

CITY OF PRAIRIE VILLAGE

November 2, 2009

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

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





City Council Meeting

November 2, 2009

Dinner will be provided by:
Oklahoma Joe's BBQ



Brisket and Pulled Pork
BBQ Beans, Potato Salad
Cole Slaw, Bread
Pickle Tray

Dessert - Mely's Ice Cream Cake

**COUNCIL COMMITTEE
November 2, 2009
6:00 p.m.
Council Chambers**

AGENDA

MICHAEL KELLY, COUNCIL PRESIDENT

CONSENT AGENDA

AGENDA ITEMS FOR DISCUSSION

***COU2009-104 Consider renewing Blue Cross Blue Shield of Kansas City as the City's health care provider for the 2010 plan year
Nic Sanders and CBIZ**

**COU2009-105 Consider rescinding Personnel Policy 1096: YMCA Membership effective December 31, 2009
Nic Sanders**

**Discussion regarding park design schedule for 2010 projects and waiving procurement process
Diana Ewy Sharp**

**Presentation of in-car digital video equipment and software
Sgt. Carney**

***Council Action Requested the same night**



COUNCIL COMMITTEE

Committee Meeting Date: November 2, 2009

Council Meeting Date: November 2, 2009

***COU2009-104:** Consider renewing Blue Cross Blue Shield of Kansas City as the City's health care provider for the 2010 plan year and allocate 2010 General Fund Contingency in the amount of \$96,000 to employee benefit costs.

SUGGESTED MOTION

Move that the Governing Body:

Approve Blue Cross Blue Shield of Kansas City as the City's health care provider for the 2010 plan year.

And move to allocate 2010 General Fund Contingency in the amount of \$96,000 to employee benefit costs. (This is the amount of excess in the 2009 budget as a result of health insurance changes last year.)

BACKGROUND

The City currently contracts with Blue Cross Blue Shield of Kansas City (BCBS) for its health insurance plans. The plan year ends in December and consequently, renewals were sought from BCBS for the 2010 plan year.

CBIZ representatives will be in attendance at Monday night's meeting to discuss the renewal process and plan changes. The employee benefits committee was involved in the process and selecting the necessary plan changes to minimize cost and impact to the plan.

Overall, the renewal amount is a 7% increase to HMO and 10% to the PPO and QHDHP/HSA. The City and Employee share in the insurance costs and increase as illustrated in the cost sharing structure listed below (next page). The increase is more than hoped for, however, the city realized a 4% decrease last year for a cumulative increase of 3% over two year period.

The renewal amount is based on the claims incurred by plan participants over the twelve month period of June 2008 - May 2009. The City's loss ratio for January 1, 2009 to August 31, 2009 was 59%; adding the claims from the previous provider, United Healthcare, that loss ratio goes to 77%. With the addition of 10% for pooling, 18% for trend and 20% for administration, that puts the City at 125%, or a 25% renewal increase. If the BCBS were to factor in the last three months of our loss ratio, it would be at 81% compared to the 77% used in the calculation, resulting in a higher renewal.

Initially, BCBS submitted a renewal of 14.10%; with the assistance of CBIZ, the City's employee benefits consultant, BCBS agreed to lower the increase to 11%. Due to 2010 budgetary constraints, an 11% renewal would not fit within the 2010 budget amount. Due to this, plan design changes were necessary.

BCBS presented several options to lower the renewal rate from the initial 11%. The decision was made by staff and employee benefit committee to have the following plan design changes on the HMO (Base) plan: 1) increase office visit co-pays from \$20 for primary care physician and \$40 for specialist to \$30 and \$60, respectively and increase urgent care co-pay from \$40 to \$60, and 2) increase drug co-pays from \$10 for Tier 1, \$30 for Tier 2, and \$50 for Tier 3, to \$12, \$35, \$60, respectively.

With these plan design changes, the renewal from BCBS of the three current health plans offered to employees, HMO, PPO, and QHDHP/HSA results in an increase of 7%, 10%, and 10%, respectively.

As, in prior years, the Governing Body determined the cost sharing by the City and the employee to be as follows:

	City	Employee
EE Only	100%	0%
EE+1	83%	17%
Family	75%	25%

Based on this information the monthly cost sharing structure for the BCBS plans are shown below.

<i>Base (HMO)</i>	2009 Plan Year			2010 Plan Year		
	Total	Employee	City	Total	Employee	City
EE Only	340.09	0.00	340.09	363.90	0.00	363.90
EE+1	823.15	139.94	683.21	880.77	149.73	731.04
Family	1,213.09	303.28	909.81	1,298.01	324.50	973.51

<i>Buy-Up (PPO)</i>	2009 Plan Year			2010 Plan Year		
	Total	Employee	City	Total	Employee	City
EE Only	421.86	81.77	340.09	464.05	100.15	363.90
EE+1	1,021.09	337.88	683.21	1,123.20	392.16	731.04
Family	1,504.78	594.97	909.81	1,655.26	681.75	973.51

<i>QHDHP w/ HSA</i>	2009 Plan Year				2010 Plan Year			
	Total	Employee	HSA Cont.	City	Total	Employee	HSA Cont.	City
EE Only	340.09	0.00	81.93	258.16	363.90	0.00	79.92	283.98
EE+1	683.21	0.00	58.46	624.75	731.04	0.00	43.81	687.23
Family	921.63	11.82	0.00	909.81	1,013.79	40.28	0.00	973.51

The City introduced the HSA plan last year with a positive response and 25% of the employees joining the plan. The HSA option will still allows the City to fund a portion

of the employee's HSA while still reducing overall total healthcare cost. The employee can also contribute to their HSA in the amount of the difference between the IRS annual contribution limit.

FUNDING SOURCE

Employee health insurance premiums are funded with General Fund and employee contributions. The 2010 budget anticipated a 3% health insurance increase in City premium contributions. With the proposed renewal rates, it will be necessary to request funds from 2010 general fund contingency. These funds are the surplus amount from the 2009 plan year when a 5% increase was budgeted, but a 4% decrease was realized due to provider and plan changes.

PUBLIC NOTICE

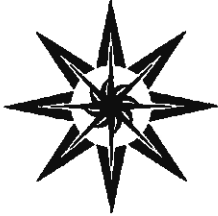
Not applicable.

Prepared By:

Nicholas Sanders

Human Resources Specialist

Date: October 27, 2009



COUNCIL COMMITTEE

Committee Meeting Date: November 2, 2009

Council Meeting Date: November 16, 2009

COU2009-105: Consider rescinding Personnel Policy 1096: YMCA Membership effective December 31, 2009.

SUGGESTED MOTION

Move that the Governing Body rescind Personnel Policy 1096: YMCA Membership effective December 31, 2009.

BACKGROUND

During the 2010 budget process, the decision was made to cease the YMCA membership subsidy by the City due to the new fitness center inside City Hall. The funds that are budgeted for the YMCA membership subsidy will now be applied to future expenses of the fitness center. Due to this change, the rescinding of Personnel Policy 1096: YMCA Membership is appropriate. YMCA management is aware of the change.

Currently, there are six employees that utilize the subsidy.

FUNDING SOURCE

Not applicable.

PUBLIC NOTICE

Not applicable.

Prepared By:

Nicholas Sanders

Human Resources Specialist

Date: October 30, 2009



City Council Policy: PP1096 - YMCA MEMBERSHIP - Repealed

Effective Date: December 31, 2009

Amends: PP276 - YMCA MEMBERSHIP, May 19, 2003

Approved By: Governing Body, November 16, 2009

I. SCOPE

~~A. This policy applies to all regular employees, elected and appointed officials.~~

II. PURPOSE

~~A. To provide City employees, elected and appointed officials and their families the opportunity to participate in fitness activities and education to improve their health.~~

III. RESPONSIBILITY

IV. DEFINITIONS

V. POLICY

~~A. The City sponsors a corporate membership to the local YMCA for regular employees, elected and appointed officials.~~

~~1. The Y will pay 10% of the cost of individual and family membership.~~

~~2. The City will pay 25% of individual memberships and 15% of family memberships.~~

~~B. Employees must authorize payment of the balance from paychecks. Elected and appointed officials may pay the balance of the membership fee by check.~~

VI. PROCEDURES

**COUNCIL MEETING AGENDA
CITY OF PRAIRIE VILLAGE
November 2, 2009
7:30 p.m.**

- I. CALL TO ORDER**
- II. PLEDGE OF ALLEGIANCE**
- III. ROLL CALL**
- IV. PUBLIC PARTICIPATION**
- V. 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 - October 19, 2009
- 2. Approve Special Council Meeting Minutes - October 26, 2009
- 3. Approve new Cereal Malt Beverage Licenses for Sunshine Energy LLC DBA SE #156 and Sunshine Energy LLC DBA SE #67.

By Committee:

- 4. Adopt Ordinance 2220 Establishing General Franchise and Franchise Application Requirements in the City of Prairie Village, Kansas; Adding a New Article 4 to Chapter XV of the Code of the City of Prairie Village, Kansas entitled "Franchises" (Council Committee of the Whole Minutes - October 19, 2009)
- 5. Adopt an Ordinance Granting to Kansas Gas Service, a Division of ONEOK, Inc. its Grantees, Successors and Assigns a Franchise to Construct, Maintain and Operate all Works and Plants Necessary or Proper for Supplying Consumers with Natural Gas (Council Committee of the Whole Minutes - October 19, 2009)

- VI. MAYOR'S REPORT**
- VII. COMMITTEE REPORT**

COU2009-104 Consider renewing Blue Cross Blue Shield of Kansas City as the City's health care provider for the 2010 plan year - Michael Kelly

- VIII. STAFF REPORTS**
- IX. OLD BUSINESS**
- X. NEW BUSINESS**

Consider Items to Finalize Issuance of Series 2009-A Bonds

- XI. ANNOUNCEMENTS**
- XII. ADJOURNMENT**

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

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

M E M O R A N D U M

TO: Mayor and City Council
FROM: Bob Pryzby
DATE: October 30, 2009
RE: Meadowbrook Country Club
CC: Quinn Bennion, City Administrator

Meadowbrook Country Club has discussed with me several times about receiving Stormwater Utility Fee Credit for the club. Last August, I met with club officials to discuss how the recently approved Credit Policy might be applied to the club.

The key to a credit is the application of a Best Management Plan (BMP). After discussing several potential BMP applications, the consensus was that the cost to the club for the installation of a BMP would exceed the benefit received via a credit as the credit is limited to 15%. It agreed that the club would send a letter requesting that the City removed the impervious area of the cart paths from the Stormwater Utility Fee calculation.

The attached letter from Meadowbrook Country Club dated October 7, 2009, presents this request. It shows a map of the cart paths as located on the property. The letter also presents a list of the individual parcels assessed the Stormwater Utility Fee. Two parcels containing the club house and maintenance shed are proposed as the basis for the Stormwater Utility Fee in the future. The other parcels containing the cart paths are being requested to be removed from future calculations. These cart path parcels create a fee of \$6,471.93 or 47.7% of the total fee for 2009.

Meadowbrook is additionally requesting to make this adjustment back to 2008 in addition to 2009 and on all future calculations.

The Stormwater Utility Fee Credit Policy does not contain provisions for granting this unique request.

Meadowbrook representatives plan to attend Council meeting on November 2nd to request the exception. They will speak during the Public Participation portion of the meeting. This memo and attachments are for Council's benefit prior to the meeting.



Meadowbrook

GOLF & COUNTRY CLUB

October 7, 2009

Mr. Bob Pryzby
Public Works Director
City of Prairie Village
3535 Somerset Drive
Prairie Village, KS 66208

Re: Stormwater Utility Fee

Dear Mr. Pryzby:

Subsequent to the meeting that Charlie Johnson, PGA Director of Operations, Steve Wilson, Superintendent and myself held with you earlier today, and due to the unique nature of the property at Meadowbrook Golf & Country Club, I am submitting this request for an adjustment to our Stormwater Utility Fee. Again, I emphasize the unique nature of our property compared to any other property in Prairie Village with regard to this request. The property is divided into seventeen different property ID's. Of these seventeen property ID's, the impervious square footage for fifteen is predominantly made up of cart paths. Due to the sprawling nature of the golf course layout, the cart paths are located within large turf grass areas and are far away from drainage systems that would produce runoff to the stormwater system. Our contention is that the large surrounding turf grass areas absorb the vast majority of rainfall on these cart paths. Therefore, we request that the impervious square footage for the cart paths be excluded from the calculation of the stormwater utility fee. I am enclosing a list of the property ID's, along with the square footage and fee amount for those ID's which only include cart paths.

The current Stormwater Utility Fee for Meadowbrook increased our tax bill approximately 16%. This seems to be out of proportion to other taxes that we pay. We want to pay our fair share to support the stormwater system, but feel that elimination of the cart path square footage would be a logical and reasonable consideration. We also request that this adjustment be made retroactive to include last year, which was the first year of the fee.

After our discussion with you, I understood that we would need to present this proposal to the Prairie Village City Council. You indicated the next meeting is October 19 at which time I will be out of town. Could you put us on the agenda for the meeting in November?

Please share the information in this request in advance with other city staff or the council members, as you feel appropriate.

We appreciate your cooperation and consideration of our request.

Best regards,

A handwritten signature in black ink that reads "Larry Baker". The signature is written in a cursive style with a large initial "L" and a long, sweeping underline.

Larry Baker
Controller

enclosures

cc: Mike Bray, President
Charlie Johnson, PGA Director of Operations
Steve Wilson, Superintendent

GEOPROPID

APPROPRIATION **DESCRIPTION** **FUNCTION** **AMOUNT** **PERCENT**

* OF251233-2001	OF251233-2001	Meadowbrook Country Club	Business	154,100	\$5,698.99	<i>to be rep</i>
* OF251233-2002	OF251233-2002	Meadowbrook Country Club	Business	7,000	\$258.88	
OF251233-2023	OF251233-2023	Meadowbrook Country Club	Business	18,100	\$669.38	<i>re</i>
OF251233-2026	OF251233-2026	Meadowbrook Country Club	Business	173,600	\$6,420.15	<i>ol</i>
* OP2300000B 0001	OP2300000B 0001	Meadowbrook Country Club	Business	1,700	\$62.87	
* OP2300000B 0002	OP2300000B 0002	Meadowbrook Country Club	Business	1,200	\$44.38	
* OP2300000B 0003	OP2300000B 0003	Meadowbrook Country Club	Business	700	\$25.89	
* OP2300000B 0004	OP2300000B 0004	Meadowbrook Country Club	Business	1,900	\$70.27	
* OP2300000B 0005	OP2300000B 0005	Meadowbrook Country Club	Business	1,100	\$40.68	
* OP2300000B 0006	OP2300000B 0006	Meadowbrook Country Club	Business	1,100	\$40.68	
* OP2300000B 0007	OP2300000B 0007	Meadowbrook Country Club	Business	1,000	\$36.98	
* OP2300000B 000A	OP2300000B 000A	Meadowbrook Country Club	Business	4,400	\$162.72	
* OP2300000B 0012	OP2300000B 0012	Meadowbrook Country Club	Business	800	\$29.59	

* **CART PATHS**

[Faint handwritten notes and stamps]



CONSENT AGENDA

CITY OF PRAIRIE VILLAGE, KS

November 2, 2009

**CITY COUNCIL
CITY OF PRAIRIE VILLAGE
OCTOBER 19, 2009**

The City Council of Prairie Village, Kansas, met in regular session on Monday, October 19, 2009, 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, Michael Kelly, Andrew Wang, Laura Wassmer, Dale Beckerman, Charles Clark, David Morrison, Diana Ewy Sharp and David Belz.

Also present were: Quinn Bennion, City Administrator; Katie Logan, City Attorney; Wes Jordan, Chief of Police; Captain Tim Schwartzkopf; Bob Pryzby, Director of Public Works; Dennis Enslinger, Assistant City Administrator; Karen Kindle, Finance Director; Chris Engel, Assistant to the City Administrator; Jim Brown, Building Official; and Joyce Hagen Mundy, City Clerk.

Cub Scouts from Troop 3291 presented the flag ceremony and Mayor Shaffer led all those present in the Pledge of Allegiance.

PUBLIC PARTICIPATION

Mayor Shaffer acknowledged the presence of Cub Scouts from Troop 3291 at Village Presbyterian Church who were working on their "Citizenship" badge.

Mayor Shaffer welcomed Deb Settle, the new President and CEO of the Northeast Johnson County Chamber of Commerce. Ms Settle thanked the City for their

support of the chamber and encouraged council members to contact her at any time with questions or concerns.

Mary Morgan, 2400 West 75th Place, addressed the City Council with her concerns related to the activities at a home in their neighborhood. She noted several calls have been made to the Police Department for noise, code violations, etc. She is concerned with the welfare of the child residing in the home, noting excessive absences from school. She also noted two unlicensed dogs at the residence. They have been running at large on many occasions and were simply returned to the home by the Animal Control Officer. The landlord for the property has not been responsive to phone calls and the neighbors do not feel the police department has been responsive to their calls and concerns. The residents in the adjacent home are afraid to get involved. She wants the City's assistance in making their neighborhood a safe place.

Lai Yi Lee, 2405 West 75th Place, stated he moved into the neighborhood two years ago and is pleased to see the neighborhood coming together and stepping up to speak out for others. He asked what the next step should be to proactively address their concerns. He wants to know that everything possible has been done to resolve these problems.

Bob Tyner, 2401 West 75th Place, stated he was responsible for getting the "crime watch" program established in this neighborhood several years ago. He noted he has filed a protection order after being threatened by this resident. He noted these issues have been going on for 60 days and preventing him from being able to sleep. The normal activity at this house takes place between the hours of midnight and 4 a.m. He noted residents not just adjacent residents are fearful - the entire neighborhood is

feeling threatened. He has spent \$1300 in the past two weeks to protect himself. Mr. Tyner noted the police did make an arrest for violation of the protection order.

Mayor Shaffer asked if the protection order was against an individual or against entry on property. Chief Jordan replied they can be written either way, he is not certain how this one is written.

Jane Kapleau, 2600 West 75th Place, asked about the rules for required record checks for Section 8 housing and how they can prevent this from happening with other rental properties. Captain Schwartzkopf responded the City does not have any control over HUD. HUD does the background checks. It is the decision of the landlord as to whether or not they will accept a Section 8 voucher. Ms Kapleau stated she does not think a background check was done. She asked why the animals have not been taken to a shelter for their protection.

Mayor Shaffer stated the City takes every telephone call seriously and responds within the limitations of the law and the City. Chief Jordan stated Captain Schwartzkopf is doing the best he can. He noted there are differences between annoyances and violations of law. The department is very careful to do a full investigation prior to making any arrest. It is essential to protect everyone's rights. The department works within the guidelines established by policy and law. Every call received has been documented and follow-up action taken.

CONSENT AGENDA

Michael Kelly moved the approval of the Consent Agenda for Monday, October 19, 2009.

1. Approve Regular Council Meeting Minutes - October 5, 2009
2. Approve Claims Ordinance 2864

3. Adopt Ordinance 2213 amending Chapter 2 of the Prairie Village Municipal Code, 2003, entitled "Animal Control and Regulation" by amending Section 2-101 entitled "Definitions" by adopting a new Section 2-107 entitled "Public Nuisance" by amending Section 2-109 entitled "Registration-Tags" Section 2-110 entitled "License Fee-Designated" and Section 2-111 entitled "License Fee-Overdue" and by renumbering certain Sections
4. Approve revisions to Fee Schedule for Animal Licensing as follows:

Animal Fees - per animal

Initial or renewal for one year	
Neutered	\$6
Not Neutered	\$25
Initial or renewal for two years	
Neutered	\$10
Not Neutered	\$45
Initial or renewal for three years	
Neutered	\$15
Not Neutered	\$70
Late Fee - applied after 60 days	\$3 per month

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

Mayor's Report

Michael Kelly moved the Governing Body ratify the appointment of Nancy Wallerstein to the Prairie Village Planning Commission to complete an unexpired term ending April, 2011. The motion was seconded by Dale Beckerman and passed unanimously.

- Mayor Shaffer congratulated Dennis Enslinger on his appointment to the MARC Total Transportation Policy Committee (TTPC)
- He also acknowledged the appointment of Christine Evans Hands, Merriam City Council member, to the Johnson County Solid Waste Committee.

COMMITTEE REPORTS

Council Committee of the Whole

COU2009-99 Consider Project 190721: 2009 Storm Drainage Repair Program

On behalf of the Council Committee of the Whole, Michael Kelly moved the Governing Body approve Construction Change Order #1 with WCI, Inc. for Project 190721: 2009 Storm Drainage Repair Program for an increase of \$27,282.53 bringing the final contract price to \$404,705.73. The motion was seconded by Dale Beckerman and passed unanimously.

