revenue from

franchise fees as they are tied to utilities and influenced by weather conditions. She reminded the Council that telephone franchise fees are only collected on landlines, not on cell phone usage.

The 2009 expenditures decreased significantly from 2008 due to a decrease in the transfer to the Capital Projects Fund. Stormwater projects in 2009 were funded from the stormwater utility fund instead of the general fund. Also, a portion of the accumulated capital projects reserve was used to fund non-drainage projects reducing the funding required from the general fund. Expenditures also decreased because of transfers of the school sales tax revenue are no longer being made to the Economic Development Fund. The 2010 expenditures increased due to an increase in the transfer to the Capital Projects Fund since accumulated reserves were used in 2009 to fund projects rather than transferring funds from the general fund.

Mrs. Kindle stressed the City has very little data from 2010 on which to forecast and noted the State Legislature has not completed the State's 2011 budget. Projected revenue changes from the 2010 budget are as follows:

- Sales Tax - Decrease of \$268,475
- Use Tax - Decrease of \$189,836
- Franchise Fees - Increase of \$20,000
- Mission Hills Contract - Increase of \$38,000
- Interest Revenue - Decrease of \$50,000
- Fines - Decrease of \$21,000

The projected range of the 2011 Budget Gap is \$1.1 million to \$1.5 million.

Quinn Bennion announced that the large budget items for the 2011 budget will be presented at the Council Committee of the Whole on Monday, May 17th. The Operating Budget will be presented at a Special Budget Meeting on Monday, June 14th with the CIP Budget presented on Monday, June 21st.

Dale Beckerman asked if the City will need to make any adjustments to the 2010 budget. Quinn Bennion replied that last week he would have responded no; however, with the large decrease in revenue projection, year-end changes may need to be made. He noted that any changes made in 2010 will help the 2011 budget.

ANNOUNCEMENTS

Committee meetings scheduled for the next two weeks include:

Board of Zoning Appeals	05/04/2010	6:30 p.m.
Planning Commission	05/04/2010	7:00 p.m.
Sister City Committee	05/10/2010	7:00 p.m.
Communications Committee	05/11/2010	5:30 p.m.
Parks & Recreation Committee	05/12/2010	7:00 p.m.
Council Committee of the Whole	05/17/2010	6:00 p.m.
City Council	05/17/2010	7:30 p.m.

=====

The Prairie Village Arts Council is pleased to announce a mixed media exhibit by Rod Atteberry and Otto Miller in the R. G. Endres Gallery for the month of May. The reception will be held on May 14th from 6:30 - 7:30 pm.

Recreation memberships are now for sale in the City Clerk's office. The pool opens on May 29th.

The City offices will be closed Monday, May 31st in observance of Memorial Day. Deffenbaugh also observes this holiday and trash/recycling pick-up will be delayed one day.

The City Clerk's office has a new style of ceramic coffee mug for sale. They are \$5.00 each.

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

ADJOURNMENT

With no further business to come before the City Council, the meeting was adjourned at 9:15 p.m.

Joyce Hagen Mundy
City Clerk

CITY TREASURER'S WARRANT REGISTER

DATE WARRANTS ISSUED:

Warrant Register Page No. 1

 May 17, 2010

**Copy of Ordinance
2871**

Ordinance Page No.

An Ordinance Making Appropriate for the Payment of Certain Claims.
Be it ordained by the governing body of the City of Prairie Village, Kansas.

Section 1. That in order to pay the claims hereinafter stated which have been properly audited and approved, there is hereby appropriated out of funds in the City treasury the sum required for each claim.

NAME	WARRANT NUMBER	AMOUNT	TOTAL
EXPENDITURES:			
Accounts Payable			
944459-94561	4/2/2010	434,594.30	
94562	4/5/2010	2,035.20	
94563-94567	4/9/2010	8,650.42	
94568-94666	4/16/2010	533,375.64	
94667-94671	4/23/2010	2,569.42	
94672-94764	4/30/2010	840,075.47	
 Payroll Expenditures			
4/9/2010		234,985.44	
4/23/2010		242,705.78	
 Electronic Payments			
Intrust Bank -credit card fees (General Oper)		759.93	
Marshall & Ilsley - Police Pension remittance		7,065.98	
Intrust Bank - fee		368.72	
KCP&L		7,302.76	
MHM - Section 125 admin fees		252.92	
Intrust Bank - purchasing card transactions		16,234.35	
Kansas Gas		2,245.23	
State Sales Tax		98.13	
TOTAL EXPENDITURES:			\$ 2,333,319.69
 Voided Checks			
Overland Park Jeep	# 94530	(425.50)	
OMB Express	# 94645	(3,381.37)	
TOTAL VOIDED CHECKS:			(3,806.87)
GRAND TOTAL CLAIMS ORDINANCE			2,329,512.82

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

Passed this 17th day of May 2010.

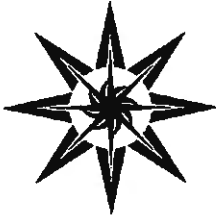
Signed or Approved this 17th day of May 2010.

(SEAL)

ATTEST: _____

City Treasurer

Mayor



City Clerk

Council Meeting Date: May 17, 2010
Consent Agenda

Approve the issuance of Cereal Malt Beverage License for the following business

RECOMMENDATION

Staff recommends the City Council approve the issuance of a Cereal Malt Beverage License for the following business for the remainder of 2010.

Walgreen Co - Store #13032 located at 4016 W 95th Street.

SUGGESTED MOTION

I move that the Cereal Malt Beverage licenses listed above be approved for the 2010 licensing year.

BACKGROUND

The State of Kansas requires a Cereal Malt Beverage license for each business selling cereal malt beverages. The listed business has submitted an application for a 2010 Cereal Malt Beverage License to allow for the sale of beer in unopened original containers only. This application is being submitted in accordance with Prairie Village Municipal Code 3-202. The application is available for review in the City Clerk's Office. This is a new Cereal Malt Beverage License.

ATTACHMENTS

None

PREPARED BY

Penny M. Mann
City Clerk's Office
Date: May 10, 2010



POLICE DEPARTMENT

Council Meeting Date: May 17, 2010

CONSENT AGENDA: Consider the School Resource Officer Agreement with the Shawnee Mission School District

RECOMMENDATION

Staff recommends approval of the contract with the Shawnee Mission School District for the 2010-2011 school year.

BACKGROUND

Since the inception of the School Resource Officer Program, the City and the District have entered into a contract regarding the relationship of the parties, costs and responsibilities.

The included contract is the standard contract between the District and municipalities that provide these services. The portions of the agreement that pertain to officer responsibilities, school responsibilities, agency responsibilities, length of contract, \$185.00 per day consulting fee for the officer(s), have not changed except for dates of the school year and vacation periods.

The City Attorney has previously reviewed and approved this document.

PREPARED BY

Wes Jordan
Chief of Police
Date: May 10, 2010



Office of Associate Superintendent

Shawnee Mission School District

Howard D. McEachen Administrative Center

7235 Antioch • Shawnee Mission, Kansas 66204-1798

Phone (913) 993-6464 • Fax (913) 993-6246 • www.smsd.org

April 29, 2010

Chief Wes Jordan
Prairie Village Police Department
7700 Mission Road
Prairie Village, KS 66208

Dear Chief Jordan:

Enclosed is the new 2010-2011 SRO contract for your City or Agency. Please have the appropriate individual sign the agreement, keep a copy for your records and return the original to my office as soon as possible.

This agreement is the same as last year's. If you have any questions, please do not hesitate to call me at 993-6405.

Once again, thanks for your assistance and cooperation with the SRO program. It is an outstanding contribution to the school environment.

Sincerely,

A handwritten signature in cursive script that reads "Gillian Chapman".

Gillian Chapman, Ed.D.
Associate Superintendent for Secondary Schools

Enclosure

AGREEMENT

This agreement is entered into this 26 day of April, 2010, by and between the **City of Prairie Village, Kansas**, a municipal corporation, hereinafter referred to as "**City**", and the **Shawnee Mission Unified School District No. 512**, located at 7235 Antioch, a political subdivision of the State of Kansas, hereinafter referred to as "**District**".

WITNESSETH

For and in consideration of the mutual promises, terms, covenants, and conditions set forth herein, the parties agree as follows:

1. Purpose of Agreement. The purpose of this Agreement is for the City to assign uniformed law enforcement officers, vehicles, radios and all necessary equipment for the School Resource Officer Program, hereinafter referred to as "SRO". The SRO will work with school personnel in providing alcohol and other drug education, maintaining a safe campus environment, serving as law enforcement problem-solving resource person, and providing the appropriate response regarding on-campus or school related criminal activity.
2. Term. The term of this Agreement shall be from the first day of school, which will be no earlier than **August 16, 2010**, through the last day of school or no later than **May 26, 2011**, provided the term may be mutually extended by the parties as they deem necessary to satisfy attendance requirements that may have been affected by weather or other factors. During days that schools are not in session, the SRO shall perform regular police duties at a duty station as determined by the Chief of Police.
3. Termination. This Agreement may be terminated without cause by either party upon 30 days prior written notice.
4. Relationship of Parties. The City and the assigned SRO shall have the status of an independent contractor for purposes of this Agreement. The SRO assigned to the District shall be considered to be the employee of the City and shall be subject to its control and supervision. The assigned SRO will be subject to current procedures in effect for the City police officers, including attendance at all mandated training and testing to maintain state law enforcement officer certification. The District agrees to cooperate with the City in any administrative investigation regarding violations of such procedures by officer assigned to the District as an SRO. This Agreement is not intended to and will not constitute, create, give rise to, or otherwise recognize a joint venture, partnership, or formal business association or organization of any kind between the parties, and the rights and obligations of the parties shall be only those expressly set forth in this Agreement. The parties agree that no person supplied by the District to accomplish the goals

of this Agreement is a City employee and that no rights under City civil service, retirement, or personnel rules accrue to such person.

5. Consideration. In consideration of the assignment of law enforcement officers to work with the District as provided herein, the District agrees to pay the City one hundred eighty-five dollars (\$185.00) per day for each day each SRO works for the District (\$92.50 per half-day). The District will not be responsible for payment of overtime, unless it is requested by the District. The SRO's weekly District schedule will be mutually agreed upon in consultation with the principal of the school the SRO is assigned to. The SRO may be asked to attend afternoon or evening events in lieu of regular day duty. Each party will maintain a budget for expenditures under this Agreement. Payment from District to City is due upon District's receipt of an itemized statement of cost from the City at the end of each school session quarter.

6. SRO Responsibilities. The SRO assigned to the District shall:
 - 6.1 Provide a program of law and education-related issues to the school community, including parents, on such topics as: tobacco, alcohol, and other drug issues, addressing violence diffusion, violence prevention, and other safety issues in the school community.
 - 6.2 Act as a communication liaison with law enforcement agencies; providing basic information concerning students on campuses served by the SRO.
 - 6.3 Provide informational in-services and be a general resource for the staff on issues related to alcohol, and other drugs, violence prevention, gangs, safety and security.
 - 6.4 Gather information regarding potential problems such as criminal activity, gang activity and student unrest, and attempt to identify particular individuals who may be a disruptive influence to the school and/or students.
 - 6.5 Take the appropriate steps consistent with a Kansas law enforcement officer's duties when a crime occurs.
 - 6.6 Present educational programs to students and school staff on topics agreed upon by both parties.
 - 6.7 Refer students and/or their families to the appropriate agencies for assistance when a need is determined.


- 6.8 Attempt to advise the school principal prior to taking legal action, subject to the SRO's duties under the law (unless in the SRO's opinion circumstances prevent it),
- 6.9 Shall not act as a school disciplinarian, nor make recommendations regarding school discipline. The SRO is not to be used for regularly assigned lunchroom duties, as a regular hall monitor, bus duties or other monitoring duties. If there is an unusual/temporary problem in one of these areas, the SRO may assist District employees until the problem is solved.

Provided further that nothing required herein is intended to nor will it constitute a special relationship or affirmative duty between the assigned SRO or the City and the District or school beyond the general duties that exist for law enforcement officers within the state.

- 1. Time and Place of Performance. The City will make all reasonable efforts to have an SRO available for duty at his or her assigned school each day that school is in session during the regular school year. The City is not required to furnish a substitute SRO on days when the regular SRO is absent due to illness or law enforcement department requirements. The SRO shall be and remain full-time uniformed law enforcement officer of and for the City, shall remain duly licensed and qualified to carry/use firearms and operate patrol cars, and shall otherwise be able to meet the physical demands of the services described herein. Notwithstanding anything herein to the contrary, in the event an officer should, for any reason, fail to remain so qualified, the City shall provide a substitute officer to perform the services until such time as the unqualified SRO is able to resume his or her regular duties. The SRO's activities will be restricted to his or her assigned school grounds except for:
 - 7.1 Follow up home visits when needed as a result of school related student problems.
 - 7.2 School related off-campus activities when SRO participation is requested by the principal and approved by the City.
 - 7.3 Responding to off-campus, but school related, criminal activity.
 - 7.4 Responding to emergency Law enforcement activities.
- 2. District Responsibilities. The District will provide the SRO an on site office and such supplies and equipment as are necessary at his or her assigned school. This equipment shall include at a minimum a telephone, filing space capable of being secured, and access to a computer.

SHAWNEE MISSION UNIFIED SCHOOL DISTRICT NO. 512

By:



President, Board of Education

City

By:

City



VILLAGEFEST COMMITTEE

Council Meeting Date: May 17, 2010

CONSENT AGENDA: Consider Approval of VillageFest Contracts

RECOMMENDATION

Staff recommends the City Council approve the following contracts for VillageFest 2010.

Sister Act Face Painting	Face Painters	\$1200
Grego's Balloons	Balloon Maker	\$300

FUNDING SOURCE

01-06-41-6014-005 - VillageFest

ATTACHMENTS

1. Contracts

PREPARED BY

Jeanne Koontz, Deputy City Clerk
May 10, 2010

ENTERTAINMENT/ VENDOR AGREEMENT

THIS ENTERTAINMENT/VENDOR AGREEMENT, (hereinafter "Agreement") is made and entered into this 28 day of July, 2010, by and between the City of Prairie Village, Kansas (hereinafter "the City") and Sister Act Face Painting, (hereinafter "Vendor").

WHEREAS, the City is sponsoring an event, entitled VillageFest, for the general public which is to be held on July 4, 2010; and

In consideration of the mutual promises and covenants contained herein, Vendor and City agree as follows:

1. Type of Space Provided: the Vendor shall specify the square footage required including facility foot print and clearance space outside the facility foot print:

20 x 20
City will provide tent
2. Type of Service Provided: the Vendor agrees to provide the following services:

5 Face Painters
3. Hours of Operation: The Vendor shall provide services to the general public from 10:00 a.m. to 1:00 p.m. on July 4, 2010.
4. Access to Facilities:
 - a. Vendor shall have access to Vendor's location on July 4, 2010 for set-up between 7:00 and 9:00 am and breakdown after 1:00 pm. Vendor's vehicle(s) must be removed from the VillageFest grounds within one hour after the end of this time period or the vehicle(s) will be subject to tow.
 - b. Vendor shall furnish City a list of each equipment/facility showing the required electrical power in AC volts and AC amp, required water from a garden hose, required fencing, required set-up/breakdown assistance specifying skills required, and any other special requirements as part of this Agreement. Any amendments to Exhibit A must be approved by the City in writing.
5. Compensation: In consideration for the entertainment provided, the City shall pay to the Vendor the amount of \$1,200, to be paid on or before July 4, 2010 unless the event is canceled as provided in Section 6 of this agreement.

6. Cancellation of the Event: The City has full authority to cancel the event for any reason. In the event that the City cancels VillageFest, the City shall notify Vendor of the cancellation in a timely manner, and this Agreement shall be terminated.

7. Clean-Up: Vendor shall maintain its Vendor's Booth and/or operating areas in a neat, clean, sanitary condition and in good order and repair, free and clean of all litter, debris and rubbish at all times. Vendor shall be responsible for the clean up of its areas on an ongoing basis during the VillageFest and at the conclusion of business and conclusion of the VillageFest. Vendor's clean up responsibilities shall also include, but not be limited to, bagging and depositing Vendor's trash in the designated containers. City reserves the right to terminate all of Vendor's rights under this Agreement, including the right to operate if Vendor has failed to maintain clean and sanitary conditions in and around Vendor's location.

8. Indemnity:
 - a. Vendor shall indemnify and hold harmless the City and its agents and employees from and against all claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from the performance of the Work, provided that any such claim, damage, loss or expense (i) is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself) including the loss of use resulting there from and (ii) is caused in whole or in part by any negligent act or omission of the Vendor, or any sub-contractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in this Paragraph.

 - b. The Vendor is responsible for all items left on the VillageFest premises, including, but not limited to, those items left in and around Vendor's location before, during and after the hours of operation of the VillageFest. Vendor shall be solely responsible for its own security at all times. Risk of loss of equipment, cash and other items belonging to or in the possession of Vendor is on Vendor. City shall not be responsible for loss of or damage to Vendor's property or inventory whether attributable to theft, vandalism spoilage, weather or any other cause.

 - c. Vendor is responsible for and agrees to reimburse City for any damage caused by Vendor to City's property or to property being used by the City.

- d. Vendor shall furnish City with a valid certificate of broad form general liability insurance, completed operations and products insurance coverage for personal injuries and property damage with combines single limits of coverage of not less than \$1,000,000.00 per occurrence, with the City named as additional insured on such policies. **Copies of said certificate shall be provided to City on or before June 21, 2010.**
9. **Notification:** Notification and any other notices under this Agreement shall be made as follows:
- City Clerk
7700 Mission Road
Prairie Village, KS 66208
(913) 381-6464
10. **Staff:**
- a. Vendor shall provide managers and sufficient staff to keep Vendor's Booth operational during the hours of operation of the VillageFest.
- b. Vendor's volunteers, employees, representatives and staff shall be prohibited by Vendor from consuming alcoholic beverages, be in possession of controlled substances, acting in a manner prohibited by state law or city ordinance, or conducting themselves in a manner detrimental to the event and the public attending when on duty at or in Vendor Booth.
- c. Vendor and its employees are independent contractors and are not employees, servants or agents of VillageFest or of the City. Vendor has the sole responsibility of providing workers' compensation coverage for its employees.
11. **Cancellation:** The City shall retain the right to cancel this Agreement at any time without penalty.
12. **Entire Agreement:** This Agreement evidences the entire agreement between the parties hereto and supersedes all prior agreements and understandings pertaining to VillageFest.
13. **Effective Date:** This Agreement is effective upon City's acceptance as evidence by the execution of this Agreement by City's authorized representatives in the space provided below.

CITY OF PRAIRIE VILLAGE

By: _____
(signed)

Ronald L. Shaffer _____

Mayor _____

City of Prairie Village _____

7700 Mission Road _____

Prairie Village, Kansas, 66208 _____

913-381-6464 _____

(date of execution)

ATTEST:

City Clerk, Joyce Hagen-Mundy

VENDOR

By: MJ Matthews-Tveit
(signed)

MJ Matthews-Tveit
(typed name)

Owner
(typed title)

Sister Act Face Painting
(typed company name)

6001 W. 100th Terrace
(typed address)

Overland Park KS 66207
(typed city, state, zip)

913 593-5104
(typed telephone number)

4/28/10
(date of execution)

APPROVED BY:

City Attorney, Catherine P. Logan

ENTERTAINMENT/ VENDOR AGREEMENT

THIS ENTERTAINMENT/VENDOR AGREEMENT, (hereinafter "Agreement") is made and entered into this 12 day of MAY, 2010, by and between the City of Prairie Village, Kansas (hereinafter "the City") and Grego's Balloons, (hereinafter "Vendor").

WHEREAS, the City is sponsoring an event, entitled VillageFest, for the general public which is to be held on July 4, 2010; and

In consideration of the mutual promises and covenants contained herein, Vendor and City agree as follows:

1. Type of Space Provided: the Vendor shall specify the square footage required including facility foot print and clearance space outside the facility foot print:
2. Type of Service Provided: the Vendor agrees to provide the following services:

Strolling Balloon Artist
3. Hours of Operation: The Vendor shall provide services to the general public from 10:00 a.m. to 2:00 p.m. on July 4, 2010.
4. Access to Facilities:
 - a. Vendor shall have access to Vendor's location on July 4, 2010 for set-up between 7:00 and 9:00 am and breakdown after 2:00 pm. Vendor's vehicle(s) must be removed from the VillageFest grounds within one hour after the end of this time period or the vehicle(s) will be subject to tow.
 - b. Vendor shall furnish City a list of each equipment/facility showing the required electrical power in AC volts and AC amp, required water from a garden hose, required fencing, required set-up/breakdown assistance specifying skills required, and any other special requirements as part of this Agreement. Any amendments to Exhibit A must be approved by the City in writing.
5. Compensation: In consideration for the entertainment provided, the City shall pay to the Vendor the amount of \$300, to be paid on or before July 4, 2010 unless the event is canceled as provided in Section 6 of this agreement.

6. Cancellation of the Event: The City has full authority to cancel the event for any reason. In the event that the City cancels VillageFest, the City shall notify Vendor of the cancellation in a timely manner, and this Agreement shall be terminated.
7. Clean-Up: Vendor shall maintain its Vendor's Booth and/or operating areas in a neat, clean, sanitary condition and in good order and repair, free and clean of all litter, debris and rubbish at all times. Vendor shall be responsible for the clean up of its areas on an ongoing basis during the VillageFest and at the conclusion of business and conclusion of the VillageFest. Vendor's clean up responsibilities shall also include, but not be limited to, bagging and depositing Vendor's trash in the designated containers. City reserves the right to terminate all of Vendor's rights under this Agreement, including the right to operate if Vendor has failed to maintain clean and sanitary conditions in and around Vendor's location.
8. Indemnity:
 - a. Vendor shall indemnify and hold harmless the City and its agents and employees from and against all claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from the performance of the Work, provided that any such claim, damage, loss or expense (i) is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself) including the loss of use resulting there from and (ii) is caused in whole or in part by any negligent act or omission of the Vendor, or any sub-contractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in this Paragraph.
 - b. The Vendor is responsible for all items left on the VillageFest premises, including, but not limited to, those items left in and around Vendor's location before, during and after the hours of operation of the VillageFest. Vendor shall be solely responsible for its own security at all times. Risk of loss of equipment, cash and other items belonging to or in the possession of Vendor is on Vendor. City shall not be responsible for loss of or damage to Vendor's property or inventory whether attributable to theft, vandalism spoilage, weather or any other cause.
 - c. Vendor is responsible for and agrees to reimburse City for any damage caused by Vendor to City's property or to property being used by the City.
 - d. Vendor shall furnish City with a valid certificate of broad form general liability insurance, completed operations and products insurance coverage for

personal injuries and property damage with combines single limits of coverage of not less than \$1,000,000.00 per occurrence, with the City named as additional insured on such policies. **Copies of said certificate shall be provided to City on or before June 21, 2010.**

9. **Notification:** Notification and any other notices under this Agreement shall be made as follows:

City Clerk
7700 Mission Road
Prairie Village, KS 66208
(913) 381-6464

10. **Staff:**

- a. Vendor shall provide managers and sufficient staff to keep Vendor's Booth operational during the hours of operation of the VillageFest.
- b. Vendor's volunteers, employees, representatives and staff shall be prohibited by Vendor from consuming alcoholic beverages, be in possession of controlled substances, acting in a manner prohibited by state law or city ordinance, or conducting themselves in a manner detrimental to the event and the public attending when on duty at or in Vendor Booth.
- c. Vendor and its employees are independent contractors and are not employees, servants or agents of VillageFest or of the City. Vendor has the sole responsibility of providing workers' compensation coverage for its employees.

11. **Cancellation:** The City shall retain the right to cancel this Agreement at any time without penalty.

12. **Entire Agreement:** This Agreement evidences the entire agreement between the parties hereto and supersedes all prior agreements and understandings pertaining to VillageFest.

13. **Effective Date:** This Agreement is effective upon City's acceptance as evidence by the execution of this Agreement by City's authorized representatives in the space provided below.

CITY OF PRAIRIE VILLAGE

By: _____
(signed)

Ronald L. Shaffer

Mayor

City of Prairie Village

7700 Mission Road

Prairie Village, Kansas, 66208

913-381-6464

(date of execution)

ATTEST:

City Clerk, Joyce Hagen-Mundy

VENDOR

By: Greg Keller
(signed)

Greg Keller
(typed name)

Greg's BALLOONS
(typed title)

(typed company name)

2623 S. 48th Terr
(typed address)

Kansas City Kansas 66106
(typed city, state, zip)

913 362 2703
(typed telephone number)

5/12/10
(date of execution)

APPROVED BY:

City Attorney, Catherine P. Logan



MAYOR

Council Meeting Date: May 17, 2010

Consent Agenda Consider appointment to the Park & Recreation Committee

RECOMMENDATION

Mayor Shaffer requests Council ratification of the appointment of Max Rieper to the Park & Recreation Committee for a two year term ending April, 2012.

BACKGROUND

Max Rieper has a law degree from KU and is working on his Master's in Public Administration. He is passionate about the Parks system. He will fill the vacant seat in Ward II.

ATTACHMENTS

1. Volunteer application

PREPARED BY
Jeanne Koontz
Deputy City Clerk

Date: May 13, 2010



**City of Prairie Village
APPLICATION TO VOLUNTEER**

Please complete this form and return it to the City Clerk's Office, 7700 Mission Road, Prairie Village, Kansas 66208. If you have any questions, please contact the City Clerk's Office at 913-381-6464 or send an e-mail to cityclerk@pvkansas.com.

Name MAX RIEPER Spouse's Name MY RIEPER
Address 4918 W 78th St Zip 66208 Ward 2
Telephone: Home 913 901 7530 Work 913-982-7296 Fax _____
E-mail maxriep@yahoo.com Other Number(s): _____
Business Affiliation _____
Business Address _____
What Committee(s) interests you? PARKS & REC

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

WE RECENTLY MOVED HERE AND I WOULD LIKE
TO BE INVOLVED IN THIS COMMUNITY. WE LOVE
THIS PARKS SYSTEM HERE AND WOULD LIKE TO
BE PART OF IMPROVING THEM

I HAVE A LAW DEGREE FROM KU AND AM EARNING
A MASTERS IN PUBLIC ADMINISTRATION.

Thank you for your interest in serving our community.



PUBLIC WORKS DEPARTMENT

Council Meeting Date: May 17, 2010

CONSENT AGENDA: CONSIDER PURCHASE OF REPLACEMENT MOWERS AND DISPOSAL OF ASSETS #1359 AND #996 BY AUCTION

RECOMMENDATION

Staff recommends the City Council approve the purchase of two Riding Mowers from Bledsoe's Rental Inc. for \$24,558.00 and the disposal of Asset #1359 and #996 by auction.

BACKGROUND

The 2010 Public Works Operating Budget provides for the replacement of two riding mowers Assets #1359 and #996, Three bids were obtained and Bledsoe's was the low bidder.

FUNDING SOURCE

The 2010 Public Works Operating Budget has a line item of \$26,000.00 for this purchase.

RELATION TO VILLAGE VISION

- CCS2a. Enhance parks for active and passive recreation through capital improvements such as landscaping, tree and flower planting, shelters, picnic facilities, athletic fields, etc.*
- TR3a. Ensure the quality of the transportation network with regular maintenance as well as efficient responses to seasonal issues such as snow removal.*

PREPARED BY

Keith Bredehoeft, Interim Director of Public Works

May 14, 2010

COUNCIL COMMITTEE OF THE WHOLE
May 3, 2010

The Council Committee of the Whole met on Monday, May 3, 2010 at 6:00 p.m. The meeting was called to order by Council President Charles Clark with the following members present: Al Herrera, Dale Warman, Ruth Hopkins, Laura Wassmer, Dale Beckerman, Charles Clark, David Morrison (arrived for executive session), Diana Ewy Sharp and David Belz. Staff members present: Quinn Bennion, City Administrator; Wes Jordan, Chief of Police; Keith Bredehoeft, Interim Public Works Director; Katie Logan, City Attorney; Dennis Enslinger, Assistant City Administrator; Karen Kindle, Finance Director; Chris Engel, Assistant to the City Administrator and Joyce Hagen Mundy, City Clerk.