COU2009-100 Consider Project 190728: Prairie Lane Drainage Project - Design Agreement

On behalf of the Council Committee of the Whole, Michael Kelly moved the Governing Body approve the design agreement with George Butler Associates for Project 190728: 2009 Prairie Lane Drainage Improvements in the amount of \$47,586. The motion was seconded by Dale Warman and passed unanimously.

COU2009-96 Consider Project 190652: Park Identification Signs

On behalf of the Council Committee of the Whole, Michael Kelly moved the Governing Body approve the purchase of seventeen park identification signs from ICS of Kansas City, Missouri, for \$85,000; the transfer of \$34,000 from Capital Improvement Program Parks Unallocated to Project 190652 and authorize the City to waive bidding on this sole vendor item.. The motion was seconded by Dale Warman and passed unanimously.

COU2009-98 Consider Project 190656: Community Center Study

On behalf of the Council Committee of the Whole, Michael Kelly moved the Governing Body approve the transfer of \$50,000 from Capital Improvement Program Parks Unallocated to Project 190656. The motion was seconded by Dale Warman and passed unanimously.

COU2009-97 Consider Project 190653: El Monte Fountain Improvements

On behalf of the Council Committee of the Whole, Michael Kelly moved the Governing Body approve the Construction Contract award to MEGA Industries for Project 190653: El Monte Fountain for \$51,009.00 with the commitment from the Prairie Village Homes Association of \$19,005 and a transfer of \$36,000 from either the Capital Improvement Program Streets Unallocated to Project 190653. The motion was seconded by Warman and passed unanimously.

Planning Commission

PC2009-13 Consider Amendments to Chapter 19.34 "Accessory Uses"

Dennis Enslinger stated Chapter 19.34 addresses Accessory Uses including such items as permanent emergency standby generators. The current ordinance allows the Planning Commission to approve these in the side yard of residences if certain criteria are met. Over the past few months, the Planning Commission has heard several applications and felt that staff could grant approval based on the criteria established by zoning regulations with the option to bring the application before the Commission for review if not approved by the building official.

Dale Beckerman moved the Governing Body adopt Ordinance 2214 amending Chapter 19.34 of the Prairie Village Municipal Code, entitled "Accessory Uses" by amending Section 19.34.040 entitled "Accessory Uses - Miscellaneous Provisions" paragraph (F)(i). The motion was seconded by Andrew Wang.

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

PC2009-18 Consider Renewal of Special Use Permit for Wireless Communication Antenna and related equipment at 7801 Delmar by Sprint/Nextel

Dennis Enslinger stated T-Mobile, Sprint and Cricket are the current carriers on the water tower and are requesting renewal of a Special Use Permit that allowed the installation of antennas and the associated equipment cabinets on the water tower at 7801 Delmar. The initial application was approved for three carriers in 1997 and renewed in 2003. The carriers in 2003 were T-Mobile, Nextel and AT&T. Since that time, Nextel changed to Sprint and AT&T has transferred its facilities to Cricket. T-Mobile is still operating as T-Mobile. The Special Use Permit renewal that was approved September 3, 2003 for three carriers and subject to 15 conditions.

The Sprint antennas will be modified to allow the installation of a new provider, Clearwire. This request for renewal is past the six year approval period; however, it could not be considered earlier due to the moratorium on Wireless Communications Facilities applications.

The equipment cabinet's location was approved for the west side of the water tower and fencing and landscaping were installed to screen them. The fence and landscaping appear to be in good shape and have accomplished their purpose. There is a large tree in the north compound that the applicant has requested to trim. The branches are hanging low and touching some of the equipment boxes. The tree does a great job in the overall screening of the installation so trimming should be limited to the minimum necessary for the installation.

In accordance with the Commission's Citizen Participation Policy, a neighborhood meeting was held on September 16th with information presented on all four carriers. Three neighbors attended and expressed no opposition to the renewal or the addition of

Clearwire. Their questions were related to the structural capacity of the tower, expansion of the equipment compound and added height to the tower. All were satisfactorily answered. A public hearing was held before the Planning Commission on October 6, 2009 with no one present to speak on this application. The Planning Commission recommended approval subject to the conditions stipulated by staff.

Dale Beckerman moved the Governing Body adopt Ordinance 2215 approving the renewal of a Special Use Permit for the installation, operation and maintenance of communication antenna and related equipment by Sprint/Nextel on the property described as 7801 Delmar, Prairie Village, Kansas. The motion was seconded by Charles Clark.

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

PC2009-14 Consider Renewal of Special Use Permit for the installation of Wireless Communication Antenna and related equipment at 7801 Delmar by T-Mobile.

Dennis Enslinger noted this application for renewal is similar to PC2009-18. There are no changes being made by T-Mobile to their existing antenna or equipment.

In accordance with the Commission's Citizen Participation Policy, a neighborhood meeting was held on September 16th with information presented on all four carriers. Three neighbors attended and expressed no opposition to the renewal or the addition of Clearwire. Their questions were related to the structural capacity of the tower, expansion of the equipment compound and added height to the tower. All were satisfactorily answered. A public hearing was held before the Planning Commission on

October 6, 2009 with no one present to speak on this application. The Planning Commission recommended approval subject to the conditions stipulated by staff.

Charles Clark moved the Governing Body adopt Ordinance 2216 approving the renewal of a Special Use Permit for the installation, operation and maintenance of communication antenna and related equipment by T-Mobile on the property described as 7801 Delmar, Prairie Village, Kansas. The motion was seconded by Dale Beckerman.

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

PC2009-15 Consider Request for a Special Use Permit for the installation of Wireless Communication antenna and related equipment at 7801 Delmar by Clearwire Wireless

Dennis Enslinger stated Clearwire is an additional carrier seeking to place antenna on the water tower, although it has a relationship with Sprint. Clearwire Representatives are present and available to answer any questions. Sprint owns a controlling interest in Clearwire and shares sites when it is practical. The specific request by Clearwire is to install six antennas, three of which are small microwave dish antenna (approximately 26 inches in diameter) on the water tower walkway and a small equipment box in the north compound. The equipment box is approximately 3 feet x 6 feet x 4 feet in height according to the plans. Therefore, it will be shorter than the fence and will be screened. However, the tree north of the compound will need to be trimmed to protect the equipment and prevent interference.

In accordance with the Commission's Citizen Participation Policy, a neighborhood meeting was held on September 16th with information presented on all four carriers.

Three neighbors attended and expressed no opposition to the renewal or the addition of Clearwire. Their questions were related to the structural capacity of the tower, expansion of the equipment compound and added height to the tower. All were satisfactorily answered. A public hearing was held before the Planning Commission on October 6, 2009 with no one present to speak on this application. The Planning Commission recommended approval subject to the conditions stipulated by staff.

Dale Beckerman moved the Governing Body adopt Ordinance 2217 approving the renewal of a Special Use Permit for the installation, operation and maintenance of communication antenna and related equipment by Clearwire Wireless on the property described as 7801 Delmar, Prairie Village, Kansas. The motion was seconded by David Belz.

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

PC2009-16 Consider Request for a Special Use Permit for Wireless Antenna and related equipment at 9011 Roe Avenue by Clearwire Wireless

Dennis Enslinger noted this tower was originally approved in 1996 and it was the first tower installation approved by the City. The tower was approved for a height of 100 feet plus eight feet for lightening arrestors. Sprint was the original occupant of the tower. In 2004, Cingular Wireless requested approval to co-locate on the tower and it was approved. Cingular has since merged with AT&T so the current two carriers on the tower are Sprint and AT&T.

The original application for Sprint was approved in 1996 as a Conditional Use Permit. In 2004 Cingular was given a Special Use Permit for co-location on this tower.

Clearwire is requesting approval to install antennas and an equipment cabinet at the existing Cellular Tower located at the Fire Station at 9011 Roe Avenue. Sprint is a majority owner of Clearwire and will sublease space on the Tower. The Sprint installation includes three two-panel antennas. The proposal is to change out three existing Sprint panels to Clearwire panels. Sprint will remove a panel from each of the three sheaths and they will be replaced with Clearwire panels. In addition, Clearwire will add two small microwave dish antennas (26 inches in diameter) at the top of the tower initially and a possible third microwave dish antenna in the northwest sector if needed at a future time. The equipment cabinet for Clearwire will be placed in the existing fenced compound which will not be enlarged or increased in size.

An engineering study was conducted on the tower to document the structural integrity of the structure to accommodate the additional antenna.

In accordance with the Commission's Citizen Participation Policy, a neighborhood meeting was held on September 21st attended only by the Fire District Chief. A public hearing was held before the Planning Commission on October 6, 2009 with no one present to speak on this application. The Planning Commission recommended approval subject to the conditions stipulated by staff.

David Belz moved the Governing Body adopt Ordinance 2218 approving a Special Use Permit for the installation, operation and maintenance of communication antenna and related equipment by Clearwire Wireless on the property described as 9011 Roe Avenue, Prairie Village, Kansas. The motion was seconded by Dale Beckerman.

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

PC2009-17 Consider Renewal of Special Use Permit for Wireless Communication Antenna and related equipment at 7700 Mission Road by Sprint/Nextel

Dennis Enslinger noted Sprint is requesting renewal of its Special Use Permit that was originally approved in 2004 for a period of five years. This renewal request is past the five year approval time, but it could not be considered earlier because of the moratorium on Wireless Communications Facilities applications. The City tower is 150 feet tall and accommodates several carriers including AT&T, Verizon, the City and Sprint. This is the tallest tower in Prairie Village and it was designed to accommodate multiple carriers.

Sprint was the last carrier approved which was in 2004 and a new equipment compound was added in order to accommodate its equipment cabinets. The original application was approved in September, 2004. Sprint continues to need this location to provide service to its customers, but has not proposed any changes to its existing installation. The applicant held a neighborhood meeting on September 21, 2009, and no one attended.

Mr. Enslinger noted the new Wireless Communication Facilities ordinance requires that equipment compounds meet the minimum setbacks for principal structures in the district in which it is located and that towers setback from all property lines a distance equal to the tower height.

The side yard setback in the R-1A District is five feet and it appears that the compounds meet that requirement. The tower sets back more than 150 feet from the west, south and east property lines but is only about 22 feet from the north property line. The Planning Commission reviewed the following criteria in consideration of granting a waiver from the north property line setback.

1. **That there are special circumstances or conditions affecting the proposed cell tower installation;**

This cell tower was constructed in 1991 prior to any cell tower standards and it is nonconforming and cannot be increased or enlarged without approval of a waiver. This means that no new carriers and no additional equipment can be put on the tower and therefore technical modifications could be a problem.

This is a large public use area and is the type of location that the Planning Commission and City Council would prefer towers to locate.

2. **That the setback waiver is necessary for reasonable development of the cell tower installation or the landowners property;**

Because the cell tower facility and equipment compounds have already been developed, this is the best location for a tower that would not interfere with the other uses of the site.

3. **That the granting of the setback waiver will not be detrimental to the public welfare or cause substantial injury to the value of the adjacent property or other property in the vicinity in which the particular property is situated.**

This waiver is for an existing facility in a large public use area and the City has received no complaints since it was built in 1991. Also no neighbors appeared at the neighborhood meeting. The use to the north is a parking lot for Shawnee Mission East High School.

The Planning Commission found the application meets the requirements for a setback waiver and granted a waiver for the setback on the east and north side of the tower. It also recommended approval of the renewal subject to 19 conditions.

Dale Beckerman moved the Governing Body adopt Ordinance 2219 approving the renewal of a Special Use Permit for the installation, operation and maintenance of communication antenna and related equipment by Sprint/Nextel on the property described as 7700 Mission Road, Prairie Village, Kansas. The motion was seconded by David Belz.

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

Parks & Recreation - Diana Ewy Sharp

Consider 2010 Parks Projects Prioritization

Diana Ewy Sharp stated after the City's adoption of the Parks Master Plan, the Parks & Recreation Committee has been discussing how to proceed with implementation of the recommendations found in the plan. The Committee was excited to learn of the potential of having \$2 million dollars to jump start the implementation through bond funding. In response to that news, they have established the following priorities for 2010 park improvements subject to funding availability to Franklin Park, Weltner Park and Schliffke Park.

Franklin Park \$1,510,600 to add parking to the existing lot, reconfigure parking along Roe by possibly installing pipe, new shelter, interpretive park history signs, new patio area with Gazebo, new grill, widen walking paths to 8 feet, new nature play area play stream, naturalize creek along Roe, spray area, develop tree replacement plan, more lighting, tuck point stone around rose garden, new restrooms, nature play area, field irrigation and art work.

Weltner Park - \$350,500 contingent upon the completion of the Cambridge Street realignment; new perimeter trail, relocate shelter, new play area, interpretive park history sign, develop tree replacement plan, more lighting, new party entry, more benches and trash receptacles and art work.

Schliffke Park - \$212,500 remove parking area, add 10 feet trail with benches, new cantilevered outlook over bank at north end of Brush Creek, interpretive park history signs, develop tree replacement plan, more lighting and art work.

Diana Ewy Sharp noted the priority rating given in the Master Plan listed Franklin and Porter as the top priorities. However, based on the limited availability of funds it would not be possible to do both. The committee moved Weltner Park as their second

priority to coordinate with the proposed realignment of Cambridge Street. This change also left funding to add improvements to Schliffke Park. The total estimated cost to complete these three projects is \$2,073,600, which is \$73,600 over budget. The committee recognizes this estimate may change as projects go into design and bid and some items may need to be removed to bring the project total within budget.

The selection of these three parks provides improvement in three different geographic areas of the City. Mrs. Ewy Sharp stated that by beginning with Franklin Park, which is heavily utilized and visible, starting with this type of project was recommended by the Park Consultant to garner support for future park improvements.

Mayor Shaffer asked for clarification on the \$2 million in funding. Quinn Bennion responded the Park Funding previously came from the alcohol tax fund, which was approximately \$86,000 per year. In developing the CIP for the next four years, \$500,000 was placed in each year. As the idea of a bond developed, the project during the next four years would be accelerated to 2010 and 2011 with bond funding. The Charter Ordinance was adopted to allow for inclusion of park improvements for bond funding. With the challenge to that ordinance, there has been some confusion on how these projects would be funded. The \$2 million will be available with or without the ability to bond the projects. The bond has been set to include \$2 million for parks projects, \$4 million for Streets, \$3 million for storm drainage and \$300,000 for building improvements. If the City has to fund the park projects on a cash basis, an additional \$2 million would be added to the streets projects with the cash designated for those projects being redesignated to the park projects. Mr. Bennion noted in reality accomplishing the entire park improvements in 2010 will be a challenge, so some of this funding will be in 2011.

Diana Ewy Sharp noted the master park plan recommended additional parking along Somerset, however, the committee is modifying the existing parking to create additional parking spaces and not doing the suggested lot. She noted that this project will put at least part of the park out of commission next summer and communication will be essential. She wants to have this completed to showcase to the public, if and when the City goes out for additional funding, such as a sales tax.

Ruth Hopkins confirmed there was a private funding source set up through the Municipal Foundation for the construction of a Gazebo. She also asked if there was not opposition in the past to the establishment of permanent restrooms in City parks and asked how they would be maintained and how security issues would be put in place.

Bob Pryzby stated the maintenance would be done under the City's custodial services contract as it currently is handled with Harmon Park. He is not aware of opposition to permanent restrooms. Mrs. Ewy Sharp noted during the park surveys conducted by the park planner, there was a desire expressed for permanent restrooms. Chief Jordan noted the portable toilets are more likely to be vandalized. Dale Beckerman confirmed these would be year-round restrooms.

Al Herrera asked why there would be opposition to parking on Somerset, but not to additional parking on Roe. Mrs. Ewy Sharp noted the construction of a new parking area would remove more green space by adding an existing lot.

Andrew Wang asked if the proposed changes would result in the loss of any existing trees. Mrs. Ewy Sharp replied, it would not and the Tree Board is working on a tree replacement schedule for the park.

David Morrison asked if there had been any consideration to using a softer surface for the walking trails as they are used extensively by senior citizens. Mr. Pryzby

stated ADA will be coming out with new surface requirements and he will check them. Quinn Bennion added the trail loop is scheduled for a complete rebuild going from 4-foot to an 8-foot width. He is not aware of any trail in the area constructed of a rubberized surface, which would have significant maintenance cost. He added the cost to alter the parking configuration on Roe will be considerably less than the cost to construct a new parking area. Laura Wassmer added she does not consider the land adjacent to the Roe parking as usable land, where the land adjacent to Somerset is usable.

Bob Pryzby stated there will be irrigation work done on the ball fields that is not listed on the Park Master plan as it is included by the Parks and Recreation Committee. Also, the drainage bond fund includes the replacement of galvanized pipe in the drainage system on Somerset Drive from 87th to Roe.

Mayor Shaffer asked why the majority of the money is being spent on this one location. Mrs. Ewy Sharp stated it is because of the visibility and usage of this jewel of the City. Laura Wassmer questioned if this is already a jewel, why is the City investing so much money at this location when there are needs elsewhere.

Diana Ewy Sharp stated the committee is responding to the other needs in its improvements to a highly underutilized Weltner Park and Schliffke Park.

Michael Kelly recognized the value as a marketing tool.

Mrs. Ewy Sharp noted the improvements to Weltner will be significant for this area and entry to the City. Additional green space will be added, a trail will be created and improvements that will bring the community out to use this park.

Mayor Shaffer asked for the cost breakdown between the street work and the park work. Mrs. Ewy Sharp stated the total cost is \$950,000 with \$350,000 for the park improvements and \$600,00 for the street portion.

Diana Ewy Sharp noted the proposed changes at Schliffke could be controversial as it removes a parking area that is currently being used by Village Shopping Center employees for parking. This area will be converted into green space, a look out will be constructed over Brush Creek with the focus being an environmentally friendly park.

Mayor Shaffer confirmed that Prairie Park is not included in the plans for Schliffke Park.

In response to why the City is not doing trails, the committee felt the expansion of the paths in three parks is a more productive way to address the beginning of a trail system. It was noted that the Franklin Park trail is one-half mile.

Charles Clark noted that with the decision to accelerate the funding once the \$2 million is spent there will be no available funding for the next four years for additional work. The Council needs to address what it will do to fund further improvements once this money is spent. One of the suggestions has been the implementation of a dedicated sales tax. Mr. Clark noted if the Council wants to proceed with a sales tax vote, it should take place at the November election a year from now, with a heavy voter turnout. Therefore, this needs to be discussed soon.

Diana Ewy Sharp stated she has asked the Finance Committee to consider a ½ cent sales tax which would raise approximately \$1 million per year. She would like to see the Parks Master Plan funded at a level of \$1.5 million per year.

Andrew Wang asked if some money would be available for maintenance such as resurfacing of tennis courts. Mr. Pryzby responded there will be some money, but he does not know how much.

Charles Clark stated when the size of the bond issue was selected it was done so that there would be some remaining money to cover ordinary expenses, but not money for any projects beyond 2010.

Mayor Shaffer asked what was the next step and timeline. Diana Ewy Sharp stated work could begin work on the RFQ. Chris Engel will be the lead on this together with Bob Pryzby, Jim Bernard, Kathy Peterson, Al Herrera and herself. Once money becomes available, the requests for qualifications would go out. There is not an established timeline; however, she would like to get Franklin Park done next year.

Ruth Hopkins expressed her concern with beginning a project of this magnitude during these uncertain economic times. It is very likely the State will continue to withhold money from the City. She was comfortable with the funding coming from bonds, but is not sure she is ready to commit to cash funding a \$2 million project that is not an essential service for the residents of Prairie Village.

Al Herrera noted this was started in 2000 and he would like to see it finished. Residents have had a positive response to the master plan and he feels it is time to move forward noting the plan was being broken into pieces for implementation,

David Belz stated he is not sure that parks are not a #1 priority for the residents of Prairie Village. As stated in Village Vision, parks draw this community together and are a vital part of Prairie Village.

Dale Beckerman stated one of the expectations of residents is their parks. He supports accelerating the process and securing additional funding if necessary. However, he noted having Franklin Park out of commission an entire summer is not going to be well received.

Diana Ewy Sharp stated the committee has gone through the process, had the master plan created and adopted by the City and she believes it is now time to begin.

Dale Beckerman moved the Governing Body approve the Parks & Recreation Committee proposed priorities for 2010 park improvement as follows: Franklin Park, Weltner Park and Schliffke Park. The motion was seconded by David Morrison and passed unanimously.

Dale Beckerman confirmed the changes at Weltner Park will address the current need to cross the intersection to get to the park.

Communications Committee

Michael Kelly reported the Communications Committee met and has sent out requests for qualification for the redesign of the City's website. The process will include both a needs assessment and the building of the website. Staff will review the proposals and select two to three firms to interview with the Committee. He is looking to bring a recommendation to the City Council the second meeting in December.