COU2010-28 Consider approval of a contract with Vanum Construction for the renovation of Franklin Park

On April 22, 2010, the City Clerk opened bids for Project 190659, Franklin Park Improvements. This project will renovate Franklin Park and includes a new 8 foot trail, a new shelter, a new restroom, ball field improvements, drainage improvements, and a nature play area. Keith Bredehoeft distributed and reviewed maps showing the planned improvements.

Seven bids were received:

Vanum Construction Co. Inc.	\$817,000.00
Zimmerman Construction Co. Inc.	\$826,000.00
Wilcott Construction, Inc.	\$853,974.00
Combes Construction, LLC	\$844,000.00
Prosser Wilbert Construction, Inc.	\$908,596.00
MEGA Industries Corporation	\$1,029,690.00
Cobra Contractors, LLC	\$1,051,000.00
Engineer's Estimate	\$ 954,000.00

There were three bid alternates for LED lights, additional fencing, and parking lot replacement included with the bid. Vanum's bid for these three items was \$43,600.00. The contract will include these bid alternates for a total of \$860,600.00.

Keith Bredehoeft reported the bids were reviewed for accuracy and no errors were found. References were checked with some reporting challenges with the subcontractors on Vanum projects. Mr. Bredehoeft noted that most of the work on this project will be done by Vanum, not subcontractors. Funding for this project is available in the Capital Infrastructure Program Project 190659.

Laura Wassmer confirmed the existing playground equipment at Harmon Park will remain.

David Morrison asked what the costs were for the restroom. Mr. Bredehoeft noted the bids were submitted as a lump sum; however, the breakdown of costs indicate a cost quote by Vanum of \$140,000 with the engineer's estimate \$195,000.

Laura Wassmer noted the City has received several requests for restroom facilities at this Park and it is a priority for many residents. Mr. Morrison acknowledged the desire of residents, but felt the expenditure was too large in the current economic condition.

Al Herrera asked what was being done on the ball fields. Mr. Bredehoeft responded irrigation work and a new backstop are proposed for the baseball field. One of the additional items was the placement of a fence between the ball field and play area.

Diana Ewy Sharp made the following motion, which was seconded by Al Herrera and passed unanimously:

**MOVE THE GOVERNING BODY AUTHORIZE THE MAYOR TO SIGN
THE CONSTRUCTION CONTRACT WITH VANUM CONSTRUCTION
CO. INC. FOR PROJECT 90659: FRANKLIN PARK IMPROVEMENTS
IN THE AMOUNT OF \$860,600.00 AND TRANSFER \$500,000 FROM
THE 2010 STREET PROGRAM TO PROJECT 190659
COUNCIL ACTION TAKEN
05/03/2010**

COU2010-29 Consider request for Alcoholic Beverage Waiver for Harmon Park JazzFest Event

The Prairie Village Arts Council is sponsoring a Jazz Festival on Saturday, September 11, 2010 on the Municipal Campus and Harmon Park. Food and alcohol will be for sale and consumption by PB&J Restaurants, (Yia Yia's) during the hours of the event. The area will be secured. Police will be on the grounds during the event. All persons drinking alcohol will be required to wear a wrist bracelet that they will receive after they have shown the necessary documentation showing they are of age to drink. The bracelets will assist the police in monitoring the drinking. Yia Yia's will be the only vendor serving alcohol.

Ruth Hopkins asked if this was the first time for a waiver to be issued. Mr. Enslinger responded it is noting the provision was enacted in conjunction with the City's 50th Anniversary celebration but the related event was cancelled. She noted she had some concerns.

Diana Ewy Sharp asked for Chief Jordan's input on the request. Chief Jordan stated they have discussed this with the JazzFest committee at the beginning of the planning for this event. They talked with neighboring cities that have similar events such as "Jazz in the Woods" who stated that they have not had alcohol related problems at their events. Officers will be on hand during the event.

Diana Ewy Sharp confirmed with the City Attorney that there were not any legal issues with the sale. Joyce Hagen Mundy stated all items sold at the event will be purchased with tickets with JazzFest receiving a percentage of sales.

David Belz stated initially he was concerned when he read the item; however, if the area is going to be secured with police officers present and drinkers identified, he is ok with going forward. He noted alcohol is very common at Jazz events.

Dale Beckerman asked the hours of operation. Mr. Enslinger responded from three to ten o'clock with sale of alcohol stopping prior to the end of the event.

Andrew Wang asked why Prairie Village vendors would not be selling alcohol. Mr. Enslinger responded contact was made with Prairie Village vendors; however, they did not have the required catering license that would allow for the sale of alcohol outside of their location.

Ruth Hopkins stated she is concerned with people wanting a beer garden at VillageFest.

Laura Wassmer made the following motion, which was seconded by Al Herrera and passed:

**MOVED THE GOVERNING BODY APPROVE A WAIVER TO ALLOW
THE SERVING OF ALCOHOLIC BEVERAGES AT HARMON PARK
ON SATURDAY, SEPTEMBER 11, 2010 IN CONJUNCTION WITH THE
JAZZFEST CELEBRATION**

**COUNCIL ACTION REQUIRED
CONSENT AGENDA**

Diana Ewy Sharp asked for an update on the event. Joyce Hagen Mundy reported no funds have been received to date. The grant will be awarded this week. The primary fund raiser will take place on May 21st at US Bank. There will be a raffle and a silent auction held in conjunction with that event.

The list of individuals and business to contact regarding possible sponsorships is being finalized. Sponsors that have committed to Villagefest will not be contacted regarding JazzFest. The entertainment contracts have been negotiated and will be submitted to the City Council for approval when the required funding is available.

DISCUSSION AND DIRECTION REGARDING PROPERTY MAINTENANCE CODE ISSUES

Dennis Enslinger stated he was seeking direction on how the Council wanted staff to proceed on long-term code violation properties.

2002 West 71st Terrace

Dennis Enslinger stated this property has been before the Council earlier. There have been ongoing issues with overgrown weeds and recently standing water issues. A permit was issued in February of 2008, permit expired August of 2008. A new permit was issued in September of 08 with the basement finished in November. No construction work has been done since that time. Mr. Enslinger showed pictures of the property.

Staff has worked with the property owner to resolve issued until he secured refinancing in 2009 to complete the project. Meetings, follow-up conversations and letters have occurred with the property owners. He has failed to keep staff informed of construction plans and status. County records reflect that the 2009 property taxes have not been paid.

Al Herrera asked if the bank has placed a lien on the property. Mr. Enslinger responded he has not seen any recorded records but suspects that several liens have been filed against the property. The next step in the process would be to notify the property owner of the City's intent to declare the structure a public nuisance and schedule a public hearing. If the issues are not resolved, the City would then be able to take action to correct the issues and charge the property owner. This is a not a quick process.

It was the consensus of the Council to direct staff to move forward with process to declare the property a public nuisance.

7925 Reinhart Lane

Mr. Enslinger stated the first complaint on this property in 2006. The property is currently vacant with the owner residing in another property located in Fairway. The City has made several attempts to have the owner make repairs to the roof. Several pictures were shown depicting the deteriorating condition of the roof. The property owner has appeared in court on several occasions and has been required to show either intent to sell or to repair. The owner failed to appear on the last ticket written in 2009 and the ticket is in warrant status.

Mr. Enslinger noted that in addition to the roof damage, the house is filled with items that the owner has collected.

David Belz stated the property looks worse than it is depicted in the photos. The neighbors are extremely frustrated by the lack of care taken of the property. There are people who are interested in purchasing the home.

Council members confirmed that the property owner has no family in the area. Several options were discussed for resolution of the problem and the Council was in agreement that action needs to be taken. The Council directed staff to proceed with the process to declare the property a public nuisance.

The Block of 7600 Falmouth

Dennis Enslinger stated this property is being brought before the Council in response to a recent letter received by the neighboring property owner. The City has received numerous complaints regarding this property in the past. The complaints stated in the letter received are for code violations that are related to seasonal activity and are not currently present. The activity at this property has grown in intensity over the years with the activity occurring between November and February.

Council members discussed the complaint and possible options for resolution. As there are currently no code violations, no action will be taken by the City at this time.

7411 Birch

Dennis Enslinger stated the City has received complaints regarding this property since 2003, mostly related to uncut grass and dead trees. The property is currently vacant and has had extensive water damage to the interior. However, from the exterior the home appears to be in good condition.

Mr. Enslinger noted that during the investigation of a recent break-in, the police officer was concerned with his ability to safely enter the home. The property owner does reside in Prairie Village and owns other properties. The property owner will comply with requests to maintain the property after numerous contacts by codes personnel. Code Enforcement staff have not been inside the structure and cannot without a warrant or approval of the property owner to assess the structural condition of the house.

After the concerns expressed by the police, the police and fire departments have posted the structure as uninhabitable structured and notified their dispatch that personnel are not to enter unless there is a life safety issue.

Council members discussed the issues and directed staff to request a warrant from the District Court to enter to house to do a structural assessment.

ADJOURNMENT

Council President Charles Clark announced that the 2011 budget presentation on the agenda will be presented at the City Council meeting and adjourned the meeting at 7:25 p.m.

Charles Clark
Chairman



MAYOR

Council Meeting Date: May 17, 2010

Consent Agenda: Consider Proclamation recognizing National Public Works Week

RECOMMENDATION

Recommend the City Council authorize the Mayor to execute a proclamation recognizing May 16 - May 22, 2010 as National Public Works Week.

BACKGROUND

National Public Works Week (NPWW) is a celebration of the tens of thousands of men and women in North America who provide and maintain the infrastructure and services collectively known as public works.

Instituted as a public education campaign by the American Public Works Association (APWA) in 1960, NPWW calls attention to the importance of public works in community life. The Week seeks to enhance the prestige of the often-unsung heroes of our society-the professionals who serve the public good every day with quiet dedication.

ATTACHMENTS

Proclamation

PREPARED BY

Jeanne Koontz, Deputy City Clerk

Date: May 13, 2010

CITY OF PRAIRIE VILLAGE

Proclamation

**National Public Works Week
May 16 through May 22, 2010**

Whereas, public works services provided in our community are an integral part of our citizens' everyday lives; and

Whereas, the support of an understanding and informed citizenry is vital to the efficient operation of public works systems and programs such as water, sewers, streets and highways, public buildings, and solid waste collection; and

Whereas, the health, safety and comfort of this community greatly depends on these facilities and services; and

Whereas, the quality and effectiveness of these facilities, as well as their planning, design, and construction, is vitally dependent upon the efforts and skill of public works officials; and

Whereas, the efficiency of the qualified and dedicated personnel who staff public works departments is materially influenced by the people's attitude and understanding of the importance of the work they perform,

Now, therefore, I, Ronald L. Shaffer, Mayor of the City of Prairie Village, do hereby proclaim the week of

May 16 through 22, 2010 as "National Public Works Week"

in The City of Prairie Village, and I call upon all citizens and civic organizations to acquaint themselves with the issues involved in providing our public works and to recognize the contributions which public works officials make every day to our health, safety, comfort, and quality of life.

Mayor Ronald L. Shaffer

City Clerk

Date

MAYOR'S ANNOUNCEMENTS

May 17, 2010

Committee meetings scheduled for the next two weeks include:

Arts Council	05/19/2010	7:00 p.m.
Environmental Recycle Committee	05/26/2010	7:00 p.m.
VillageFest Committee	05/27/2010	7:00 p.m.
Planning Commission	06/01/2010	7:00 p.m.
Council Committee of the Whole	06/07/2010	6:00 p.m.
City Council	06/07/2010	7:30 p.m.

The Prairie Village Arts Council is pleased to announce a mixed media exhibit by Rod Atteberry and Otto Miller for the month of May.

Recreation memberships are now for sale in the City Clerk's office. The pool opens on May 29th.

The City offices will be closed Monday, May 31st in observance of Memorial Day. Deffenbaugh also observes this holiday and trash/recycling pick-up will be delayed one day.

The City Clerk's office has a new style of ceramic coffee mug for sale. They are \$5.00 each.

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

INFORMATIONAL ITEMS
May 17, 2010

1. Planning Commission Minutes - April 6, 2010
2. Sister City Special Meeting Minutes - April 5, 2010
3. Park and Recreation Committee Minutes - April 14, 2010
4. VillageFest Committee Minutes - April 22, 2010
5. Mark Your Calendars
6. Committee Agenda

PLANNING COMMISSION MINUTES
April 6, 2010

ROLL CALL

The Planning Commission of the City of Prairie Village met in regular session on Tuesday, April 6, 2010 in the Council Chambers, 7700 Mission Road. Chairman Ken Vaughn called the meeting to order at 7:30 p.m. with the following members present: Bob Lindeblad, Nancy Wallerstein, Dirk Schafer, Randy Kronblad and Marlene Nagel.

The following persons were present in their advisory capacity to the Planning Commission: Ron Williamson, Planning Consultant; Dennis Enslinger, Assistant City Administrator; Jim Brown, City Building Official; Dale Beckerman, Council Liaison and Joyce Hagen Mundy, City Clerk/Planning Commission Secretary.

APPROVAL OF MINUTES

Randy Kronblad confirmed the signage for Noodles & Company was approved by the Commission as part of the site plan approval at the last meeting. Marlene Nagel moved for the approval of the minutes of March 2, 2010 as submitted. The motion was seconded by Randy Kronblad and passed unanimously.

NON PUBLIC HEARING

**PC2010-103 Request for Site Plan Approval for Building Height Elevation
And Plat Modification
4414 Homestead Drive**

Bob Sigler, 7925 El Monte, stated he has a contract to purchase the property at 4414 Homestead Drive and construct a new home. The existing house was demolished in 2008. The proposed building height modification would allow for better site drainage and for egress windows on the south elevation that would not require window wells. The adjacent properties, 4509 West 64th Street and 4410 Homestead Drive, are at a first floor elevation of 109.2 and 97.9 respectively.

The applicants held a neighborhood meeting on March 6th. Residents attending reviewed the site plans and had no objections to the proposed construction.

Randy Kronblad noted the applicant's effort to maintain existing trees on the lot. Mr. Sigler noted about one third of the trees were removed during the earlier demolition of the house on this lot. In securing the necessary egress for the lower level, they will need to remove an additional tree, but are attempting to save existing trees whenever possible.

Mr. Sigler presented a memo to the Commission enumerating additional changes to the site plan since his initial submittal. None of these changes impact the issues before the Commission.

Nancy Wallerstein asked if the additional changes had been submitted to the Homes Association. Mr. Sigler responded they had not.

Ken Vaughn asked if the basement floor elevation was the same as the original structure on the property. Mr. Sigler responded the proposed basement floor elevation is actually lower than that of the original structure.

Ken Vaughn led the Commission in review of the criteria for approval of a change to building elevation.

1. That there are special circumstances or conditions affecting the property;

The existing residence has been demolished and there is the opportunity to rebuild it in a manner that is more compatible with today's market for single-family dwellings. The land in this area is hilly with significant elevation changes. A 1 foot modification is probably not going to be that noticeable. The proposed rebuild will be higher than the residence to the west but will be setback approximately 40 feet from the western property line.

2. That the elevation change is necessary for reasonable and acceptable development of the property in question;

In today's market, taller ceilings are highly desirable and they make basement space more livable. When opportunities occur for properties to be rebuilt, a reasonable effort should be made to allow the new building to meet current market demands provided that it is compatible with the neighborhood. A 1 foot increase is minimal and could be accomplished at this location.

3. That the granting of the building elevation change will not be detrimental to the public welfare or injurious to or adversely affect adjacent property or other property in the vicinity in which the particular property is situated.

The proposed house will maintain the platted setbacks of 30 and 40 feet along Granada and Homestead Drive respectively. The side yard setback on the north will actually be increased from 10 feet for the previous structure to 14 feet for the proposed structure. The terrain is hilly in this area and an elevation change of 1 foot with proper foundation landscaping and proper drainage should not adversely affect the public welfare or be injurious to property in the immediate area.

Bob Lindeblad moved the Planning Commission find favorably on the criteria and grant a one foot increase in elevation to 101.5 for the proposed structure subject to the following conditions:

1. Submission for staff approval of a foundation landscaping plan to minimize the visual impact of the elevation change;
2. Approval of a Drainage Permit from the Public Works Department; and
3. Final approval of the Indian Fields Homes Association.

The motion was seconded by Randy Kronblad and passed unanimously.

Plat Modification

Dennis Enslinger stated the applicant is also requesting to make a change to a note on the final plat. Currently the final plat for Indian Fields designates the front of the lot facing Homestead Drive and Granada as a side yard. The previous structure was actually constructed in violation of this restriction on the plat. The applicant is requesting to have the front yard be designated along Granada and have the Homestead Drive designated as a side yard. . It was noted 9-1-1 regulations requires homes be addressed based on the location of the front door.

Given the fact that the previous structure was constructed so that Granada was the front yard, the applicant is not requesting any change to the platted setbacks, and that the platted setback along Granada meets the zoning setback of 30 feet.

Bob Lindeblad moved the Planning Commission adopt a resolution that the final plat is amended to designate the platted front yard as Granada for Lot 25, Block 11, Indian Fields contingent upon Final approval of the Indian Fields Homes Association and that the applicant records the Resolution with the register of deeds prior to the issuance of a building permit. The motion was seconded by Nancy Wallerstein and passed unanimously.

OTHER BUSINESS

Staff announced the May agenda at this point in time includes two public hearings; the first for a Conditional Use Permit for a wind turbine by Shawnee Mission East High School and the second for a Special Use Permit for a 150' stealth wireless communication facility at 3921 West 63rd Street by Verizon Wireless. There may also be a site plan approval for another building height elevation at 4405 West 66th.

It was announced that Lane4 had submitted applications for designation of Community Improvement Districts for both the Prairie Village and Corinth Square Shopping Centers.

ADJOURNMENT

Being no further business to come before the Commission, Chairman Ken Vaughn adjourned the meeting at 7:45 p.m.

Ken Vaughn
Chairman

Sister City Special Meeting: April 5, 2010

Present were Rod Atteberry, Cleo Simmonds, Jim Hohensee, Vera Glywa, Carole Mosher, Cindy Dwigans, Bob McGowan, and Dick Bills

Discussion of minutes was deferred until the next regular meeting.

The upcoming art show was discussed. Rod described the planned arrangements. Yuri will be near his photos and Marta will give a discussion with emphasis on embroidery. There was enough art that we should be able to have another show in the future.

Rod will arrive early and set up a P.A. system. Everyone on the committee should plan to be at City Hall at 6 p.m. A request for wine has gone to the arts council. There will be snacks.

We should try to take a head count and a video, if possible.

We will make an effort to have Marta and Yuri speak to an arts class at a school to fulfill our plans included in the grant proposal.

We will have a catalog of the art. Tape binding is preferred. A glossy photo paper should be used. Jim will look for a printer. We will sell them for \$1.00. That will not cover costs but it will insure people don't just grab them. Dick can sell them along with the Ukrainian folk items. We should print 150.

Rod will be the MC on Friday. The flat screen cannot be powered in the display case because of cord problems.

Vera discussed the arrival of Mayor Garazd and Yuri. The dinner for them will be Monday the 12th of April at the Macaroni Grill, 92nd and Metcalf at 6 pm. The committee discussed ala carte options as opposed to fixed menu options and decided to use the fixed menu options.

Vera discussed the schedule for Mayor Garazd and Yuri.

The meeting was adjourned.

PARK AND RECREATION COMMITTEE

April 14, 2010

The Park and Recreation Committee met at 7.00pm. Present and presiding: Diana Ewy Sharp, Chair, Al Herrera, Vice Chair, Diane Mares, Peggy Couch, Ann Bontrager and Jim Bernard, Jr. Staff: Mike Helms, Chris Engel. Also present: Tom Cleary

PUBLIC PARTICIPATION

Resident Tom Cleary appeared to ask the procedure for replacing the Harmon Park tennis courts. He believes they are at the end of their useful life and would like the City to consider getting them redone. Diana will visit with Public Works to discuss getting this item on the long-range CIP.

CONSENT AGENDA

Chris shared comments on the concessions fees that were forwarded by Clarence. Al moved for the approval of the consent agenda as presented. Diane seconded and the motion passed.

REPORTS

Public Works Report

Mike reported the pool leak was still being investigated and more should be known soon. As part of an Eagle Scout project over 70 scouts mulched trees and signs in Porter and Harmon Parks. Jim asked if something about the event could be placed in the next Village Voice.

Recreation Program Report

Chris reported the dive coach has requested an assistant. There is no budget for an additional coach. Nancy Morgan has stepped down as the Synchro coach and her assistant, Melanie Muecke, has been promoted. Franklin Park project bids are due on April 22 and construction should start in mid-May. Animal Control is once again hosting Dog Days in Harmon Park on August 28. Vending machines in the parks were discussed and determined to not be something the committee is interested in at this time.

Parks Master Plan Report

Al asked for there be a ribbon cutting and media exposure when Franklin Park is completed. It was also decided to do a ground-breaking picture at the May meeting in Franklin Park.

Community Center Committee

Jim reported interviews of the 4 firms still in consideration for the feasibility study will be on April 29.

Chairperson's Report

Diana has forwarded the Mayor two candidates for the current committee vacancies; Diane has engaged a student to fill one of the youth openings. El Monte Fountain is working and in the process of being landscaped for a ribbon-cutting on June 19. Meadowbrook is partnering with the City for a resident only golf tournament on May 19 and looking for volunteers. The annual middle-school skate contest is being postponed but will still occur this spring.

NEW BUSINESS

Diane reported she and Dan had presented the PV Merchants with a raffle idea to get people into the shops and the parks but it was rejected. They are now suggesting the committee host an ice cream social

in the park. The committee agreed it sounded like a good idea and Diana asked Diane to prepare a proposed budget. Dan and Al will work on getting the Countryside East budget for their similar event.

INFORMATIONAL ITEMS

The next meeting will be May 12th at 6.00pm in Franklin Park.

Diana Ewy Sharp
Chairperson

VILLAGEFEST COMMITTEE

April 22, 2010

The VillageFest Committee met April 22, 2010. Present and presiding, Chairman John Capito. Members present: Joel Crown, Kathy Peters, Art Dick, Bob Engel, Bob Pisciotta, Luci Mitchell, Katie Aguilera, Diana Ewy Sharp, Doug Sharp, Ed Roberts, Julie Weiss, Jessica Vestel, Gretchen Bishop, Cori Scheer, Mike Helms, Sgt. Byron Roberson, and Jeanne Koontz.

Minutes

Joel Crown moved approval of the minutes of the March 2010 meeting. Art Dick seconded the motion which passed unanimously.

New Members

John Capito introduced and welcomed Gretchen Bishop, a new member, and Jessica Vestel with Claridge Court.

Budget Report

Jeanne Koontz reported \$21,000 in sponsorships has been committed and \$16,000 has been allocated.

Staff Reports

A. Administration

Jeanne Koontz said she did not find any leads for balloon makers. Joel Crown said he has a lead and he and John will interview him next week.

Jeanne Koontz asked the committee if they wanted more face painters. The committee decided to add one face painter for a total of five.

Jeanne Koontz asked the committee if they want to hire operations attendants for the mechanical rides. The cost is \$20 per hour per person. The committee decided to hire one attendant for each ride.

Jeanne Koontz reported she heard back from Wacky Banana and the Jump Up Express Trampoline is available for \$1,000. Diana Ewy Sharp asked how many people it accommodates at a time. Jeanne Koontz said she would follow-up with them.

Jeanne Koontz reported the following acts have not yet responded:

- Beaks N Wings
- Miller Marley Minitainers

Jeanne Koontz asked the committee if they would like Diane Robertson to sing at the Patriotic Service. The committee responded yes.

Jeanne Koontz reported that Scott Klamm will be scheduled from 12:30 to 2:00 instead of 9:30 - 11:00 because of a scheduling conflict. He has asked where he can drop off his equipment since the lot will be closed. Joel Crown expressed concern with him playing at the same time as the headliner. Luci Mitchell suggested having him play in City Hall. Mike Helms said he can drop off his equipment at the gate on Mission Road.

Jeanne Koontz asked for suggestions for an emcee. Bob Pisciotta suggested Tom Lawrence. Diana Ewy Sharp said she would like to ask Ron Mayer again. The committee did not want to use Ron Mayer again. Diana Ewy Sharp suggested asking Chief Jordan. Byron Roberson said he would follow-up with him.

B. Public Works - No Report

C. Police Department - No Report

D. Fire Department

Byron Roberson said he will contact Chris Andrews about the Fire Department Display. Mission Road Bible Church has moved their service to 7:30 am on July 4th. The City can use their parking lot after church services. The Fire Department will be able to have their normal display. Diana Ewy Sharp asked if the Med-Act helicopter is available. John Capito said the Chinook is still a possibility and will follow-up with them next week. Jeanne Koontz suggested requesting the Med-Act robot which teaches children about safety. Byron Roberson said he will follow up on these items.

Sub-Committee Chairperson Assignments

A. Decorations

The balloons are the same price as last year. There are enough flags at Public Works.

B. Entertainment

John Capito suggested having Liverpool, a Beatles Tribute band. The committee agreed with this.

C. Sponsorship

John Capito asked Jessica how Claridge Court would like to be involved. Jessica Vestel said the residents are willing to volunteer, play Wii! with kids and/or zumba dance with kids. Katie Aguilera said she thinks the Wii! could fit in the Community Center with the creativity center.

Cory Scheer reported the YMCA will have the same booth as last year. He said they also have a core group of 15-20 volunteers if needed and they could make some of their parking lot available for overflow parking.

Diana Ewy Sharp reported Prairie Village Homes Association is interested in being a sponsor again.

D. Marketing, advertising and material design

John Capito reported there will be no print ads this year. Lillian Kuras will concentrate on internet marketing and John Capito will do the flyer.

The committee suggested having a Facebook page. Jeanne Koontz will check into this.

E. Creativity Center

Katie Aguilera said she is considering having the children decorate their own 4th of July cookie. She said she will follow-up on historical re-enactors tomorrow.

F. Patriotic Service

Bob Pisciotta said it will be the typical service. He will see if he can get the scouts involved.

G. Food - No Report

H. Hospitality - No Report

I. Volunteers - No Report

J. Children's Parade

Katie Aguilera said she would like to give nice prizes for the children's parade not just ribbons.

- K. Information Booth - No Report
- L. Student Contest - No Report
- M. Community Spirit Award - No Report
- N. Bike Rodeo - No Report
- O. Children's Fingerprinting - No Report
- P. Fashion Coordinator

Luci Mitchell brought last year's t-shirt. Price is \$18 each for 15 shirts or \$4.95 each for 300 shirts. The extras could be sold to the public. Katie Aguilera said she thought this was not successful in the past. John Capito reported the SME Robotics team has a t-shirt gun. He thought it would be fun to have them shoot t-shirts into the crowd. Bob Pisciotta said the money allocated for print ads could be used to buy the shirts. Art Dick asked if the shirts would take away from the distinctiveness of committee members. Luci Mitchell will investigate shirt prices and styles.

- Q. Committee Booths

Deborah English is contacting food vendors on behalf of the environmental committee.

- R. Train Show - No Report

- S. Joel's Flying Lawn Mower Brigade

Joel Crown said the event is tentative at this moment. John Capito said we will need to know whether it is happening by the May meeting.

Schedule

The committee reviewed the schedule. Diana Ewy Sharp asked if the magician could go on stage from 11:30 - 12:00.

Review Monthly Schedule

Jeanne Koontz reviewed the monthly schedule.

Other

Diana Ewy Sharp said we need to find something for Mayor Shaffer to do. John Capito suggested having him shoot the t-shirts.

Cory Scheer said he knows a speaker, Jack Brooks, who was present at the invasion of Normandy if we're interested.

Joel Crown moved to adjourn at 8:00 pm. Bob Pisciotta seconded the motion which passed unanimously.

John Capito
Chair

**Council Members
Mark Your Calendars
May 17, 2010**

May 2010	Rod Atteberry and Otto Miller mixed media exhibit in the R. G. Endres Gallery
May 31	City offices closed in observance of the Memorial Day holiday
June 2010	Marearl Denning photography exhibit in the R. G. Endres Gallery
June 7	City Council Meeting
June 11	Artist reception in the R. G. Endres Gallery 6:30 - 7:30
June 21	City Council Meeting
July 2010	Ric Cummings photography exhibit in the R. G. Endres Gallery
July 4	VillageFest
July 5	City offices closed in observance of the Independence Day holiday
July 6 (Tuesday)	City Council Meeting
July 9	Artist reception in the R. G. Endres Gallery 6:30 - 7:30
July 19	City Council Meeting
August 2010	Senior Arts Council mixed media exhibit in the R. G. Endres Gallery
August 2	City Council Meeting
August 13	Artist reception in the R. G. Endres Gallery 6:30 - 7:30
August 16	City Council Meeting
September 2010	Joan Gerding oils exhibit in the R. G. Endres Gallery
September 6	City offices closed in observance of the Labor Day holiday
September 7 (Tues.)	City Council Meeting
September 10	Artist reception in the R. G. Endres Gallery 6:30 - 7:30
September 20	City Council Meeting
October 2010	State of the Arts exhibit in the R. G. Endres Gallery
October 4	City Council Meeting
October 8	Artist reception in the R. G. Endres Gallery 6 - 8 p.m.
October 18	City Council Meeting
November 2010	Mid-America Pastel Society pastels exhibit in the R. G. Endres Gallery
November 1	City Council Meeting
November 12	Artist reception in the R. G. Endres Gallery 6:00 - 8:00
November 15	City Council Meeting
November 25	City offices closed in observance of the Thanksgiving holiday
November 26	City offices closed in observance of the Thanksgiving holiday
December 2010	Marcus Cain mixed media exhibit in the R. G. Endres Gallery
December 6	City Council Meeting
December 10	Artist reception in the R. G. Endres Gallery 6:30 - 7:30
December 20	City Council Meeting
December 24	City offices closed in observance of the Christmas holiday

ANIMAL CONTROL COMMITTEE

AC96-04 Consider ban the dogs from parks ordinance (assigned 7/15/96)

COUNCIL COMMITTEE

- COU2007-02 Consider Reducing size of Council & term limits for elected officials (assigned 1/8/2007)
COU2007-35 Consider reactivation of Project 190709: 83rd Street/Delmar Drainage Improvements
COU2007-40 Consider Code Enforcement - Interior Inspections (assigned 5/2/2007)
COU2007-74 Consider reactivation of Prairie Village Development Corporation (assigned 12/3/2007)
COU2008-21 Consider Project 190865:2009 CARS - Roe Avenue Resurfacing from Somerset Drive to 83rd Street (assigned 2/26/2008)
COU2008-22 Consider Project 190890: 2009 Street Resurfacing Program (assigned 2/26/2008)
COU2008-67 Consider sidewalk policy relative to sidewalks (8200 Rosewood) (assigned 8/13/2008)
COU2008-75 Consider approval of a modification to Personnel Policy 910 regarding "comp time" (assigned 10/1/2008)
COU2008-100 Consider approval of ordinance affirming City Boundaries (assigned 12/10/2008)
COU2009-03 Consider Project 191023: 2009 Concrete Repair Program (assigned 12/23/2008)
COU2009-14 Consider Project 190870: 2010 Street Resurfacing Program (assigned 1/13/2009)
COU2009-15 Consider Project 190721: 2009 Storm Drainage Repair Program (assigned 1/13/2009)
COU2009-16 Consider Project 190876: 2010 CARS, 83rd Street Resurfacing from Nall Avenue to Roe Avenue (assigned 1/13/2009)
COU2009-17 Consider Project 190877: 2009 CARS, 83rd Street Resurfacing: Roe Avenue to Somerset Drive (assigned 1/13/2009)
COU2009-26 Consider Project 190722: 2010 Storm Drainage Repair Program (assigned 2/6/2009)
COU2009-63 Consider Project 190866 - 75th Street Paving (assigned 6/10/2009)
COU2009-97 Consider Project 190653 El Monte Fountain Improvements (assigned 10/12/2009)
COU2009-98 Consider Project 190656 Community Center Study (assigned 10/12/2009)
COU2009-100 Consider Project 190728: Prairie Lane Drainage Project (assigned 10/14/2009)
COU2009-111 Consider Project 190653: El Monte Fountain Construction Change Order #1 (assigned 12/1/2009)
COU2009-114 Consider Approval of Council Policy 065 - Employee Service Awards (assigned 12/1/2009)
COU2009-123 Consider Project 190728: Prairie Lane Drainage Project - Engineering Change Order #1 (assigned 12/16/2009)
COU2010-01 Consider approval of an agreement with MMG for the design of phase 1 of the City's Website (assigned 12/30/2009)
COU2010-17 Consider directing staff to explore modifications to Somerset Drive from 83rd Street to east of Mission Road as part of the 2010 Bond Project (assigned 3/31/2010)
COU2010-30 Consider Approval of Investment Grade Audit Agreement with Energy Solutions Professionals (ESP) (assigned 5/12/2010)
COU2010-31 Consider Project 190890: 2010 Bond Project - Construction Change Order #1 for Traffic Calming on 71st Street from Cherokee to Belinder (assigned 5/12/2010)
COU2010-32 Consider Approval of a contract with Musselman & Hall Contractors for Project P5001, 2010 Street Repair Program for \$260,000.00
COU2010-33 Consider Approval of a Contract with Musselman & Hall Contractors for the 2010 Crack Seal/Slurry Seal Program (assigned 5/12/2010)
COU2010-34 Consider Project 190890: 2010 Bond Project - Construction Change Order #2 for Traffic Calming on 82nd Terrace from Somerset to Roe (assigned 5/12/2010)

PARKS AND RECREATION COMMITTEE

PK97-26 Consider Gazebo for Franklin Park (assigned 12/1/97)

PLANNING COMMISSION

- PC2007-01 Study City zoning regulations to address those items identified by the Village Vision Strategic Investment Plan in 2007 (assigned 8/20/2007)
PC2008-02 Consider development of ordinances to support best practices for renewable energy and for green design related to residential and commercial building design (assigned 7/7/08)

PRAIRIE VILLAGE ARTS COUNCIL

PVAC2000-01 Consider a brochure to promote permanent local art and history (assigned Strategic Plan for the 1st Quarter of 2001)

4705 CENTRAL SREET
KANSAS CITY, MO 64112
P: 816-960-1444
F: 816-960-1441
www.lane4group.com

April 2, 2010

City Clerk
City of Prairie Village
Municipal Building
7700 Mission Road
Prairie Village, Kansas 66208

RE: CID Application
Prairie Village Shopping Center

Please find enclosed the application for the proposed Community Improvement District at Prairie Village Shopping Center along with the application fee for \$2,000.00.

We look forward to working with the City of Prairie Village on this project.

Sincerely,



Michelle Kaiser

Enc.

**PETITION FOR THE CREATION OF A
COMMUNITY IMPROVEMENT DISTRICT**

TO: City Council,
City of Prairie Village, Kansas

The undersigned, being the owners of record, whether resident or not, of the following:

1. More than fifty-five percent (55%) of the land area contained within the hereinafter described community improvement district; and
2. More than fifty-five percent (55%) by assessed value of the land area contained within the hereinafter described community improvement district.

hereby petition the City of Prairie Village, Kansas (the “City”) to create a community improvement district and authorize the proposed projects hereinafter set forth, all in the manner provided by K.S.A § 12-6a26, *et seq.* (the “Act”). In furtherance of such request, the petitioners state as follows:

1. GENERAL NATURE

The general nature of the proposed projects (the “Projects”) is to promote the redevelopment and revitalization of an underutilized shopping center to its highest and best use, as is more particularly described herein, by providing community improvement district financing in accordance with this Petition and with the Act to finance the construction, maintenance, and procurement of certain improvements, costs, and services within the District.

2. ESTIMATED COST

The estimated cost of the Projects is \$42,519,500, plus the costs of services, special events, tenant improvements, and financing costs. See the attached **EXHIBIT “A”** for a detailed budget.

3. PROPOSED METHOD OF FINANCING

It is proposed that the Projects be financed through a combination of private equity, private debt and Pay-as-you-go financing, as defined in the Act, and/or through the issuance of special obligation bonds/notes.

4. PROPOSED METHOD AND AMOUNT OF ASSESSMENT

It is not being proposed that the Projects be financed through the levying of assessments.

5. PROPOSED AMOUNT OF SALES TAX

It is being proposed that the Projects be financed in part through the levying of a 1% add-on sales tax as authorized by the Act.

6. MAP AND LEGAL DESCRIPTION OF THE PROPOSED DISTRICT

A map of the proposed community improvement district (the “District”) is attached hereto as **EXHIBIT “B”**.

The legal description of the District is attached hereto as **EXHIBIT “C”**.

7. NOTICE TO PETITION SIGNERS

Names may not be withdrawn from this Petition by the signers hereof after the City commences consideration of this Petition, or later than seven (7) days after the filing hereof with the City Clerk, whichever occurs first.

8. PETITION BINDING ON FUTURE OWNERS

If this Petition is not properly withdrawn as permitted by the Act, any future owners of the Property shall be bound by this Petition.

9. BOND MARKETABILITY

The signers hereof acknowledge that the City will record this Petition if the proposed project is approved by the City Council and that by the acceptance of this Petition, the City Council is not making any representation as to the marketability of bonds to finance the projects described in this Petition. The petitioner assumes the risk that such bonds can be issued under terms acceptable to the City.

10. COUNTERPARTS

For purposes of executing this Petition, this document signed and transmitted by facsimile machine or telecopier is to be treated as an original document. This Petition may be executed in one or more counterparts and by each signer hereof on a separate counterpart, each of which when so executed and delivered shall be an original, and all of which shall constitute one instrument.

IN WITNESS WHEREOF, the undersigned petitioners have executed the above foregoing petition to create the district at the dates set forth opposite their respective signatures below:

PV Retail Partners, LLC, a Kansas limited liability company

By: Landmark Retail Properties, LLC, a Missouri limited liability company

By: Enterprises Retail Investors, LLC, a Missouri limited liability company

By: William D. Cosentino
William D. Cosentino, President

By: Group Retail Investors, LLC, a Missouri limited company

By: David G. Cosentino
David G. Cosentino, President

ACKNOWLEDGMENT

STATE OF KANSAS)
) ss.
COUNTY OF JOHNSON)

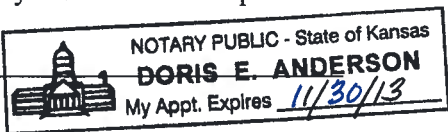
BE IT REMEMBERED, that on this 1st day of APRIL, 2010 before me, the undersigned, a Notary Public in and for said County and State, came WILLIAM D. COSENTINO, who is known to me to be the same person who executed the within instrument, and such person duly acknowledged the execution of the same.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal the day and year last above written.

(Seal)

Doris E. Anderson
Notary Public in and for said
County and State

My Commission Expires:



STATE OF KANSAS)
) ss.
COUNTY OF JOHNSON)

BE IT REMEMBERED, that on this 1ST day of APRIL, 2010 before me, the undersigned, a Notary Public in and for said County and State, came DAVID B. COSENTINO, who is known to me to be the same person who executed the within instrument, and such person duly acknowledged the execution of the same.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal the day and year last above written.

(Seal)

Doris E. Anderson
Notary Public in and for said
County and State

My Commission Expires:

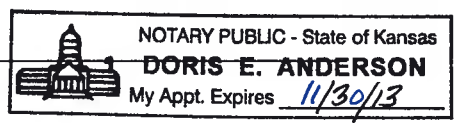


EXHIBIT "A"
ESTIMATED PROJECT COSTS

See Attached.

The Village
Preliminary Budget



VILLAGE PROJECT
SOURCES & USES

SOURCES

TYPE OF FINANCING	TOTAL FINANCING AMOUNT
	Assuming 1% CID Sales Tax
Debt	\$21,935,700
Equity	\$14,623,800
CID Sales Tax Revenues	\$5,960,000
TOTAL	\$42,519,500

VILLAGE TOTAL SOURCES: \$42,519,500

* Estimated CID Sales Tax Revenue is based on a 1% CID Sales Tax collected over 22 years (net present valued using a 7% discount rate), and assumes current sales grow at the rate of 1% per year. The Developer anticipates collecting CID Sales Tax Revenues on a pay-as-you-go basis, but may request that the City issue obligations backed by CID Sales Tax Revenues, at the City's sole discretion. Remaining costs are assumed to be financed with 40% equity & 60% debt.

USES

PHASE	PROJECT SCOPE OF WORK	SUB-SCOPE OF WORK	ESTIMATED TOTAL PROJECT COSTS
PHASE #1 - Mission Lane			
	Mission Lane	Provide new diagonal parking along Mission Lane Replace existing pavement Provide new pedestrian sidewalks Reconfigure existing parking lots at bldg. F and vehicular entrances Provide 12 paved pedestrian crosswalks Provide 2 paved street medallions Provide new trees and landscaping	\$2,097,563
	Streetscaping	Upgrade irrigation system includes new water tap New benches New trash receptacles Bike racks	\$835,313
	Buildings C & D	Wood shingle replacement New flat roof Remove walkway roof and column supports between building B,C & D	\$2,375,000
	Parking lot between F & G	Remove existing parking area Repair culvert Replace parking area	\$1,794,375
	Replace Parking East Side Building C		\$309,375
	Site security		\$61,875
PHASE #1 TOTALS:			\$7,473,500
PHASE #2 - Pedestrian Amenities			
	Public Gathering Space @ courtyard	Provide open air covering over courtyard Repair and landscape Courtyard Modify north elevation Mary's building Add irrigation Rehab original fountain	\$2,846,250
	Building G	Roof replacement	\$247,500
	Alhambra Street (parking area)	Provide new enhanced landscape islands at west side of parking drive to better define parking aisles and street edge New Signage	\$711,563
	City Walking/Cycling Trail	Provide concrete trail in designated areas Provide 2 paved pedestrian crosswalks Provide landscaping as needed	\$730,125
	Streetscaping	Upgrade irrigation system New benches New trash receptacles Bike racks Replace Dock Parking A Building A	\$433,125
	Building A	Roof replacement - flat roof Wood shingle replacement	\$2,475,000
	Site security		\$61,875
PHASE #2 TOTALS:			\$7,443,563

The Village
Preliminary Budget

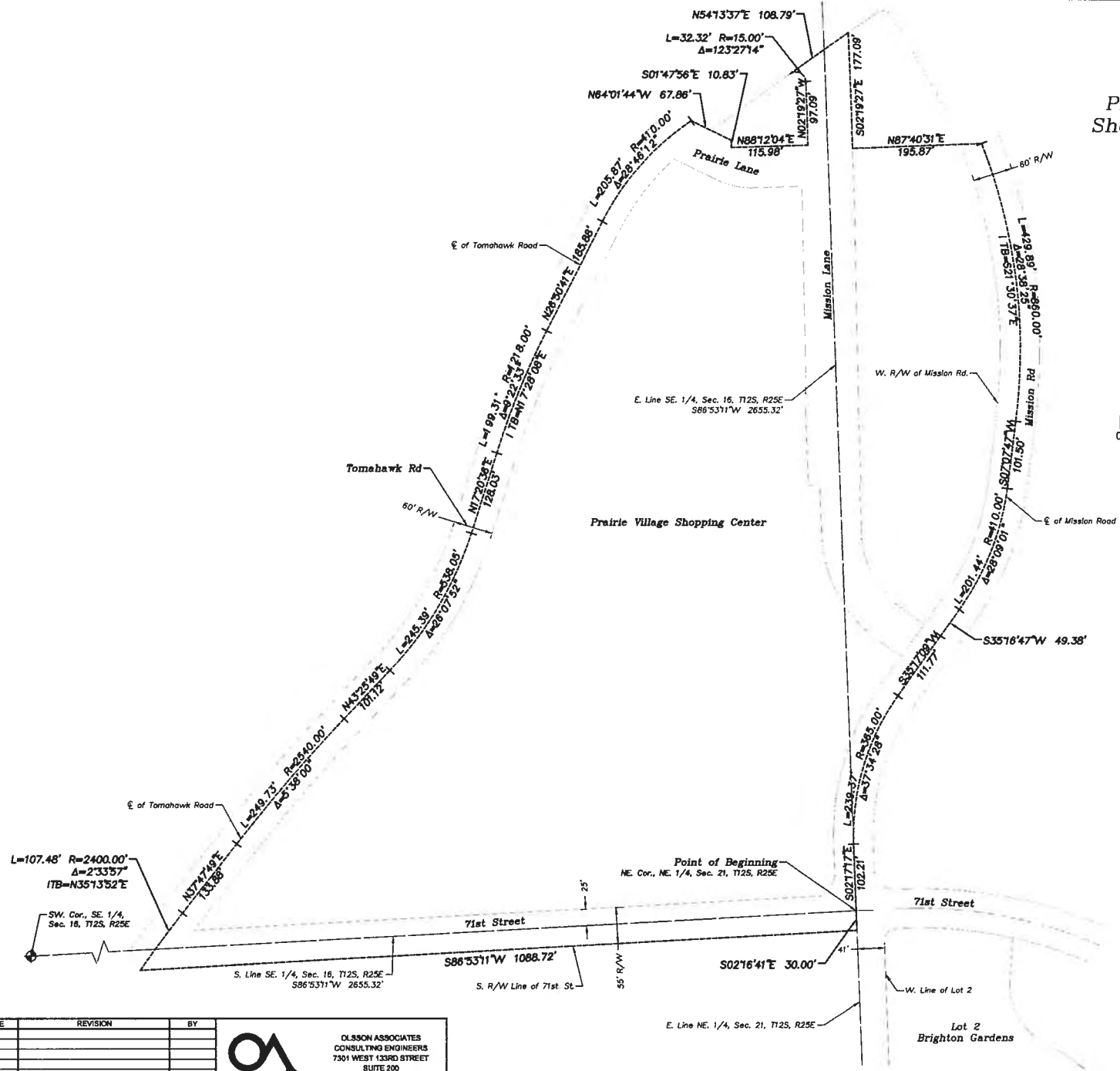
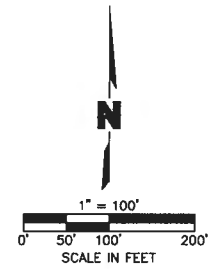
PHASE #3 - Tomahawk Road		
Tomahawk Road	Reconfigure vehicular entrances off Tomahawk to create 1 main entrance New monument signage New landscaping Upgrade/add irrigation Provide 1 paved 'extra wide' crosswalk at clock tower in parking lot Reconfigure parking lots and create landscaped plaza	\$1,899,563
Streetscaping	Add walkway irrigation system New benches New trash receptacles Bike racks	\$346,500
Site security		\$61,875
PHASE #3 TOTALS:		\$2,307,938
PHASE #4 - Future Plans		
Site Modifications between Mission Road and Mission Lane	Demolish buildings F & H Reconfigure parking lots and vehicular access from Mission Road Provide new pedestrian sidewalks Build new two-story mixed use buildings (I) & (J) along eastern edge of Mission Lane Landscape perimeter along Mission Road New irrigation	\$4,851,000
Renovation building B	Reconfigure courtyard level - Reconfigure 71st Street level Reconfigure upper level Reconfigure basement as structure parking	\$18,531,563
Reconfigure building B parking area	Building new 12' high retaining wall at SE corner of building B Build new drive ramp to basement Reconfigure parking south of building B Replace sidewalk at north side of building Provide sidewalk and curbs at west side of building B to align with sidewalk at building C	\$1,911,938
PHASE #4 TOTALS:		\$25,294,500
VILLAGE TOTAL USES:		\$42,519,500
<p>^a Amounts listed above are cost estimates for components of each project phase, and do not include associated financing costs. The cost estimates are based on prices for goods and services in 2010, and thus the actual costs incurred over the multi-year phased project may be higher. The Developer requests that CID Sales Tax Revenues be made available to reimburse actual costs incurred related to cost categories listed above as well as services provided within the CID, special events held within the CID, and any tenant improvements, plus financing costs associated with any of the same. Reimbursement of costs for a particular cost category shall not be limited to the estimated costs set forth above; rather, actual costs incurred related to cost categories shall be reimbursable with CID Sales Tax Revenues to the full extent permitted by law, without regard to the phase in which such cost category is shown above or whether items shown above in earlier phases have been completed.</p>		

EXHIBIT "B"
MAP OF DISTRICT

See Attached.

CID Exhibit
 Prairie Village Shopping Center

977,418 SqFt.
 22.438 Acres±



DATE	REVISION	BY
03/28/10	Revised Boundary	MLB
02/17/10	Original Preparation	MLB

OLSSON ASSOCIATES
 CONSULTING ENGINEERS
 7501 WEST 133RD STREET
 SUITE 200
 OVERLAND PARK, KS 66213
 913-381-1170
 913-381-1174 (FAX)

drawn by: MLB
 designed by: N/A
 checked by: MEB
 approved by: MEB
 project no.: 2010-0303
 file name: CID2.dwg

EXHIBIT "C"
LEGAL DESCRIPTION OF DISTRICT

See Attached.

File No. 2010-0303

Prairie Village

February 17, 2010

Revised March 29, 2010

CID Description

All that part of the Southwest Quarter of Section 15, the Southeast Quarter of Section 16, and the Northeast Quarter of Section 21, all lying in Township 12 South, Range 25 East, in Prairie Village, Johnson County, Kansas, described as follows:

BEGINNING at the Northeast corner of the Northeast Quarter of Section 21, Township 12 South, Range 25 East; thence South 2 degrees 16 minutes 41 seconds East along the East line of the Northeast Quarter of said Section 21 a distance of 30.00 feet to a point on the Easterly prolongation of the South right of way line of 71st Street; thence South 86 degrees 53 minutes 11 seconds West along the South right of way line of 71st Street and its prolongation a distance of 1088.72 feet to a point on the centerline of Tomahawk Road; thence in a Northeasterly direction along the centerline of Tomahawk Road and along a curve to the right whose initial tangent bears North 35 degrees 13 minutes 52 seconds East, having a radius of 2400.00 feet, through a central angle of 2 degrees 33 minutes 57 seconds, an arc distance of 107.48 feet to a point; thence North 37 degrees 47 minutes 49 seconds East along the centerline of Tomahawk Road a distance of 133.88 feet to a point; thence in a Northeasterly direction along the centerline of Tomahawk Road and along a curve to the right, having a radius of 2540.00 feet, through a central angle of 5 degrees 38 minutes 00 seconds, an arc distance of 249.73 feet to a point; thence North 43 degrees 25 minutes 49 seconds East along the centerline of Tomahawk Road a distance of 101.12 feet to a point; thence in a Northeasterly direction along the centerline of Tomahawk Road and along a curve to the left, having a radius of 538.05 feet, through a central angle of 26 degrees 07 minutes 52 seconds, an arc distance of 245.39 feet to a point; thence North 17 degrees 20 minutes 36 seconds East along the centerline of Tomahawk Road a distance of 128.03 feet to a point; thence in a Northeasterly direction along the centerline of Tomahawk Road and along a curve to the right whose initial tangent bears North 17 degrees 28 minutes 08 seconds East, having a radius of 1218.00 feet, through a central angle of 9 degrees 22 minutes 33 seconds, an arc distance of 199.31 feet to a point; thence North 26 degrees 50 minutes 41 seconds East along the centerline of Tomahawk Road a distance of 185.88 feet to a point; thence in a Northeasterly direction along the centerline of Tomahawk Road and along a curve to the right, having a radius of 410.00 feet, through a central angle of 28 degrees 46 minutes 12 seconds, an arc distance of 205.87 feet to a point; thence South 64 degrees 01 minutes 44 seconds East a distance of 67.86 feet to a point; thence South 1 degree 47 minutes 56 seconds East a distance of 10.83 feet to a point; thence North 88 degrees 12 minutes 04 seconds East a distance of 115.98 feet to a point on the West right of way line of Mission Lane; thence North 2 degrees 19 minutes 27 seconds West along the West right of way line of Mission Lane a distance of 97.09 feet to a point; thence in a Northwesterly direction along the West right of way line of Mission Lane and along a curve to the left, having a radius of 15.00 feet, through a central angle of 123 degrees 27 minutes 14 seconds, an arc distance of 32.32 feet to a point on the Southerly right of way line of Tomahawk Road; thence North 54 degrees 13 minutes 37 seconds East a distance of 108.79 feet to a point

on the East right of way line of Mission Lane; thence South 2 degrees 19 minutes 27 seconds East along the East right of way line of Mission Lane a distance of 177.09 feet to a point; thence North 87 degrees 40 minutes 31 seconds East a distance of 195.87 feet to a point on the centerline of Mission Road; thence in a Southwesterly direction along the centerline of Mission Road and along a curve to the right whose initial tangent bears South 21 degrees 30 minutes 37 seconds East, having a radius of 860.00 feet, through a central angle of 28 degrees 38 minutes 25 seconds, an arc distance of 429.89 feet to a point; thence South 7 degrees 07 minutes 47 seconds West along the centerline of Mission Road a distance of 101.50 feet to a point; thence in a Southwesterly direction along the centerline of Mission Road and along a curve to the right, having a radius of 410.00 feet, through a central angle of 28 degrees 09 minutes 01 seconds, an arc distance of 201.44 feet to a point; thence South 35 degrees 16 minutes 47 seconds West along the centerline of Mission Road a distance of 49.38 feet to a point; thence South 35 degrees 17 minutes 09 seconds West along the centerline of Mission Road a distance of 111.77 feet to a point; thence in a Southwesterly direction along the centerline of Mission Road and along a curve to the left, having a radius of 365.00 feet, through a central angle of 37 degrees 34 minutes 28 seconds, an arc distance of 239.37 feet to a point; thence South 2 degrees 17 minutes 17 seconds East along the centerline of Mission Road a distance of 102.21 feet to the POINT OF BEGINNING and containing 977,418 Square Feet or 22.438 Acres, more or less.

The description above includes all property owned by the Applicant and shall also include all of the Prairie Lane right-of-way that is adjacent to the property described above, as well as all other right-of-way that is adjacent to the property described above to the center line thereof.

**PRAIRIE VILLAGE SHOPPING CENTER
COMMUNITY IMPROVEMENT DISTRICT**

April 2010

4705 Central Street
Kansas City, MO 64112
816.960.1444
www.lane4group.com

LANE4
PROPERTY GROUP

City of Prairie Village, Kansas
Application for Public Financial Participation

Date: _____

Application for Public Financial Participation

Indicate the type of public financial participation sought (check all that apply).

- Tax Increment Financing (TIF).....
- Transportation Development District (TDD) - Sales Tax
- Transportation Development District (TDD) - Special Assessment.....
- Industrial Revenue Bonds (IRB)
- City Grant/Tax Rebate
- Special Assessment District.....
- Community Improvement District.....
- Other.....

A. Applicant Information

1. Project Name:
Prairie Village Shopping Center
2. Project Address:
71st and Mission Road
3. Name of Corporation/Partnership:
PV Retail Partners, LLC
 - i. Address:
4705 Central Ave.
4. Primary Contact:
LANE4 Property Group
 - i. Name:
Jeffrey Berg or Hunter Harris
 - ii. Address:
4705 Central Ave.
Kansas City, MO 64112
 - iii. Phone:
816-960-1444
 - iv. Fax:
816-960-1441
 - v. Email:
jberg@lane4group.com or hharris@lane4group.com

B. Project Team

1. Attorney: Polsinelli Shugart, P.C.
 - i. Name:
John Petersen and Curtis Petersen
 - ii. Address:
6201 College Blvd. Suite 500
Overland Park, KS 66211
 - iii. Phone:
913-234-7405
 - iv. Fax:
913-451-6205
 - v. Email:
jpetersen@polsinelli.com or cpetersen@polsinelli.com

2. Other Contacts:

i. Name:

ii. Address:

iii. Phone:

iv. Fax:

v. Email:

C. Applicant Background

1. Attach a brief summary description of the applicant's business, including history, principal product or service, etc. Indicate exhibit number.

See Exhibit A

2. Attach a list of names of officers and shareholders/partners with more than five percent (5%) interest in the applicant. Indicate exhibit number.

Sole Member - Landmark Retail Properties, LLC (a MO LLC)

3. Provide references to demonstrate the applicant's past experience and financial capacity to successfully plan and complete development projects of similar type and scale. Include scope of project, total development cost, location, year opened, level of participation by applicant entity, and contact information for local government representatives familiar with the project.

Indicate exhibit number:

See Exhibit B

D. Project Information

1. Attach a brief description of the proposed project including a site plan. Describe the basic project components, i.e., amount of new commercial square footage, number of housing units. Indicate whether for sale or lease. Attach a list of names and addresses of future tenants and indicate the status of commitments or lease agreements. Indicate exhibit number.