STAFF REPORTS

PUBLIC SAFETY

- Chief Jordan reported there will be a street race on Halloween morning from 8300 Mission Road to 91st Street closing one lane of traffic. Three off-duty officers will be working the event sponsored by Lane4.
- Friday, October 23rd the Johnson County agencies will hold a press conference to address the growing use of heroin in local high schools endorsing a major education effort. There have been over 20 overdoses and three deaths in Johnson County.
- Public Safety staff has been invited to Claridge Court on October 22.
- Chief recently spoke at an NAACP forum in Leawood

PUBLIC WORKS

- Mike Helms recently completed a Hazardous Materials Program with FEMA and noted Prairie Village is one of very few cities with an approved plan.
- The 2009 Street Project is closed and most of the remaining projects are nearing completion.

- Bob Pryzby announced he has received an appeal from Meadowbrook Country Club on their Storm water assessment that will be brought before the Council at its next meeting.

ADMINISTRATION

- Dennis Enslinger complimented the Prairie Village Arts Council on the excellent 2009 State of the Arts Exhibit noting several hundred people attending the reception earlier this month. He also complimented the Environment/Recycle Committee on its successful Environmental Forum held on October 8th.
- Glass Recycling will begin at the Corinth Square Hen House. There is no sorting required of the materials.

Council members urged that the location of the drop-off box be carefully considered because of the loud noise created by the glass. Mr. Enslinger noted the location has not been determined but will be selected by Lane4

- Prairie Village will be participating in an e-recycle event on November 4th with the Cities of Overland Park and Leawood. The event will be held at the Church of the Resurrection at 135th & Nall.
- City Attorney Katie Logan announced that a protest petition had been filed against Charter Ordinance #25 and it appears to be in proper format with 157 signatures. 118 signatures are required. The petition will be verified by the Johnson County Election Office. If it is valid, the City Council can within 30 days schedule a special election on the ordinance or take no action and the ordinance dies.

Al Herrera asked if the individuals signing the petition changed their minds and wanted to remove their signatures how that would be done. Ms Logan stated under KSA 25-3602(c) individuals can withdraw their signatures by written notification within three days of the filing of the petition.

Ms Logan asked Mr. Morrison the status of the approval of the format of the petition by the District Attorney. Mr. Morrison stated the petition had been sent to the District Attorney.

Mayor Shaffer stated he has asked staff to get the costs for holding a special election and the costs spent on this issue to date. Ms. Logan stated the status of the petition would be known by the special council meeting next Monday.

Quinn Bennion stated Mayor Shaffer has called a Special Council Meeting for Monday, October 26th at 6 p.m. There will be two items on the agenda - 1) the City's response to the petition and 2) readoption of the ordinance for the storm drainage projects with more specific locations for the pipe that is being replaced.

Michael Kelly stated he felt for one councilman to hold the entire council hostage is the equivalent of the recent balloon hoax.

Andrew Wang stated he thought Mr. Morrison had stated he would not file the petition unless there was overwhelming opposition against the ordinance. He does not feel 157 residents out of over 20,000 is overwhelming opposition.

David Morrison responded his original hope was that the City Council would alter the ordinance adding a sunset clause. He does not oppose the proposed bonding; however, he does not feel it is appropriate for future Council's to have such power into perpetuity. He felt strongly that the residents should have the right to determine such expenditures.

Laura Wassmer stated this is a complicated issue to explain and questioned if the people signing the petition truly understood what the charter ordinance meant and the ramifications of their action on the City. She stated when a fellow councilmember goes door to door and creates the level of mistrust against the City Council it is difficult not to take it personally. She noted that twice Mr. Morrison has created situations that heighten mistrust of local government and that is not in the best interest of this community.

Mr. Morrison replied he told people he did not have any problems with the current Council and this action but he was concerned with the door this opened and what could happen in the future. He does not see this action as an attack on the Council, but as a statement on the role of government.

- Quinn Bennion noted a listing of City Contracts for professional services has been distributed in response to questions raised at the last committee meeting. Also being distributed is a homes association map.

OLD BUSINESS

There was no Old Business to come before the Governing Body.

NEW BUSINESS

COU2009-103 Consider Declaration of Nuisance, pursuant to K.S.A. 12-1617e and Sections 4-503 of the Prairie Village Municipal Code, at 7578 High Drive

Dennis Enslinger reported in May of 2003 the property owner, Mark Birnbaum, began collecting large quantities of miscellaneous items. These items were placed all around the front and back of his property. A Violation Notice was issued followed by two tickets for Debris and Storage in May 2003 with subsequent Court Proceedings through October of 2005. The items were placed in an inadequately constructed screening enclosure within the back yard.

The owner vacated the property in approximately October of 2005. The City staff has been in contact with him via e-mail, regular mail and telephone since 2006 with regards to subsequent violations on his property. Violation Notices and tickets along with pictures of the violations have been sent to the owner and delivery confirmed.

May of 2009 the Codes Department received complaints about the property due to the continued deterioration of conditions at the property. Tickets were again issued to the owner. Subsequent conversations took place between Mr. Birnbaum and Code Enforcement Officer Marcia Gradinger on July 17th, 24th, 28th, and August 17, 2009 regarding all violation issues at the property. On July 28, 2009 a certified letter was sent to Mr. Birnbaum outlining all violations and possible abatement proceedings.

The items left in the yard area, and the screening enclosure, have continued to deteriorate, in addition to the uncontrolled vegetation on the property. Such conditions are conducive to blight, rodent and insect infestation, and are a menace and dangerous to the health of the inhabitants of the surrounding properties within the neighborhood.

Mr. Enslinger stated Prairie Village Municipal Code 4-503, as defined in 4-502 (g) "nuisance" allows the City to abate such violations with all costs assessed to the property owner and against the property as a lien if not paid by the owner. Such violations include but are not limited to; rank vegetation, unkempt trash, refuse, brush and limbs, debris or building material, and any other condition which is determined to present a dangerous or harmful condition to the public.

It is therefore recommended by the Codes Department that the property be declared a Nuisance pursuant to PVMC Chapter 4 Article 5. Mr. Enslinger presented photographs of the numerous violations taken earlier in the day confirming the violations

to still exist. He then reviewed the process to resolve the nuisance issues on the property should the Governing Body decide to move forward.

Mr. Enslinger presented the following historical timeline of events on contacts made on this property:

04/25/03

Violation Notice issued by personal service for Debris and Storage of items

05/14/03

Two tickets issued for Debris and Storage of items on the property.

06/03/03

PV Court appearance - Plead No Guilty

09/11/03

Prairie Village Court Trial found Guilty \$500 Fine/ \$250 each count

Compliance Action - All items were placed within an enclosure built by Mr. Birnbaum and approved under conditions existing at that time/date.

09/29/03

Appeal Filed with County Court

03/08/04

District Appeal Court

Disposition

Guilty \$1000 Fine/ \$500 each count

- From the time of the original Violation Notice being issued on 04/25/03 to the final District Court disposition on 03/08/04 numerous, detailed conversations took place between Mr. Birnbaum, Code Officer Marcia Gradinger, and Doug Luther regarding the details of the violations, and correction requirements. Mr. Birnbaum also received copies of all applicable City ordinances.

09/19/05

Ticket posted at property / Storage

Additional miscellaneous items had been added into the enclosure and to the top of items already within the enclosure making them visible to adjacent properties and in violation of City Storage Ordinance.

10/04/05

PV Court—Guilty \$250 Fine

Compliance Action - Items relocated within structure to not be visible from the top.

10/2005

At approximately the end of October, 2005, Mr. Birnbaum vacated the property spending the majority of his time out of state and returning on occasion for short periods.

06/06/06

Unauthorized Storage ticket issued via certified mail

- During the period from 10/2005 to 06/06/06, the original items stored and the original screening structure deteriorated. At some point in this time period more items were added to be stored on the property and screening materials were added to the original screening structure.

On 06/16/06 an e-mail was received from Mr. Birnbaum confirming receipt of the Court Citation, and indicating he had at some point been at the property but departed on 05/04/06.

07/2006

Failed to Appear in Prairie Village Municipal Court - a Warrant was issued

- Between 06/06/06 and 07/25/06 there were 14 e-mails between myself, Doug Luther and Mr. Birnbaum regarding, violations, correction requirements and court appearances.
- On 1/25/07 an e-mail was sent to Mr. Birnbaum inquiring of his intent to return and take care of violations. No response.

07/08/09

Complaint filed with the Codes Department regarding conditions at 7578 High Dr.

07/10/09

3 Tickets issued via certified mail

- Inoperable Vehicle. Flat tire and expired 03/07 tag.
- Deteriorated Roof
- Trash & Debris (Items in back yard and in "storage" area.)

07/17/09

Mr. Birnbaum contacted me by phone regarding the 3 tickets he received. I explained the conditions of the property, related violations and correction requirements. He requested I meet with his lawn person at the property to review what needed to be done with the overgrown vegetation.

07/23/09

Property perimeter vegetation cut to code and some vegetation within the screening enclosure, however, most vegetation within the screening enclosure was unable to be cut due to the amount of deteriorated items stored within which impeded mowing.

07/24/09

Codes Officer s/w Mr. Birnbaum by phone and discussed the remaining vegetation violation and the nature of the items preventing the removal of the vegetation. Violations

of Trash & Debris of all deteriorated items in back yard and within the enclosure, the condition of the roof and the inoperable vehicle in the driveway as well as the tickets/warrant pending in Municipal Court were once again discussed with Mr. Birnbaum. Mr. Birnbaum stated he did not know when he could make arraignments to return and take care of but he might be back in October.

Between 07/17/09 and 08/17/09 Codes Officer had 5 phone conversations with Mr. Birnbaum regarding the conditions at his property in violations of City Codes, and all correction requirements and possible City action. Pictures of the property were also sent to him by the codes Department.

07/28/09

A letter was sent to Mr. Birnbaum by certified mail and e-mail (enclosed) outlining the discussion with him on 7/24/09 regarding the violations at his property and possible City action to be taken.

08/18/09

Fail to Appear Warrants issued for tickets issued on 07/10/09

Charles Clark stated he agreed with the staff recommendation to move forward.

David Belz moved the Governing Body adopt Resolution 2009-19 declaring that a Nuisance, pursuant to K.S.A. 12-1617e and Sections 4-503 of the Prairie Village Municipal Code, exists at 7678 High Drive and ordering the nuisance be abated by the property owner of record, Mark Birnbaum. The motion was seconded by Diana Ewy Sharp and passed unanimously.

Prosecutor Office Bid

Bob Pryzby announced only one bid was received for the construction of a Prosecutor's Office. Staff reviewed the bid and recommends the City Council reject the bid and direct staff to redraft the scope and rebid the project.

Andrew Wang moved the Governing Body reject all bids received for Project 190923: Prosecutor Office Construction. The motion was seconded by Michael Kelly and passed unanimously.

ANNOUNCEMENTS

Committee meetings scheduled for the next two weeks include:

Arts Council	10/21/2009	7:00 p.m.
Environment/Recycle Committee	10/28/2009	7:00 p.m.
Council Committee of the Whole	11/02/2009	6:00 p.m.
City Council	11/02/2009	7:30 p.m.

The Prairie Village Arts Council is pleased to announce the annual State of the Arts exhibit in the R. G. Endres Gallery for the month of October.

Flu shots have been rescheduled for **November 18, 2009** from 7:30 - 9:00 am at Public Works or 2:00 - 4:00 pm at City Hall. Flu Shots are available to Council Members for \$10.

The National League of Cities conference is November 10-14 in San Antonio, TX.

The Northeast Johnson County Chamber of Commerce Annual dinner is November 21st at 6:00 pm.

The Municipal Foundation will be hosting the annual Mayor’s Holiday Tree Lighting on Monday, November 30th at Corinth Square from 6:00 - 7:30 pm.

The Johnson and Wyandotte Counties Council of Mayor Annual Holiday Social Dinner is December 2, 2009 at 5:30 pm at The Lodge at Ironwoods Park.

The Mayor’s Holiday Volunteer Party is December 4, 2009 at 6:30 pm at Homestead Country Club.

The Municipal Foundation will be hosting a Gingerbread House Decorating Party on Sunday, December 13th at the Community Center at 2:00pm and 4:00 pm.

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

ADJOURNMENT

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

Joyce Hagen Mundy
City Clerk

**SPECIAL CITY COUNCIL
CITY OF PRAIRIE VILLAGE
OCTOBER 26, 2009**

The City Council of Prairie Village, Kansas, met in special session on Monday, October 26, 2009, at 6:00 p.m. in the Council Chambers of the Municipal Building to consider Ordinance 2207 related to bond issue for storm drainage improvements and the options in response to the protest petition filed against Charter Ordinance No. 25 related to bonding authority.

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, Andrew Wang, Dale Beckerman, David Morrison, Charles Clark, Diana Ewy Sharp and David Belz.

Also present were: Quinn Bennion, City Administrator; Katie Logan, City Attorney; Wes Jordan, Chief of Police; Bob Pryzby, Director of Public Works; Dennis Enslinger, Assistant City Administrator; Karen Kindle, Finance Director; Chris Engel, Assistant to City Administrator, Keith Bredehoeft, Project Manager and Joyce Hagen Mundy, City Clerk. Also present was Gary Anderson with Gilmore & Bell and representatives of Columbia Capital.

Mayor Shaffer stated this meeting was called pursuant to K.S.A. 13-510 and all appropriate notifications have been made. He reviewed the procedures to be followed for the meeting, noting that only those items listed on the agenda for this special meeting will be discussed.

COU2009-91 Consider Ordinance 2007 related to bond issue for storm drainage improvements

Quinn Bennion stated the earlier ordinance adopted authorizing the issuance of bonds for storm drainage improvements provided a general location for the proposed areas for improvement. The Attorney General recommended that the locations be more specifically identified. The public works staff has prepared an attachment to the proposed ordinance which identifies the corrugated metal pipe replacement locations and an approximation of the number of feet of pipe to be replaced.

Gary Anderson noted if the Charter Ordinance had been successful, the general description given in the previous ordinance would have been satisfactory. Dale Beckerman confirmed the previous ordinance did not have to be repealed.

Dale Beckerman moved the Governing Body adopt Ordinance 2207 authorizing certain storm drainage improvements, and providing for the manner of paying for the same. The motion was seconded by Al Herrera.

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

Consider options in response to the protest petition filed against Charter Ordinance No. 25 relating to bonding authority

Quinn Bennion advised the Council that although the election office has validated the necessary number of signatures have been submitted on the protest petition, the City has not received confirmation from the District Attorney's Office that the language on the petition is acceptable. Therefore, staff is now recommending the Governing Body take no action at this time.

Katie Logan stated she had received a copy of the letter and petition submitted to the District Attorney. She called the District Attorney's Office, but was unable to speak with the District Attorney to verify that the language had been approved. Mr. Morrison has not received verification from the District Attorney's Office. Ms Logan noted the statutes are highly technical in regard to the wording of petitions and she is not sure whether the submitted petition will meet the criteria of the court. If it is found to not be in compliance, the Charter Ordinance may be deemed valid and therefore, it is her recommendation that it not be repealed at this time.

She added that even if the District Attorney finds the petition language to be valid, the City could still challenge the opinion of the DA through the courts. As this would be a narrow and refined interpretation, she would expect the cost to be relatively inexpensive. However, the City can and needs to move forward on the proposed bonds as amended with the removal of park projects at this time. There is no reason to take action on the Charter Ordinance and related protest petition this evening.

Mayor Shaffer noted if the necessary information was received this week, the Council could take action at their November 2nd meeting.

Quinn Bennion noted staff had been asked to compile a cost estimate associated with the City's response to the protest petition filed against Charter Ordinance No. 2. The estimated costs are the incremental amount required to prepare the second method of authority and financing for the bond issue. Employee costs are estimated salary and benefits costs of the hours spent with the alternate plan. Mr. Bennion reviewed the cost estimated which totaled \$6,750.

In response to the petition, the City Clerk requested information from the Johnson County Election Office regarding the estimated cost for a special election. The cost of an election for Prairie Village would be \$3 per registered voter. There are 16,941 registered voters resulting in an estimated election cost of \$50,823. The cost for a mail-in ballot would be very similar and the election office would require twelve weeks to plan a mail-in ballot election.

Quinn Bennion noted with the changes made to bond issue, he asked the Finance Director to prepare the following current summary of the 2009A Bond Series:

2009 Series Bonds

Project Description	Amount
Park Improvements	-
Public Building Projects	370,000
Street Projects	6,000,000
Storm Drainage Projects	<u>3,050,000</u>
Subtotal - new bonds	\$9,420,000
Refinance of Series 2000 Bonds	675,000
Estimated Cost of Issuance	<u>145,000</u>
Grand Total	<u>\$10,240,000</u>

Quinn Bennion noted the costs for refinancing bonds and the costs for issuance are estimates.

Andrew Wang confirmed the City could go forward with the issuance of bonds as presented. Gary Anderson replied the proposed bonds can be issued under the city's existing statutory authority. With the unclear status of the validity of Charter Ordinance No. 25, park improvement projects can not be included in this bond issue.

Mayor Shaffer asked for the final status of the signatures on the petition. Mr. Bennion responded the Johnson County Election Office reviewed the petition, withdrawal petitions and certified 124 signatures. The petition required 118 signatures

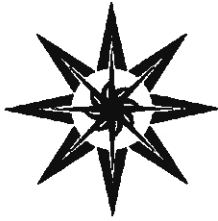
for passage. There were 157 signatures submitted. The City does not know which signatures were removed by the election office.

Al Herrera noted most of the individuals he contacted regarding withdrawing their signatures were active residents and registered voters.

ADJOURNMENT

Dale Beckerman moved for adjournment. The motion was seconded by David Belz and passed with the meeting being adjourned at 6:20 p.m.

Joyce Hagen Mundy
City Clerk



City Clerk

Council Meeting Date: November 2, 2009
Consent Agenda

Approve the issuance of Cereal Malt Beverage Licenses for the following businesses

RECOMMENDATION

Staff recommends the City Council approve the issuance of Cereal Malt Beverage Licenses for the following businesses for the remainder of 2009.

Sunshine Energy LLC DBA SE #156 – 3901 Tomahawk Rd
Sunshine Energy LLC DBA SE #67 – 8120 Mission Road

SUGGESTED MOTION

I move that the Cereal Malt Beverage licenses listed above be approved for the 2009 licensing year.

BACKGROUND

The State of Kansas requires a Cereal Malt Beverage license for each business selling cereal malt beverages. The listed businesses have submitted applications for a 2009 Cereal Malt Beverage License to allow for the sale of beer in unopened original containers only. These applications are being submitted in accordance with Prairie Village Municipal Code 3-202. The applications are available for review in the City Clerk's Office. These businesses do not currently have Cereal Malt Beverage Licenses.

ATTACHMENTS

None

PREPARED BY

Joyce Hagen - Mundy

City Clerk

Date: October 30, 2009

COUNCIL COMMITTEE OF THE WHOLE
October 19, 2009

The Council Committee of the Whole met on Monday, October 19, 2009 at 6:00 p.m. The meeting was called to order by Council President Michael Kelly with the following members present: Mayor Shaffer, Al Herrera, Dale Warman, Ruth Hopkins, Michael Kelly, Andrew Wang, Laura Wassmer, Dale Beckerman, Charles Clark, David Morrison, Diana Ewy Sharp and David Belz. Staff members present: Quinn Bennion, City Administrator; Chief Wes Jordan; Captain Tim Schwartzkopf; Bob Pryzby, Director of Public Works; Keith Bredehoeft, Project Manager; Katie Logan, City Attorney; Stephen Horner, Assistant City Attorney; Dennis Enslinger, Assistant City Administrator; Karen Kindle, Finance Director; Chris Engel, Assistant to the City Administrator and Joyce Hagen Mundy, City Clerk.

Council President Michael Kelly announced the order of the agenda has been revised to allow the Assistant City Attorney to present his items first and an informational item has been added by the Police Department.

COU2009-101 Consider Approval of an Ordinance to enact a Master Franchise Code (to enable a Wholesale Gas Transport Fee)

Steve Horner, Assistant City Attorney, presented a proposed Master Franchise Code that requires all entities with utility or utility-like facilities in the Right-of-Way and/or that are providing a utility or utility-like service within the City to have a franchise. The primary purpose of the proposed Code is to codify the City's franchise requirement and adopt the necessary provisions that will allow the City to charge a natural gas transport fee.