See Exhibit C

2. Describe how this project will serve a public purpose. Address issues such as those listed below. Indicate exhibit number:

See Exhibit D

- i. Accomplishment of Village Vision goals
- ii. Enhancement or diversification of the city's economic and tax base
- iii. The project's contribution toward fulfillment of the city's redevelopment objectives
- iv. Rehabilitation of a high profile or priority site
- v. Number and types of jobs created by the project
- vi. Enhancement of housing choices and population growth
- vii. Additional private investment resulting from the project
- viii. Number of visitors

3. Attach legal description of project site and list property ID number(s). Indicate exhibit number:

See Exhibit E

4. Attach the status of the zoning and uses of the property with proposed changes and schedule. Indicate exhibit number:

No zoning changes expected at this time, although future market demand may warrant a zoning and use modification to allow residential.

5. Attach a construction and operations schedule: describe percentage of construction completion by year and by phase. Indicate when operations will commence. Indicate exhibit number:

Construction completion will be determined by market demand and availability of funds. Project phasing is included in Exhibit C

6. Attach a detailed budget for the project with a sources and uses statement. Include all sources of payment including applicant's equity, private financing sources and proposed public financial participation, and all uses including specifically uses earmarked for payment from public sources. The budget should include how the public financing portion would be implemented (i.e., pay-as-you-go, type of bonds, etc.). Indicate exhibit number:

Exhibit F

7. The applicant will be required to provide information to the city's third party financial advisor sufficient to complete an internal rate of return analysis and a cost benefit analysis.

E. Other

The City may require such additional information as determined, in its discretion, in order to consider this application, including but not limited to, applicant financial information and additional information regarding the proposed project.

F. Application Fee and Deposit

Applicants will be required to provide a non-refundable application fee(s) as follows:

- TIF - \$10,000
- TDD Sales Tax - \$2,000
- TDD Special Assessment - \$2,000
- Special Assessment District - \$2,000
- IRB - \$2,000
- City Grant/Tax Rebate - \$2,000
- Community Improvement District - \$2,000

A further deposit of \$10,000 for TIF and \$3,500 for other incentives is required to be placed in escrow pursuant to a funding agreement to be used by the city to complete the analysis of the subsidy requested, and to pay costs associated with attorney's fees, bond counsel fees, if applicable, financial advisor fees and other professional services and expenses incurred by the City in connection with the proposed public financing. Should the entire deposit be utilized, the Applicant may be required to place additional funds in escrow. Any unused portion of this deposit will be returned to the Applicant.

City of Prairie Village, Kansas
Application for Public Financial Participation

Applicant acknowledges:

1. The Governing Body of the City of Prairie Village is under no obligation to approve any application for public financial participation and that the decision is discretionary with the City.
2. If public financing is approved, the applicant will be required to enter into a development agreement with the City.
3. If public financing is approved, there will be annual administration fees associated with the project to be documented in the development agreement.
4. The applicant may be required to submit additional information depending upon the public financing tool noted on this application.

The undersigned; certifies that all information provided in the application is true and correct to the best of the undersigned's knowledge, agrees to update as necessary all information required herein, authorizes the City of Prairie Village to check credit references and verify financial and other information, agrees to provide any additional information as may be requested by the city after the filing of this application, and agrees to provide the application fee, escrow deposit and to pay the additional funds into escrow as described above.

PV Retail Partners, LLC, a Kansas limited liability company

By: Landmark Retail Properties, LLC, a Missouri limited liability company

By: Enterprises Retail Investors, LLC, a Missouri limited liability company

By: 
William D. Cosentino, President

By: Group Retail Investors, LLC, a Missouri limited company

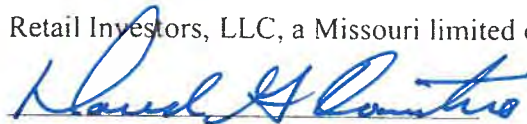
By: 
David G. Cosentino, President



EXHIBIT A – APPLICANT BUSINESS

LANE4 PROPERTY GROUP: YOUR COMPETITIVE EDGE

With over 300 years of combined experience, our team has a successful track record of delivering client-focused solutions for commercial real estate needs throughout the United States. The strength of our expertise, comprehensive services, professional relationships and creativity, provide our clients with optimal advantages in the commercial real estate industry.

LANE4 Real Estate services include:

Services

- Leasing
- Tenant Representation
- Acquisitions
- Investment Sales
- Property and Asset Management
- Development and Redevelopment
- Project Management
- Project Branding and Marketing
- Receivership

Areas of Expertise

- Retail
- Medical Office
- Hospitality
- Government Services Administration (GSA)
- LEED Certification



• YOUR COMPETITIVE EDGE •

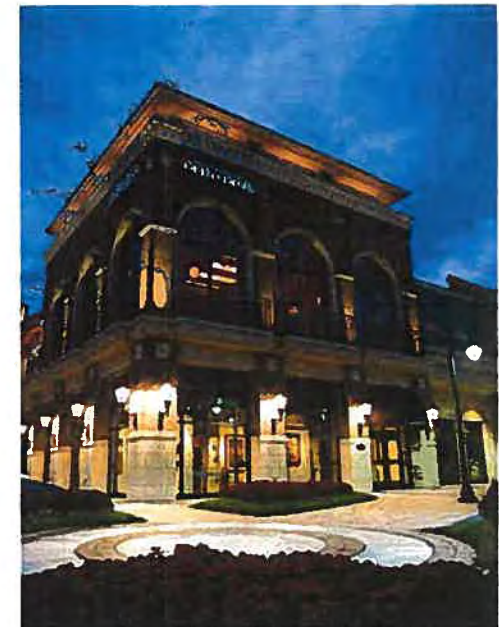
LANE4
PROPERTY GROUP

LANE4 PROPERTY GROUP: IT'S ABOUT GETTING RESULTS

- In 2008, LANE4 developed over \$100 million of properties
- Over the past five years, principals of LANE4 were directly responsible for the development of 24 properties with an aggregate value of \$450 million
- LANE4 currently markets more than 6 million square feet of retail property
- LANE4 currently manages more than 2 million square feet of retail, office, medical and Government Services Administration (GSA) property

Some of our signature projects include:

<u>PROJECT</u>	<u>PROJECT ROLE</u>
Briarcliff Village - Kansas City, MO	Project Leasing and Marketing
Blue Ridge Crossing - Kansas City, MO	Project Leasing, Marketing and Sales
Coffee Creek - Overland Park, KS	Project Leasing and Marketing
Corinth Square - Prairie Village, KS	Project Leasing, Investment Sales and Property Management
Eisenhower Crossing - Lansing, KS	Development, Project Management, Leasing, Marketing and Property Management
Fairway Shops - Fairway, KS	Project Leasing, Investment Sales and Property Management
New Longview - Lee's Summit, MO	Project Leasing, Marketing and Property Management
The Shoppes at MarketPointe - Omaha, NE	Development and Investment Sales
The Trails	Development, Project Management, Leasing, Property Management, Marketing
The Village - Prairie Village, KS	Project Leasing, Investment Sales and Property Management
Tiffany Springs MarketCenter - Kansas City, MO	Project Leasing and Marketing
Tutera Neighborhood Centers - Kansas City Metro	Project Leasing and Marketing
FBI Regional Office - Jacksonville, FL	Development, Project Management and Property Management
U.S. District Court House - Great Falls, MT	Development, Project Management and Property Management
Department of Homeland Security, Denver, CO	Development and Property Management



Briarcliff Village, Kansas City, MO

• YOUR COMPETITIVE EDGE •

LANE4
PROPERTY GROUP

LANE4 PROPERTY GROUP: YOUR COMPETITIVE EDGE

LEASING

Our seasoned leasing professionals have experience working on all types of projects, from free-standing buildings to regional mixed-use projects under all types of market conditions. This, combined with our vast network of relationships, puts LANE4 Property Group in a unique position to initiate ongoing relationships between landlords and tenants.

TENANT REPRESENTATION

LANE4 is proud to represent some of the nation's most respected retailers in their Midwest expansion efforts. We've worked with many tenants for more than two decades, forging partnerships that employ the best aspects of the art and science of retail site selection.



Tiffany Springs MarketCenter, Kansas City, MO

• YOUR COMPETITIVE EDGE •

LANE4
PROPERTY GROUP

LANE4 PROPERTY GROUP: YOUR COMPETITIVE EDGE

PROPERTY MANAGEMENT

A twist on the traditional real estate management process, LANE4 has developed a model that focuses on our relationship with both landlords and tenants. It is from these relationships that we have the knowledge and tools to effectively serve both parties by instituting more aggressive marketing, tenant retention and financial management strategies.

INVESTMENT SALES

THE LANE4 team is well versed in the many nuances of the real estate investment sales market. This understanding allows LANE4 to provide our clients with the most effective opportunity to achieve their goals. Our efforts go beyond negotiating the sale of a property; instead we advise our clients of how to capitalize on the potential of each asset and increase its value.



Liberty Triangle, Liberty, Missouri

• YOUR COMPETITIVE EDGE •

LANE4
PROPERTY GROUP



EXHIBIT B – APPLICANT PAST EXPERIENCE

LANE4 PROPERTY GROUP: YOUR COMPETITIVE EDGE

Barry North Center, Kansas City, Missouri



- 335,000 Square foot shopping center
- Opened in 1999
- Construction costs totaled \$32 million
- Project included a host of off-site improvements which were partially funded by TIF
- Anchored by Walmart Supercenter and Lowe's Home Improvement

One Kellogg Place, Wichita, Kansas



- 500,000 Square foot power center
- Opened in 2003
- Construction costs totaled \$41 million
- Anchored by Lowe's Home Improvement, Michael's Arts & Crafts, Slumberland Furniture, Sportsman's Warehouse and Walmart Supercenter
- Small Shop Retailers include AT&T Wireless, Boeing Wichita Credit Union, Burger King, Great Clips, Game Stop, IHOP, McDonald's, Payless Shoe Source, Play it Again Sports and Taco Bell

Liberty Triangle, Liberty, Missouri



- 350,000 Square foot shopping center
- Opened in 2006
- Construction costs totaled \$40 million
- An additional 12,000 square feet of retail space was added in 2009
- Anchored by Lowe's Home Improvement
- Small shops and outparcels include Citi Financial, Cricket Wireless, InkStop, Logan's Roadhouse, Nail Studio, Northern Lights Pizza Company, Planet Sub, Red Robin, Starbuck's, Super Clips and Vintage Stock

Roeland Park Redevelopment, Roeland Park, Kansas



- 215,000 Square foot shopping center
- Opened in 2005
- Partially financed by TIF and TDD financing
- Anchored by Lowe's Home Improvement and Price Chopper
- Small shops and outparcels include Cartridge World, China Star, Cici's Pizza, Cricket Communications, Fantastic Sam's, Liberty Tax, Subway, Tips N'Toes Nail Salon and US Bank

LANE4 PROPERTY GROUP: YOUR COMPETITIVE EDGE

Sheraton Overland Park Convention Center Hotel, Overland Park, Kansas



- 318,000 Square foot convention center hotel
- Opened in December 2002, ahead of schedule and under budget
- Construction costs totaled \$92 million
- Connected to the Overland Park Convention Center
- Includes 20 stories, 3 ballrooms totaling more than 11,000 square feet, 25,000 square feet of meeting and board room space, and 412 rooms
- Awarded the 2002 Design-Build Institute of America (DBIA) National Design-Build Award

Slouxland Town Center, Sioux City, Iowa



- 240,000 Square foot shopping center
- Opened in 2002
- Construction costs totaled \$20 million
- Anchored by Walmart Supercenter
- Small shops and outparcels include Iowa-Nebraska State Bank, Midtown Mercy Medical Clinic, Singing Hills Auto Spa and Tony Roma's

The Trails, Kansas City, Missouri



- 467 Acre destination center
- Total construction costs are estimated at \$1 billion
- Includes 1.2 million square feet of retail, 1 million square feet of office, and 3 hotels
- Currently in the demolition stage, Phase I construction is planned to begin in 2010 and open in 2011

The Shoppes at Market Pointe, Omaha, Nebraska



- 500,000 Square foot power center
- Opened in Fall 2006
- Project Details
- Construction costs totaled more than \$60 million
- Anchored by Kohl's, Lowe's Home Improvement and Walmart Supercenter
- Small shop retailers include Arby's, Bennigan's, Game Stop, Panera Bread, Payless Shoe Source, Qdoba Mexican Grill and Wells Fargo

LANE4 PROPERTY GROUP: YOUR COMPETITIVE EDGE

39Rainbow, Kansas City, Kansas



- 143,000 Square foot mixed-use development
- Opening 2011
- Project utilizes New Market Tax Credits, TIF, CID
- Features a 90-key Fairfield Inn & Suites and 68 loft-style multi-family units
- First mixed-use project in Wyandotte County

Mission Crossing, Mission, Kansas



- 6.2 Acre infill mixed-use development
- Opening 2011
- Mission, Kansas' first mixed-use development featuring restaurants, retail, financial services and assisted living

Bluemont Corner, Manhattan, Kansas



- 135,000 Square foot mixed-use development
- Opening 2012
- Features a 90-key Town Place Suites and 48 loft-style apartments
- First in-fill mixed-use project in Manhattan, Kansas
- Anchored by national drug store

Hobbs Taylor Lofts, Lawrence, Kansas



- 125,000 Square foot mixed-use development
- Opened 2006
- Features 32 luxury loft condominiums
- In-fill mixed-use project featuring Capital City Bank and 27,000 square feet of specialty office

• YOUR COMPETITIVE EDGE •

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Woodside Village, Westwood, Kansas



- 265,000 Square foot mixed-use development
- Planned opening 2012
- In-fill mixed-use project one mile from Kansas City's Country Club Plaza in Westwood, KS
- Project features 238 luxury apartments and 27,000 square feet of boutique retail space
- Woodside Village is located within the Woodside Tennis & Health Club Campus – Kansas City's finest social and health amenity

Drug Enforcement Administration (DEA) & Bureau of Alcohol, Tobacco, Firearms & Explosives (ATF), Birmingham, Alabama



- 40,000 square foot office facility
- Opened in June 2009
- Construction costs totaled \$12 million
- Build-to-suit on behalf of the GSA
- Serves as the Regional Headquarters for both the DEA and ATF Agencies
- Project includes an attached parking structure

Environmental Protection Agency (EPA) Laboratory, Kansas City, Kansas



- 72,000 square foot science & technology laboratory
- Opened in Spring 2003
- Construction costs totaled \$22 million
- Build-to-suit on behalf of the GSA
- Serves as the EPA's regional science laboratory
- Efficiency feature includes a rooftop rainwater recapture system
- Was awarded the US Green Building Council LEED Gold Award (Only the second Gold Award given to a laboratory nationwide)

Federal Bureau of Investigation Regional Office, Birmingham, Alabama



- 145,360 square foot office facility
- Opened in Spring 2005
- Construction costs totaled \$18 million
- Build-to-suit on behalf of the GSA
- Designed to satisfy FBI security requirements
- Scope included more than \$750,000 in additional street improvements, new sidewalks, street lighting and landscaping
- Winner of the 2005 Best Project of the year for South Central Construction

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Federal Bureau of Investigation (FBI) Field Office, Jacksonville, Florida



- 130,000 square foot federal office facility
- Opened in February 2009
- Construction costs totaled \$45 million
- Build-to-suit on behalf of the GSA
- Serves as the FBI's regional office facility
- Comprised of three separate four-story office buildings
- Includes a secure, underground parking structure
- Design includes an attached one-story annex building designed to accommodate a future three-story addition with minimal disruption to the original phase occupants.

Iola Family Physicians Office, Iola, Kansas



- 13,000 square foot medical facility
- Opened in Spring 2008
- Construction costs totaled \$2.5 million
- Build-to-suit on behalf of Iola Family Physicians
- On-site surgery center
- On-site pharmacy with drive-thru
- Equipped to accommodate 7 general practice physicians and surgeons as well as several specialists

Occupational Health & Safety Administration (OSHA) Science & Technology Center, Salt Lake City, Utah



- 75,000 square foot science & technology center
- Opened in February 2004
- Construction costs totaled \$18 million
- Build-to-Suit on behalf of the GSA
- Serves as OSHA's national science and technology laboratory
- Awarded the US Green Building Council LEED Silver Award
- Awarded the Design-Build Institute of America (DBIA)– MAC Project of the year

Eisenhower Medical Plaza, Lansing, Kansas



- 47,000 square foot, two-story office facility
- Opened in May 2007
- Construction costs totaled \$8.4 million
- Part of a 35 acre mixed-use development
- Equipped to accommodate 3 family practice organizations as well as several specialty groups
- Communal conference room
- Recognized as the Signature Office "Best Place to Do Business" in Leavenworth County



EXHIBIT C – PROPOSED PROJECT DESCRIPTION

Proposed Enhancements to Landmark Properties

Prairie Village

March 2010

Prairie Village Shops

71st and Mission

Phase 1 – Mission Lane

- 1) Provide new diagonal parking along Mission Lane
- 2) Provide new pedestrian sidewalks
- 3) Reconfigure existing parking lots and vehicular entrances
 - Replace pavement parking area between building F & G
 - Repair culvert
- 4) Provide new pavement and twelve (12) paved pedestrian crosswalks
- 5) Provide two (2) paved street medallions
- 6) Provide new trees and landscaping
- 7) New roof and replace shingles buildings (C) + (D)
 - Remove walkway roof and column supports between building B, C, D
- 8) Replace parking lot east side of building D
- 9) Streetscaping (e.g., benches, bike racks, etc.)
- 10) Site Security

Phase 2 – Pedestrian Amenities

- 1) Create public gathering space in Courtyard
 - Provide open air covering over Courtyard
 - Repave and landscape Courtyard
 - Open north face of Macy's building (B) with windows to courtyard
 - Rehab original fountain
- 2) Extend City's walking/cycling trail
 - Provide concrete trail
 - Provide two (2) paved pedestrian crosswalks
 - Provide landscaping as needed
- 3) Alhambra Street
 - Provide new/enhanced landscape islands at west side of Alhambra Street to better define parking aisles and street edge and new signage
- 4) New roof building (A)
- 5) New roof building (G)
- 6) Streetscaping (e.g., benches, bike racks, etc.)

Phase 3 – Tomahawk Road

- 1) Reconfigure vehicular entrances off Tomahawk to create one (1) main entrance with monument sign and landscaping
- 2) Reconfigure parking lots to create 90 degree parking and large landscaped pedestrian/retail plaza
- 3) Provide one (1) paved "extra wide" crosswalk at clock tower in parking lot
- 4) Streetscaping (e.g., benches, bike racks, etc.)

Phase 4 – Future Plans

- 1) Prepare property for development on Mission Road side of property
 - Demolish existing Waid's building (H) and US Bank building (F)

- Reconfigure parking lots and vehicular access off of Mission Road in anticipation of new retail and mixed use buildings (I) and (J)
 - Build new two-story mixed use buildings (I) and (J) along eastern edge of Mission Lane
 - Provide new pedestrian sidewalks around and between future buildings (I) and (J)
 - Landscape perimeter along Mission Road
- 2) Renovate building B (Macy's) into a mixed use building
- Reconfigure courtyard level (floor 1) as a grocery store
 - Reconfigure 71st street level (floor 2) as a retail space
 - Reconfigure upper level (floor 3) as residences
 - Reconfigure basement as residential structured parking
- 3) Reconfigure parking around building B
- Build new 12' high (approx) retaining wall at southeast corner of building B to provide basement access for parking and loading
 - Build new drive ramp to basement level structured parking at east side of building B
 - Build new loading and trash dock at east side of building B to serve grocery store basement level storage/receiving.
 - Reconfigure parking South of building B
 - Replace sidewalk at north side of building
 - Provide new sidewalk and curbs at west side of building B to align with sidewalk at building C.

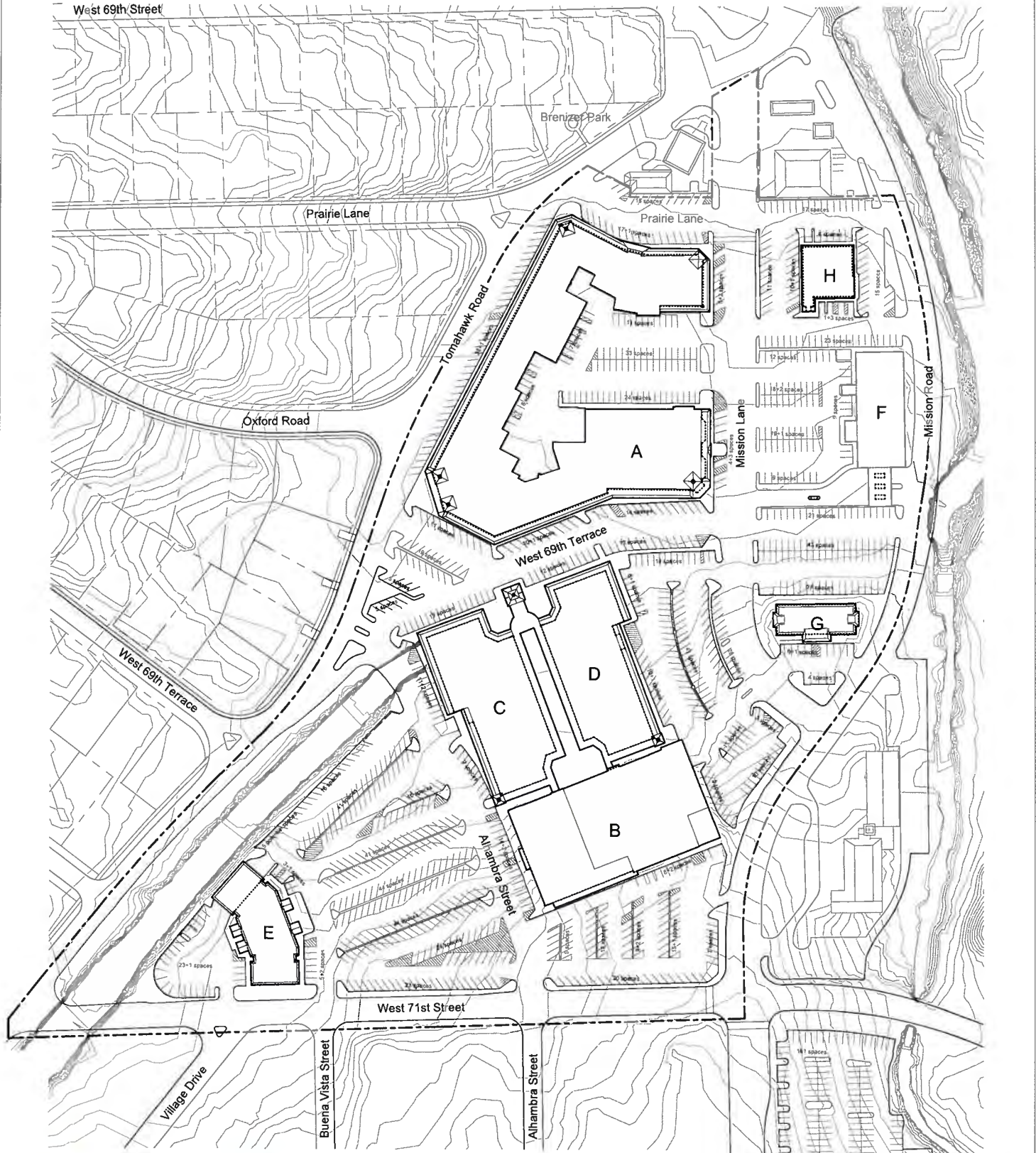
* The phasing of improvements set forth above is only an estimate. Improvements related to categories listed above may take place in earlier or later phases than listed, as driven by tenant and consumer demand.

Prairie Village: Square Footage and Parking Count Summary

Phase	Square Feet	Comment	Actual Parking	Ratio	Parking at 3.5/1000
Existing		On-site parking	1,234		
		Off-site parking	119		
	350,000		1,353	3.87	1.225
Phase 1		On-site parking	1,215		
		Off-site parking	119		
	350,000		1,334	3.81	1.225
Phase 2		On-site parking	1,212		
		Off-site parking	119		
	350,000		1,331	3.80	1.225
Phase 3		On-site parking	1,207		
		Off-site parking	119		
	350,000		1,326	3.79	1.225
Phase 4	350,000				
	-135,968	Building B (Macy's)			
	-22,835	Building F (US Bank)			
	-2,835	Building H (Walds)			
	5,917	Building J (Restaurant)			
	14,262	Building I (Office)			
	14,262	Building I (Retail)			
	35,000	Building B (Grocery)			
	35,000	Building B (Retail)			
	35,000	Building B (Residential)			
		On-site parking	1,199		
		Off-site parking	119		
		Structured Parking at Bldg B	40		
327,803		1,358	4.14	1.147	

Notes:

- Existing areas based upon square footage figures provided in Bucher, Willis & Ratliff Staff Report dated September 7, 2004
- Parking factor of 3.5 cars per 1000 SF is based upon City of Prairie Village - Zoning Regulations, Section 19.46.010, paragraph "D" which addresses off-street parking for mixed uses over 300,000 SF of net leasable area
- Existing parking count of 1353 indicated by Bucher, Willis & Ratliff Staff Report dated September 7, 2004 includes 119 off-site parking spaces
- Existing parking lot at southeast corner of 71st Street and Mission Road are considered to be on-site parking
- Existing parking counts confirmed by Helix via aerial photography



- Retail
- Mixed Use
- Culvert repairs
- Enhanced Paving
- Landscape Improvements
- New Concrete Sidewalks
- Paving
- Proposed Bike Trail
- CID boundary

Existing



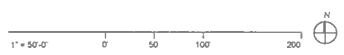


- Retail
- Mixed Use
- Culvert repairs
- Enhanced Paving
- Landscape Improvements
- New Concrete Sidewalks
- Paving
- Proposed Bike Trail
- CID boundary

Phase One



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- Retail
- Mixed Use
- Culvert repairs
- Enhanced Paving
- Landscape Improvements
- New Concrete Sidewalks
- Proposed Bike Trail
- CID boundary

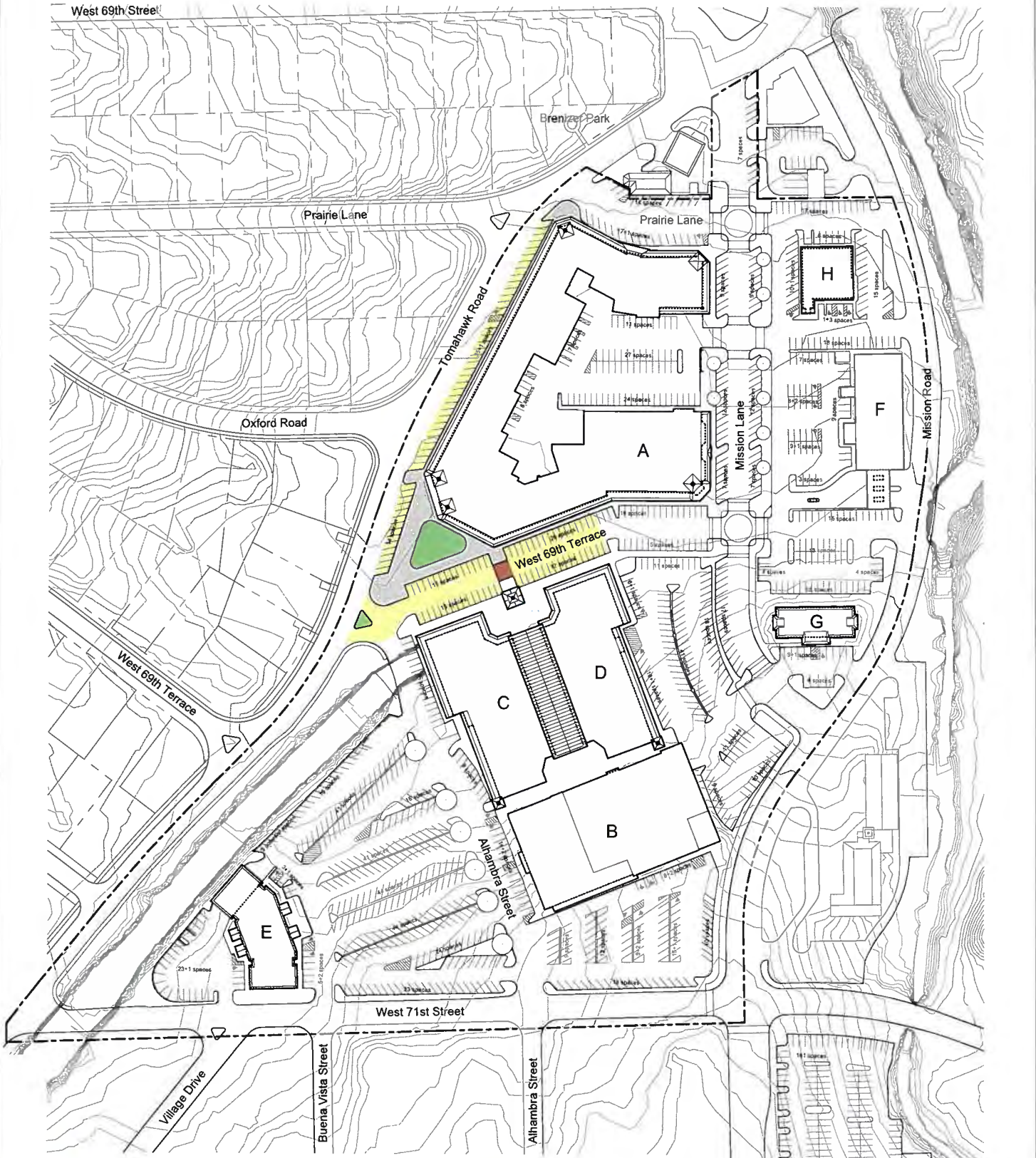
Phase Two



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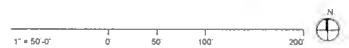