Mr. Horner noted that in the past the City has had an unwritten policy that any utility or utility-like entity must have a franchise, adopted in the form of an ordinance based on K.S.A. 12-2001, *et seq.* In recent years some newer entities have taken the position that the Kansas Franchise Statute provides only that a city may require a franchise, but that a city must first codify this requirement before it is applicable. Some of these entities have refused to enter into franchises without a specific city code requirement. The proposed code, to be placed as a new Article 4 to Chapter XV, would remedy this situation by

- a) Clarifying and preserving the City's right to separately adopt any necessary Public health, safety and welfare regulations relating the Right-of-Way and/or that otherwise impact utility facilities within the City and providing that all franchisees are subject to such regulations
- b) Requiring franchisees to indemnify the City from any incident arising from their facilities within the City and/or the provision of their service within the City.
- c) Requiring franchisees to submit any appropriate bonds and proof of insurance.

- d) Codifying a franchise application requirement, including the ability for the City to establish applicable franchise application fees.

Charles Clark made the following motion, which was seconded by Dale Warman and passed unanimously:

MOVE THE GOVERNING BODY ADOPT ORDINANCE 2220 ESTABLISHING GENERAL FRANCHISE AND FRANCHISE APPLICATION REQUIREMENTS IN THE CITY OF PRAIRIE VILLAGE, KANSAS; ADDING A NEW ARTICLE 4 TO CHAPTER XV OF THE CODE OF THE CITY OF PRAIRIE VILLAGE, KANSAS ENTITLED "FRANCHISES".

**COUNCIL ACTION REQUIRED
CONSENT AGENDA**

COU2009-102 Consider Approval of an Ordinance for a Kansas Gas Service Franchise

Steve Horner, Assistant City Attorney, stated the sale and price of local natural gas distribution is regulated by the Kansas Corporation Commission (KCC). Kansas Gas Service (KGS) is the designated natural gas provider for the City, and must provide a ready supply of natural gas. KGS currently has a natural gas franchise with the City, which is set to expire August 17, 2011. Under this franchise, KGS pays a franchise fee of 5% of its gross receipts; provided, it only remits 1% of gross receipts for governmental entities. Currently no franchise fees are being collected or remitted for any transport gas.

Mr. Horner noted, several years ago Kansas law changed to allow the provision of transport gas for commercial customers receiving a minimum amount of gas. KGS then requested and was granted authority to not only sell natural gas to retail customers, but to also transport natural gas through its pipelines for other natural gas sellers for a fee. The industry refers to this product as "transport gas" as opposed to the "retail sales gas" sold directly by KGS. Because KGS is not selling this transport gas, and because these transport gas sellers do not have a franchise with the City, the City is currently losing out on the franchise revenues that would otherwise be generated for the natural gas being provided to transport gas customers within the City. Mr. Horner noted there are 28 transport gas customer locations in the City with some customers having multiple locations.

As it would be difficult, if not impossible for the City to identify and enter each entity selling transport gas in the City, it is proposed that the City require KGS to act as the gatekeeper and collect from these transport gas sellers and then remit to the City a franchise fee on the transport gas. KGS has agreed to the proposed new natural gas franchise on the condition that the new fee provision commences on January 1. The franchise will have a 15-year term. However, with proper notice either party can reopen the franchise after 5 or 10 years, or at any time upon specified conditions.

The franchise fee will be 5% of gross receipts for all (retail) consumers, and will also include a similar charge on KGS' transport fee and the volumetric transport gas fee. At

its discretion, the City can later adjust the franchise fee percentage to any rate not exceeding 4%. The franchise also provides that KGS must abide by all applicable City regulations, including the City's ROW Ordinance, and provides that KGS will indemnify the City and will submit to the City a bond and proof of insurance.

Al Herrera confirmed the 5% fee can be assessed to the consumers/residents. Mr. Horner noted that 90+ percent of residential customers will not see an increase as the result of this ordinance.

Dale Beckerman confirmed that KGS will be collecting the fee from transporters and forwarding it to the City and that all 28 sites are end users, not resellers.

Charles Clark made the following motion, which was seconded by Dale Warman and passed unanimously:

**MOVE THE GOVERNING BODY ADOPT AN ORDINANCE
GRANTING TO KANSAS GAS SERVICE, A DIVISION OF ONEOK,
INC. ITS GRANTEES, SUCCESSORS AND ASSIGNS A
FRANCHISE TO CONSTRUCT, MAINTAIN AND OPERATE
ALL WORKS AND PLANTS NECESSARY OR PROPER FOR
SUPPLYING CONSUMERS WITH NATURAL GAS
COUNCIL ACTION REQUIRED
CONSENT AGENDA**

Public Safety Update

Captain Tim Schwartzkopf reported to the Council on the activities and actions taken by the department in response to complaints regarding a residence in the City that were brought to the attention of the Council by neighbors at the last City Council meeting.

The Department has responded 22 times since August 23rd to a wide variety of complaints called in. He noted at least half of the calls were made by the same individual with the others unidentified or from different individuals. The Department has investigated every complaint and is doing what it can within their legal rights. There is a misunderstanding as to what constitutes and illegal activity. Therefore, there is frustration by the neighborhood viewing the police as being non responsive. Captain Schwartzkopf gave general examples of the complaints made and actions taken by the department. He noted that two restraining orders have been issued due to a threat made by one resident against another. One arrest has been made resulting from that order.

Chief Jordan stated the Department is trying to use reason to address a sometimes unreasonable situation. They have been having one on one conversation with involved individuals. Dennis Enslinger added there have been code violations identified on the property and the property owner has generally been responsible in addressing these violations. Al Herrera asked if this was Section 8 housing. Mr. Enslinger responded there no longer is "Section 8" housing. Qualifying individuals are given vouchers which can be used anywhere they are accepted by a property owner.

***COU2009-99 Consider Project 190721: 2009 Storm Drainage Repair Program Construction Change Order #1 (Final)**

Keith Bredehoeft presented the final construction change order for Project 190721: 2009 Storm Drainage Repair Program with WCI, Inc. reflecting the final field measured quantities. The largest increases were related to the item for Street Patch Repair, \$16,998.30. Field conditions required more asphalt to be repaired than originally estimated. ADA Ramp replacement was another item that increased by \$5,511 due to additional ramps being affected by the drainage construction. The change order is an increase of 7.2% to the contract amount.

Mr. Keith Bredehoeft stated funds are available in the Capital Infrastructure Program under Project 190721: 2009 Storm Drainage Repair Program.

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

MOVE THE GOVERNING BODY APPROVE CONSTRUCTION CHANGE ORDER #1 WITH WCI, INC. FOR PROJECT 190721: 2009 STORM DRAINAGE REPAIR PROGRAM IN THE AMOUNT OF \$27,282.53 BRINGING THE FINAL CONTRACT AMOUNT TO \$404,705.73

**COUNCIL ACTION TAKEN
10/19/2009**

***COU2009-100 Consider Project 190728: Prairie Lane Drainage Project - Design Agreement**

Keith Bredehoeft presented the agreement for preliminary and final design services for this project. The new drainage system replaces the existing system located in the back yards of the properties to the north of Prairie Lane. George Butler Associates was the City's design engineer for Storm Drainage Repair Program in recent years and did the conceptual design for Prairie Lane drainage improvements. Given their involvement, staff recommended GBA for the final design work.

Mr. Bredehoeft noted this is one of the projects scheduled to be funded by the Bond issues and requested that \$48,000 be moved from the Drainage Bond account to Project 190728.

Ruth Hopkins made the following motion, which was seconded by Al Herrera and passed unanimously:

MOVE THE GOVERNING BODY APPROVE THE DESIGN AGREEMENT WITH GEORGE BUTLER ASSOCIATES FOR PROJECT 190728: 2009 PRAIRIE LANE DRAINAGE IMPROVEMENTS IN AN AMOUNT NOT TO EXCEED \$47,586

**COUNCIL ACTION TAKEN
10/19/2009**

Council President Michael stated the next three items are all related to park expenditures and will all be discussed prior to voting on any of the items.

***COU2009-96 Consider Approval of Project 190652 Park Identification Signs**

Bob Pryzby stated the recently completed Park Master Plan contained a recommendation for replacing the existing park identification signs. The premise was for continuity of the City entrance sign design, which received many favorable comments. He has contacted the firm that supplied the City entrance signs. Several concepts were presented to the Parks and Recreation Committee for review. They have selected a design that used the same material as the City entrance signs but is in a different style so as not to be confused as an entrance sign. Mr. Pryzby presented samples of the proposed building materials.

He is recommending the purchase of seventeen signs- McCrum (1), Porter (2), Windsor (1), Harmon (2), Swimming Pool (1), Santa Fe (1), Meadowlake (1), Weltner (2), Bennett (1), Brenizer (1), Schliffke (1), Franklin (3).

Parks and Recreation Committee and staff are requesting authorization to waive bid requirements as this is an only source vendor.

Mr. Pryzby noted the 2009 Capital Improvement Program has a budget of \$51,000. It is proposed to transfer \$34,000.00 from Capital Improvement Program Parks Unallocated to Project 190652.

Ruth Hopkins asked how the height of the proposed signs compares to the height of the City identification signs. Mr. Pryzby responded they are the same height and are in compliance with the height regulations in the zoning ordinances.

Mayor Shaffer asked why a different color was chosen. Diane Ewy Sharp responded the Park & Recreation Committee wanted to have continuity of design with some differences and chose contrasting colors to set the signs apart.

Mayor Shaffer asked if the signs have lettering on both sides and noted the lettering is low. Mr. Pryzby responded 4 inch letter was being used. Andrew Wang asked how far off the ground in the lettering for the park name. Mr. Pryzby responded the lettering is 32" from the top and 19" from the bottom. Mayor Shaffer noted with the letter that close to the ground any landscaping around the base of the sign will be restricted to low plants and ground covering.

***COU2009-98 Consider Project 190656 Community Center Study**

Bob Pryzby stated during the 2010 budget discussions, there was consensus to budget \$50,000 in the Capital Improvement Program Parks for a Community Center Study. The purpose was to provide funding for beginning the process to construct a community center possibly in conjunction with a Natatorium being proposed by the Shawnee Mission School District. He stated there have been no plans developed. It is the intent of this money to serve as seed money to show the City's interest.

Michael Kelly asked what the status was of the Community Center Committee. David Belz stated the last time the committee met, which was some time ago, it was still unclear on the need for a community center and they recommended the next step should be a study to determine how to proceed. That recommendation was turned over to the Park & Recreation Committee and staff. Mr. Kelly asked if the study would be a feasibility study or a market study. Mr. Belz replied that was not determined but he felt it could be both. The general consensus was the issue needed more study before taking any action.

Al Herrera confirmed the \$50,000 is a front and the Council will be notified before any money is spent on the study. Bob Pryzby responded he has no intent to spend these funds.

David Morrison asked if there would be any match from the other parties. Quinn Bennion stated the other entities have stated they would provide some financial support, but they want to know specifically what the City is willing to commit. Therefore, the staff is asking for a dollar commitment from the City before it can ask for funds from the other entities. Both the school district and the park district have indicated that if they participate, they will contribute and they are interested. Dale Warman noted the city does not have financing and needs the other entities to participate.

Ruth Hopkins asked if a timetable had been developed. Quinn Bennion replied when discussing this with the other entities it was stated that once a firm is selected it would be a six month venture and it would be several more months to select a firm.

Mrs. Hopkins asked when this would begin, who would be involved from other agencies, why is the City expected to pay the greatest cost and initiate the project? Mr. Bennion responded the city has not sent out for interest or rfp's at this point and currently there are multiple contacts at the other entities; however, at some point particular individuals need to be designated and a joint body be established. He agreed at this time all of the initiative is coming from the City. He felt if the City tabled or dropped its interest, the other entities would not proceed. Diana Ewy Sharp added the school district is only interested in the construction of a natatorium and is not interested in participating in the other parts of a community center. They feel the bulk of the community center would be for the benefit of the residents of the City.

Laura Wassmer disagreed and felt the school district would use meeting rooms and any exercise facilities as well as the pool. She supports designating the money to get this moving; however, only if everyone contributes equally.

Diana Ewy Sharp stressed there are several entities involved whose needs have to be addressed in the study.

Michael Kelly asked who makes the selection based on the RFP. He is concerned with moving forward without a clearer view of what will happen and what the city is committing to. Diana Ewy Sharp stated the Parks Master Plan gave a cost of \$20

million for the construction of a community center. A high priority in the parks master plan is the exploration of a community center.

David Belz stated as chairman of the community center committee he felt it was appropriate for the committee to step back and allow this to move forward without the committee.

Ruth Hopkins stated she has concerns with moving forward, noting that a community center was not a high priority in Village Vision. This is the potential expenditure of a huge amount of money. She is opposed to Prairie Village building this because of the expense. She was supportive when discussed as a joint venture, but it appears other entities are backing off on the amount of support and involvement they are willing to give to this project. She does not feel the City can afford to put out millions of dollars for a community center.

David Belz agreed with Mrs. Hopkins; however, he wants to see the study done because he is not sure it is a good idea to build a community center and feels the question needs to be answered. However, he stressed the Council has to go into this with the attitude that they will walk away from it if necessary. It can not allow itself to go forward simply because funds were committed to a study.

Mayor Shaffer stated this project came alive with the word of a private donation of money towards a natatorium, but noted it is not known if that individual is still interested or the amount of money to be donated. Quinn Bennion noted the partnership has to be very clear. In visits with the school district and the park district they have other options. They have explored other locations with other cities. How interested is the City?

Dale Beckerman stated the question before the Council is whether or not to budget, not whether or not to spend. Quinn Bennion advised this item will come back to the Council for further consideration at several steps - RFP process, selection of vendor, approval of interlocal agreements with other entities. However, the \$50,000 will be part of the cities negotiations for other participation. Mr. Bennion stated the cost of the study will be more than \$50,000. The other entities will need to participate financially for it to be done.

Dale Warman stated at the first meeting he was not supportive of a community center based on the number and location of area facilities and he did not feel the City could support it alone. However, as a partnership with other entities, he feels this should be explored.

Al Herrera clarified it would cost more than \$50,000 to do the study. Quinn Bennion responded the Parks Master Plan consultant suggested if all the elements being discussed were included it would be more than \$50,000.

Dale Beckerman asked if it was feasible to do just the Natatorium without the Community Center. Ruth Hopkins noted that is how it was originally proposed.

Michael Kelly felt perhaps the first study should be a market study to determine it could be maintained rather than a feasibility study

Dale Beckerman restated the decision is whether or not to put the line item in place. Laura Wassmer noted historically that once something goes into the budget it usually does not come back out. She feels this has been good discussion and needs to be remembered when this item is discussed again.

***COU2009-97 Consider Project 190653 El Monte Fountain Improvements**

The City Clerk accepted three bids for improvements to the El Monte Fountain on September 25, 2009. MEGA Industries was the low bidder with a bid of \$51,009.00 for fountain rehabilitation including plumbing and electrical work. The other bids were from Swift Construction for \$54,494.30 and Aquatic Creation who did not include electrical work.

Mr. Pryzby stated the project will refurbish the fountain, improve the basin so water can be re-circulated, replace the asphalt sidewalk around the fountain with concrete, re-plumb the fountain with re-circulating pump, and provide electrical service. MEGA Industries has constructed several projects for the City in the past with good results.

Project 190653 in the 2009 Capital Improvement Program has \$20,720.75 allocated for this project. A transfer of \$36,000.00 (includes a \$5,000.00 construction contingency) is necessary.

Ian Bartalos, 4007 W 69th Street, President of the Prairie Village Homes Association, reported that their Board had met and decided to put 50% toward the cost of the repair or \$19,904.50. He noted their focus is only on the repair of the fountain and not the other aspects of the project and that they will have no on-going responsibility for maintenance. The homes association would like to have a plaque placed at the fountain recognizing their contribution.

Bob Pryzby noted this is a two year project covering 2009 and 2010 with \$10,000 each year. He noted the additional funds (\$17,000) are not available and would need to come from either Capital Improvement Program Parks Unallocated or Capital Improvement Program Street Unallocated or Development Funds or General Fund Contingency to Project 190653.

Diana Ewy Sharp stated this project is a low priority for the Park & Recreation Committee and that funding should not be taken from park designated funds. Bob Pryzby stated he was confident that funding would be available in the Capital Improvement Program Street Unallocated Fund. Dale Beckerman asked how much was available. Mr. Pryzby replied \$176,000, but noted there are still some open 2009 projects that will be closing soon.

Ian Bartalos stated that the Prairie Village Homes Association would be sending a check for \$19,000.00 in the next few days as their contribution for the fountain work.

Ruth Hopkins made the following motion, which was seconded by Dale Beckerman and passed unanimously:

MOVE THE GOVERNING BODY APPROVE THE CONSTRUCTION CONTRACT AWARD TO MEGA INDUSTRIES FOR PROJECT 190653: EL MONTE FOUNTAIN IN THE AMOUNT OF \$51,009 AND A TRANSFER OF \$17,000 FROM CAPITAL IMPROVEMENT PROGRAM STREET UNALLOCATED AND THE CITY COUNCIL APPROVE THE TRANSFER OF \$50,000 FROM CAPITAL IMPROVEMENT PROGRAM PARK UNALLOCATED TO PROJECT 190656: COMMUNITY CENTER STUDY AND THE CITY COUNCIL APPROVE THE PURCHASE OF SEVENTEEN PARK IDENTIFICATION SIGNS FROM ICS OF KANSAS CITY, MISSOURI IN THE AMOUNT OF \$85,000 WITH A TRANSFER OF \$34,000 FROM CAPITAL IMPROVEMENT PROGRAM PARKS UNALLOCATED TO PROJECT 190652: PARK IDENTIFICATION SIGNS

**COUNCIL ACTION TAKEN
10/19/2009**

Discussion regarding consultant to assist with legislative relations and monitoring

Quinn Bennion stated during the 2010 budget discussions it was suggested the City better monitor legislative actions at the national level and \$20000 was placed in the 2010 budget to do so. With the state legislative year rapidly approaching, he wanted Council direction on whether the City's efforts at the state level needed to be upgraded also. Previously staff coordinated action through communications with the League, with other cities and with professional associations. Mr. Bennion stated he felt the League should be doing a better job informing cities, noting the lack of advance information on the CID legislation adopted last year. However, his recommendation would be to continue to have staff monitor actions at the state level.

Dale Beckerman confirmed that staff felt they were getting the information they need. Dale Warman added the Chamber also has a lobbyist at Topeka and is a source of information. Ruth Hopkins noted that Rep. Kay Wolf had commented to her about the lack of communication she had received from the City the past year and wondered if the Council should be doing more.

Quinn Bennion stated, however, that on the national level he feels the level of monitoring should be upgraded. The trip taken by Mayor Shaffer, Dennis Enslinger and himself last fall was very productive with personal contacts made with several representatives and agencies. The assistance they received in setting up appointments was very helpful and he feels \$20,000 should remain in the budget for actions at the national level. He suggested also making arrangements for meetings for the Council members attending the NLC conference in March. The Council agreed with the staff recommendation.

Discussion regarding KDOT Transportation Enhancement grant application for 2011 & 2012

Chris Engel stated earlier this year staff submitted a project for consideration for a Transportation Enhancement (TE) Grant. That project, a trail from Porter Park to the Village Shops, was rated 14th of 55 projects with the top 6 projects receiving funding. During that process and discussions with KDOT, further improvements were identified that should enhance the city's chance of having the project selected for 2011-2012 funding.

If approved, the current proposal would begin at 75th Street and Nall Avenue and run east along Brush Creek, cross over Roe Avenue into Porter Park, continue along the creek up to 71st Street, head east along 71st Street across Mission Road and follow the creek between Cherokee and Brighton Gardens into Windsor Park. The deadline for submitting an application is November 30th. The Public Works Department will be the lead department on this grant/project and will coordinate with MARC by the submission deadline.

Chris Engel noted KDOT TE grants require a 20% city match. If the estimated cost of the trail project (\$1,100,000) is correct, the City would need to budget \$220,000 for its portion in the funding year. Currently included in the Parks CIP for 2012 is \$305,000 for trails although the plan is not funded.

Charles Clark asked how much right-of-way would need to be acquired. Mr. Pryzby responded the City has right-of-way up to Roe, but not beyond Roe. Mr. Clark noted the largest cost for this project will be right-of-way acquisition as construction costs are minimal.

Diana Ewy Sharp advised the Council the matching piece is not available at this time.

Laura Wassmer asked for clarification on the construction of the trail. Diana Ewy Sharp explained the trail would use what is terms "super sidewalks" that extends existing sidewalks and will less costly. Ms Wassmer expressed concern with the impact on the existing streetscape along Roe. She stated to get eight-foot sidewalks west of existing trees will put the sidewalks on residents' property. Ms Wassmer stated she is supportive of the concept, but she need to see have more specifics. Mr. Engel noted Roe Avenue was selected because it is going to be the easiest street to navigate. He noted there is lots of work yet to be done before the submittal date.