- Retail
- Mixed Use
- Culvert repairs
- Enhanced Paving
- Landscape Improvements
- New Concrete Sidewalks
- Paving
- Proposed Bike Trail
- CID boundary

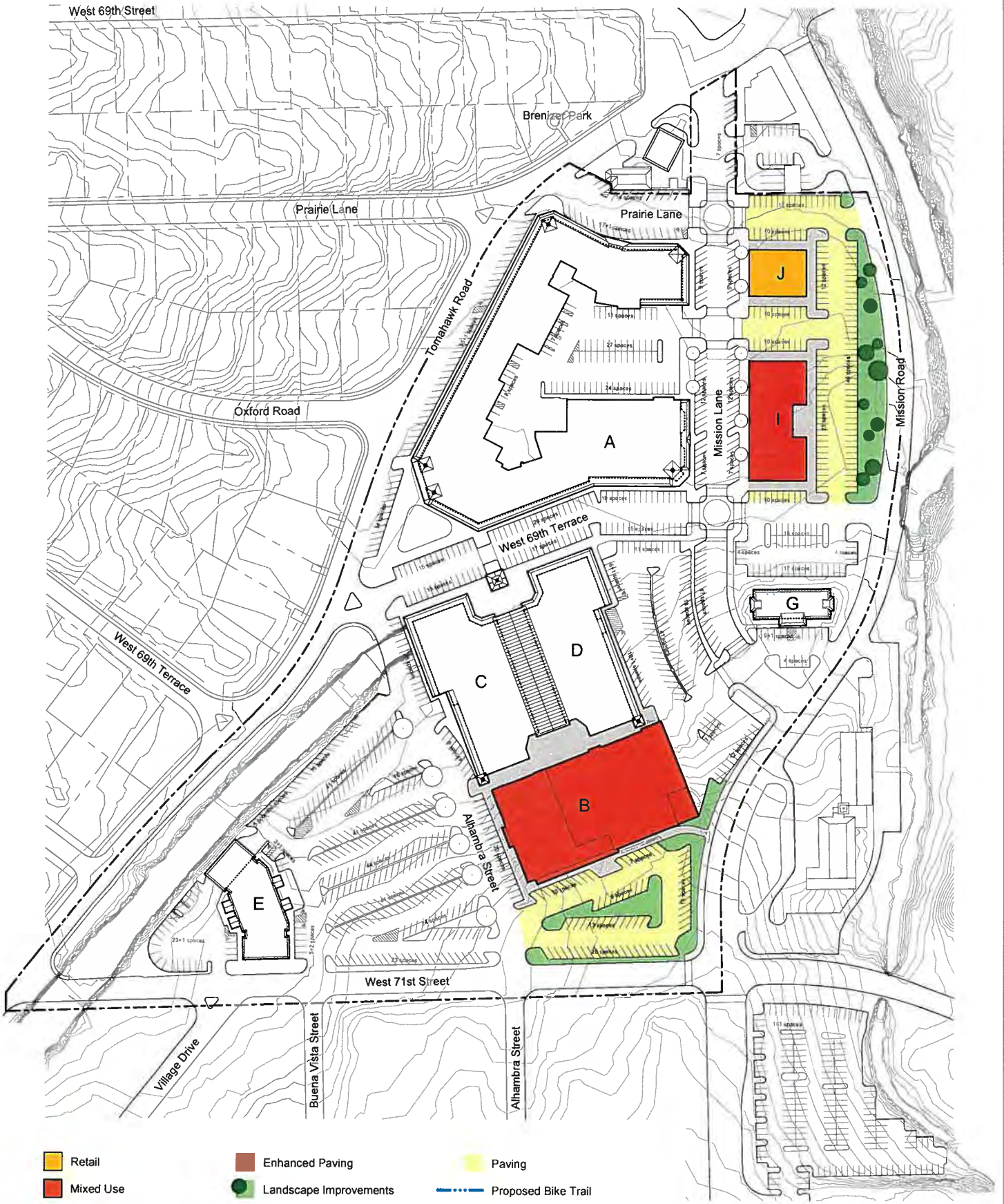
Phase Three



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- Retail
- Mixed Use
- Culvert repairs
- Enhanced Paving
- Landscape Improvements
- New Concrete Sidewalks
- Paving
- Proposed Bike Trail
- CID boundary

Phase Four



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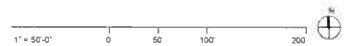


- Retail
- Mixed Use
- Enhanced Paving
- Paving
- Landscape Improvements
- New Concrete Sidewalks
- Culvert repairs
- Proposed Bike Trail
- CID boundary

All Phases



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EXHIBIT D – PROJECT PUBLIC PURPOSE

Prairie Village Shopping Center
Application for Public Financial Participation

EXHIBIT D –

i. ACCOMPLISHMENT OF VILLAGE VISION GOALS

1. Pedestrian Centered Development - The key objective of the Prairie Village CID is to improve the pedestrian walk-ability of this neighborhood retail center. The proposed improvements transform the impact the automobile has had on these properties into safe, pedestrian friendly environment. Specific enhancements being proposed to the public realm are:
 - wider sidewalks and reduced drive-thru paving
 - landscaping
 - designated crosswalks
 - reduced number of parking lot entry points
 - more outdoor seating and trash cans
 - angled parking

2. Public Destination – Neighborhood centers form a public recreational amenity for people of all ages, seven days a week. The proposed improvements seek to create an attractive neighborhood center with defined public event spaces for multi-functional uses for formal and informal public gatherings. Specific components being proposed are:
 - Open air courtyard pavilion
 - Vest pocket park by Euston’s and Mr. Goodcents

3. Visual Preference – The properties will receive upgraded facades including screening of rooftop mechanical equipment. Building design upgrades are intended to emphasize authentic pedestrian scaled retail features versus over-scaled, “big box” facades and signage found at new suburban centers. Updates to buildings would show commitment to general public that the facility is being upgraded which should translate into increased demand by consumers and additional retailers and office users looking for space.

4. Landscaping - Additional landscaping to be integrated throughout in strategic locations:
 - Parking lot screening around perimeter of property
 - Planters added as part of general streetscape upgrade
 - Parking lot and sidewalk trees to be added to improve heat island effect of existing lots

5. Increased Density and Mixes of Uses – Improvements are phased to provide opportunity for building more density into the project both horizontally and vertically. Proposed uses include residential, office and residential.

6. Infrastructure Improvements – Miscellaneous improvements will be incorporated to City owned property.

- Underground culvert repair
- Mission Lane and 69th Terrace upgrades
- Continuation of bicycle paths through property
- Right of Way sidewalks to bring pedestrians into property

ii. ENHANCEMENT OR DIVERSIFICATION OF THE CITY’S ECONOMIC AND TAX BASE

- Economic Enhancement. The project’s budget anticipates a capital infusion of more than \$42,000,000 into the Village. Over time, this will likely increase the appraised value of the Village, leading to higher property tax revenues for the City. As the project’s strategic improvements transform the Village into a pedestrian-friendly destination, enhance its role as a community gathering venue, beautify and “green” its appearance, and attract additional sought-after tenants, housing around the Village could become more desirable. Additionally, the potential office components of the project could further heighten housing demand surrounding the Village, as workers are increasingly seeking to make the lifestyle choice to live, work, and play in one locale. Higher demand for nearby housing would bring increases in home values, providing the City with an additional boost to property tax revenue.

For the same reasons a transformed Village could buoy home values, consumers will likely patronize Village businesses with higher frequency and thus generate higher sales. In fact, the City could significantly strengthen what is often referred to as its “pull factor.” That is, the City could attract a higher proportion of its residents’ spending (rather than losing residents’ consumption dollars to the Plaza, Brookside, or Leawood), while also attracting more of the surrounding community’s spending. Sales could also climb as new office space generates additional weekday commerce by workers and their businesses. Overall, as sales climb, the City’s sales tax revenue will follow suit.

- Economic Diversification. The project’s generation of higher sales tax revenues, as described above, would help the City to increasingly diversify its largely residential-property-tax-based revenue platform. Importantly, the project would also diversify the City’s sales tax base by attracting consumers from outside the City who are currently choosing shopping locations outside Prairie Village.

iii. THE PROJECT’S CONTRIBUTION TOWARD FULFILLMENT OF THE CITY’S REDEVELOPMENT OBJECTIVES

Inspired by the Village Vision goals, as addressed above, the project would fulfill many of the City’s most important redevelopment objectives by focusing improvements on the following thematic areas –

- Implement pedestrian-centered layout and amenities
- Redesign of inefficient street layout and traffic systems
- Facilitate continuous bike / hike trail
- Increase valuation of adjacent properties

- Heighten development density
- Ameliorate obsolete, deteriorated, and dilapidated structures
- Foster “town center” feel, and create community gathering / recreation space

Overall, implementation of the project to achieve these objectives requires at least two key components – 1) a developer with vision and long-term commitment and goals; and 2) public support and financial participation. Without both of these key ingredients, the Village’s continually steady lease revenues – despite its aging infrastructure and declining competitive edge – would likely mean that market demand in the near-term would only support nominal and necessary capital improvements.

iv. REHABILITATION OF A HIGH PROFILE OR PRIORITY SITE

The Village’s central location, iconic charm, and level of commercial sales are unmatched in the City. No site has a higher profile. And the site’s ability through strategic redevelopment to become an even more preeminent and unique destination for the City’s residents, as well as residents in surrounding cities, make the Village a priority site for redevelopment.

v. NUMBER AND TYPES OF JOBS CREATED BY THE PROJECT

The project would likely create both temporary construction jobs and permanent retail and other commercial employment. New permanent jobs could come from new businesses filling now-vacant space, as well as new jobs that blossom out of the higher sales and success of Village proprietors.

vi. ENHANCEMENT OF HOUSING CHOICES AND POPULATION GROWTH

Phase 4 of the project anticipates the possible redevelopment of the current Macy’s building into a multi-floor mixed-use structure containing grocery and/or other retail offerings, as well as residences on the building’s top floor. If the market demands this “new urbanistic” product – a first-of-its-kind in Prairie Village – these housing units will enhance the City’s residential mix and allow for growth of its population.

vii. ADDITIONAL PRIVATE INVESTMENT RESULTING FROM THE PROJECT

Even with the requested Community Improvement District financing, significant private investment would be required to finance the \$42,000,000 project. The magnitude and strategic targeting of this investment, as discussed above, could intensify demand for housing in the areas surrounding the Village. As local housing values appreciate, the natural result would be increased investment in the existing housing stock in the way of improvements, expansions, and other enhancements.

viii. NUMBER OF VISITORS

Although the project’s draw of additional visitors to the Village has not been quantified, the project’s primary objective is to enhance the Village through targeted and strategic improvements that boost its profile and attracts higher numbers of visitors from within and outside the City. With more than 100,000 residents within three-miles of the Village, boasting an average household income of nearly \$100,000, the project is well poised to capture a significant number of new visitors.

residents within three-miles of the Village, boasting an average household income of nearly \$100,000, the project is well poised to capture a significant number of new visitors.



EXHIBIT E - LEGAL DESCRIPTION

File No. 2010-0303

Prairie Village

February 17, 2010

Revised March 29, 2010

CID Description

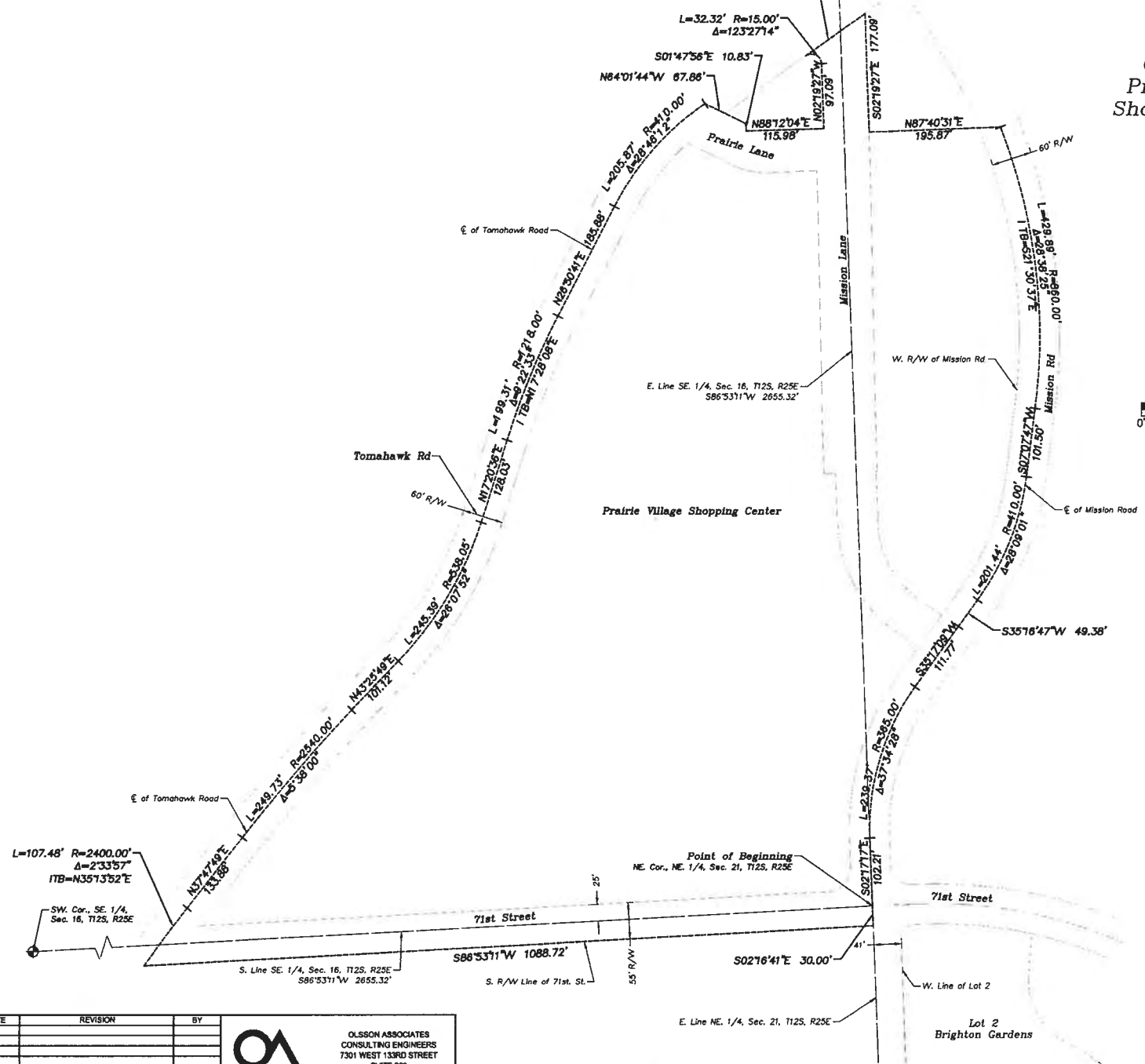
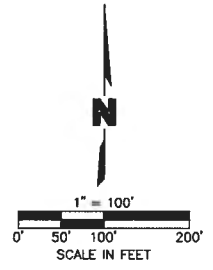
All that part of the Southwest Quarter of Section 15, the Southeast Quarter of Section 16, and the Northeast Quarter of Section 21, all lying in Township 12 South, Range 25 East, in Prairie Village, Johnson County, Kansas, described as follows:

BEGINNING at the Northeast corner of the Northeast Quarter of Section 21, Township 12 South, Range 25 East; thence South 2 degrees 16 minutes 41 seconds East along the East line of the Northeast Quarter of said Section 21 a distance of 30.00 feet to a point on the Easterly prolongation of the South right of way line of 71st Street; thence South 86 degrees 53 minutes 11 seconds West along the South right of way line of 71st Street and its prolongation a distance of 1088.72 feet to a point on the centerline of Tomahawk Road; thence in a Northeasterly direction along the centerline of Tomahawk Road and along a curve to the right whose initial tangent bears North 35 degrees 13 minutes 52 seconds East, having a radius of 2400.00 feet, through a central angle of 2 degrees 33 minutes 57 seconds, an arc distance of 107.48 feet to a point; thence North 37 degrees 47 minutes 49 seconds East along the centerline of Tomahawk Road a distance of 133.88 feet to a point; thence in a Northeasterly direction along the centerline of Tomahawk Road and along a curve to the right, having a radius of 2540.00 feet, through a central angle of 5 degrees 38 minutes 00 seconds, an arc distance of 249.73 feet to a point; thence North 43 degrees 25 minutes 49 seconds East along the centerline of Tomahawk Road a distance of 101.12 feet to a point; thence in a Northeasterly direction along the centerline of Tomahawk Road and along a curve to the left, having a radius of 538.05 feet, through a central angle of 26 degrees 07 minutes 52 seconds, an arc distance of 245.39 feet to a point; thence North 17 degrees 20 minutes 36 seconds East along the centerline of Tomahawk Road a distance of 128.03 feet to a point; thence in a Northeasterly direction along the centerline of Tomahawk Road and along a curve to the right whose initial tangent bears North 17 degrees 28 minutes 08 seconds East, having a radius of 1218.00 feet, through a central angle of 9 degrees 22 minutes 33 seconds, an arc distance of 199.31 feet to a point; thence North 26 degrees 50 minutes 41 seconds East along the centerline of Tomahawk Road a distance of 185.88 feet to a point; thence in a Northeasterly direction along the centerline of Tomahawk Road and along a curve to the right, having a radius of 410.00 feet, through a central angle of 28 degrees 46 minutes 12 seconds, an arc distance of 205.87 feet to a point; thence South 64 degrees 01 minutes 44 seconds East a distance of 67.86 feet to a point; thence South 1 degree 47 minutes 56 seconds East a distance of 10.83 feet to a point; thence North 88 degrees 12 minutes 04 seconds East a distance of 115.98 feet to a point on the West right of way line of Mission Lane; thence North 2 degrees 19 minutes 27 seconds West along the West right of way line of Mission Lane a distance of 97.09 feet to a point; thence in a Northwesterly direction along the West right of way line of Mission Lane and along a curve to the left, having a radius of 15.00 feet, through a central angle of 123 degrees 27 minutes 14 seconds, an arc distance of 32.32 feet to a point on the Southerly right of way line of Tomahawk Road; thence North 54 degrees 13 minutes 37 seconds East a distance of 108.79 feet to a point

on the East right of way line of Mission Lane; thence South 2 degrees 19 minutes 27 seconds East along the East right of way line of Mission Lane a distance of 177.09 feet to a point; thence North 87 degrees 40 minutes 31 seconds East a distance of 195.87 feet to a point on the centerline of Mission Road; thence in a Southwesterly direction along the centerline of Mission Road and along a curve to the right whose initial tangent bears South 21 degrees 30 minutes 37 seconds East, having a radius of 860.00 feet, through a central angle of 28 degrees 38 minutes 25 seconds, an arc distance of 429.89 feet to a point; thence South 7 degrees 07 minutes 47 seconds West along the centerline of Mission Road a distance of 101.50 feet to a point; thence in a Southwesterly direction along the centerline of Mission Road and along a curve to the right, having a radius of 410.00 feet, through a central angle of 28 degrees 09 minutes 01 seconds, an arc distance of 201.44 feet to a point; thence South 35 degrees 16 minutes 47 seconds West along the centerline of Mission Road a distance of 49.38 feet to a point; thence South 35 degrees 17 minutes 09 seconds West along the centerline of Mission Road a distance of 111.77 feet to a point; thence in a Southwesterly direction along the centerline of Mission Road and along a curve to the left, having a radius of 365.00 feet, through a central angle of 37 degrees 34 minutes 28 seconds, an arc distance of 239.37 feet to a point; thence South 2 degrees 17 minutes 17 seconds East along the centerline of Mission Road a distance of 102.21 feet to the POINT OF BEGINNING and containing 977,418 Square Feet or 22.438 Acres, more or less.

The description above includes all property owned by the Applicant and shall also include all of the Prairie Lane right-of-way that is adjacent to the property described above, as well as all other right-of-way that is adjacent to the property described above to the center line thereof.

CID Exhibit
 Prairie Village Shopping Center
 977,418 SqFt.
 22.438 Acres±



DATE	REVISION	BY
03/29/10	Revised Boundary	MLB
02/17/10	Original Preparation	MLB

OLSSON ASSOCIATES
 CONSULTING ENGINEERS
 7301 WEST 133RD STREET
 SUITE 200
 OVERLAND PARK, KS 66213
 913-381-1170
 913-381-1174 (FAX)

drawn by: MLB
 designed by: N/A
 checked by: MEB
 approved by: MEB
 project no.: 2010-0303
 file name: CID2.dwg



EXHIBIT F- PROJECT SOURCES AND USES

The Village
Preliminary Budget



VILLAGE PROJECT
SOURCES & USES

SOURCES

TYPE OF FINANCING	TOTAL FINANCING AMOUNT
	Assuming 1% CID Sales Tax
Debt	\$21,935,700
Equity	\$14,623,800
CID Sales Tax Revenues	\$5,960,000
TOTAL	\$42,519,500

VILLAGE TOTAL SOURCES: \$42,519,500

* Estimated CID Sales Tax Revenue is based on a 1% CID Sales Tax collected over 22 years (net present valued using a 7% discount rate), and assumes current sales grow at the rate of 1% per year. The Developer anticipates collecting CID Sales Tax Revenues on a pay-as-you-go basis, but may request that the City issue obligations backed by CID Sales Tax Revenues, at the City's sole discretion. Remaining costs are assumed to be financed with 40% equity & 60% debt.

USES

PHASE	PROJECT SCOPE OF WORK	SUB-SCOPES OF WORK	ESTIMATED TOTAL PROJECT COSTS
PHASE #1 - Mission Lane			
	Mission Lane	Provide new diagonal parking along Mission Lane Replace existing pavement Provide new pedestrian sidewalks Reconfigure existing parking lots at bldg. F and vehicular entrances Provide 12 paved pedestrian crosswalks Provide 2 paved street medallions Provide new trees and landscaping	\$2,097,563
	Streetscaping	Upgrade irrigation system includes new water tap New benches New trash receptacles Bike racks	\$835,313
	Buildings C & D	Wood shingle replacement New flat roof Remove walkway roof and column supports between building B, C & D	\$2,375,000
	Parking lot between F & G	Remove existing parking area Repair culvert Replace parking area	\$1,794,375
	Replace Parking East Side Building D		\$309,375
	Site security		\$61,875
PHASE #1 TOTALS:			\$7,473,500
PHASE #2 - Pedestrian Amenities			
	Public Gathering Space @ courtyard	Provide open air covering over courtyard Repair and landscape Courtyard Modify north elevation Macy's building Add irrigation Rehab original fountain	\$2,846,250
	Building G	Roof replacement	\$247,500
	Alhambra Street (parking area)	Provide new/enhanced landscape islands at west side of parking drive to better define parking aisles and street edge New Signage	\$711,563
	City Walking/Cycling Trail	Provide concrete trail in designated area Provide 2 paved pedestrian crosswalks Provide landscaping as needed	\$730,125
	Streetscaping	Upgrade irrigation system New benches New trash receptacles Bike racks Replace Dock Parking A Building A	\$433,125
	Building A	Roof replacement - flat roof Wood shingle replacement	\$2,475,000
	Site security		\$61,875
PHASE #2 TOTALS:			\$7,443,563

The Village
Preliminary Budget

PHASE #3 - Tomahawk Road		
Tomahawk Road	Reconfigure vehicular entrances off Tomahawk to create 1 main entrance New monument signage New landscaping Upgrade/add irrigation Provide 1 paved 'extra wide' crosswalk at clock tower in parking lot Reconfigure parking lots and create landscaped plaza	\$1,899,563
Streetscaping	Add walkway irrigation system New benches New trash receptacles Bike racks	\$346,500
Site security		\$61,875
PHASE #3 TOTALS:		\$2,307,938
PHASE #4 - Future Plans		
Site Modifications between Mission Road and Mission Lane	Demolish buildings F & H Reconfigure parking lots and vehicular access from Mission Road Provide new pedestrian sidewalks Build new two-story mixed use buildings (I) &(J) along eastern edge of Mission Lane Landscape perimeter along Mission Road New irrigation	\$4,851,000
Renovate building B	Reconfigure courtyard level - Reconfigure 71st Street level Reconfigure upper level Reconfigure basement as structure parking	\$18,531,563
Reconfigure building B parking area	Building new 12' high retaining wall at SE corner of building B Build new drive ramp to basement Reconfigure parking south of building E Replace sidewalk at north side of building Provide sidewalk and curbs at west side of building B to align with sidewalk at building C	\$1,911,938
PHASE #4 TOTALS:		\$25,294,500
VILLAGE TOTAL USES:		\$42,519,500
<p>^A Amounts listed above are cost estimates for components of each project phase, and do not include associated financing costs. The cost estimates are based on prices for goods and services in 2010, and thus the actual costs incurred over the multi-year phased project may be higher. The Developer requests that CID Sales Tax Revenues be made available to reimburse actual costs incurred related to cost categories listed above as well as services provided within the CID, special events held within the CID, and any tenant improvements, plus financing costs associated with any of the same. Reimbursement of costs for a particular cost category shall not be limited to the estimated costs set forth above; rather, actual costs incurred related to cost categories shall be reimbursable with CID Sales Tax Revenues to the full extent permitted by law, without regard to the phase in which such cost category is shown above or whether items shown above in earlier phases have been completed.</p>		

4705 CENTRAL SREET
KANSAS CITY, MO 64112
P: 816-960-1444
F: 816-960-1441
www.lane4group.com

April 2, 2010

City Clerk
City of Prairie Village
Municipal Building
7700 Mission Road
Prairie Village, Kansas 66208

RE: CID Application
Corinth Square Shopping Center

Please find enclosed the application for the proposed Community Improvement District at Corinth Square Shopping Center along with the application fee for \$2,000.00.

We look forward to working with the City of Prairie Village on this project.

Sincerely,


Michelle Kaiser

Enc.

**PETITION FOR THE CREATION OF A
COMMUNITY IMPROVEMENT DISTRICT**

TO: City Council,
City of Prairie Village, Kansas

The undersigned, being the owners of record, whether resident or not, of the following:

1. More than fifty-five percent (55%) of the land area contained within the hereinafter described community improvement district; and
2. More than fifty-five percent (55%) by assessed value of the land area contained within the hereinafter described community improvement district.

hereby petition the City of Prairie Village, Kansas (the “**City**”) to create a community improvement district and authorize the proposed projects hereinafter set forth, all in the manner provided by K.S.A § 12-6a26, *et seq.* (the “**Act**”). In furtherance of such request, the petitioners state as follows:

1. GENERAL NATURE

The general nature of the proposed projects (the “**Projects**”) is to promote the redevelopment and revitalization of an underutilized shopping center to its highest and best use, as is more particularly described herein, by providing community improvement district financing in accordance with this Petition and with the Act to finance the construction, maintenance, and procurement of certain improvements, costs, and services within the District.