David Belz moved to direct City staff to submit Brush Creek Trail for 2011-2012 KDOT TE Grant Funding Consideration. The motion was seconded by Dale Beckerman and passed unanimously.

With no further business to come before the Council Committee of the Whole, President Michael Kelly adjourned the meeting at 7:28 p.m.

Michael Kelly
Council President

ORDINANCE NO. 2220

AN ORDINANCE ESTABLISHING GENERAL FRANCHISE AND FRANCHISE APPLICATION REQUIREMENTS IN THE CITY OF PRAIRIE VILLAGE, KANSAS; ADDING A NEW ARTICLE 4 TO CHAPTER XV OF THE CODE OF THE CITY OF PRAIRIE VILLAGE, KANSAS ENTITLED "FRANCHISES."

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

SECTION 1. That the Code of the City of Prairie Village, Kansas is hereby amended by adding a new Article 4 to Chapter XV which reads as follows:

ARTICLE 4 FRANCHISES

15-401. **TITLE.** This Ordinance shall be referred to and cited as the "Master Franchise Code." (Throughout this Article the Master Franchise Code may be referred to as "this Code.")

15-402. **DEFINITIONS.** For the purposes of this Code, the following words and phrases shall have the meanings given herein:

(a) **City** – shall mean the City of Prairie Village, Kansas. Any reference to "within the City" shall mean within the corporate city limits of the City of Prairie Village, Kansas.

(b) **Entity** – shall mean any individual person(s), governmental entity, business, corporation, partnership, firm, limited liability corporation, limited liability partnership, unincorporated association, joint venture or trust and shall include all forms of business enterprise not specifically listed herein.

(c) **Facilities** – shall mean lines, pipes, mains, laterals, wires, cables, conduit, ducts, poles, towers, cabinets, vaults, pedestals, boxes, appliances, antennae, transmitters, gates, meters, Gas Distribution System and Gas Distribution Facilities, together with all necessary appurtenances or other equipment thereto, or any part thereof, for the purpose of providing or otherwise facilitating any Service.

(d) **Franchise** – shall mean the grant, right, privilege and franchise by the City to provide, distribute, transport or sell a Service within the City and/or to install, construct, maintain, extend or operate Facilities along, across, upon, under or within the Right-of-Way. The grant, right, privilege and franchise shall be in accordance with the provisions of K.S.A. 12-2001, et seq., as amended, the City's Home Rule power, and applicable City ordinances.

(e) **Franchisee or Grantee** – shall mean any Entity that has a Franchise granted by the City pursuant to this Code, K.S.A. 12-2001, et seq., as amended, and/or the City's Home Rule power.

(f) **Franchise Fee** – shall mean consideration paid in the form of a charge upon a Franchisee as prescribed in the Ordinance granting the Franchise. Any such Franchisee Fee shall be subject to any applicable provisions of federal or state law.

(g) **Gas Consumer** – shall mean, without limitation, any Entity that receives natural gas or Other Energy within the City through a Gas Distribution System or Gas Distribution Facilities.

(h) **Gas Distribution System or Gas Distribution Facilities** – shall mean a pipeline or system of pipelines, including without limitation, mains, pipes, boxes, reducing and regulating stations, laterals, conduits and services extensions, together with all necessary appurtenances thereto, or any part thereof, for the purpose of

distribution or supplying natural gas or Other Energy for light, heat, power and all other purposes.

(i) MCF – shall mean a measurement of natural gas equal to one thousand (1,000) cubic feet. It is assumed for purposes of this Code that one MCF equals one million (1,000,000) British Thermal Units (BTUs).

(j) Other Energy – shall mean any energy provided in a gaseous, liquid, or slurry mixture form through pipelines for light, heat, power, and all other purposes as an alternative or replacement for natural gas, but specifically, it shall not include electrical energy.

(k) Reseller – shall mean a provider of Service within the City whereby the provider purchases and resells the Service of a duly authorized Franchisee, but only where the duly authorized Franchisee is already paying fees for the resold Service under its Franchise with the City. (For example, the resale of local exchange service as contemplated by K.S.A. 12-2001(n).)

(l) Right-of-Way – shall mean present and future streets, alleys, rights-of-way, and public easements, including easements dedicated to the City in plats of the City for streets and alleys. The “Right-of-Way” shall not include property owned by the City outside of said streets, alleys, rights-of-way, and easements, or public easements limited in their dedication of purpose or otherwise not intended for placement of Facilities (for example, a public easement dedicated only for stormwater purposes).

(m) Service – shall mean any utility or similar service to be provided, distributed, transported or sold to an Entity by means of a delivery or distribution system that is comprised of Facilities within the City, including without limitation, telecommunication, cable, broadband, Internet, Open Video Systems, steam, electric, water, telegraph, data transmission, natural gas, Other Energy, or any other similar service.

15-403

FRANCHISE REQUIREMENT. No Entity shall provide, distribute, transport or sell a Service within the City or shall install, construct, maintain, extend or operate Facilities along, across, upon, under or within the Right-of-Way without a Franchise authorizing the same, unless applicable federal or state law prohibits City enforcement of such requirement. This franchise requirement includes:

- (1) Entities with Facilities within the City in order to provide, distribute, transport or sell Service within the City;
- (2) Entities with Facilities within the City in order to provide, distribute, transport or sell Service outside, but not within the City; and
- (3) Entities without their own Facilities within the City that lease or otherwise use the Facilities of other Entities in order to provide, distribute, transport or sell Service within the City.

Provided, this franchise requirement shall not include a Reseller, or include a governmental entity that has entered into an agreement with the City pursuant to K.S.A. 12-2901 *et seq.* regarding the use and occupancy of the Right-of-Way.

15-404

GAS DISTRIBUTION SYSTEMS AND GAS DISTRIBUTION FACILITIES. It shall be unlawful for any Entity to install, construct, maintain, extend or operate or a Gas Distribution System or Gas Distribution Facilities or to provide, distribute, transport or sell natural gas or Other Energy within the City without first obtaining a Franchise authorizing the same and requiring a Franchise Fee. This franchise requirement applies to any provision, distribution, transportation or sale to a Gas Consumer within the City whether or not the portion of the Entity’s Gas Distribution System is in the Right-of-Way. Provided, in the event the Gas Distribution System or Gas Distribution Facilities of a Franchisee are used by an Entity without its own Gas Distribution System or Gas Distribution Facilities within the City for the transportation or sale of said

Entity's natural gas or Other Energy to a Gas Consumer, said Entity shall be exempt from the requirement of obtaining a Franchise if it reports, calculates and pays (either directly or through the Franchisee) a sum to be submitted to the City for such Services that is equivalent to the calculation of the Franchisee's Franchise Fee. In such event, if gross receipts are not or cannot be reported, a sufficient volumetric rate multiplied by the number of MCF of the transported natural gas or Other Energy may be used in making such calculation.

15-405 **PRESERVATION OF POLICE POWER AUTHORITY AND APPLICABILITY OF REGULATIONS.** Any rights granted pursuant to this Code or pursuant to any Franchise are subject to the authority of the City to adopt and enforce ordinances and regulations necessary to the health safety and welfare of the public. All Entities subject to this Code shall also be subject to and comply with all applicable federal and state laws, statutes and regulations, and all applicable rules, regulations, policies and ordinances enacted by the City, including without limitation, the City's Ordinance relating to the Use and Occupancy of the Public Right-of-Way (codified as Article 5 of Chapter XIII of the Code of the City of Prairie Village, Kansas, and amendments thereto). Provided, nothing in this Code shall be deemed to waive a right, if any, that an Entity might have to seek judicial or regulatory review as provided by law.

15-406 **NATURE OF RIGHTS GRANTED BY ANY FRANCHISE.** Franchises shall not convey title, equitable or legal, in the Right-of-Way or any other public property, but shall give only the right to occupy the Right-of-Way for the purposes and period stated within the Franchise. No Franchise shall grant the right to use Facilities owned or controlled by the City or a third-party, without the consent of such party, nor shall a Franchise excuse a Franchisee from obtaining appropriate access or attachment agreements before locating its Facilities on the Facilities owned or controlled by the City or a third-party. Any Franchise granted by the City shall be nonexclusive.

15-407 **INDEMNIFICATION OF THE CITY.** Any Entity installing, constructing, maintaining, extending or operating Facilities within the City or otherwise providing, distributing, transporting or selling a Service within the City shall hold the City harmless from any and all damages or claims arising or accruing from: the exercise of any right or privilege granted under this Code or a Franchise; the installation, construction, maintenance, extension, operation of its Facilities within the City; and the negligence or intentional acts or omissions of its employees, agents, or servants (including contractors and subcontractors) in the exercise of said installation, construction, maintenance, extension, operation, provision, distribution, transportation or sale. Failure of said Entity to obtain or maintain a Franchise shall in no manner waive this requirement and obligation.

15-408. **LIABILITY INSURANCE AND BOND REQUIREMENT.**
(a) Each Franchisee shall file with the City evidence of liability insurance with an insurance company licensed to do business in Kansas. The amount will be not less than \$1,000,000 per occurrence and \$2,000,000 in aggregate. The insurance will protect the City from and against all claims by any Entity whatsoever for loss or damage from personal injury, bodily injury, death, or property damage to the extent caused or alleged to have been caused by the negligent or wrongful acts or omissions of the Franchisee. The Franchisee shall also have coverage for automobile liability in an amount of not less than \$1,000,000 per occurrence and \$2,000,000 in aggregate. The City shall be an additional insured on all policies of Franchisee, to the extent permitted by law, unless waived in writing by the City. If the Franchisee is self-insured, it shall provide the City proof of compliance regarding its ability to self insure and proof of its

ability to provide coverage in the above amounts, and shall agree to indemnify and hold the City harmless for any losses associated with Franchisee's activities in the Right-of-Way. All contractors actually performing work for any Franchisee shall be subject to the same insurance requirements set forth herein. A copy of the liability insurance certificate or proof of self insurance must be on file with the City Clerk.

(b) To the extent any Franchisee installs, constructs, maintains, extends or operates any Facilities in the Right-of-Way, it shall maintain a performance and maintenance bond as set forth in the City's Ordinance relating to the Use and Occupancy of the Public Right-of-Way (codified as Article 5 of Chapter XIII of the Code of the City of Prairie Village, Kansas, and amendments thereto) or as set forth in the Franchise Ordinance of Franchisee. To the extent any Franchisee installs, constructs, maintains, extends or operates any Facilities anywhere else within the City, the City may require a bond in the Franchise when reasonably deemed necessary. A copy of any required bond must be on file with the City Clerk.

15-409

FRANCHISE APPLICATIONS AND RENEWALS.

(a) Applications. All applications for a Franchise shall be on forms provided or approved by the City. Any application fee shall be paid prior to processing by the City, unless otherwise agreed to by the City. Upon receipt of a completed application and any applicable fee, the designated city official shall prepare a report and make a recommendation respecting such application to the Governing Body. Each Service subject to a Franchise shall require a separate application.

(b) Application Fee. An application fee shall be paid at the time of the application in the amount established by the City; provided, the City may agree to defer submission of part or all of the application fee until all costs have been determined. As part of said application fee the City may include reimbursement for all reasonable costs incurred by the City in drafting, negotiating, adopting, and publishing the Franchise. Provided, nothing herein shall prevent the City from having any publication or other reasonable costs billed directly to the applicant. Said fee and costs shall not be considered or credited against the collection of applicable Franchise Fees.

(c) Franchise Renewal. Franchise renewals shall be in accordance with applicable law. The City and any Franchisee, by mutual consent or as otherwise provided in such Franchisee's Franchise, may enter into renewal negotiations. The City may require such Franchisee to update any application information and, subject to Kansas Statute or any provisions in such Franchisee's Franchise, submit an application fee.

15-410

APPLICABILITY. The provisions of this Code shall apply to the full extent of the terms herein, and said provisions shall be deemed incorporated into each Franchise.

15-411

FEDERAL AND STATE LAW. The requirements set forth in this Code shall be subject to the provisions of K.S.A. 12-2001 *et seq.*, as may be amended, and any other applicable federal or State law.

15-412

FAILURE TO ENFORCE. The failure of the City to insist upon the strict adherence to the requirements of this Code or of any Franchise shall not be construed as a waiver or relinquishment for the future of the rights of the City to enforce this Code or any Franchise or any term or provision thereof.

15-413

VIOLATIONS. Any Entity violating this Code shall be subject to a fine of up to \$500 per day. The payment of such fine notwithstanding, all such violators shall be subject to all other applicable provisions of this Code to fullest extent allowed by law,

including, but not limited to, the payment of a Franchise Fee or the equivalent thereof, and indemnification of the City.

15-414

SEVERABILITY. The provision of this Code shall be liberally construed to effectively carry out its purposes, which are hereby found and declared to be in furtherance of the public health, safety, welfare, and convenience. If any clause, sentence or section of this Code shall be held to be invalid, it shall not affect the remaining provisions of this Code.

SECTION 2. This Ordinance shall take effect and be in force as of the date of its passage, approval and publication as provided by law.

PASSED by the Governing Body this ___ day of _____, 2009.

APPROVED by the Mayor this ___ day of _____, 2009.

Ronald L. Shaffer, Mayor

ATTEST:

APPROVED AS TO FORM:

Joyce Hagen Mundy, City Clerk

Stephen B. Horner, Assistant City Attorney

ORDINANCE NO. 2221

AN ORDINANCE GRANTING TO KANSAS GAS SERVICE, A DIVISION OF ONEOK, INC. ITS GRANTEES, SUCCESSORS AND ASSIGNS A FRANCHISE TO CONSTRUCT, MAINTAIN AND OPERATE ALL WORKS AND PLANTS NECESSARY OR PROPER FOR SUPPLYING CONSUMERS WITH NATURAL GAS.

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

SECTION 1. Definitions.

For purposes of this Franchise, the following words and phrases shall have the meanings given herein:

City – shall mean the City of Prairie Village, Kansas.

Consumer – shall mean, without limitation, any Entity that receives natural gas within the Corporate City limits through the Franchisee's Distribution System or Distribution Facilities.

Distribution System or Distribution Facilities – shall mean a pipeline or system of pipelines, including without limitation, mains, pipes, boxes, reducing and regulating stations, laterals, conduits and services extensions, together with all necessary appurtenances thereto, or any part thereof located within the Right-of-Way, for the purpose of "Distribution" or supplying natural gas for light, heat, power and all other purposes.

Distributed or Distribution – shall mean all sales, supply, or transportation of natural gas to any Consumer for use within the City by the Franchisee or by others through the Facilities of the Franchisee in the Right-of-Way.

Entity – shall mean any individual person(s), governmental entity, business, corporation, partnership, firm, limited liability corporation, limited liability partnership, unincorporated association, joint venture or trust and shall include all forms of business enterprise not specifically listed herein.

Franchise – shall mean the grant of authority by the City to transport, distribute or sell natural gas within the City and to operate a Distribution System or Distribution Facilities. The grant of authority shall be in accordance with the provisions of K.S.A. 12-2001, et seq., as amended and City ordinances.

Franchisee – shall mean Kansas Gas Service, a Division of ONEOK, Inc.

Franchise Fee – shall mean consideration paid in the form of a charge upon the Franchisee as prescribed in this Franchise Ordinance.

Franchise Ordinance – shall mean this Ordinance granting a natural gas Franchise to the Franchisee.

Gross Receipts – shall mean any and all compensation and other consideration derived directly or indirectly by the Franchisee from any Distribution of natural gas to a Consumer for any use, including domestic, commercial and industrial purposes, and shall include, but not be limited to, revenues from any operation or use of any or all Distribution Facilities in the Right-of-Way by the Franchisee or others, including without limitation, charges as provided in tariffs filed and approved, and shall also include all fees or rentals received by the Franchisee for the lease or use of pipeline capacity within the corporate limits of the City for Transport Gas services; but such term shall not include revenue from certain miscellaneous charges and accounts, including but not limited to

delayed or late payment charges, connection and disconnection fees, reconnection fees, customer project contributions, returned check charges, and temporary service charges.

MCF – shall mean a measurement of natural gas equal to one thousand (1,000) cubic feet. It is assumed for purposes of this Franchise Ordinance that one MCF equals one million (1,000,000) British Thermal Units (BTUs).

Right-of-Way – shall mean present and future streets, alleys, rights-of-way, and public easements, including easements dedicated to the City in plats of the City for streets and alleys. The “Right-of-Way” shall not include property owned by the City outside of said streets, alleys, right-of-way and easements, or public easements limited in their dedication of purpose or otherwise not intended for placement of Distribution Facilities (for example, a public easement dedicated only for stormwater purposes).

Settlement Prices – shall mean the settlement prices for natural gas futures contracts traded on the New York Mercantile Exchange (NYMEX) on the fifteenth (15th) day of each month as published in the *Wall Street Journal* (WSJ), or other nationally recognized publication, on the following business day (or the next day in which a Settlement Price is published).

Transport Gas – shall mean all natural gas transported by the Franchisee or by others, but not sold by the Franchisee, to any Consumer within the City through the Distribution Facilities of the Franchisee.

Volumetric Rate – shall, upon the effective date of this Franchise, mean \$0.3305 per MCF for all Transport Gas Consumers for the period beginning with the first cycle of the monthly billing cycle which begins in January 2010. The Volumetric Rate shall be subject to adjustment and recalculation in the future in accordance with the provisions set forth below. The Volumetric Rate calculation form incorporated herein and attached hereto as **Attachment A** shall be used as a sample for recalculating the Volumetric Rate. There shall be an annual recalculation of the Volumetric Rate which shall be effective each January 1, with the first recalculation being effective in January 2011. The recalculation shall be based on Settlement Prices for the twelve (12) month period beginning in July of the second (2nd) preceding year and ending in June of the preceding year. For the fifteenth (15th) day of each month during said twelve (12) month period, the Settlement Prices for natural gas for the next twelve (12) months will be summed and divided by twelve (12) to determine an average Settlement Price. The average Settlement Prices for each of the twelve (12) months shall then be summed and divided by twelve (12) and multiplied by five percent (5%) to obtain the Volumetric Rate to be effective January 1 of the next succeeding year. The Volumetric Rate shall be calculated by the City in accordance with the procedures set out herein and filed with the City Clerk by July 31 of each year for those rates to be effective on January 1 of the following year.

SECTION 2. Grant of Franchise.

For the limited purpose of Distribution of natural gas to the City and the inhabitants thereof, for the full term of this Franchise Ordinance, subject, however, to the terms and conditions herein set forth, there is hereby granted to the Franchisee, the non-exclusive right, privilege, and franchise to construct, maintain, extend, and operate its Distribution Facilities in, through, and along the Right-of-Way of the City and for the limited purposes of this Franchise Ordinance to maintain and operate Distribution Facilities existing on City park land or other non-Right-of-Way public property as of the effective date of this Franchise Ordinance, provided all Franchisee facilities authorized on said public property pursuant to this Franchise Ordinance shall be subject to the removal and relocation provisions of the City's Ordinance relating to the Use and Occupancy of the Public Right-of-Way, codified as Article 5 of Chapter XIII of the Code of the City of Prairie Village, Kansas, and amendments thereto. For such purposes, any removal or relocation from any such park land or other non-Right-of-Way public property shall be subject to the removal and relocation provisions

established for Right-of-Way, unless the Franchisee has been specifically granted a private easement of record for the same. Nothing in this grant shall be construed to franchise or authorize the use of the Franchisee's Distribution Facilities or the Right-of-Way by the Franchisee or others, for any purpose other than the provision of natural gas. The Franchisee may not allow a subsidiary, affiliate, or a third party to acquire rights to occupy the Right-of-Way under this Franchise Ordinance; provided, that nothing in this section shall prevent the Franchisee from allowing the use of its Distribution Facilities by others for the purpose of providing Transport Gas to Consumers when the City is compensated for such use, pursuant to the provisions of this Franchise Ordinance.

SECTION 3. Term and Re-opener Provisions.

A. The term of this Franchise shall be fifteen (15) years from the effective date of this Franchise Ordinance.

B. Upon written request of either the City or the Franchisee, this Franchise may be reopened and reviewed after five (5) years and after ten (10) years from the effective date of this Franchise and either the City or the Franchisee may propose amendments to any provision of this Franchise by giving sixty (60) days written notice to the other of the amendment(s) desired. The City and the Franchisee shall negotiate in good faith in an effort to agree upon a mutually satisfactory amendment(s).

C. Upon written request of either the City or the Franchisee, the Franchise shall be reopened and renegotiated at any time upon any of the following events:

1. Change in federal, state, or local law, regulation, or order, which materially affects any rights or obligations of either the City or the Franchisee, including but not limited to the scope of the grant to the Franchisee or the compensation to be received by the City;

2. Change in the structure or operation of the natural gas industry which materially affects any rights or obligations of either the City or the Franchisee, including but not limited to the scope of the grant to the Franchisee or the compensation to be received by the City;

3. Action by the Kansas Corporation Commission (KCC) with respect to this Franchise Ordinance and any amendments thereto, which precludes the Franchisee from recovering from its customers any costs or fees provided for hereunder.

D. Upon written request by the Franchisee to the City, the compensation provisions of this Franchise Ordinance shall be reopened and renegotiated if energy consumers within the City have access to alternative natural gas suppliers or other suppliers of energy which use the Right-of-Way and/or easements granted on publicly owned property and pay a franchise fee or other payment which results in a material disadvantage to the Franchisee. Upon written request by the Franchisee to the City, the compensation provisions of this Franchise Ordinance and the use of the Right-of-Way provisions of this Franchise Ordinance shall be reopened and renegotiated if energy consumers within the City have access to alternative natural gas suppliers or other suppliers of energy which use the Right-of-Way and do not have requirements on the use of the Right-of-Way substantially equivalent to the requirements of this Franchise Ordinance, which results in a material disadvantage to the Franchisee.

E. Upon written request by City to the Franchisee, the compensation provisions of Section 4. A. of this Franchise Ordinance shall be reopened; provided, however, that any new compensation provisions shall not exceed five percent (5%) of the Gross Receipts received from the Franchisee's Distribution of natural gas.

F. Upon written request by either party to the other, the compensation provisions of this Franchise Ordinance shall be reopened and renegotiated should issues arise related to the Volumetric Rate or matters related to the collection and payment of compensation due the City for Franchisee operations related to Transport Gas.

G. Amendments under this Section, if any, shall be made by ordinance as prescribed by statute. This Franchise Ordinance shall remain in effect according to its terms pending completion of any review or renegotiations pursuant to this Section.

SECTION 4. Compensation to the City.

In consideration of and as compensation for the Franchise hereby granted to the Franchisee by the City, the Franchisee shall make an accounting to the City of all natural gas that has been Distributed within the City on a monthly basis. The Franchisee shall pay the City as compensation:

A. A sum equal to five percent (5%) of the Gross Receipts received from the Franchisee's Distribution of natural gas to all Consumers; and

B. A sum equal to the Volumetric Rate multiplied by the number of MCF of Transport Gas.

The sums in A and B above shall be adjusted for uncollectible receivables and for uncollectible receivables which are later collected.

Payments of the compensation above shall commence with the first cycle of the monthly billing cycle which begins in January 2010. Prior to that date, payments shall continue to be calculated and be paid in the manner previously provided in City Ordinance No. 1892. Such payments shall be made on or before the last day of each month and shall be based upon such Gross Receipts charged and collected for the preceding month.

In the event the accounting rendered to the City by the Franchisee is found to be incorrect, then payment shall be made on the corrected amount, it being agreed that the City may accept any amount offered by the Franchisee, but the acceptance thereof by the City shall not be deemed a settlement of such item if the amount is in dispute or later found to be incorrect. The Franchisee agrees that all of its books, records, and documents and all of its contracts and agreements as may be reasonably necessary for an effective compliance review of this Franchise Ordinance shall at all reasonable times be opened to the inspection and examination of the officers of the City and its duly authorized agents, auditor, and employees for the purpose of verifying said accounting, or for any other lawful purpose. Notwithstanding the obligations herein, the Franchisee shall have the right to request the reasonable protection of proprietary information of the Franchisee so long as such request does not unreasonably frustrate the purposes of this subsection.

For each and every month, or any part thereof, that the compensation provided for by this Franchise Ordinance remains unpaid after the same becomes due and payable to the City, there shall be added to such payment, as a late charge, a sum equivalent to the statutory rate of interest on the unpaid amount. Such late charge shall be applicable to sums that are delinquent as well as any sums due the City as a result of an audit of the Franchisee's records.

SECTION 5. Use of Right-of-Way.

The Franchisee's use of the Right-of-Way granted by the City shall be subject to all rules, regulations, policies, resolutions, and ordinances now or hereafter adopted or promulgated by the City in the reasonable exercise of its police power relating to use, placement, location, or management of utilities located in the City's Right-of-Way. In addition, the Franchisee shall be

subject to all rules, regulations, policies, resolutions, and ordinances now or hereafter adopted or promulgated by the City relating to permits, sidewalk and pavement cuts, utility location, construction coordination, screening, and other requirements on the use of the Right-of-Way. With regard to the same, the City and the Franchisee acknowledge that such rules, regulations, policies, resolutions and ordinances include, but are not limited to, the City's Ordinance relating to the Use and Occupancy of the Public Right-of-Way, codified as Article 5 of Chapter XIII of the Code of the City of Prairie Village, Kansas, and amendments thereto. Provided, however, that nothing contained herein shall constitute a waiver of or be construed as waiving the right of the Franchisee to oppose, challenge, or seek judicial review of, in such manner as is now or may hereafter be provided by law, any such rules, regulations, policies, resolutions, or ordinances proposed, adopted, or promulgated by the City.

SECTION 6. Notice of Property Annexed by City.

Notwithstanding anything to the contrary in this Franchise Ordinance, the fees provided for in Section 4 above shall not become effective within any area annexed by the City until the first of the month billing cycle which begins no more than sixty (60) days after the date that the City provides the Franchisee with a certified copy of the annexation ordinance, proof of publication as required by law and a map of the City detailing the annexed area.

SECTION 7. Indemnity and Hold Harmless.

The Franchisee shall indemnify and hold the City and its officers and employees harmless against any and all claims, lawsuits, judgments, costs, liens, losses, expenses, fees (including reasonable attorney fees and costs of defense), proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including personal or bodily injury (including death), property damage or other harm for which recovery of damages is sought, to the extent that it is found by court of competent jurisdiction to be caused by the negligence or intentional acts or omissions of the Franchisee, any agent, officer, director, representative, employee, affiliate or subcontractor of the Franchisee, or its respective officers agents, employees, directors or representative, while installing, repairing or maintaining Distribution Facilities in the Right-of-Way or in regards any action or inaction related to the Franchisee's obligations set forth in this Franchise.

The indemnity provided by this subsection does not apply to any liability resulting from the negligence of the City, its officers, employees, contractors or subcontractors. If the Franchisee and the City are found jointly liable by a court of competent jurisdiction, liability shall be apportioned comparatively in accordance with the laws of this state without, however, waiving any governmental immunity available to the City under the state law and without waiving any defenses of the parties under state or federal law. This section is solely for the benefit of the City and the Franchisee and does not create or grant any rights, contractual or otherwise, to any other person or Entity.

SECTION 8. Insurance Requirements and Performance Bond.

A. During the term of this Franchise Ordinance, the Franchisee shall obtain and maintain insurance coverage at its sole expense, with financially reputable insurers that are licensed to do business in the State of Kansas. Should the Franchisee elect to use the services of an affiliated captive insurance company for this purpose, that company shall possess a certificate of authority from the Kansas Insurance Commissioner. The Franchisee shall provide not less than the following insurance:

1. Workers' compensation as provided for under any workers' compensation or similar law in the jurisdiction where any work is performed with an employers' liability limit equal to the amount required by law.

2. Commercial general liability, including coverage for contractual liability and products completed operations liability on an occurrence basis and not a claims made basis, with a limit of not less than One Million Dollars (\$1,000,000) combined single limit per occurrence for bodily injury, personal injury, and property damage liability and umbrella or excess liability insurance of not less than One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) aggregate. The City shall be included as an additional insured with respect to liability arising from the Franchisee's operations under this Franchise Ordinance.

B. As an alternative to the requirements of subsection A, the Franchisee may demonstrate to the satisfaction of the City that it is self-insured and as such the Franchisee has the ability to provide coverage in an amount not less than one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) in the aggregate, to protect the City from and against all claims by any person whatsoever for loss or damage from personal injury, bodily injury, death or property damage occasioned by the Franchisee, or alleged to so have been caused or occurred.

C. The Franchisee shall deliver to the City a certificate of insurance or evidence of self-insurance, satisfactory in form and content to the City, evidencing that the above insurance is in force and will not be cancelled or materially changed with respect to areas and entities covered without first giving the City thirty (30) days prior written notice. The Franchisee shall make available to the City on request the policy declarations page.

D. The Franchisee shall, prior to the commencement of any work and prior to any renewal thereof, deliver to the City a performance bond in the amount of \$5,000 or the value of the restoration, whichever is greater, for a term consistent with the term of the permit plus two (2) additional years, and payable to the City to ensure the appropriate and timely performance in the construction and maintenance of Distribution Facilities located in the Right-of-Way. The required performance bond must be with good and sufficient sureties, issued by a surety authorized to transact business in the State of Kansas, and satisfactory to the City Attorney in form and substance. Alternatively, if the Franchisee anticipates that it will be engaged in the construction and/or maintenance of its Facilities in the Right-of-Way multiple times during the course of a year, the Franchisee may choose to meet the bond requirements by providing a bond of \$50,000 annually.

SECTION 9. Right of Assignment.

This Franchise shall be assignable only in accordance with the laws of the State of Kansas, as the same may exist at the time when any assignment is made.

SECTION 10. Revocation and Termination.

In case of failure on the part of the Franchisee to comply with any of the provisions of this Franchise Ordinance, or if the Franchisee should do or cause to be done any act or thing prohibited by or in violation of the terms of this Franchise Ordinance, the Franchisee shall forfeit all right, privileges and franchise granted herein, and all such rights, privileges and franchise hereunder shall cease, terminate and become null and void, and this Franchise Ordinance shall be deemed revoked or terminated, provided that said revocation or termination, shall not take effect until the City has completed the following procedures: Before the City proceeds to revoke and terminate this Franchise, it shall first serve a written notice upon the Franchisee, setting forth in detail the neglect or failure complained of, and the Franchisee shall have ninety (90) days thereafter in which to comply with the conditions and requirements of this Franchise Ordinance. If a cure cannot be reasonably affected within ninety (90) days, the Franchisee shall be afforded such additional time to cure, as the City and the Franchisee shall agree. If at the end of such period the City deems that the conditions have not been complied with, the City shall take action to revoke and terminate this

Franchise by an affirmative vote of the City Council present at the meeting and voting, setting out the grounds upon which this Franchise is to be revoked and terminated; provided, to afford the Franchisee due process, the Franchisee shall first be provided reasonable notice of the date, time and location of the City Council's consideration, and shall have the right to address the City Council regarding such matter. Nothing herein shall prevent the City from invoking any other remedy that may otherwise exist at law. Upon any determination by the City Council to revoke and terminate this Franchise, the Franchisee shall have thirty (30) days to appeal such decision to the District Court of Johnson County, Kansas. This Franchise Ordinance shall be deemed revoked and terminated at the end of this thirty-day period, unless the Franchisee has instituted such an appeal. If the Franchisee does timely institute such an appeal, such revocation and termination shall remain pending and subject to the court's final judgment and any appeal therefrom. Provided, however, that the failure of the Franchisee to comply with any of the provisions of this Franchise Ordinance or the doing or causing to be done by the Franchisee of anything prohibited by or in violation of the terms of this Franchise Ordinance shall not be a ground for the revocation or termination thereof when such act or omission on the part of the Franchisee is due to any cause or delay beyond the control of the Franchisee or to bona fide legal proceedings.

SECTION 11. Rights and Duties of the Franchisee Upon Expiration of Franchise.

Upon expiration of this Franchise Ordinance, whether by lapse of time, by agreement between the Franchisee and the City, or by forfeiture thereof, the Franchisee shall have the right to remove any and all of its mains and pipes, laterals, appurtenances, and equipment used in its business within a reasonable time and after such expiration, but in such event, it shall be the duty of the Franchisee, immediately upon and during such removal to restore the streets, avenues, alleys, parks, and other public ways and grounds from which said pipes, laterals, and other equipment have been removed, to the equivalent condition as the same were before said removal was effects.

SECTION 12. Acceptance of Terms by the Franchisee.

The Franchisee shall have sixty (60) days after the final passage and approval of this Franchise Ordinance to file with the City Clerk its acceptance in writing of the provisions, terms and conditions of this Franchise Ordinance, which acceptance shall be duly acknowledged before some officer authorized by law to administer oaths; and when so accepted, this Franchise Ordinance and acceptance shall constitute a contract between the City and the Franchisee subject to the provisions of the laws of the State of Kansas, and said contract shall be deemed effective on the date the Franchisee files acceptance with the City.

SECTION 13. Conditions of Franchise.

This non-exclusive Franchise, grant, and privilege is granted under and subject to all applicable laws and under and subject to all of the orders, rules, and regulations now or hereafter adopted by governmental bodies now or hereafter having jurisdiction, and each and every provision hereof shall be subject to acts of God, fires, strikes, riots, floods, war and other causes beyond the City's or the Franchisee's control.

SECTION 14. Invalidity of Ordinance.

If any clause, sentence, or section of this Franchise Ordinance shall be held to be invalid, it shall not affect the remaining provisions of this Franchise Ordinance.

SECTION 15. Failure to Enforce.

The failure of either the City or the Franchisee to insist in any one or more instances upon the strict performance of any one or more of the terms or provisions of this Franchise Ordinance

shall not be construed as a waiver or relinquishment for the future of any such term or provision, and the same shall continue in full force and effect. No waiver or relinquishment shall be deemed to have been made by the City or the Franchisee unless said waiver or relinquishment is in writing and signed by both the City and the Franchisee.

SECTION 16. Payment of Costs.

The Franchisee shall be responsible for payment of all costs and expense of publishing this Franchise Ordinance and any amendments thereof.

SECTION 17. Repeal of Conflicting Ordinances.

The Franchisee's prior franchise, as adopted by City Ordinance No. 1892, is hereby repealed as of the first cycle of the monthly billing cycle which begins in January 2010. Provided, the repeal of said franchise shall not affect any rights of either party regarding any unpaid consideration thereunder, if any, and said franchise repealed is hereby continued in force and effect after the passage, approval, acceptance and publication of this Franchise Ordinance for the sole purposes of preserving such rights.

SECTION 18. Notice.

Unless expressly otherwise agreed by the parties, every notice or response to be served upon the City or the Franchisee shall be in writing, and shall be deemed to have been duly given to the required party when delivered personally to the person designated below, or five (5) business days after having been posted in a properly sealed and correctly addressed envelope by certified or registered mail, postage prepaid, at a Post Office or branch thereof regularly maintained by the U.S. Postal Service. The notices or responses shall be addressed as follows:

The City:
City of Prairie Village
7700 Mission Road
Prairie Village, Kansas 66208
Attn: City Clerk

The Franchisee:
Kansas Gas Service
7421 W 129th Street
Overland Park, Kansas 66213
Attn: President, Kansas Gas Service

The City and the Franchisee may designate such other address or addresses from time to time by giving written notice to the other party.

SECTION 19. Effective Date of Ordinance.

This Franchise Ordinance shall take effect and be in force from and after its passage, approval by the City, acceptance by the Franchisee, and publication in the official city newspaper.

PASSED by the Governing Body this ____ day of _____, 2009.

APPROVED by the Mayor this ____ day of _____, 2009.

Ronald L. Shaffer, Mayor

ATTEST:

APPROVED AS TO FORM:

Joyce Hagen Mundy, City Clerk

Stephen B. Horner, Assistant City Attorney



ADMINISTRATION

Council Meeting Date: November 2, 2009

New Business - Consider Items to Finalize Issuance of Series 2009-A Bonds

RECOMMENDATION

Council accept the winning bid, adopt Ordinance No. 2223 and Resolution No. 2009-20 related to the issuance of the Series 2009-A General Obligation bonds.

SUGGESTED MOTIONS

Motion #1: Move to accept the best bid and to authorize and direct the Mayor and the Clerk to execute the bid form selling the bonds to the best bidder on the basis of said bid and the terms specified in the Notice of Bond Sale.

Motion #2: Move to adopt Ordinance No. 2223 - AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF \$10,165,000 PRINCIPAL AMOUNT OF GENERAL OBLIGATION REFUNDING AND IMPROVEMENT BONDS, SERIES 2009-A, OF THE CITY OF PRAIRIE VILLAGE, KANSAS; PROVIDING FOR THE LEVY AND COLLECTION OF AN ANNUAL TAX FOR THE PURPOSE OF PAYING THE PRINCIPAL OF AND INTEREST ON SAID BONDS AS THEY BECOME DUE; AUTHORIZING CERTAIN OTHER DOCUMENTS AND ACTIONS IN CONNECTION THEREWITH; AND MAKING CERTAIN COVENANTS WITH RESPECT THERETO.

Motion #3: Move to adopt Resolution No. 2009-20 - A RESOLUTION PRESCRIBING THE FORM AND DETAILS OF AND AUTHORIZING AND DIRECTING THE SALE AND DELIVERY OF \$10,165,000 PRINCIPAL AMOUNT OF GENERAL OBLIGATION REFUNDING AND IMPROVEMENT BONDS, SERIES 2009-A, OF THE CITY OF PRAIRIE VILLAGE, KANSAS, PREVIOUSLY AUTHORIZED BY ORDINANCE NO. 2223 OF THE ISSUER; MAKING CERTAIN COVENANTS AND AGREEMENTS TO PROVIDE FOR THE PAYMENT AND SECURITY THEROF; AND AUTHORIZING CERTAIN OTHER DOCUMENTS AND ACTIONS CONNECTED THEREWITH.

BACKGROUND

Over the past several months staff has been working with the City's Bond Counsel and Financial Advisor on a bond issue to take advantage of the current market and accelerate projects in the CIP. The bonds are being sold on Monday, November 2, 2009. At the Council Meeting that night there are several items

which need to be considered by the Council in order to finalize the sale. Each item is described below.

Accepting the Winning Bid - The City will have to formally accept the winning bid as presented in documents to be received after the sale on Monday, November 2, 2009. This is done via a regular vote of the Council, not via ordinance or resolution.

Ordinance No. 2223 - AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF \$10,165,000 PRINCIPAL AMOUNT OF GENERAL OBLIGATION REFUNDING AND IMPROVEMENT BONDS, SERIES 2009-A, OF THE CITY OF PRAIRIE VILLAGE, KANSAS; PROVIDING FOR THE LEVY AND COLLECTION OF AN ANNUAL TAX FOR THE PURPOSE OF PAYING THE PRINCIPAL OF AND INTEREST ON SAID BONDS AS THEY BECOME DUE; AUTHORIZING CERTAIN OTHER DOCUMENTS AND ACTIONS IN CONNECTION THEREWITH; AND MAKING CERTAIN COVENANTS WITH RESPECT THERETO.

- This ordinance authorizes the issuance of the bonds and authorizes payment of the bonds from the City's property tax revenue.
- It also authorizes the City to make the principal and interest payments as they become due during the life of the bonds.
- Finally, it authorizes City representatives to execute the various documents required as part of the issuance of the bonds.

Resolution No. 2009-20 - A RESOLUTION PRESCRIBING THE FORM AND DETAILS OF AND AUTHORIZING AND DIRECTING THE SALE AND DELIVERY OF \$10,165,000 PRINCIPAL AMOUNT OF GENERAL OBLIGATION REFUNDING AND IMPROVEMENT BONDS, SERIES 2009-A, OF THE CITY OF PRAIRIE VILLAGE, KANSAS, PREVIOUSLY AUTHORIZED BY ORDINANCE NO. 2223 OF THE ISSUER; MAKING CERTAIN COVENANTS AND AGREEMENTS TO PROVIDE FOR THE PAYMENT AND SECURITY THEROF; AND AUTHORIZING CERTAIN OTHER DOCUMENTS AND ACTIONS CONNECTED THEREWITH.

- This resolution covers all aspects and requirements related to the bonds and will govern the bonds until they have matured or have been redeemed by the City. This resolution contains all the details regarding the bonds, including items such as who the bond paying agent and registrar is, redemption of the bonds, security of the bonds, how the bond proceeds are to be accounted for and invested, disclosure requirements, etc.

Mr. Jeff White, Columbia Capital Management, will be at the meeting to discuss the sale and bids received and answer questions about that process.

Mr. Gary Anderson, Gilmore & Bell, will be at the meeting to discuss the ordinance and resolution, and answer questions.

RELATION TO VILLAGE VISION

CFS3A - Ensure streets and sidewalks are in good condition by conduction maintenance and repairs as needed.

FINANCIAL IMPACT

Any bond issue-related costs incurred by the City's consultants are reimbursed by the bond proceeds.

ATTACHMENTS: Ordinance No. 2223, Resolution No. 2009-20. These documents contain several blanks which cannot be completed until after the sale of the bond on the morning of November 2, 2009. At the Council meeting on November 2, 2009, completed documents will be furnished to the Council along with documents related to the bid results.