2. ESTIMATED COST

The estimated cost of the Projects is \$44,473,081, plus the costs of services, special events, tenant improvements, and financing costs. See the attached **EXHIBIT “A”** for a detailed budget.

3. PROPOSED METHOD OF FINANCING

It is proposed that the Projects be financed through a combination of private equity, private debt and Pay-as-you-go financing, as defined in the Act, and/or through the issuance of special obligation bonds/notes.

4. PROPOSED METHOD AND AMOUNT OF ASSESSMENT

It is not being proposed that the Projects be financed through the levying of assessments.

5. PROPOSED AMOUNT OF SALES TAX

It is being proposed that the Projects be financed in part through the levying of a 1% add-on sales tax as authorized by the Act.

6. MAP AND LEGAL DESCRIPTION OF THE PROPOSED DISTRICT

A map of the proposed community improvement district (the “**District**”) is attached hereto as **EXHIBIT “B”**.

The legal description of the District is attached hereto as **EXHIBIT “C”**.

7. NOTICE TO PETITION SIGNERS

Names may not be withdrawn from this Petition by the signers hereof after the City commences consideration of this Petition, or later than seven (7) days after the filing hereof with the City Clerk, whichever occurs first.

8. PETITION BINDING ON FUTURE OWNERS

If this Petition is not properly withdrawn as permitted by the Act, any future owners of the Property shall be bound by this Petition.

9. BOND MARKETABILITY

The signers hereof acknowledge that the City will record this Petition if the proposed project is approved by the City Council and that by the acceptance of this Petition, the City Council is not making any representation as to the marketability of bonds to finance the projects described in this Petition. The petitioner assumes the risk that such bonds can be issued under terms acceptable to the City.

10. COUNTERPARTS

For purposes of executing this Petition, this document signed and transmitted by facsimile machine or telecopier is to be treated as an original document. This Petition may be executed in one or more counterparts and by each signer hereof on a separate counterpart, each of which when so executed and delivered shall be an original, and all of which shall constitute one instrument.

IN WITNESS WHEREOF, the undersigned petitioners have executed the above foregoing petition to create the district at the dates set forth opposite their respective signatures below:

CSN Retail Partners, LLC, a Kansas limited liability company

By: Landmark Retail Properties, LLC, a Missouri limited liability company

By: Enterprises Retail Investors, LLC, a Missouri limited liability company

By: William D. Cosentino
William D. Cosentino, President

By: Group Retail Investors, LLC, a Missouri limited company

By: David G. Cosentino
David G. Cosentino, President

ACKNOWLEDGMENT

STATE OF KANSAS)
) ss.
COUNTY OF JOHNSON)

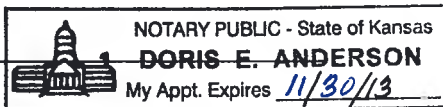
BE IT REMEMBERED, that on this 1ST day of APRIL, 2010 before me, the undersigned, a Notary Public in and for said County and State, came WILLIAM D. COSENTINO, who is known to me to be the same person who executed the within instrument, and such person duly acknowledged the execution of the same.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal the day and year last above written.

(Seal)

Doris E. Anderson
Notary Public in and for said
County and State

My Commission Expires:



STATE OF KANSAS)
) ss.
COUNTY OF JOHNSON)

BE IT REMEMBERED, that on this 1st day of APRIL, 2010 before me, the undersigned, a Notary Public in and for said County and State, came DAVID G. COSENTINO, who is known to me to be the same person who executed the within instrument, and such person duly acknowledged the execution of the same.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal the day and year last above written.

(Seal)

Doris E. Anderson
Notary Public in and for said
County and State

My Commission Expires:



CSS Retail Partners, LLC, a Kansas limited liability company

By: Landmark Retail Properties, LLC, a Missouri limited liability company

By: Enterprises Retail Investors, LLC, a Missouri limited liability company

By: William D. Cosentino
William D. Cosentino, President

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David G. Cosentino, President

ACKNOWLEDGMENT

STATE OF KANSAS)
) ss.
COUNTY OF JOHNSON)

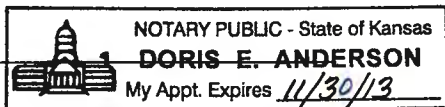
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) ss.
COUNTY OF JOHNSON)

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(Seal)

Doris E. Anderson

Notary Public in and for said
County and State

My Commission Expires:

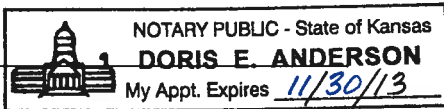


EXHIBIT "A"
ESTIMATED PROJECT COSTS

See Attached.

**Corinth Square
Preliminary Budget**



**CORINTH PROJECT
SOURCES & USES**

SOURCES*

TYPE OF FINANCING:	TOTAL FINANCING AMOUNT:
	Assuming 1% CID Sales Tax
Debt	\$23,745,649
Equity	\$15,830,432
CID Sales Tax Revenues	\$4,897,000
TOTAL	\$44,473,081

CORINTH TOTAL SOURCES: \$44,473,081

* Estimated CID Sales Tax Revenue is based on a 1% CID Sales Tax collected over 22 years (net present valued using a 7% discount rate), and assumes current sales grow at the rate of 1% per year. The Developer anticipates collecting CID Sales Tax Revenues on a pay-as-you-go basis, but may request that the City issue obligations backed by CID Sales Tax Revenues, at the City's sole discretion. Remaining costs are assumed to be financed with 40% equity & 60% debt.

USES^

PHASE:	PROJECT SCOPE OF WORK:	SUB-SCOPE OF WORK:	ESTIMATED TOTAL PROJECT COSTS:
PHASE #1 - Town Square			
	Corinth Town Square	New Paved Parking Lot New Pedestrian Crosswalks New Energy Efficient Parking Lot Lighting Landscape	\$264,929
	New Hardscapes Buildings A, B & C	Replace existing sidewalk Elevations	\$390,750
	Landscaping at Corners of A & B	New irrigation system New permanent planters	\$149,788
	Streetscaping	Upgrade irrigation system (new water tap) increase/modify landscaping New benches New trash receptacles Bike racks	\$525,559
	Entrance modification Mission Road	remove 2 existing vehicular entrances new pavement restripe create one (1) new main entrance new monument signage new landscaping	\$488,438
	Parking lot islands north & south lots	New landscape New irrigation	\$371,213
	Parking lots North & South lots	new pavement restripe new energy efficient light poles in lots Provide 6 new paved pedestrian crosswalks	\$302,831
	Lot E modification	demolish existing building Relocated existing vehicular entrance on Somerset New pedestrian sidewalks	\$403,775
	Parking lot reconfiguration Buildings J & K		\$260,500
	Landscape Revisions SW corner 83rd St	new irrigation new landscape	\$390,750
	New Hardscapes Buildings J & K		\$227,938
	Building J & K Façade Remodel	New Roof Façade repair New Signage	\$911,750
	Site Security		\$39,075
PHASE #1 TOTALS:			\$4,121,294

**Corinth Square
Preliminary Budget**

PHASE #2-Main Vehicular Entrance and Perimeter Improvements		
Somerset Drive & 83rd Street Landscape	Improve/modify landscape along street New irrigation	\$227,938
Building D facelift	new pedestrian sidewalk new roof new signage	\$742,425
Reconfiguration of Building G		\$130,250
Grocery Store Façade Remodel	Entrance Enhancements New Signage	\$2,409,625
Building A & B Façade Remodel	Roof Screening for Mechanical Equipment New Signage Roofline modification New roof	\$2,865,500
Building F - façade & parking remodel	Reconfigure parking lots & sidewalk Provide new pedestrian sidewalks Create new paved outdoor patio New Roof New signage New landscaping/irrigation irrigation	\$1,289,475
Site Security		\$45,588
PHASE #2 TOTALS:		\$5,301,175
PHASE #3 - 2nd Main Vehicular Entrance and Retail Expansion		
Entrance modification 83rd Street	remove 2 existing vehicular entrances create one (1) new main entrance new monument signage new landscaping	\$1,367,625
Site modification building H & south lot	Demolish Arby's building Create paths with sidewalks for future development site D and P Reconfigure parking lot to align with main entrance Provide 4 new paved pedestrian crosswalks	\$735,913
Site Security		\$45,588
PHASE #3 TOTALS:		\$2,149,125
PHASE #4 - Future Plans		
Prepare Corinth South for redevelopment	Remove 2 existing entrances south side 83rd Street Create one (1) new main entrance New monument signage New landscaping New irrigation New crosswalk and traffic signal at new entrance Reconfigure parking lot & sidewalks for new retail - R Reconfigure parking lot & sidewalks for mixed-use at buildings L & M New sidewalks & landscaping Provide 4- new paved pedestrian crosswalks	\$1,816,988
Re-Construct existing building B	Demolish existing building B Provide new service parking court	\$10,159,500
Construction Of Building O		\$2,084,000
Construction Of Building P		\$390,750
Construction Of Building R		\$1,563,000
Construction of Mixed-Use at Buildings L & M		\$16,281,250
PHASE #4 TOTALS:		\$32,295,488
CORINTH TOTAL USES:		\$44,473,081

Corinth Square

Preliminary Budget

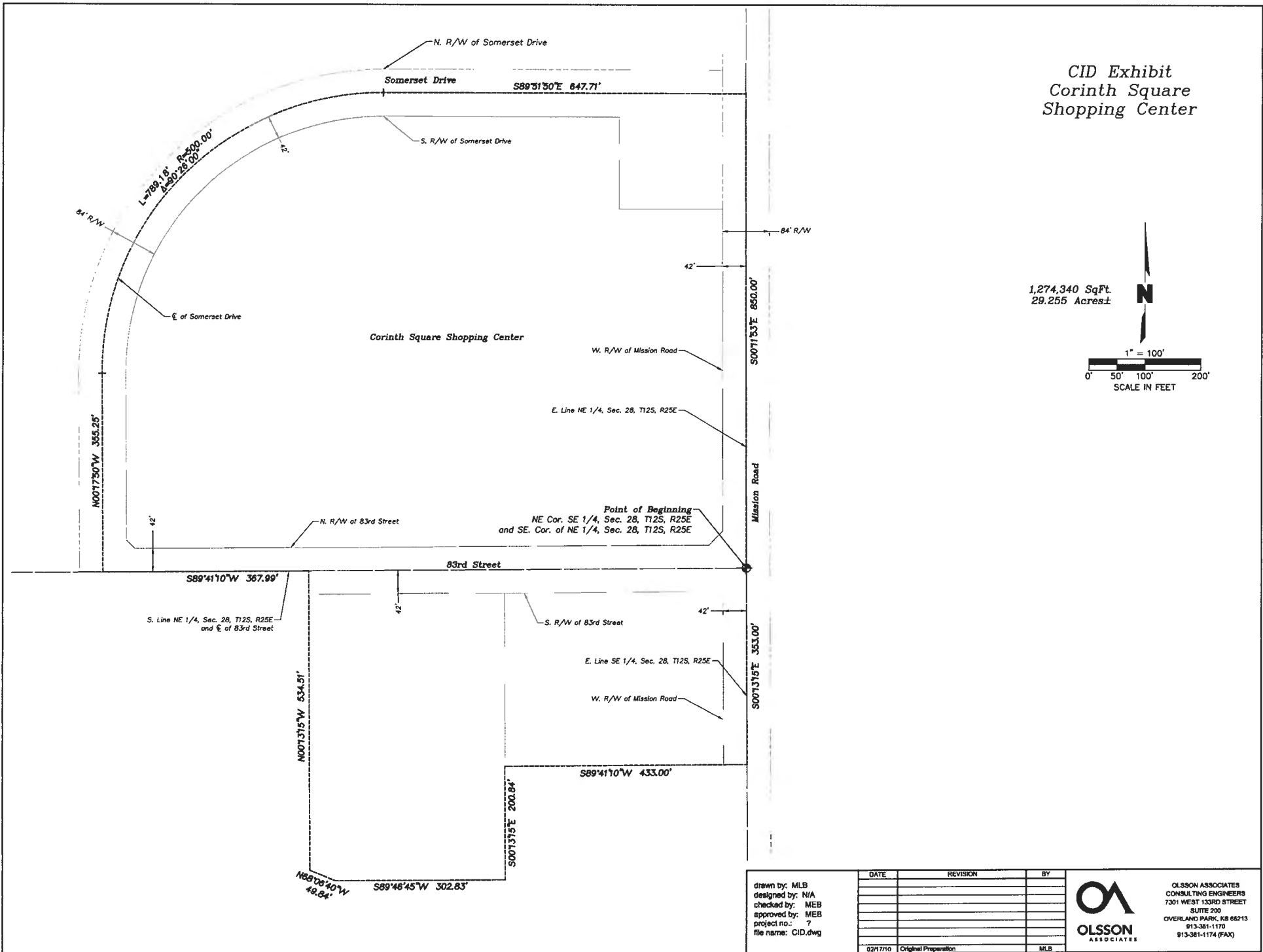
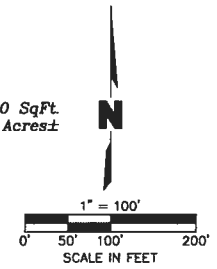
^ Amounts listed above are cost estimates for components of each project phase, and do not include associated financing costs. The cost estimates are based on prices for goods and services in 2010, and thus the actual costs incurred over the multi-year phased project may be higher. The Developer requests that CID Sales Tax Revenues be made available to reimburse actual costs incurred related to cost categories listed above as well as services provided within the CID, special events held within the CID, and any tenant improvements, plus financing costs associated with any of the same. Reimbursement of costs for a particular cost category shall not be limited to the estimated costs set forth above; rather, actual costs incurred related to cost categories shall be reimbursable with CID Sales Tax Revenues to the full extent permitted by law, without regard to the phase in which such cost category is shown above or whether items shown above in earlier phases have been completed.

EXHIBIT "B"
MAP OF DISTRICT

See Attached.

CID Exhibit
Corinth Square Shopping Center

1,274,340 SqFt.
29.255 Acres±



drawn by: MLB
designed by: N/A
checked by: MEB
approved by: MEB
project no.: 7
file name: CID.dwg

DATE	REVISION	BY
02/17/10	Original Preparation	MLB



OLSSON ASSOCIATES
CONSULTING ENGINEERS
7301 WEST 133RD STREET
SUITE 200
OVERLAND PARK, KS 66213
913-381-1170
913-381-1174 (FAX)

EXHIBIT "C"
LEGAL DESCRIPTION OF DISTRICT

See Attached.

Corinth Square

February 17, 2010

CID Description

All that part of the West half of Section 28, Township 12 South, Range 25 East, in the City of Prairie Village, Johnson County, Kansas, described as follows:

BEGINNING at the Northeast corner of the Southeast Quarter of Section 28, Township 12 South, Range 25 East; thence South 0 degrees 13 minutes 15 seconds East along the East line of the Southeast Quarter of said Section 28 a distance of 353.00 feet to a point; thence South 89 degrees 41 minutes 10 seconds West a distance of 433.00 feet to a point; thence South 0 degrees 13 minutes 15 seconds East a distance of 200.84 feet to a point; thence South 89 degrees 46 minutes 45 seconds West a distance of 302.83 feet to a point; thence North 68 degrees 06 minutes 40 seconds West a distance of 49.84 feet to a point; thence North 0 degrees 13 minutes 15 seconds West a distance of 534.51 feet to a point on the South line of the Northeast Quarter of said Section 28; thence South 89 degrees 41 minutes 10 seconds West along the South line of the Northeast Quarter of said Section 28 a distance of 367.99 feet to a point on the centerline of Somerset Drive; thence North 0 degrees 17 minutes 50 seconds West along the centerline of Somerset Drive a distance of 355.25 feet to a point; thence in a Northeasterly direction along the centerline of Somerset Drive and along a curve to the right, having a radius of 500.00 feet, through a central angle of 90 degrees 26 minutes 00 seconds, an arc distance of 789.18 feet to a point; thence South 89 degrees 51 minutes 50 seconds East along the centerline of Somerset Drive a distance of 647.71 feet to a point on the East line of the Northeast Quarter of said Section 28; thence South 0 degrees 11 minutes 53 seconds East along the East line of the Northeast Quarter of said Section 28 a distance of 850.00 feet to the POINT OF BEGINNING and containing 1,274,340 Square Feet or 29.255 Acres, more or less.

The description above includes all property owned by the Applicant and shall also include all adjacent right-of-way to the centerline thereof.

**CORINTH SQUARE SHOPPING CENTER
COMMUNITY IMPROVEMENT DISTRICT**

April 2010

4705 Central Street
Kansas City, MO 64112
816.960.1444
www.lane4group.com

LANE4
PROPERTY GROUP

**City of Prairie Village, Kansas
Application for Public Financial Participation**

Date: _____

Application for Public Financial Participation

Indicate the type of public financial participation sought (check all that apply).

- Tax Increment Financing (TIF).....
- Transportation Development District (TDD) - Sales Tax
- Transportation Development District (TDD) - Special Assessment.....
- Industrial Revenue Bonds (IRB)
- City Grant/Tax Rebate
- Special Assessment District.....
- Community Improvement District.....
- Other.....

A. Applicant Information

1. Project Name:
Corinth Square Shopping Center
2. Project Address:
NW & SW Corners of 83rd & Mission Road
3. Name of Corporation/Partnership:
CSN Retail Partners, LLC & CSS Retail Partners, LLC
 - i. Address:
4705 Central Ave.
4. Primary Contact:
LANE4 Property Group
 - i. Name:
Jeffrey Berg or Hunter Harris
 - ii. Address:
4705 Central Ave.
Kansas City, MO 64112
 - iii. Phone:
816-960-1444
 - iv. Fax:
816-960-1441
 - v. Email:
jberg@lane4group.com or hharris@lane4group.com

B. Project Team

1. Attorney: Polsinelli Shugart, P.C.
 - i. Name:
John Petersen and Curtis Petersen
 - ii. Address:
6201 College Blvd. Suite 500
Overland Park, KS 66211
 - iii. Phone:
913-234-7405
 - iv. Fax:
913-451-6205
 - v. Email:
jpetersen@polsinelli.com or cpetersen@polsinelli.com

**City of Prairie Village, Kansas
Application for Public Financial Participation**

2. Other Contacts:

i. Name:

ii. Address:

iii. Phone:

iv. Fax:

v. Email:

C. Applicant Background

1. Attach a brief summary description of the applicant's business, including history, principal product or service, etc. Indicate exhibit number.

See Exhibit A

2. Attach a list of names of officers and shareholders/partners with more than five percent (5%) interest in the applicant. Indicate exhibit number.

Sole Member - Landmark Retail Properties, LLC (a MO LLC)

3. Provide references to demonstrate the applicant's past experience and financial capacity to successfully plan and complete development projects of similar type and scale. Include scope of project, total development cost, location, year opened, level of participation by applicant entity, and contact information for local government representatives familiar with the project.

Indicate exhibit number:

See Exhibit B

D. Project Information

1. Attach a brief description of the proposed project including a site plan. Describe the basic project components, i.e., amount of new commercial square footage, number of housing units. Indicate whether for sale or lease. Attach a list of names and addresses of future tenants and indicate the status of commitments or lease agreements. Indicate exhibit number.

See Exhibit C

2. Describe how this project will serve a public purpose. Address issues such as those listed below.

Indicate exhibit number:

See Exhibit D

- i. Accomplishment of Village Vision goals
- ii. Enhancement or diversification of the city's economic and tax base
- iii. The project's contribution toward fulfillment of the city's redevelopment objectives
- iv. Rehabilitation of a high profile or priority site
- v. Number and types of jobs created by the project
- vi. Enhancement of housing choices and population growth
- vii. Additional private investment resulting from the project

**City of Prairie Village, Kansas
Application for Public Financial Participation**

viii. Number of visitors

3. Attach legal description of project site and list property ID number(s). Indicate exhibit number:
See Exhibit E

4. Attach the status of the zoning and uses of the property with proposed changes and schedule. Indicate exhibit number:
No zoning changes expected at this time, although future market demand may warrant a zoning and use modification to allow residential.

5. Attach a construction and operations schedule: describe percentage of construction completion by year and by phase. Indicate when operations will commence. Indicate exhibit number:
Construction completion will be determined by market demand and availability of funds. Project phasing is included in Exhibit C

6. Attach a detailed budget for the project with a sources and uses statement. Include all sources of payment including applicant's equity, private financing sources and proposed public financial participation, and all uses including specifically uses earmarked for payment from public sources. The budget should include how the public financing portion would be implemented i.e., pay-as-you-go, type of bonds, etc.). Indicate exhibit number:
Exhibit F

7. The applicant will be required to provide information to the city's third party financial advisor sufficient to complete an internal rate of return analysis and a cost benefit analysis.

E. Other

The City may require such additional information as determined, in its discretion, in order to consider this application, including but not limited to, applicant financial information and additional information regarding the proposed project.

F. Application Fee and Deposit

Applicants will be required to provide a non-refundable application fee(s) as follows:

- TIF - \$10,000
- TDD Sales Tax - \$2,000
- TDD Special Assessment - \$2,000
- Special Assessment District - \$2,000
- IRB - \$2,000
- City Grant/Tax Rebate - \$2,000
- Community Improvement District - \$2,000

A further deposit of \$10,000 for TIF and \$3,500 for other incentives is required to be placed in escrow pursuant to a funding agreement to be used by the city to complete the analysis of the subsidy requested, and to pay costs associated with attorney's fees, bond counsel fees, if applicable, financial advisor fees and other professional services and expenses incurred by the City in connection with the proposed public financing. Should the entire deposit be utilized, the Applicant may be required to place additional funds in escrow. Any unused portion of this deposit will be returned to the Applicant.

City of Prairie Village, Kansas
Application for Public Financial Participation

Applicant acknowledges:

1. The Governing Body of the City of Prairie Village is under no obligation to approve any application for public financial participation and that the decision is discretionary with the City.
2. If public financing is approved, the applicant will be required to enter into a development agreement with the City.
3. If public financing is approved, there will be annual administration fees associated with the project to be documented in the development agreement.
4. The applicant may be required to submit additional information depending upon the public financing tool noted on this application.

The undersigned; certifies that all information provided in the application is true and correct to the best of the undersigned's knowledge, agrees to update as necessary all information required herein, authorizes the City of Prairie Village to check credit references and verify financial and other information, agrees to provide any additional information as may be requested by the city after the filing of this application, and agrees to provide the application fee, escrow deposit and to pay the additional funds into escrow as described above.

CSN Retail Partners, LLC, a Kansas limited liability company

By: Landmark Retail Properties, LLC, a Missouri limited liability company

By: Enterprises Retail Investors, LLC, a Missouri limited liability company

By: 
William D. Cosentino, President

By: Group Retail Investors, LLC, a Missouri limited company

By: 
David G. Cosentino, President

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By: Enterprises Retail Investors, LLC, a Missouri limited liability company

By: 
William D. Cosentino, President

By: Group Retail Investors, LLC, a Missouri limited company

By: 
David G. Cosentino, President



EXHIBIT A – APPLICANT BUSINESS

LANE4 PROPERTY GROUP: YOUR COMPETITIVE EDGE

With over 300 years of combined experience, our team has a successful track record of delivering client-focused solutions for commercial real estate needs throughout the United States. The strength of our expertise, comprehensive services, professional relationships and creativity, provide our clients with optimal advantages in the commercial real estate industry.

LANE4 Real Estate services include:

Services

- Leasing
- Tenant Representation
- Acquisitions
- Investment Sales
- Property and Asset Management
- Development and Redevelopment
- Project Management
- Project Branding and Marketing
- Receivership

Areas of Expertise

- Retail
- Medical Office
- Hospitality
- Government Services Administration (GSA)
- LEED Certification



• YOUR COMPETITIVE EDGE •

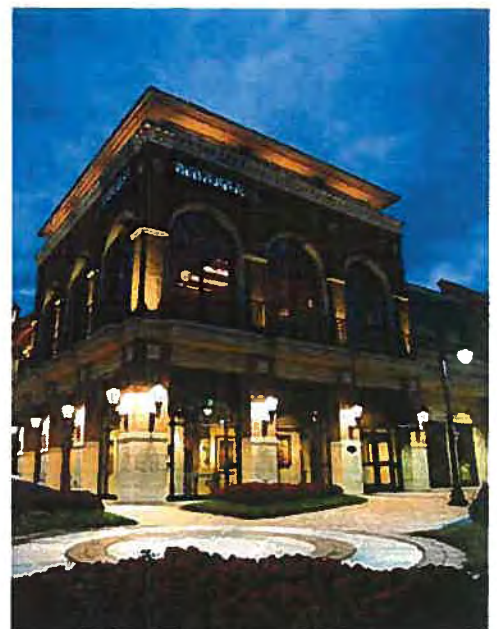
LANE4
PROPERTY GROUP

LANE4 PROPERTY GROUP: IT'S ABOUT GETTING RESULTS

- In 2008, LANE4 developed over \$100 million of properties
- Over the past five years, principals of LANE4 were directly responsible for the development of 24 properties with an aggregate value of \$450 million
- LANE4 currently markets more than 6 million square feet of retail property
- LANE4 currently manages more than 2 million square feet of retail, office, medical and Government Services Administration (GSA) property

Some of our signature projects include:

<u>PROJECT</u>	<u>PROJECT ROLE</u>
Briarcliff Village - Kansas City, MO	Project Leasing and Marketing
Blue Ridge Crossing - Kansas City, MO	Project Leasing, Marketing and Sales
Coffee Creek - Overland Park, KS	Project Leasing and Marketing
Corinth Square - Prairie Village, KS	Project Leasing, Investment Sales and Property Management
Eisenhower Crossing - Lansing, KS	Development, Project Management, Leasing, Marketing and Property Management
Fairway Shops - Fairway, KS	Project Leasing, Investment Sales and Property Management
New Longview - Lee's Summit, MO	Project Leasing, Marketing and Property Management
The Shoppes at MarketPointe - Omaha, NE	Development and Investment Sales
The Trails	Development, Project Management, Leasing, Property Management, Marketing
The Village - Prairie Village, KS	Project Leasing, Investment Sales and Property Management
Tiffany Springs MarketCenter - Kansas City, MO	Project Leasing and Marketing
Tutera Neighborhood Centers - Kansas City Metro	Project Leasing and Marketing
FBI Regional Office - Jacksonville, FL	Development, Project Management and Property Management
U.S. District Court House - Great Falls, MT	Development, Project Management and Property Management
Department of Homeland Security, Denver, CO	Development and Property Management



Briarcliff Village, Kansas City, MO

• YOUR COMPETITIVE EDGE •



LANE4 PROPERTY GROUP: YOUR COMPETITIVE EDGE

LEASING

Our seasoned leasing professionals have experience working on all types of projects, from free-standing buildings to regional mixed-use projects under all types of market conditions. This, combined with our vast network of relationships, puts LANE4 Property Group in a unique position to initiate ongoing relationships between landlords and tenants.

TENANT REPRESENTATION

LANE4 is proud to represent some of the nation's most respected retailers in their Midwest expansion efforts. We've worked with many tenants for more than two decades, forging partnerships that employ the best aspects of the art and science of retail site selection.



Tittary Springs MarketCenter, Kansas City, MO

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LANE4 PROPERTY GROUP: YOUR COMPETITIVE EDGE

PROPERTY MANAGEMENT

A twist on the traditional real estate management process, LANE4 has developed a model that focuses on our relationship with both landlords and tenants. It is from these relationships that we have the knowledge and tools to effectively serve both parties by instituting more aggressive marketing, tenant retention and financial management strategies.

INVESTMENT SALES

THE LANE4 team is well versed in the many nuances of the real estate investment sales market. This understanding allows LANE4 to provide our clients with the most effective opportunity to achieve their goals. Our efforts go beyond negotiating the sale of a property; instead we advise our clients of how to capitalize on the potential of each asset and increase its value.



Liberty Triangle, Liberty, Missouri

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EXHIBIT B – APPLICANT PAST EXPERIENCE

LANE4 PROPERTY GROUP: YOUR COMPETITIVE EDGE

Barry North Center, Kansas City, Missouri



- 335,000 Square foot shopping center
- Opened in 1999
- Construction costs totaled \$32 million
- Project included a host of off-site improvements which were partially funded by TIF
- Anchored by Walmart Supercenter and Lowe's Home Improvement

Liberty Triangle, Liberty, Missouri



- 350,000 Square foot shopping center
- Opened in 2006
- Construction costs totaled \$40 million
- An additional 12,000 square feet of retail space was added in 2009
- Anchored by Lowe's Home Improvement
- Small shops and outparcels include Citi Financial, Cricket Wireless, InkStop, Logan's Roadhouse, Nail Studio, Northern Lights Pizza Company, Planet Sub, Red Robin, Starbuck's, Super Clips and Vintage Stock

One Kellogg Place, Wichita, Kansas



- 500,000 Square foot power center
- Opened in 2003
- Construction costs totaled \$41 million
- Anchored by Lowe's Home Improvement, Michael's Arts & Crafts, Slumberland Furniture, Sportsman's Warehouse and Walmart Supercenter
- Small Shop Retailers include AT&T Wireless, Boeing Wichita Credit Union, Burger King, Great Clips, Game Stop, IHOP, McDonald's, Payless Shoe Source, Play it Again Sports and Taco Bell

Roeland Park Redevelopment, Roeland Park, Kansas



- 215,000 Square foot shopping center
- Opened in 2005
- Partially financed by TIF and TDD financing
- Anchored by Lowe's Home Improvement and Price Chopper
- Small shops and outparcels include Cartridge World, China Star, Cici's Pizza, Cricket Communications, Fantastic Sam's, Liberty Tax, Subway, Tips N'Toes Nail Salon and US Bank

LANE4 PROPERTY GROUP: YOUR COMPETITIVE EDGE

Sheraton Overland Park Convention Center Hotel, Overland Park, Kansas



- 318,000 Square foot convention center hotel
- Opened in December 2002, ahead of schedule and under budget
- Construction costs totaled \$92 million
- Connected to the Overland Park Convention Center
- Includes 20 stories, 3 ballrooms totaling more than 11,000 square feet, 25,000 square feet of meeting and board room space, and 412 rooms
- Awarded the 2002 Design-Build Institute of America (DBIA) National Design-Build Award

Siouxland Town Center, Sioux City, Iowa



- 240,000 Square foot shopping center
- Opened in 2002
- Construction costs totaled \$20 million
- Anchored by Walmart Supercenter
- Small shops and outparcels include Iowa-Nebraska State Bank, Midtown Mercy Medical Clinic, Singing Hills Auto Spa and Tony Roma's

The Trails, Kansas City, Missouri



- 467 Acre destination center
- Total construction costs are estimated at \$1 billion
- Includes 1.2 million square feet of retail, 1 million square feet of office, and 3 hotels
- Currently in the demolition stage, Phase I construction is planned to begin in 2010 and open in 2011

The Shoppes at Market Pointe, Omaha, Nebraska



- 500,000 Square foot power center
- Opened in Fall 2006
- Project Details
- Construction costs totaled more than \$60 million
- Anchored by Kohl's, Lowe's Home Improvement and Walmart Supercenter
- Small shop retailers include Arby's, Bennigan's, Game Stop, Panera Bread, Payless Shoe Source, Qdoba Mexican Grill and Wells Fargo

LANE4 PROPERTY GROUP: YOUR COMPETITIVE EDGE

39Rainbow, Kansas City, Kansas



- 143,000 Square foot mixed-use development
- Opening 2011
- Project utilizes New Market Tax Credits, TIF, CID
- Features a 90-key Fairfield Inn & Suites and 68 loft-style multi-family units
- First mixed-use project in Wyandotte County

Mission Crossing, Mission, Kansas



- 6.2 Acre infill mixed-use development
- Opening 2011
- Mission, Kansas' first mixed-use development featuring restaurants, retail, financial services and assisted living

Bluemont Corner, Manhattan, Kansas



- 135,000 Square foot mixed-use development
- Opening 2012
- Features a 90-key Town Place Suites and 48 loft-style apartments
- First in-fill mixed-use project in Manhattan, Kansas
- Anchored by national drug store

Hobbs Taylor Lofts, Lawrence, Kansas



- 125,000 Square foot mixed-use development
- Opened 2006
- Features 32 luxury loft condominiums
- In-fill mixed-use project featuring Capital City Bank and 27,000 square feet of specialty office

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LANE4 PROPERTY GROUP: YOUR COMPETITIVE EDGE

Woodside Village, Westwood, Kansas



- 265,000 Square foot mixed-use development
- Planned opening 2012
- In-fill mixed-use project one mile from Kansas City's Country Club Plaza in Westwood, KS
- Project features 238 luxury apartments and 27,000 square feet of boutique retail space
- Woodside Village is located within the Woodside Tennis & Health Club Campus – Kansas City's finest social and health amenity

Drug Enforcement Administration (DEA) & Bureau of Alcohol, Tobacco, Firearms & Explosives (ATF), Birmingham, Alabama



- 40,000 square foot office facility
- Opened in June 2009
- Construction costs totaled \$12 million
- Build-to-suit on behalf of the GSA
- Serves as the Regional Headquarters for both the DEA and ATF Agencies
- Project includes an attached parking structure

Environmental Protection Agency (EPA) Laboratory, Kansas City, Kansas



- 72,000 square foot science & technology laboratory
- Opened in Spring 2003
- Construction costs totaled \$22 million
- Build-to-suit on behalf of the GSA
- Serves as the EPA's regional science laboratory
- Efficiency feature includes a rooftop rainwater recapture system
- Was awarded the US Green Building Council LEED Gold Award (Only the second Gold Award given to a laboratory nationwide)

Federal Bureau of Investigation Regional Office, Birmingham, Alabama



- 145,360 square foot office facility
- Opened in Spring 2005
- Construction costs totaled \$18 million
- Build-to-suit on behalf of the GSA
- Designed to satisfy FBI security requirements
- Scope included more than \$750,000 in additional street improvements, new sidewalks, street lighting and landscaping
- Winner of the 2005 Best Project of the year for South Central Construction

LANE4 PROPERTY GROUP: YOUR COMPETITIVE EDGE

Federal Bureau of Investigation (FBI) Field Office, Jacksonville, Florida



- 130,000 square foot federal office facility
- Opened in February 2009
- Construction costs totaled \$45 million
- Build-to-suit on behalf of the GSA
- Serves as the FBI's regional office facility
- Comprised of three separate four-story office buildings
- Includes a secure, underground parking structure
- Design includes an attached one-story annex building designed to accommodate a future three-story addition with minimal disruption to the original phase occupants.

Iola Family Physicians Office, Iola, Kansas



- 13,000 square foot medical facility
- Opened in Spring 2008
- Construction costs totaled \$2.5 million
- Build-to-suit on behalf of Iola Family Physicians
- On-site surgery center
- On-site pharmacy with drive-thru
- Equipped to accommodate 7 general practice physicians and surgeons as well as several specialists

Occupational Health & Safety Administration (OSHA) Science & Technology Center, Salt Lake City, Utah



- 75,000 square foot science & technology center
- Opened in February 2004
- Construction costs totaled \$18 million
- Build-to-Suit on behalf of the GSA
- Serves as OSHA's national science and technology laboratory
- Awarded the US Green Building Council LEED Silver Award
- Awarded the Design-Build Institute of America (DBIA)- MAC Project of the year

Eisenhower Medical Plaza, Lansing, Kansas



- 47,000 square foot, two-story office facility
- Opened in May 2007
- Construction costs totaled \$8.4 million
- Part of a 35 acre mixed-use development
- Equipped to accommodate 3 family practice organizations as well as several specialty groups
- Communal conference room
- Recognized as the Signature Office "Best Place to Do Business" in Leavenworth County

**City of Prairie Village, Kansas
Application for Public Financial Participation**

Applicant acknowledges:

1. The Governing Body of the City of Prairie Village is under no obligation to approve any application for public financial participation and that the decision is discretionary with the City.
2. If public financing is approved, the applicant will be required to enter into a development agreement with the City.
3. If public financing is approved, there will be annual administration fees associated with the project to be documented in the development agreement.
4. The applicant may be required to submit additional information depending upon the public financing tool noted on this application.

The undersigned; certifies that all information provided in the application is true and correct to the best of the undersigned's knowledge, agrees to update as necessary all information required herein, authorizes the City of Prairie Village to check credit references and verify financial and other information, agrees to provide any additional information as may be requested by the city after the filing of this application, and agrees to provide the application fee, escrow deposit and to pay the additional funds into escrow as described above.

Applicant Name: _____

Signature: _____

Title: _____



EXHIBIT C – PROPOSED PROJECT DESCRIPTION

Proposed Enhancements to Landmark Properties

Corinth North & South

March 2010

Corinth Square Shopping Center

83rd and Mission

Phase 1 – Town Square

- 1) Create "Corinth Town Square" (public event space) between Grocery Store (C) and Main Building (A+B)
 - New paved parking lot
 - New pedestrian crosswalks
 - New energy efficient parking lot light poles
 - Landscape
- 2) New hardscape (pedestrian sidewalk) around buildings (A), (B) and (C)
- 3) Landscaping at northwest and southwest corners of Main Building (A+B) and along east façade
 - New irrigation
 - New permanent planters
- 4) Streetscaping (benches, planters, etc.)
- 5) Upgrade irrigation system – includes new water tap
- 6) Remove two (2) existing vehicular entrances on Mission Road and create one (1) Main Entrance with monument sign and landscaping, plus new pavement and re-striping
- 7) Parking lot islands north & south lots
 - New landscape
 - New irrigation
- 8) Parking lot replacement – north & south lots
 - New pavement
 - New energy efficient light poles
 - Provide 6 new paved pedestrian crosswalks
- 9) Prepare northeast corner to accommodate future Drug Store (N) with drive-thru
 - Demolish former Tippin's building (E)
 - Relocate existing vehicular entrance off Somerset further west
 - Provide new pedestrian sidewalks
- 10) (Corinth South) New parking lot reconfiguration around Building (J) and (K)
- 11) (Corinth South) New pedestrian sidewalk around buildings (J) and (K)
- 12) (Corinth South) New landscape & irrigation
- 13) (Corinth South) Building (J) and (K) face lift
 - New roof
 - New signage
- 14) Site Security

Phase 2 – Main Vehicular Entrance and Perimeter Improvements

- 1) Landscape perimeter of property – Somerset, Partial 83rd Street
- 2) Building (D) facelift
 - New pedestrian sidewalk
 - New roof
 - New signage
- 3) Reconfigure drive-thru lanes and parking lots around Commerce Bank building (G)

- 4) Grocery Store (C) face lift
 - New (2) entrance enhancements
 - New signage
- 5) Main Building (A+B) facelift
 - New roof and screening for rooftop mechanical equipment
 - New signage
 - Roofline modification
- 6) Building (F) facelift
 - Reconfigure parking lots and sidewalks
 - Provide new pedestrian sidewalks
 - Create new paved outdoor patio
 - New roof
 - New signage
 - New landscaping/irrigation
- 7) Site Security

Phase 3 – 2nd Main Vehicular Entrance and Retail Expansion

- 1) Remove two (2) existing vehicular entrances on 83rd Street and create one (1) Main Entrance with monument sign and landscaping
- 2) Prepare new sites for development
 - Demolish Arby's building
 - Create landscaped pads with sidewalks for proposed retail building's (P) and (O)
 - Reconfigure parking lot to align with Main Entrance off 83rd Street and Town Square
- 3) Provide four (4) new paved pedestrian crosswalks

Phase 4 – Future Plans

- 1) Prepare (Corinth South) property for development
 - Remove two (2) existing vehicular entrances on south side of 83rd Street and create one (1) Main Entrance with monument sign and landscaping
 - Reconfigure parking lots and pedestrian sidewalks in anticipation of new retail building (R)
 - Reconfigure parking lots and pedestrian sidewalks in anticipation of new mixed-use at buildings (L) and (M)
 - Provide sidewalks and landscaping
 - Provide four (4) new paved pedestrian crosswalks
- 2) Build new two story mixed-use (office over retail) building in location of existing building (B)
 - Demolish existing building (B)
 - Provide new service/parking court

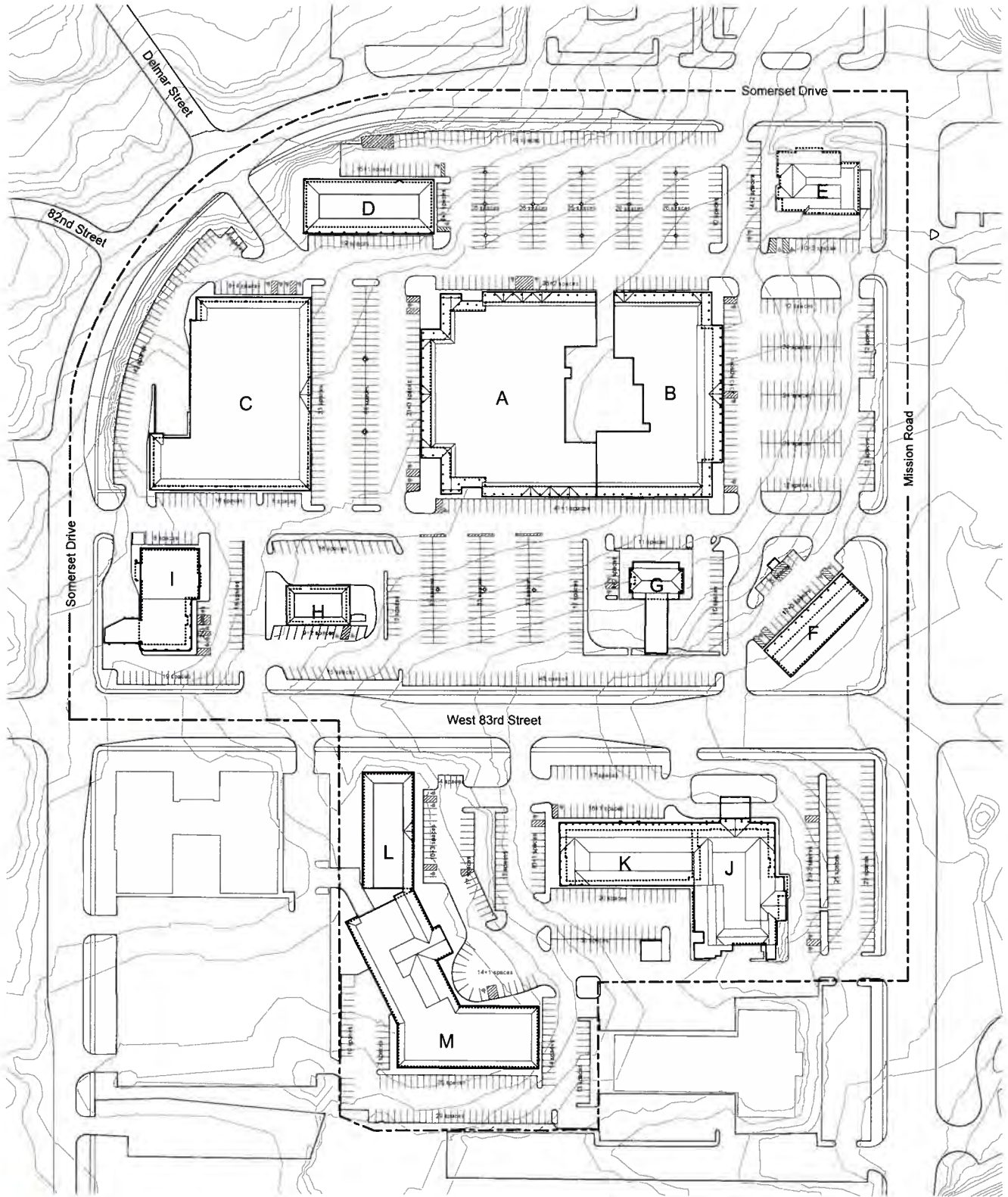
* The phasing of improvements set forth above is only an estimate. Improvements related to categories listed above may take place in earlier or later phases than listed, as driven by tenant and consumer demand.

Corinth Square: Square Footage and Parking Count Summary

Phase	Square Feet	Comment	Actual Parking	Ratio	Parking at 3.5/1000
Existing	315,000		1,343	4.26	1,103
Phase 1	315,000		1,319	4.19	1,103
Phase 2	315,000				
	-8,362	Building E (Tippin's)			
	13,508	Building N (CVS)			
	320,146		1336	4.17	1,121
Phase 3	320,146				
	-3,324	Building H (Arby's)			
	14,400	Building O			
	1,800	Building P			
	333,022		1299	3.90	1,166
Phase 4	333,022				
	-57,126	Building B (Tenants 15-23)			
	6,000	Building Q (Restaurant)			
	18,129	Building Q (Retail)			
	24,129	Building Q (Office)			
	324,154		1,321	4.08	1,135

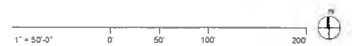
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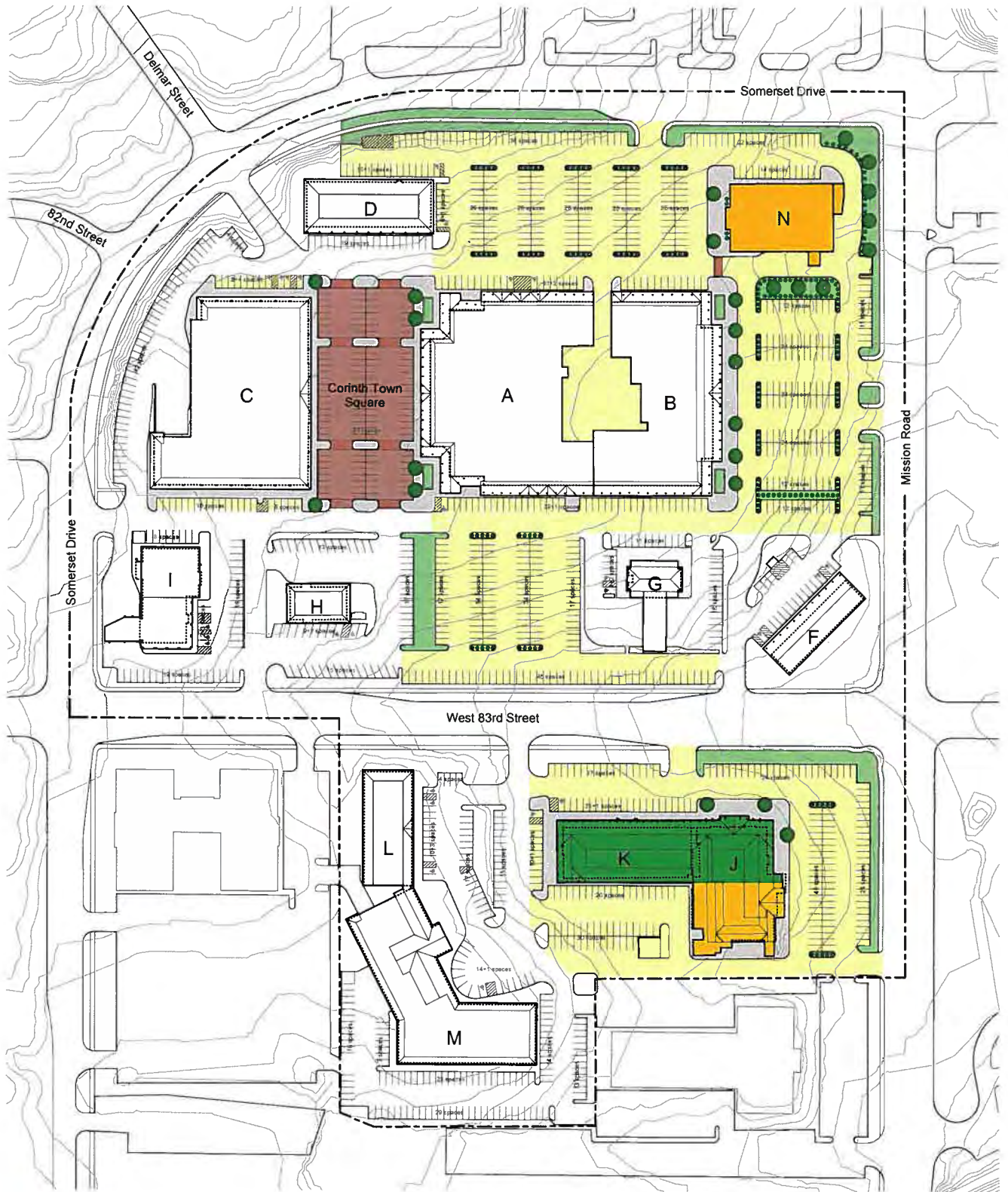
- 1.) Existing areas based upon square footage figures provided in Bucher, Willis & Ratliff Staff Report dated September 7, 2004.
- 2.) Parking factor of 3.5 cars per 1000 SF is based upon City of Prairie Village - Zoning Regulations, Section 19.46.010, paragraph "D" which addresses off-street parking for mixed uses over 300,000 SF of net leasable area.
- 3.) Existing parking counts confirmed by Helix via aerial photography.



- Retail
- Residential
- Office
- Mixed use
- Enhanced Paving
- Landscape Improvements
- New Concrete Sidewalks
- Paving
- CID boundary

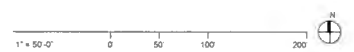
Existing

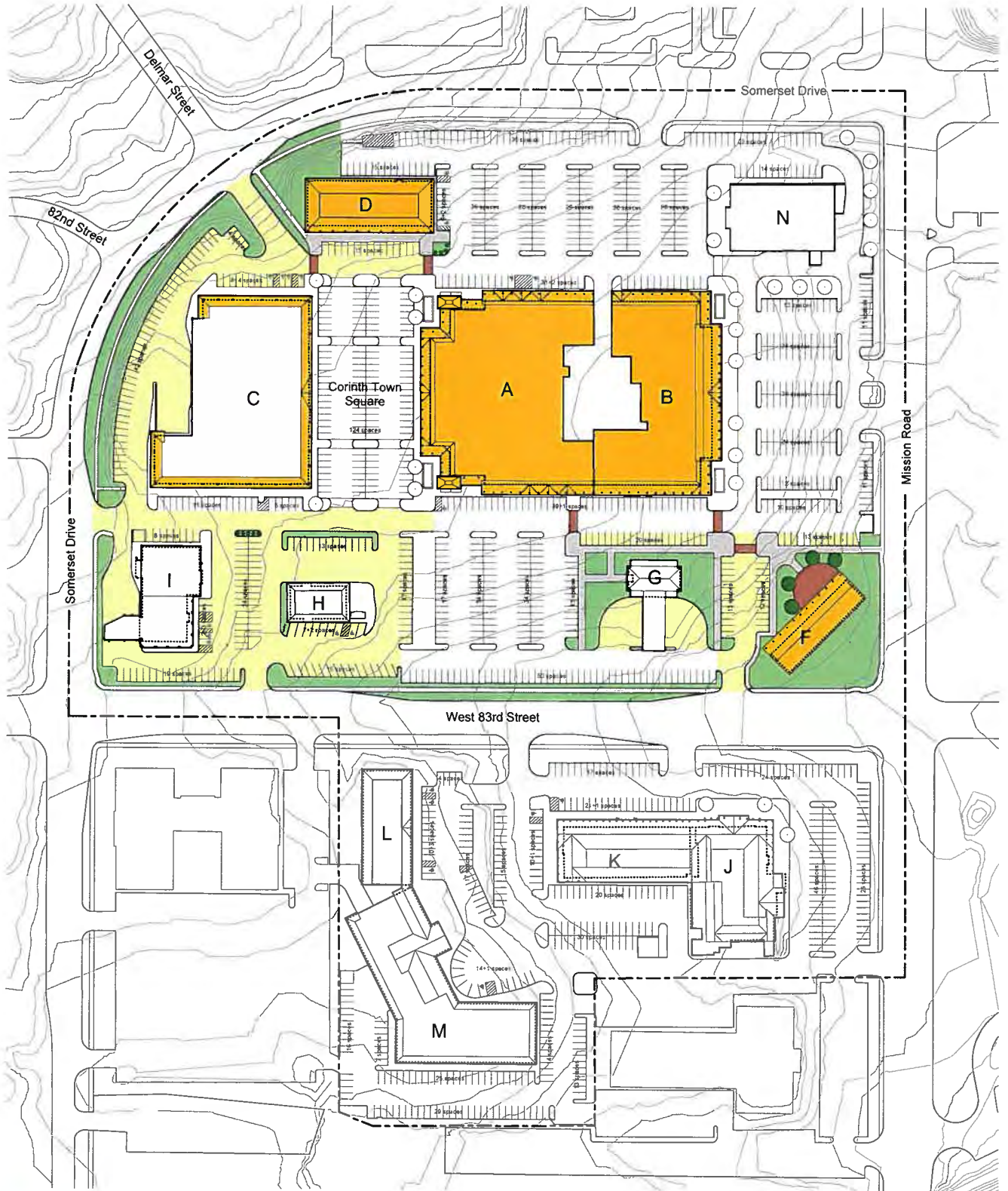




- Retail
- Residential
- Office
- Mixed use
- Enhanced Paving
- Landscape Improvements
- New Concrete Sidewalks
- Paving
- CID boundary

Phase One



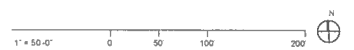


- Retail
- Residential
- Office
- Mixed use
- Enhanced Paving
- Landscape Improvements
- New Concrete Sidewalks
- Paving
- CID boundary