Prepared By:
Karen Kindle
Finance Director
Date: 10/30/09

G.O. BASIC DOCUMENTS

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

**EXCERPT OF MINUTES OF A MEETING
OF THE GOVERNING BODY OF
THE CITY OF PRAIRIE VILLAGE, KANSAS
HELD ON NOVEMBER 2, 2009**

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

Absent:

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

(Other Proceedings)

The Clerk reported that pursuant to the Notice of Bond Sale heretofore duly given, bids for the purchase of \$10,165,000 principal amount of General Obligation Refunding and Improvement Bonds, Series 2009-A, dated the date of delivery, of the City had been received. A tabulation of said bids is set forth as *EXHIBIT A* hereto.

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

Councilmember _____ moved that said bid be accepted and that the Mayor and Clerk be authorized and directed to execute the bid form selling the Bonds to the best bidder on the basis of said bid and the terms specified in the Notice of Bond Sale. The motion was seconded by Councilmember _____. Said motion was carried by a vote of the governing body with the vote being as follows:

Yea: _____

Nay: _____

Thereupon, there was presented an Ordinance entitled:

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF \$10,165,000 PRINCIPAL AMOUNT OF GENERAL OBLIGATION REFUNDING AND IMPROVEMENT BONDS, SERIES 2009-A, OF THE CITY OF PRAIRIE VILLAGE, KANSAS; PROVIDING FOR THE LEVY AND COLLECTION OF AN ANNUAL TAX FOR THE PURPOSE OF PAYING THE PRINCIPAL OF AND INTEREST ON SAID BONDS AS THEY BECOME DUE; AUTHORIZING CERTAIN OTHER DOCUMENTS AND ACTIONS IN CONNECTION THEREWITH; AND MAKING CERTAIN COVENANTS WITH RESPECT THERETO.

Thereupon, Councilmember _____ moved that said Ordinance be passed. The motion was seconded by Councilmember _____. Said

Ordinance was duly read and considered, and upon being put, the motion for the passage of said Ordinance was carried by the vote of the governing body, the vote being as follows:

Yea: _____.

Nay: _____.

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

Thereupon, there was presented a Resolution entitled:

A RESOLUTION PRESCRIBING THE FORM AND DETAILS OF AND AUTHORIZING AND DIRECTING THE SALE AND DELIVERY OF \$10,165,000 PRINCIPAL AMOUNT OF GENERAL OBLIGATION REFUNDING AND IMPROVEMENT BONDS, SERIES 2009-A, OF THE CITY OF PRAIRIE VILLAGE, KANSAS, PREVIOUSLY AUTHORIZED BY ORDINANCE NO. 2223 OF THE ISSUER; MAKING CERTAIN COVENANTS AND AGREEMENTS TO PROVIDE FOR THE PAYMENT AND SECURITY THEREOF; AND AUTHORIZING CERTAIN OTHER DOCUMENTS AND ACTIONS CONNECTED THEREWITH.

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

Yea: _____.

Nay: _____.

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

(Other Proceedings)

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

CERTIFICATE

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

(SEAL)

Clerk

EXHIBIT A

BID TABULATION

**\$10,165,000 CITY OF PRAIRIE VILLAGE, KANSAS
GENERAL OBLIGATION REFUNDING AND IMPROVEMENT BONDS**

EXHIBIT B

BID OF PURCHASER

ORDINANCE NO. 2223

OF

THE CITY OF PRAIRIE VILLAGE, KANSAS

PASSED

NOVEMBER 2, 2009

\$10,165,000

**GENERAL OBLIGATION REFUNDING AND IMPROVEMENT BONDS
SERIES 2009-A**

ORDINANCE NO. 2223

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF \$10,165,000 PRINCIPAL AMOUNT OF GENERAL OBLIGATION REFUNDING AND IMPROVEMENT BONDS, SERIES 2009-A, OF THE CITY OF PRAIRIE VILLAGE, KANSAS; PROVIDING FOR THE LEVY AND COLLECTION OF AN ANNUAL TAX FOR THE PURPOSE OF PAYING THE PRINCIPAL OF AND INTEREST ON SAID BONDS AS THEY BECOME DUE; AUTHORIZING CERTAIN OTHER DOCUMENTS AND ACTIONS IN CONNECTION THEREWITH; AND MAKING CERTAIN COVENANTS WITH RESPECT THERETO.

WHEREAS, the City is a city of the first class, duly created, organized and existing under the Constitution and laws of the State; and

WHEREAS, pursuant to the laws of the State of Kansas applicable thereto, by proceedings duly had, the governing body of the City has authorized the following improvements (the "Improvements") to be made in the City, to-wit:

<u>Project Description</u>	<u>Resolution/Ordinance Number</u>	<u>Authority</u>	<u>Estimated Amount</u>
Various public building projects	Res. No. 2009-16	K.S.A. 12-1736 <i>et seq.</i>	370,000.00
Various street projects	Res. No. 2009-15	K.S.A. 12-685 <i>et seq.</i>	6,000,000.00
Various storm sewer projects	Ord. No. 2207	K.S.A. 12-631r & s	3,050,000.00
	<i>Total:</i>		\$9,420,000.00

;and

WHEREAS, the governing body of the City is authorized by law to issue general obligation bonds of the City to pay a portion of the costs of the Improvements; and

WHEREAS, the City has heretofore issued and has outstanding general obligation bonds; and

WHEREAS, the City desires to currently refund its general obligation bonds described as follows (the "Refunded Bonds") to restructure a portion of its debt service on outstanding bonds:

<u>Series</u>	<u>Dated Date</u>	<u>Years</u>	<u>Amount to be Refunded</u>	<u>Expected Redemption Date</u>
2000-A	February 15, 2000	Bonds maturing in the years 2010 through 2014	\$675,000	November 20, 2009

; and

WHEREAS, the City proposes to issue its General Obligation Refunding and Improvement Bonds, Series 2009-A (the “Bonds”) (i) to permanently finance a portion of the cost of the Improvements, (ii) to currently refund the Refunded Bonds, and (iii) to pay the costs of issuing the Bonds; and

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

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

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

“**Act**” means the Constitution and statutes of the State including K.S.A. 10-101 to 10-125, inclusive, K.S.A. 10-427 *et seq.*, K.S.A. 10-620 *et seq.*, K.S.A. 12-631r and 12-631s, K.S.A. 12-685 *et seq.*, and K.S.A. 12-1736 *et seq.*, all as amended and supplemented from time to time.

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

“**Bond Resolution**” means the resolution to be adopted by the governing body of the City prescribing the terms and details of the Bonds and making covenants with respect thereto.

“**Bonds**” means the City’s General Obligation Refunding and Improvement Bonds, Series 2009-A, in the aggregate principal amount of \$10,165,000, and dated November 19, 2009, authorized by this Ordinance.

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

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

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

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

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

“**Refunded Bonds**” means the Series 2000-A Bonds maturing on September 1 in the years 2010 to 2014, inclusive, in the aggregate principal amount of \$675,000.

“**Refunded Bonds Redemption Date**” means November 20, 2009.

“**Refunded Bonds Resolution**” means the ordinance and the resolution which authorized the Refunded Bonds.

“Series 2000-A Bonds” means the City’s General Obligation Park Improvement Bonds, Series 2000-A, dated February 15, 2000.

“State” means the State of Kansas.

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

Section 2. Authorization of the Bonds. There shall be issued and hereby are authorized and directed to be issued the General Obligation Refunding and Improvement Bonds, Series 2009-A, of the City in the principal amount of \$10,165,000, for the purpose of providing funds: (a) to permanently finance a portion of the cost of the Improvements, (b) to currently refund the Refunded Bonds, and (c) to pay the costs of issuing the Bonds.

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

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

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

The taxes above referred to shall be extended upon the tax rolls in each of the several years, respectively, and shall be levied and collected at the same time and in the same manner as the general ad valorem taxes of the City are levied and collected, shall be used solely for the payment of the principal of and interest on the Bonds as and when the same become due and the fees and expenses of the Paying Agent. The proceeds derived from said taxes shall be deposited in the Bond and Interest Fund.

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

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

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

Section 8. Effective Date. This Ordinance shall take effect and be in full force from and after its passage by the governing body of the City, approval by the Mayor and publication in the official City newspaper.

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PASSED by the governing body of the City on November 2, 2009 and **APPROVED AND SIGNED** by the Mayor.

(SEAL)

Mayor

ATTEST:

Clerk

CERTIFICATE

I hereby certify that the foregoing is a true and correct copy of the original ordinance; that said Ordinance was passed on November 2, 2009; that the record of the final vote on its passage is found on page ____ of journal ____; and that it was published in *The Legal Record* on _____, 2009.

DATED: _____.

Clerk

RESOLUTION NO. 2009-20

OF

THE CITY OF PRAIRIE VILLAGE, KANSAS

ADOPTED

NOVEMBER 2, 2009

\$10,165,000
GENERAL OBLIGATION REFUNDING AND IMPROVEMENT BONDS
SERIES 2009-A

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RESOLUTION NO. 2009-20

A RESOLUTION PRESCRIBING THE FORM AND DETAILS OF AND AUTHORIZING AND DIRECTING THE SALE AND DELIVERY OF \$10,165,000 PRINCIPAL AMOUNT OF GENERAL OBLIGATION REFUNDING AND IMPROVEMENT BONDS, SERIES 2009-A, OF THE CITY OF PRAIRIE VILLAGE, KANSAS, PREVIOUSLY AUTHORIZED BY ORDINANCE NO. 2223 OF THE ISSUER; MAKING CERTAIN COVENANTS AND AGREEMENTS TO PROVIDE FOR THE PAYMENT AND SECURITY THEREOF; AND AUTHORIZING CERTAIN OTHER DOCUMENTS AND ACTIONS CONNECTED THEREWITH.

WHEREAS, the Issuer has heretofore adopted the Ordinance authorizing the issuance of the Bonds; and

WHEREAS, the Ordinance authorized the governing body of the Issuer to adopt a resolution prescribing certain details and conditions and to make certain covenants with respect to the issuance of the Bonds.

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

ARTICLE I

DEFINITIONS

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

“Act” means the Constitution and statutes of the State including K.S.A. 10-101 to 10-125, inclusive, K.S.A. 10-427 *et seq.*, K.S.A. 10-620 *et seq.*, K.S.A. 12-631r and 12-631s, K.S.A. 12-685 *et seq.*, and K.S.A. 12-1736 *et seq.*, as amended and supplemented from time to time.

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

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

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

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

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

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

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

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

“Bonds” means the General Obligation Refunding and Improvement Bonds, Series 2009-A, authorized and issued by the Issuer pursuant to the Ordinance and this Bond Resolution.

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

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

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

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

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

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

“Costs of Issuance Account” means the Costs of Issuance Account for General Obligation Refunding and Improvement Bonds, Series 2009-A created pursuant to *Section 501* hereof.

“Dated Date” means the Issue Date.

“Debt Service Account” means the Debt Service Account for General Obligation Refunding and Improvement Bonds, Series 2009-A (within the Bond and Interest Fund) created pursuant to *Section 501* hereof.

“Debt Service Requirements” means the aggregate principal payments (whether at maturity or pursuant to scheduled mandatory sinking fund redemption requirements) and interest payments on the Bonds for the period of time for which calculated; provided, however, that for purposes of calculating such amount, principal and interest shall be excluded from the determination of Debt Service Requirements to the extent that such principal or interest is payable from amounts deposited in trust,

escrowed or otherwise set aside for the payment thereof with the Paying Agent or other commercial bank or trust company located in the State and having full trust powers.

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

“Defeasance Obligations” means any of the following obligations:

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

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

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

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

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

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

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

(6) the obligations are rated in the highest rating category by Moody’s (presently “Aaa”) or Standard & Poor’s (presently “AAA”).

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

“Disclosure Instructions” means the Continuing Disclosure Instructions dated as of the Issue Date, attached to the Issuer’s Closing Certificate, relating to certain obligations contained in the SEC Rule.

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

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

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

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

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

(c) The Issuer shall default in the due and punctual performance of any other of the covenants, conditions, agreements and provisions contained in the Bonds or in this Bond Resolution (other than the covenants relating to continuing disclosure requirements contained herein and in the Disclosure Instructions) on the part of the Issuer to be performed, and such default shall continue for thirty (30) days after written notice specifying such default and requiring same to be remedied shall have been given to the Issuer by the Owner of any of the Bonds then Outstanding.

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

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

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

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

“Improvement Fund” means the Improvement Fund for General Obligation Refunding and Improvement Bonds, Series 2009-A created pursuant to *Section 501* hereof.

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

“Interest Payment Date(s)” means the Stated Maturity of an installment of interest on any Bond which shall be March 1 and September 1 of each year, commencing March 1, 2010.

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

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

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

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

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

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

(a) To the Issuer at:

City of Prairie Village, Kansas
7700 Mission Road
Prairie Village, Kansas 66208-4230

(b) To the Paying Agent at:

State Treasurer of the State of Kansas
Landon Office Building
900 Southwest Jackson, Suite 201
Topeka, Kansas 66612-1235

(c) To the Purchaser:

[Purchaser]
[Purchaser Address]
[Purchaser City, State]

(d) To the Rating Agency:

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

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

“Notice Representative” means:

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

“Official Statement” means Issuer’s Official Statement, dated November ____, 2009, relating to the Bonds.

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

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

- (a) Bonds theretofore canceled by the Paying Agent or delivered to the Paying Agent for cancellation;
- (b) Bonds deemed to be paid in accordance with the provisions of *Section 701* hereof; and
- (c) Bonds in exchange for or in lieu of which other Bonds have been authenticated and delivered hereunder.

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

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

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

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

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

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

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

“Rating Agency” means any company, agency or entity that provides financial ratings for the Bonds.

“Rebate Fund” means the Rebate Fund for General Obligation Refunding and Improvement Bonds, Series 2009-A created pursuant to *Section 501* hereof.

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

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

“Redemption Fund” means the Redemption Fund for Refunded Bonds created pursuant to *Section 501* hereof.

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

“Refunded Bonds” means the Series 2000-A Bonds maturing on September 1 in the years 2010 to 2014, inclusive, in the aggregate principal amount of \$675,000.

“Refunded Bonds Paying Agent” means the paying agent for the Refunded Bonds as designated in the Refunded Bonds Resolution, and any successor or successors at the time acting as paying agent of the Refunded Bonds.

“Refunded Bonds Redemption Date” means November 20, 2009.

“Refunded Bonds Resolution” means the ordinance and the resolution which authorized the Refunded Bonds.

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

“SEC Rule” means Rule 15c2-12 adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as may be amended from time to time.

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

“Series 2000-A Bonds” means the Issuer’s General Obligation Park Improvement Bonds, Series 2000-A, dated February 15, 2000.

“Series 2009-A Principal and Interest Account” means the Principal and Interest Account for the Series 2009-A Bonds.

“Special Record Date” means the date fixed by the Paying Agent pursuant to *Section 204* hereof for the payment of Defaulted Interest.

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

“State” means the state of Kansas.

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

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

“Substitute Improvements” means the substitute or additional improvements of the Issuer described in *Section 504(a)* hereof.

[“**___ Term Bonds**” means the Bonds scheduled to mature in the year ____.]

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

[“**Term Bonds**” means jointly the ____ Term Bonds and the ____ Term Bonds.]

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

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

ARTICLE II

AUTHORIZATION AND DETAILS OF THE BONDS

Section 201. Authorization of the Bonds. The Bonds have been heretofore authorized and directed to be issued pursuant to the Ordinance in the principal amount of \$10,165,000, for the purpose of

providing funds: (a) to permanently finance a portion of the cost of the Improvements, (b) to currently refund the Refunded Bonds, and (c) to pay the costs of issuing the Bonds.

Section 202. Description of the Bonds. The Bonds shall consist of fully registered bonds in an Authorized Denomination, and shall be numbered in such manner as the Bond Registrar shall determine. All of the Bonds shall be dated as of the Dated Date, shall become due in the amounts, on the Stated Maturities, subject to redemption and payment prior to their Stated Maturities as provided in *Article III* hereof, and shall bear interest at the rates per annum as follows:

SERIAL BONDS

<u>Stated Maturity</u> <u>September 1</u>	<u>Principal</u> <u>Amount</u>	<u>Annual Rate</u> <u>of Interest</u>	<u>Stated Maturity</u> <u>September 1</u>	<u>Principal</u> <u>Amount</u>	<u>Annual Rate</u> <u>of Interest</u>
2010	\$1,675,000		2015	\$200,000	
2011	1,825,000		2016	205,000	
2012	1,845,000		2017	210,000	
2013	1,870,000		2018	215,000	
2014	1,900,000		2019	220,000	

TERM BONDS

<u>Stated Maturity</u> <u>September 1</u>	<u>Principal</u> <u>Amount</u>	<u>Annual Rate</u> <u>of Interest</u>
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The Bonds shall bear interest at the above specified rates (computed on the basis of a 360-day year of twelve 30-day months) from the later of the Dated Date or the most recent Interest Payment Date to which interest has been paid on the Interest Payment Dates in the manner set forth in *Section 204* hereof.

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

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

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

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

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

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

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

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

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

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

Section 206. Registration, Transfer and Exchange of Bonds. The Issuer covenants that, as long as any of the Bonds remain Outstanding, it will cause the Bond Register to be kept at the office of

the Bond Registrar as herein provided. Each Bond when issued shall be registered in the name of the Owner thereof on the Bond Register.

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

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

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

The Issuer and the Bond Registrar shall not be required (a) to register the transfer or exchange of any Bond that has been called for redemption after notice of such redemption has been mailed by the Paying Agent pursuant to *Section 303* hereof and during the period of 15 days next preceding the date of mailing of such notice of redemption; or (b) to register the transfer or exchange of any Bond during a period beginning at the opening of business on the day after receiving written notice from the Issuer of its intent to pay Defaulted Interest and ending at the close of business on the date fixed for the payment of Defaulted Interest pursuant to *Section 204* hereof.

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

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

Section 207. Execution, Registration, Authentication and Delivery of Bonds. Each of the Bonds, including any Bonds issued in exchange or as substitutions for the Bonds initially delivered, shall be executed for and on behalf of the Issuer by the manual or facsimile signature of the Mayor, attested by the manual or facsimile signature of the Clerk and the seal of the Issuer shall be affixed thereto or imprinted thereon. The Mayor and Clerk are hereby authorized and directed to prepare and execute the

Bonds in the manner herein specified, and to cause the Bonds to be registered in the office of the Clerk, which registration shall be evidenced by the manual or facsimile signature of the Clerk with the seal of the Issuer affixed thereto or imprinted thereon. The Bonds shall also be registered in the office of the State Treasurer, which registration shall be evidenced by the manual or facsimile signature of the State Treasurer with the seal of the State Treasurer affixed thereto or imprinted thereon. In case any officer whose signature appears on any Bonds ceases to be such officer before the delivery of such Bonds, such signature shall nevertheless be valid and sufficient for all purposes, as if such person had remained in office until delivery. Any Bond may be signed by such persons who at the actual time of the execution of such Bond are the proper officers to sign such Bond although at the date of such Bond such persons may not have been such officers.

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

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

Section 208. Mutilated, Lost, Stolen or Destroyed Bonds. If (a) any mutilated Bond is surrendered to the Bond Registrar or the Bond Registrar receives evidence to its satisfaction of the destruction, loss or theft of any Bond, and (b) there is delivered to the Issuer and the Bond Registrar such security or indemnity as may be required by each of them, then, in the absence of notice to the Issuer or the Bond Registrar that such Bond has been acquired by a bona fide purchaser, the Issuer shall execute and, upon the Issuer's request, the Bond Registrar shall authenticate and deliver, in exchange for or in lieu of any such mutilated, destroyed, lost or stolen Bond, a new Bond of the same Stated Maturity and of like tenor and principal amount.

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

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

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

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

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

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

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

(b) if the Bond Registrar receives written notice from Participants having interests in not less than 50% of the Bonds Outstanding, as shown on the records of the Securities Depository (and certified to such effect by the Securities Depository), that the continuation of a book-entry system to the exclusion of any Bonds being issued to any Owner other than Cede & Co. is no longer in the best interests of the Beneficial Owners of the Bonds, then the Bond Registrar shall notify the Owners of such determination or such notice and of the availability of certificates to Owners requesting the same, and the Bond Registrar shall register in the name of and authenticate and deliver Replacement Bonds to the Beneficial Owners or their nominees in principal amounts representing the interest of each, making such adjustments as it may find necessary or appropriate as to accrued interest and previous calls for redemption; provided, that in the case of a determination under (a)(1) or (a)(2) of this paragraph, the Issuer, with the consent of the Bond Registrar, may select a successor securities depository in accordance with the following paragraph to effect book-entry transfers.