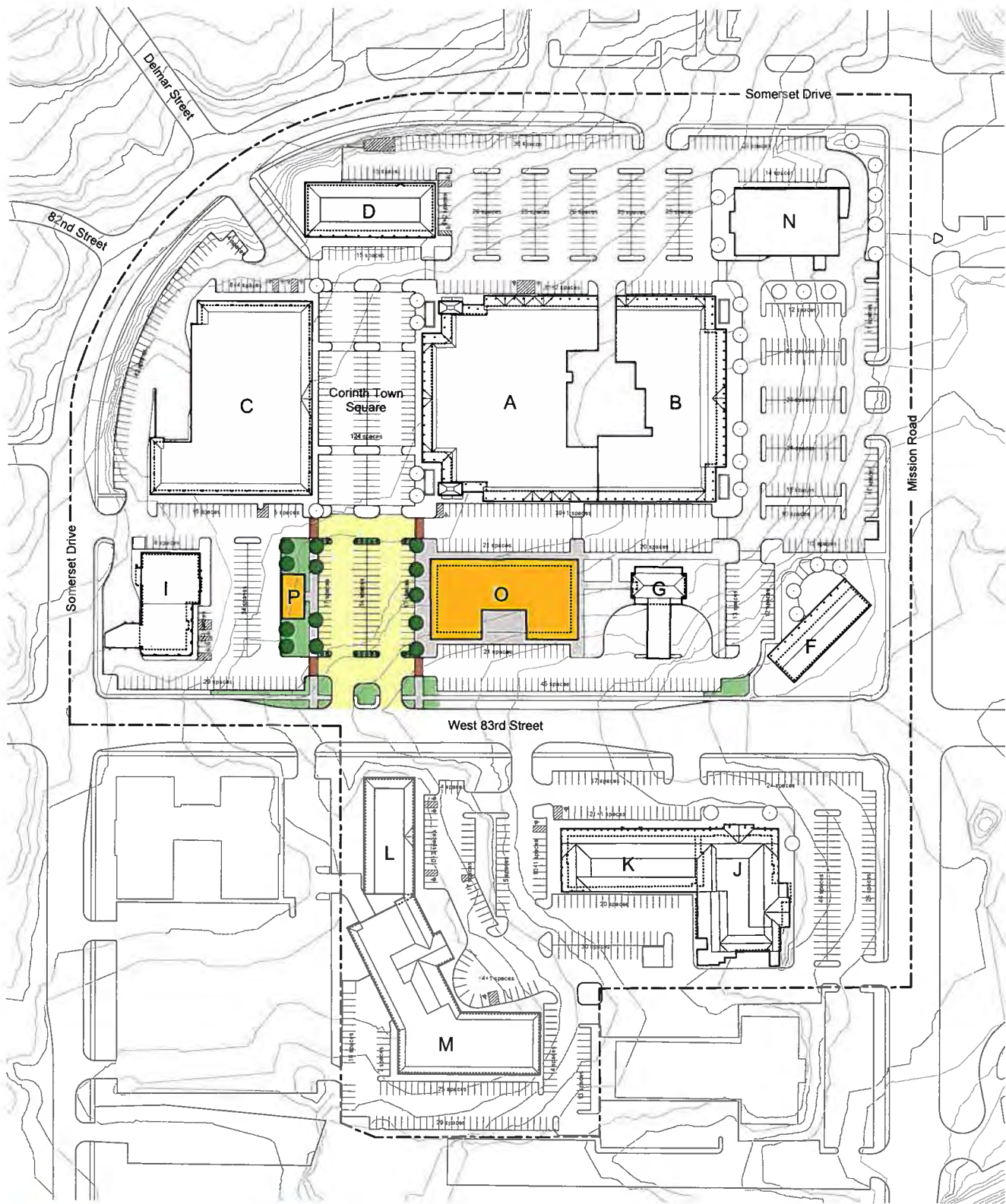
Phase Two



LANE4 PROPERTY GROUP :: Corinth Square



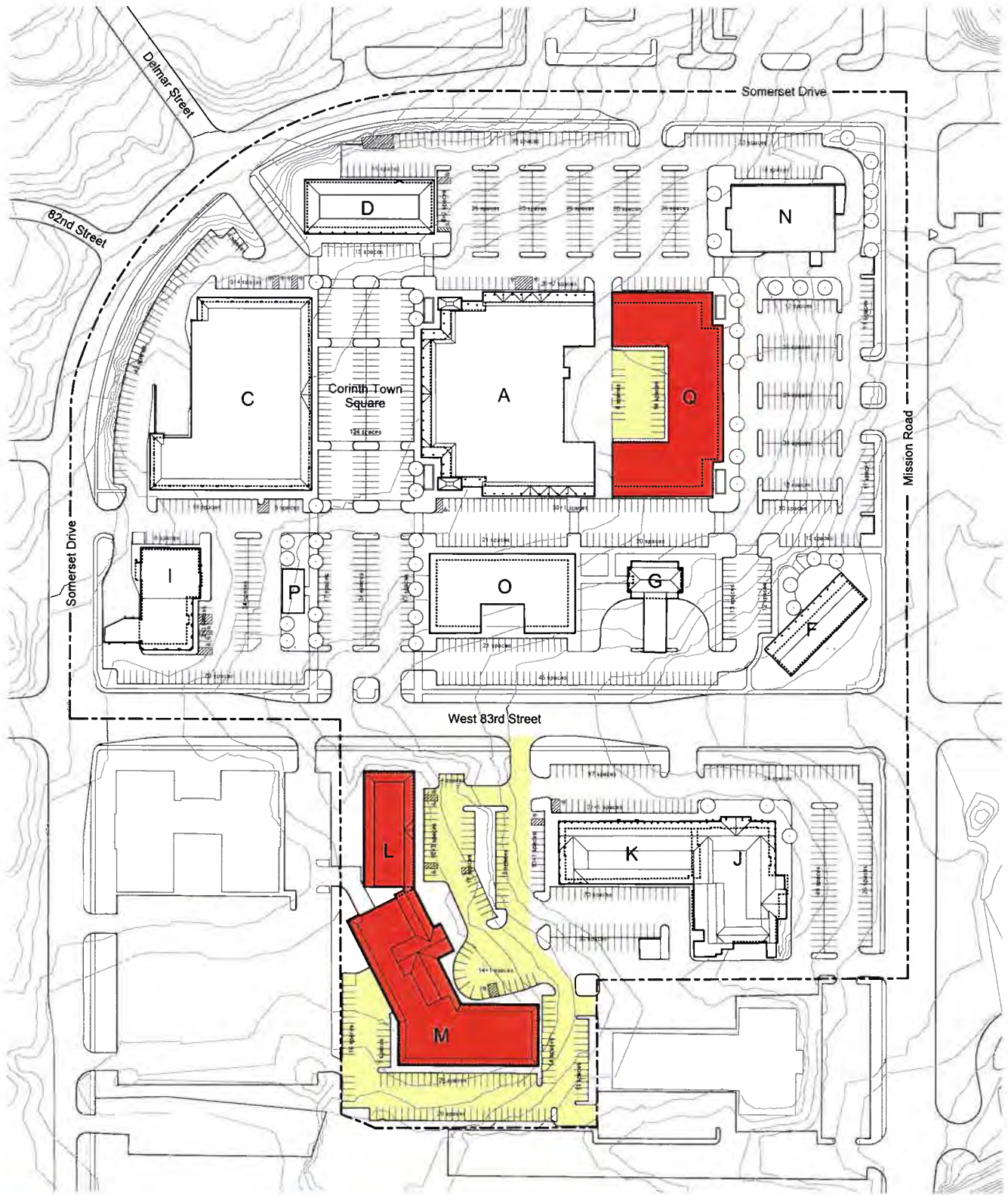
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Copyright © 2009 Helix



- Retail
- Residential
- Office
- Mixed use
- Enhanced Paving
- Landscape Improvements
- New Concrete Sidewalks
- Paving
- CID boundary

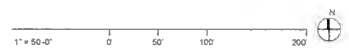
Phase Three

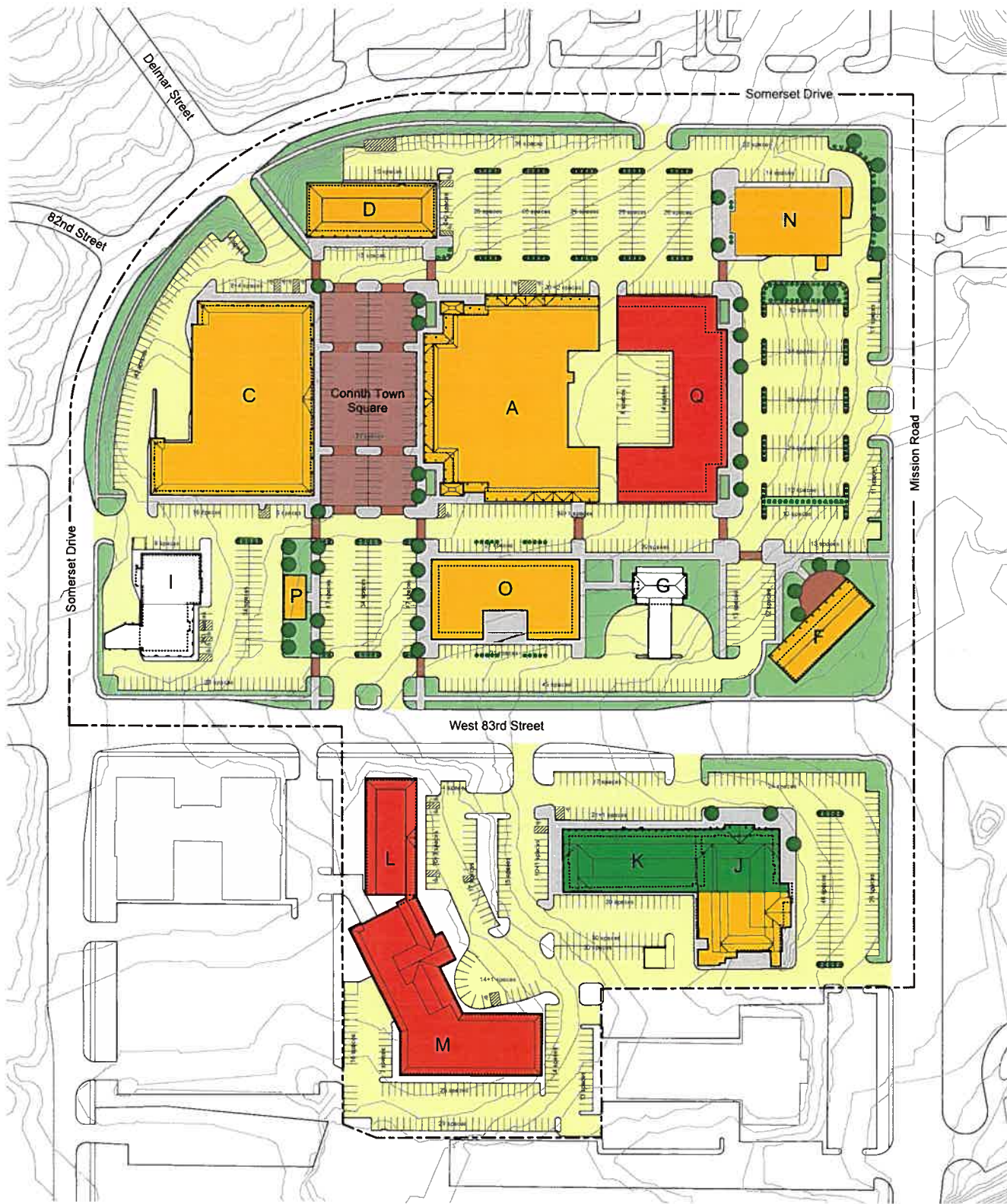




- Retail
- Residential
- Office
- Mixed use
- Enhanced Paving
- Landscape Improvements
- New Concrete Sidewalks
- Paving
- CID boundary

Phase Four



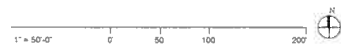


- Retail
- Residential
- Office
- Mixed use
- Enhanced Paving
- Landscape Improvements
- New Concrete Sidewalks
- Paving
- CID boundary

All Phases



LANE4 PROPERTY GROUP :: Corinth Square



03.26.10
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EXHIBIT D – PROJECT PUBLIC PURPOSE

Corinth Square Shopping Center
Application for Public Financial Participation

EXHIBIT D –

i. ACCOMPLISHMENT OF VILLAGE VISION GOALS

1. Pedestrian Centered Development - The key objective of the Corinth Square CID is to improve the pedestrian walk-ability of this neighborhood retail center. The proposed improvements transform the impact the automobile has had on these properties into safe, pedestrian friendly environment. Specific enhancements being proposed to the public realm are:
 - wider sidewalks and reduced drive-thru paving
 - landscaping
 - designated crosswalks
 - reduced number of parking lot entry points
 - more outdoor seating and trash cans
 - angled parking

2. Public Destination – Neighborhood centers form a public recreational amenity for people of all ages, seven days a week. The proposed improvements seek to create an attractive neighborhood center with defined public event spaces for multi-functional uses for formal and informal public gatherings. Specific components being proposed are:
 - Parking lot “square” in front of Henhouse,
 - Pocket Courtyards at the corners of the Main Building, Courtyard at Johnny's,
 - Pocket Park in South Corinth

3. Visual Preference – The properties will receive upgraded facades including screening of rooftop mechanical equipment. Building design upgrades are intended to emphasize authentic pedestrian scaled retail features versus over-scaled, “big box” facades and signage found at new suburban centers. Updates to buildings would show commitment to general public that the facility is being upgraded which should translate into increased demand by consumers and additional retailers and office users looking for space.

4. Landscaping - Additional landscaping to be integrated throughout in strategic locations:
 - Parking lot screening around perimeter of property
 - Planters added as part of general streetscape upgrade
 - Parking lot and sidewalk trees to be added to improve heat island effect of existing lots

5. Increased Density and Mixes of Uses – Improvements are phased to provide opportunity for building more density into the project both horizontally and vertically. Proposed uses include residential, office and residential.

6. Infrastructure Improvements – Miscellaneous improvements will be incorporated to City owned property.

- Somerset and 83rd Street landscape upgrades
- Right of Way sidewalks to bring pedestrians into property

ii. ENHANCEMENT OR DIVERSIFICATION OF THE CITY’S ECONOMIC AND TAX BASE

- Economic Enhancement. The project’s budget anticipates a capital infusion of more than \$44,000,000 into the Corinth Shopping Center. Over time, this will likely increase the appraised value of Corinth, leading to higher property tax revenues for the City. As the project’s strategic improvements transform Corinth into a pedestrian-friendly destination, enhance its role as a community gathering venue, beautify and “green” its appearance, and attract additional sought-after tenants, housing around Corinth could become more desirable. Additionally, the potential office components of the project could further heighten housing demand surrounding Corinth, as workers are increasingly seeking to make the lifestyle choice to live, work, and play in one locale. Higher demand for nearby housing would bring increases in home values, providing the City with an additional boost to property tax revenue.

For the same reasons a transformed Corinth could buoy home values, consumers will likely patronize Corinth businesses with higher frequency and thus generate higher sales. In fact, the City could significantly strengthen what is often referred to as its “pull factor.” That is, the City could attract a higher proportion of its residents’ spending (rather than losing residents’ consumption dollars to the Plaza, Brookside, or Leawood), while also attracting more of the surrounding community’s spending. Sales could also climb as new office space generates additional weekday commerce by workers and their businesses. Overall, as sales climb, the City’s sales tax revenue will follow suit.

- Economic Diversification. The project’s generation of higher sales tax revenues, as described above, would help the City to increasingly diversify its largely residential-property-tax-based revenue platform. Importantly, the project would also diversify the City’s sales tax base by attracting consumers from outside the City who are currently choosing shopping locations outside Prairie Village.

iii. THE PROJECT’S CONTRIBUTION TOWARD FULFILLMENT OF THE CITY’S REDEVELOPMENT OBJECTIVES

Inspired by the Village Vision goals, as addressed above, the project would fulfill many of the City’s most important redevelopment objectives by focusing improvements on the following thematic areas –

- Implement pedestrian-centered layout and amenities
- Redesign of inefficient street layout and traffic systems
- Increase valuation of adjacent properties
- Heighten development density
- Ameliorate obsolete, deteriorated, and dilapidated structures

- Create community gathering / recreation space

Overall, implementation of the project to achieve these objectives requires at least two key components – 1) a developer with vision and long-term commitment and goals; and 2) public support and financial participation. Without both of these key ingredients, Corinth's continually steady lease revenues – despite its aging infrastructure and declining competitive edge – would likely mean that market demand in the near-term would only support nominal and necessary capital improvements.

iv. REHABILITATION OF A HIGH PROFILE OR PRIORITY SITE

In Prairie Village, Corinth's prime location and level of commercial sales are second only to those of the Village. And the site's ability through strategic redevelopment to become an even more desirable commercial venue for the City's residents, as well as residents in surrounding cities, make Corinth a priority site for redevelopment.

v. NUMBER AND TYPES OF JOBS CREATED BY THE PROJECT

The project would likely create both temporary construction jobs and permanent retail and other commercial employment. New permanent jobs could come from new businesses filling now-vacant space, as well as new jobs that blossom out of the higher sales and success of Corinth proprietors.

vi. ENHANCEMENT OF HOUSING CHOICES AND POPULATION GROWTH

Phase 4 of the project anticipates the possible development of a new mixed-use building in the Corinth South area that could include ground floor retail offerings, as well as residences on the building's other floors. If the market demands this "new urbanistic" product – a first-of-its-kind in Prairie Village – these housing units will enhance the City's residential mix and allow for growth of its population.

vii. ADDITIONAL PRIVATE INVESTMENT RESULTING FROM THE PROJECT

Even with the requested Community Improvement District financing, significant private investment would be required to finance the \$44,000,000 project. The magnitude and strategic targeting of this investment, as discussed above, could intensify demand for housing in the areas surrounding Corinth. As local housing values appreciate, the natural result would be increased investment in the existing housing stock in the way of improvements, expansions, and other enhancements.

viii. NUMBER OF VISITORS

Although the project's draw of additional visitors to Corinth has not been quantified, the project's primary objective is to enhance Corinth through targeted and strategic improvements that boost its profile and attracts higher numbers of visitors from within and outside the City. With almost 100,000 residents within three-miles of Corinth, boasting an average household income of more than \$90,000, the project is well poised to capture a significant number of new visitors.

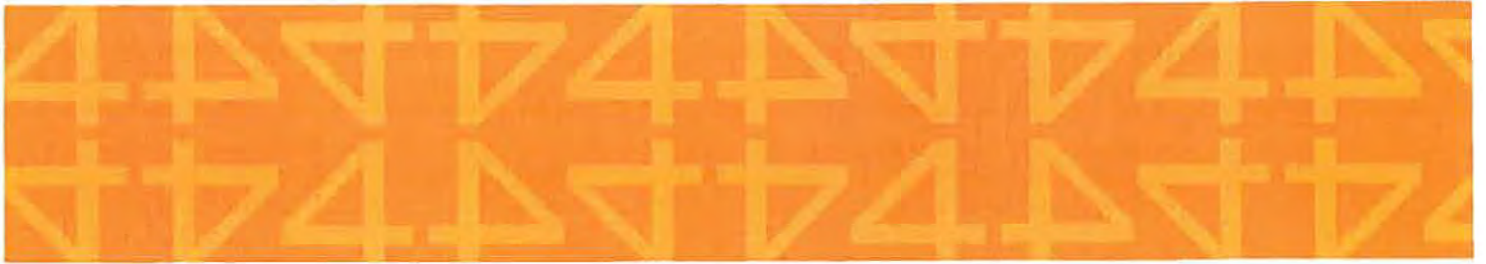


EXHIBIT E – LEGAL DESCRIPTION

Corinth Square

February 17, 2010

CID Description

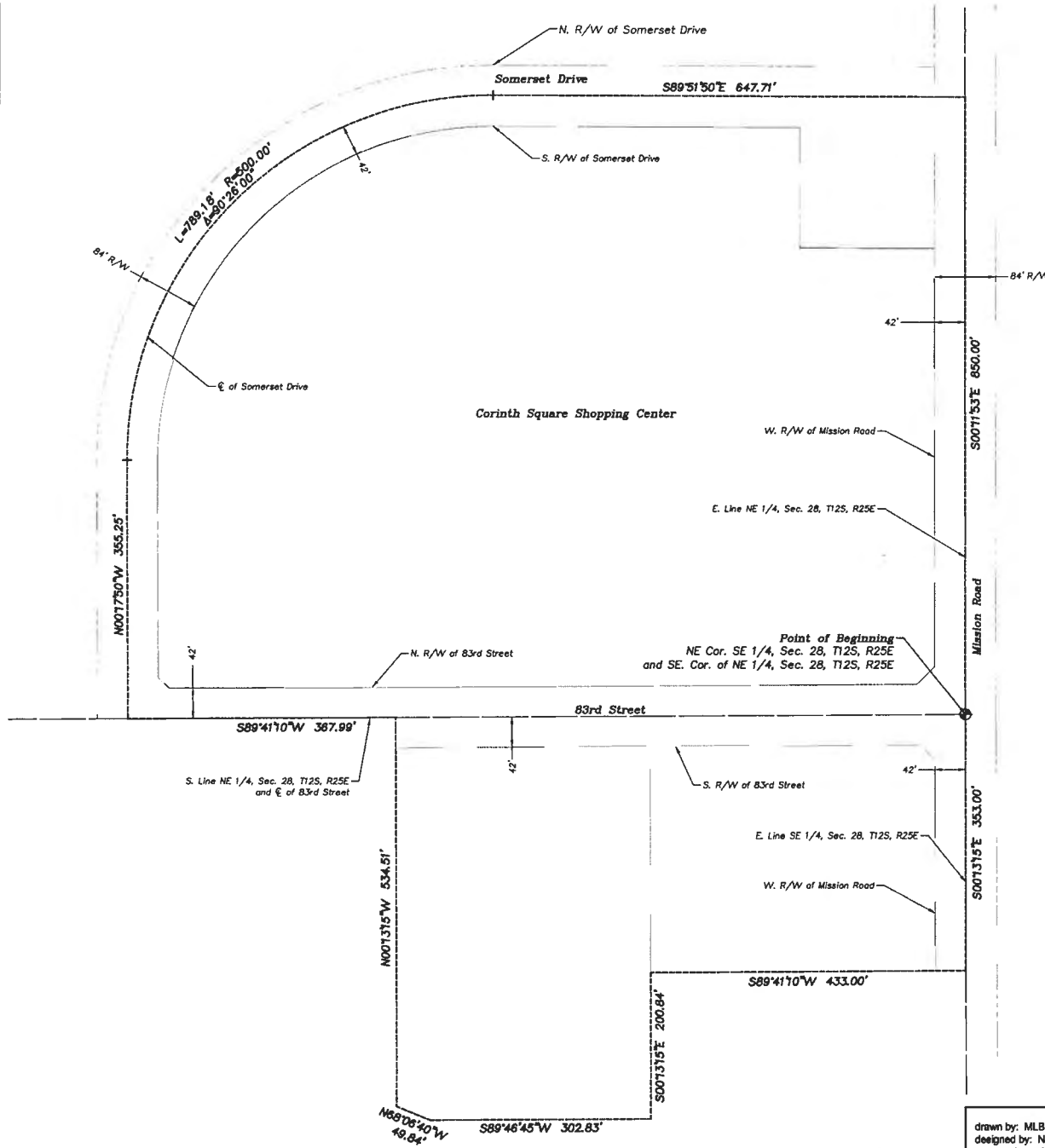
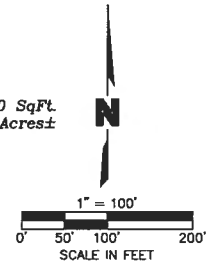
All that part of the West half of Section 28, Township 12 South, Range 25 East, in the City of Prairie Village, Johnson County, Kansas, described as follows:

BEGINNING at the Northeast corner of the Southeast Quarter of Section 28, Township 12 South, Range 25 East; thence South 0 degrees 13 minutes 15 seconds East along the East line of the Southeast Quarter of said Section 28 a distance of 353.00 feet to a point; thence South 89 degrees 41 minutes 10 seconds West a distance of 433.00 feet to a point; thence South 0 degrees 13 minutes 15 seconds East a distance of 200.84 feet to a point; thence South 89 degrees 46 minutes 45 seconds West a distance of 302.83 feet to a point; thence North 68 degrees 06 minutes 40 seconds West a distance of 49.84 feet to a point; thence North 0 degrees 13 minutes 15 seconds West a distance of 534.51 feet to a point on the South line of the Northeast Quarter of said Section 28; thence South 89 degrees 41 minutes 10 seconds West along the South line of the Northeast Quarter of said Section 28 a distance of 367.99 feet to a point on the centerline of Somerset Drive; thence North 0 degrees 17 minutes 50 seconds West along the centerline of Somerset Drive a distance of 355.25 feet to a point; thence in a Northeasterly direction along the centerline of Somerset Drive and along a curve to the right, having a radius of 500.00 feet, through a central angle of 90 degrees 26 minutes 00 seconds, an arc distance of 789.18 feet to a point; thence South 89 degrees 51 minutes 50 seconds East along the centerline of Somerset Drive a distance of 647.71 feet to a point on the East line of the Northeast Quarter of said Section 28; thence South 0 degrees 11 minutes 53 seconds East along the East line of the Northeast Quarter of said Section 28 a distance of 850.00 feet to the POINT OF BEGINNING and containing 1,274,340 Square Feet or 29.255 Acres, more or less.

The description above includes all property owned by the Applicant and shall also include all adjacent right-of-way to the centerline thereof.

CID Exhibit
 Corinth Square
 Shopping Center

1,274,340 SqFt.
 29.255 Acres±



drawn by: MLB
 designed by: N/A
 checked by: MEB
 approved by: MEB
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DATE	REVISION	BY
02/17/10	Original Preparation	MLB



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EXHIBIT F- PROJECT SOURCES AND USES

**Corinth Square
Preliminary Budget**



**CORINTH PROJECT
SOURCES & USES**

SOURCES*

TYPE OF FINANCING:	TOTAL FINANCING AMOUNT:
	Assuming 1% CID Sales Tax
Debt	\$23,745,649
Equity	\$15,830,432
CID Sales Tax Revenues	\$4,897,000
TOTAL	\$44,473,081

CORINTH TOTAL SOURCES: \$44,473,081

* Estimated CID Sales Tax Revenue is based on a 1% CID Sales Tax collected over 22 years (net present valued using a 7% discount rate), and assumes current sales grow at the rate of 1% per year. The Developer anticipates collecting CID Sales Tax Revenues on a pay-as-you-go basis, but may request that the City issue obligations backed by CID Sales Tax Revenues, at the City's sole discretion. Remaining costs are assumed to be financed with 40% equity & 60% debt.

USES^

PHASE:	PROJECT SCOPE OF WORK:	SUB-SCOPE OF WORK:	ESTIMATED TOTAL PROJECT COSTS:
PHASE #1 - Town Square			
	Corinth Town Square		\$264,929
		New Paved Parking Lot	
		New Pedestrian Crosswalks	
		New Energy Efficient Parking Lot Lighting	
		Landscape	
	New Hardscapes Buildings A, B & C		\$390,750
		Replace existing sidewalk	
		Elevations	
	Landscaping at Corners of A & B		\$149,788
		New irrigation system	
		New permanent planters	
	Streetscaping		\$525,559
		Upgrade irrigation system (new water tap)	
		increase/modify landscaping	
		New benches	
		New trash receptacles	
		Bike racks	
	Entrance modification Mission Road		\$488,438
		remove 2 existing vehicular entrances	
		new pavement	
		restripe	
		create one (1) new main entrance	
		new monument signage	
		new landscaping	
	Parking lot islands north & south lots		\$371,213
		New landscape	
		New irrigation	
	Parking lots North & South lots		\$302,831
		new pavement	
		restripe	
		new energy efficient light poles in lots	
		Provide 6 new paved pedestrian crosswalks	
	Lot E modification		\$403,775
		demolish existing building	
		Relocated existing vehicular entrance on Somerset	
		New pedestrian sidewalks	
	Parking lot reconfiguration Buildings J & K		\$260,500
	Landscape Revisions SW corner 83rd St		\$390,750
		new irrigation	
		new landscape	
	New Hardscapes Buildings J & K		\$227,938
	Building J & K Façade Remodel		\$911,750
		New Roof	
		Façade repair	
		New Signage	
	Site Security		\$39,075
PHASE #1 TOTALS:			\$4,727,294

**Corinth Square
Preliminary Budget**

PHASE #2-Main Vehicular Entrance and Perimeter Improvements		
Somerset Drive & 83rd Street Landscape		\$227,938
	Improve/modify landscape along street New irrigation	
Building D facelift		\$742,425
	new pedestrian sidewalk new roof new signage	
Reconfiguration of Building G		\$130,250
Grocery Store Façade Remodel		\$2,409,625
	Entrance Enhancements New Signage	
Building A & B Façade Remodel		\$2,865,500
	Roof Screening for Mechanical Equipment New Signage Roofline modification New roof	
Building F - façade & parking remodel		\$1,289,475
	Reconfigure parking lots & sidewalk Provide new pedestrian sidewalks Create new paved outdoor patio New Roof New signage New landscaping/irrigation irrigation	
Site Security		\$45,588
PHASE #2 TOTALS:		\$5,301,175
PHASE #3 - 2nd Main Vehicular Entrance and Retail Expansion		
Entrance modification 83rd Street		\$1,367,625
	remove 2 existing vehicular entrances create one (1) new main entrance new monument signage new landscaping	
Site modification building H & south lot		\$735,913
	Demolish Arby's building Create pads with sidewalks for future development site O and P Reconfigure parking lot to align with main entrance Provide 4 new paved pedestrian crosswalks	
Site Security		\$45,588
PHASE #3 TOTALS:		\$2,149,125
PHASE #4 - Future Plans		
Prepare Corinth South for redevelopment		\$1,816,988
	Remove 2 existing entrances south side 83rd Street Create one (1) new main entrance New monument signage New landscaping New irrigation New crosswalk and traffic signal at new entrance Reconfigure parking lot & sidewalks for new retail - R Reconfigure parking lot & sidewalks for mixed-use at buildings L & M New sidewalks & landscaping Provide 4- new paved pedestrian crosswalks	
Re-Construct existing building B		\$10,159,500
	Demolish existing building B Provide new service parking court	
Construction Of Building O		\$2,084,000
Construction Of Building P		\$390,750
Construction Of Building R		\$1,563,000
Construction of Mixed-Use at Buildings L & M		\$16,281,250
PHASE #4 TOTALS:		\$32,295,488
CORINTH TOTAL USES:		\$44,473,081

Corinth Square

Preliminary Budget

^ Amounts listed above are cost estimates for components of each project phase, and do not include associated financing costs. The cost estimates are based on prices for goods and services in 2010, and thus the actual costs incurred over the multi-year phased project may be higher. The Developer requests that CID Sales Tax Revenues be made available to reimburse actual costs incurred related to cost categories listed above as well as services provided within the CID, special events held within the CID, and any tenant improvements, plus financing costs associated with any of the same. Reimbursement of costs for a particular cost category shall not be limited to the estimated costs set forth above; rather, actual costs incurred related to cost categories shall be reimbursable with CID Sales Tax Revenues to the full extent permitted by law, without regard to the phase in which such cost category is shown above or whether items shown above in earlier phases have been completed.