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

In the event the Securities Depository resigns, is unable to properly discharge its responsibilities, or is no longer qualified to act as a securities depository and registered clearing agency under the Securities and Exchange Act of 1934, as amended, the Issuer may appoint a successor Securities Depository provided the Bond Registrar receives written evidence satisfactory to the Bond Registrar with respect to the ability of the successor Securities Depository to discharge its responsibilities. Any such

successor Securities Depository shall be a securities depository which is a registered clearing agency under the Securities and Exchange Act of 1934, as amended, or other applicable statute or regulation that operates a securities depository upon reasonable and customary terms. The Bond Registrar upon its receipt of a Bond or Bonds for cancellation shall cause the delivery of Bonds to the successor Securities Depository in appropriate denominations and form as provided herein.

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

Section 212. Preliminary and Final Official Statement. The Preliminary Official Statement dated October 27, 2009, is hereby ratified and approved. For the purpose of enabling the Purchaser to comply with the requirements of Rule 15c2-12(b)(1) of the Securities and Exchange Commission, the Issuer hereby deems the information regarding the Issuer contained in the Preliminary Official Statement to be "final" as of its date, except for the omission of such information as is permitted by Rule 15c2-12(b)(1), and the appropriate officers of the Issuer are hereby authorized, if requested, to provide the Purchaser a letter or certification to such effect and to take such other actions or execute such other documents as such officers in their reasonable judgment deem necessary to enable the Purchaser to comply with the requirement of such Rule.

The Official Statement is hereby authorized to be prepared by supplementing, amending and completing the Preliminary Official Statement, with such changes and additions thereto as are necessary to conform to and describe the transaction. The Mayor or chief financial officer of the Issuer are hereby authorized to execute the Official Statement as so supplemented, amended and completed, and the use and public distribution of the Official Statement by the Purchaser in connection with the reoffering of the Bonds is hereby authorized. The proper officials of the Issuer are hereby authorized to execute and deliver a certificate pertaining to such Official Statement as prescribed therein, dated as of the Issue Date.

The Issuer agrees to provide to the Purchaser within seven business days of the date of the sale of Bonds sufficient copies of the Official Statement to enable the Purchaser to comply with the requirements of Rule 15c2-12(3) and (4) of the Securities and Exchange Commission and with the requirements of Rule G-32 of the Municipal Securities Rulemaking Board.

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

ARTICLE III

REDEMPTION OF BONDS

Section 301. Redemption by Issuer.

Optional Redemption. At the option of the Issuer, Bonds or portions thereof maturing on September 1, 2015 and thereafter, may be called for redemption and payment prior to their Stated Maturity on September 1, 2014, and thereafter as a whole or in part (selection of maturities and the amount of Bonds of each maturity to be redeemed to be determined by the Issuer in such equitable manner as it may determine) at any time, at the Redemption Price of 100% (expressed as a percentage of the principal amount), plus accrued interest thereon to the Redemption Date.

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

<u>Principal Amount</u>	<u>Year</u>
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*

*Final Maturity

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

<u>Principal Amount</u>	<u>Year</u>
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2019*

*Final Maturity

At its option, to be exercised on or before the 45th day next preceding any mandatory Redemption Date, the Issuer may: (1) deliver to the Paying Agent for cancellation Term Bonds subject to mandatory redemption on said mandatory Redemption Date, in any aggregate principal amount desired; or (2) furnish the Paying Agent funds, together with appropriate instructions, for the purpose of purchasing any Term Bonds subject to mandatory redemption on said mandatory Redemption Date from any Owner thereof whereupon the Paying Agent shall expend such funds for such purpose to such extent as may be practical; or (3) receive a credit with respect to the mandatory redemption obligation of the

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

Section 302. Selection of Bonds to be Redeemed.

(a) In the event the Issuer desires to call the Bonds for redemption prior to maturity, written notice of such intent shall be provided to the Bond Registrar in accordance with K.S.A. 10-129, as amended, not less than 45 days prior to the Redemption Date. The Bond Registrar shall call Bonds for redemption and payment and shall give notice of such redemption as herein provided upon receipt by the Bond Registrar at least 45 days prior to the Redemption Date of written instructions of the Issuer specifying the principal amount, Stated Maturities, Redemption Date and Redemption Prices of the Bonds to be called for redemption. If the Bonds are refunded more than 90 days in advance of such Redemption Date, any escrow agreement entered into by the Issuer in connection with such refunding shall provide that such written instructions to the Paying Agent shall be given by the escrow agent on behalf of the Issuer not more than 90 days prior to the Redemption Date. The Paying Agent may in its discretion waive such notice period so long as the notice requirements set forth in *Section 303* are met. [The foregoing provisions of this paragraph shall not apply in the case of any mandatory redemption of Term Bonds hereunder, and Term Bonds shall be called by the Paying Agent for redemption pursuant to such mandatory redemption requirements without the necessity of any action by the Issuer and whether or not the Paying Agent holds moneys available and sufficient to effect the required redemption.]

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

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

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

Section 303. Notice and Effect of Call for Redemption. Unless waived by any Owner of Bonds to be redeemed, if the Issuer shall call any Bonds for redemption and payment prior to the Stated Maturity thereof, the Issuer shall give written notice of its intention to call and pay said Bonds to the State Treasurer and the Purchaser. In addition, the Issuer shall cause the Bond Registrar to give written notice of redemption to the Owners of said Bonds. Each of said written notices shall be deposited in the United States first class mail not less than 30 days prior to the Redemption Date.

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

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

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

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

For so long as the Securities Depository is effecting book-entry transfers of the Bonds, the Bond Registrar shall provide the notices specified in this Section to the Securities Depository. It is expected that the Securities Depository shall, in turn, notify its Participants and that the Participants, in turn, will notify or cause to be notified the Beneficial Owners. Any failure on the part of the Securities Depository or a Participant, or failure on the part of a nominee of a Beneficial Owner of a Bond (having been mailed notice from the Bond Registrar, the Securities Depository, a Participant or otherwise) to notify the Beneficial Owner of the Bond so affected, shall not affect the validity of the redemption of such Bond.

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

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

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

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

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

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

ARTICLE IV

SECURITY FOR BONDS

Section 401. Security for the Bonds. The Bonds shall be general obligations of the Issuer payable as to both principal and interest from ad valorem taxes which may be levied without limitation as to rate or amount upon all the taxable tangible property, real and personal, within the territorial limits of the Issuer. The full faith, credit and resources of the Issuer are hereby irrevocably pledged for the prompt payment of the principal of and interest on the Bonds as the same become due.

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

The taxes referred to above shall be extended upon the tax rolls in each of the several years, respectively, and shall be levied and collected at the same time and in the same manner as the other ad valorem taxes of the Issuer are levied and collected. The proceeds derived from said taxes shall be deposited in the Bond and Interest Fund, shall be kept separate and apart from all other funds of the Issuer shall thereafter be deposited in the Debt Service Account and shall be used solely for the payment of the

principal of and interest on the Bonds as and when the same become due, taking into account any scheduled mandatory redemptions, and the fees and expenses of the Paying Agent.

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

ARTICLE V

ESTABLISHMENT OF FUNDS AND ACCOUNTS DEPOSIT AND APPLICATION OF BOND PROCEEDS

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

- (a) Improvement Fund for General Obligation Refunding and Improvement Bonds, Series 2009-A;
- (b) Redemption Fund for Refunded Bonds;
- (c) Debt Service Account for General Obligation Refunding and Improvement Bonds, Series 2009-A;
- (d) Rebate Fund for General Obligation Refunding and Improvement Bonds, Series 2009-A; and
- (e) Costs of Issuance Account for General Obligation Refunding and Improvement Bonds, Series 2009-A.

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

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

- (a) All accrued interest and premium, if any, received from the sale of the Bonds shall be deposited in the Debt Service Account.
- (b) The sum of \$_____ shall be deposited in the Costs of Issuance Account.
- (c) The sum of \$_____ shall be deposited in the Improvement Fund.
- (d) The sum of \$_____ shall be deposited into the Redemption Fund for Refunded Bonds and shall be used to pay principal of and interest on the Refunded Bonds on the Refunded Bonds Redemption Date.

Section 503. Application of Moneys in the Improvement Fund. Moneys in the Improvement Fund shall be used for the sole purpose of: (a) paying the costs of the Improvements, in accordance with the plans and specifications therefor approved by the governing body of the Issuer and on file in the office of the Clerk, including any alterations in or amendments to said plans and specifications deemed advisable and approved by the governing body of the Issuer; and (b) transferring any amounts to the Rebate Fund required by *Section 507* hereof.

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

Section 504. Substitution of Improvements; Reallocation of Proceeds.

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

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

Section 505. Application of Moneys in the Redemption Fund. Moneys in the Redemption Fund shall be paid and transferred to the Refunded Bonds Paying Agent, with irrevocable instructions to apply such amount to the payment of the Refunded Bonds on the Refunded Bonds Redemption Date. The Clerk is authorized and instructed to provide appropriate notice of redemption in accordance with the Refunded Bonds Resolution authorizing the issuance of such Refunded Bonds. Any moneys remaining in the Redemption Fund not needed to retire the Refunded Bonds shall be transferred to the Debt Service Account.

Section 506. Application of Moneys in Debt Service Account. All amounts paid and credited to the Debt Service Account shall be expended and used by the Issuer for the sole purpose of paying the principal or Redemption Price of and interest on the Bonds as and when the same become due and the usual and customary fees and expenses of the Bond Registrar and Paying Agent. The Treasurer is authorized and directed to withdraw from the Debt Service Account sums sufficient to pay both principal or Redemption Price of and interest on the Bonds and the fees and expenses of the Bond Registrar and Paying Agent as and when the same become due, and to forward such sums to the Paying Agent in a manner which ensures that the Paying Agent will receive immediately available funds in such amounts on or before the Business Day immediately preceding the dates when such principal, interest and fees of the Bond Registrar and Paying Agent will become due. If, through the lapse of time or otherwise, the Owners of Bonds are no longer entitled to enforce payment of the Bonds or the interest thereon, the Paying Agent shall return said funds to the Issuer. All moneys deposited with the Paying Agent shall be deemed to be deposited in accordance with and subject to all of the provisions contained in this Bond Resolution and shall be held in trust by the Paying Agent for the benefit of the Owners of the Bonds entitled to payment from such moneys.

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

Section 507. Application of Moneys in the Rebate Fund.

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

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

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

Section 508. Deposits and Investment of Moneys. Moneys in each of the Funds and Accounts shall be deposited in accordance with laws of the State, in a bank, savings and loan association or savings bank organized under the laws of the State, any other state or the United States: (a) which has a main or branch office located in the Issuer; or (b) if no such entity has a main or branch office located in the Issuer, with such an entity that has a main or branch office located in the county or counties in which the Issuer is located. All such depositories shall be members of the Federal Deposit Insurance Corporation, or otherwise as permitted by State law. All such deposits shall be invested in Permitted Investments as set forth in this Article or shall be adequately secured as provided by the laws of the State. All moneys held in the Funds and Accounts shall be kept separate and apart from all other funds of the Issuer so that there shall be no commingling with any other funds of the Issuer.

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

Section 509. Application of Moneys in the Costs of Issuance Account. Moneys in the Costs of Issuance Account shall be used by the Issuer to pay the Costs of Issuance. Any funds remaining in the Costs of Issuance Account, after payment of all Costs of Issuance, but not later than the later of 30 days prior to the first Stated Maturity of principal or one year after the date of issuance of the Bonds, shall be transferred to the Debt Service Account.

Section 510. Redemption of Refunded Bonds. The Outstanding Series 2000-A Bonds, becoming due on September 1, 2010 and thereafter, in the aggregate the principal amount of \$675,000, are hereby called for redemption and payment prior to maturity on the Refunded Bonds Redemption Date. Said Series 2000-A Bonds shall be redeemed in accordance with the Refunded Bonds Resolution by the payment of the principal thereof, together with the redemption premium and accrued interest thereon to such Refunded Bonds Redemption Date. The Clerk is hereby directed to cause notice of the call for redemption and payment of said Series 2000-A Bonds to be given in the manner provided in the Refunded Bonds Resolution. The officers of the Issuer and the Refunded Bonds Paying Agent are hereby authorized and directed to take such other action as may be necessary in order to effect the redemption and payment of said Series 2000-A Bonds as herein provided.

ARTICLE VI

DEFAULT AND REMEDIES

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

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

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

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

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

Section 603. Remedies Cumulative. No remedy conferred herein upon the Owners is intended to be exclusive of any other remedy, but each such remedy shall be cumulative and in addition to every other remedy and may be exercised without exhausting and without regard to any other remedy conferred herein. No waiver of any default or breach of duty or contract by the Owner of any Bond shall extend to or affect any subsequent default or breach of duty or contract or shall impair any rights or remedies thereon. No delay or omission of any Owner to exercise any right or power accruing upon any

default shall impair any such right or power or shall be construed to be a waiver of any such default or acquiescence therein. Every substantive right and every remedy conferred upon the Owners of the Bonds by this Bond Resolution may be enforced and exercised from time to time and as often as may be deemed expedient. If action or proceedings taken by any Owner on account of any default or to enforce any right or exercise any remedy has been discontinued or abandoned for any reason, or shall have been determined adversely to such Owner, then, and in every such case, the Issuer and the Owners of the Bonds shall be restored to their former positions and rights hereunder, respectively, and all rights, remedies, powers and duties of the Owners shall continue as if no such suit, action or other proceedings had been brought or taken.

ARTICLE VII

DEFEASANCE

Section 701. Defeasance. When any or all of the Bonds, redemption premium, if any, or scheduled interest payments thereon have been paid and discharged, then the requirements contained in this Bond Resolution and the pledge of the Issuer's faith and credit hereunder and all other rights granted hereby shall terminate with respect to the Bonds or scheduled interest payments thereon so paid and discharged. Bonds, redemption premium, if any, or scheduled interest payments thereon shall be deemed to have been paid and discharged within the meaning of this Bond Resolution if there has been deposited with the Paying Agent, or other commercial bank or trust company located in the State and having full trust powers, at or prior to the Stated Maturity or Redemption Date of said Bonds or the interest payments thereon, in trust for and irrevocably appropriated thereto, moneys and/or Defeasance Obligations which, together with the interest to be earned on any such Defeasance Obligations, will be sufficient for the payment of the principal of or Redemption Price of said Bonds and/or interest accrued to the Stated Maturity or Redemption Date, or if default in such payment has occurred on such date, then to the date of the tender of such payments. If the amount to be so deposited is based on the Redemption Price of any Bonds, no such satisfaction shall occur until (a) the Issuer has elected to redeem such Bonds, and (b) either notice of such redemption has been given, or the Issuer has given irrevocable instructions, or shall have provided for an escrow agent to give irrevocable instructions, to the Bond Registrar to give such notice of redemption in compliance with *Section 302(a)* of this Bond Resolution. Any money and Defeasance Obligations that at any time shall be deposited with the Paying Agent or other commercial bank or trust company by or on behalf of the Issuer, for the purpose of paying and discharging any of the Bonds, shall be and are hereby assigned, transferred and set over to the Paying Agent or other bank or trust company in trust for the respective Owners of the Bonds, and such moneys shall be and are hereby irrevocably appropriated to the payment and discharge thereof. All money and Defeasance Obligations deposited with the Paying Agent or such bank or trust company shall be deemed to be deposited in accordance with and subject to all of the provisions of this Bond Resolution.

ARTICLE VIII

TAX COVENANTS

Section 801. General Covenants. The Issuer covenants and agrees that it will comply with: (a) all applicable provisions of the Code necessary to maintain the exclusion from gross income for federal income tax purposes of the interest on the Bonds; and (b) all provisions and requirements of the Federal Tax Certificate. The Mayor and Clerk are hereby authorized and directed to execute the Federal Tax Certificate in a form approved by Bond Counsel, for and on behalf of and as the act and deed of the

Issuer. The Issuer will, in addition, adopt such other ordinances or resolutions and take such other actions as may be necessary to comply with the Code and with all other applicable future laws, regulations, published rulings and judicial decisions, in order to ensure that the interest on the Bonds will remain excluded from federal gross income, to the extent any such actions can be taken by the Issuer.

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

ARTICLE IX

[RESERVED]

ARTICLE X

CONTINUING DISCLOSURE REQUIREMENTS

Section 1001. Disclosure Requirements. The Mayor and Clerk are hereby authorized and directed to execute the Disclosure Instructions in a form approved by Bond Counsel, for and on behalf of and as the act and deed of the Issuer. The Issuer hereby covenants with the Purchaser and the Beneficial Owners to provide and disseminate such information as is required by the SEC Rule and as further set forth in the Disclosure Instructions, which are incorporated herein by reference. Such covenant shall be for the benefit of and enforceable by the Purchaser and the Beneficial Owners.

Section 1002. Failure to Comply with Continuing Disclosure Requirements. In the event the Issuer fails to comply in a timely manner with its covenants contained in the preceding section, the Purchaser and/or any Beneficial Owner may make demand for such compliance by written notice to the Issuer. In the event the Issuer does not remedy such noncompliance within 10 days of receipt of such written notice, the Purchaser or any Beneficial Owner may in its discretion, without notice or demand, proceed to enforce compliance by a suit or suits in equity for the specific performance of such covenant or agreement contained in the preceding section or for the enforcement of any other appropriate legal or equitable remedy, as the Purchaser and/or any Beneficial Owner shall deem effectual to protect and enforce any of the duties of the Issuer under such preceding section.

ARTICLE XI

MISCELLANEOUS PROVISIONS

Section 1101. Annual Audit. Annually, promptly after the end of the Fiscal Year, the Issuer will cause an audit to be made of the financial statements of the Issuer for the preceding Fiscal Year by an Independent Accountant. The audit report shall contain a statement regarding the Issuer's compliance with the arbitrage rebate covenants contained in the Federal Tax Certificate and the covenants regarding continuing disclosure contained in *Section 1001* hereof and the Continuing Disclosure Instructions. Within 30 days after the completion of each such audit, a copy thereof shall be filed in the office of the Clerk. Such audit shall at all times during the usual business hours be open to the examination and inspection by any taxpayer, any Owner of any of the Bonds, or by anyone acting for or on behalf of such

taxpayer or Owner. Upon payment of the reasonable cost of preparing and mailing the same, a copy of any annual audit will, upon request, be sent to any Owner or prospective Owner. As soon as possible after the completion of the annual audit, the governing body of the Issuer shall review such audit, and if the audit discloses that proper provision has not been made for all of the requirements of this Bond Resolution, the Issuer shall promptly cure such deficiency.

Section 1102. Amendments. The rights and duties of the Issuer and the Owners, and the terms and provisions of the Bonds or of this Bond Resolution, may be amended or modified at any time in any respect by resolution of the Issuer with the written consent of the Owners of not less than a majority in principal amount of the Bonds then Outstanding, such consent to be evidenced by an instrument or instruments executed by such Owners and duly acknowledged or proved in the manner of a deed to be recorded, and such instrument or instruments shall be filed with the Clerk, but no such modification or alteration shall:

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

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

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

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

Any and all modifications made in the manner hereinabove provided shall not become effective until there has been filed with the Clerk a copy of the resolution of the Issuer hereinabove provided for, duly certified, as well as proof of any required consent to such modification by the Owners of the Bonds

then Outstanding. It shall not be necessary to note on any of the Outstanding Bonds any reference to such amendment or modification.

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

Section 1103. Notices, Consents and Other Instruments by Owners. Any notice, consent, request, direction, approval or other instrument to be signed and executed by the Owners may be in any number of concurrent writings of similar tenor and may be signed or executed by such Owners in person or by agent appointed in writing. Proof of the execution of any such instrument or of the writing appointing any such agent and of the ownership of Bonds, if made in the following manner, shall be sufficient for any of the purposes of this Bond Resolution, and shall be conclusive in favor of the Issuer and the Paying Agent with regard to any action taken, suffered or omitted under any such instrument, namely:

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

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

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

Section 1104. Notices. Any notice, request, complaint, demand or other communication required or desired to be given or filed under this Bond Resolution shall be in writing, given to the Notice Representative at the Notice Address and shall be deemed duly given or filed if the same shall be: (a) duly mailed by registered or certified mail, postage prepaid; or (b) communicated via fax, with electronic or telephonic confirmation of receipt. Copies of such notices shall also be given to the Paying Agent. The Issuer, the Paying Agent and the Purchaser may from time to time designate, by notice given hereunder to the others of such parties, such other address to which subsequent notices, certificates or other communications shall be sent.

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

Section 1105. Electronic Transactions. The issuance of the Bonds and the transactions related thereto and described herein may be conducted and documents may be stored by electronic means.

Section 1106. Further Authority. The officers and officials of the Issuer, including the Mayor and Clerk, are hereby authorized and directed to execute all documents and take such actions as they may deem necessary or advisable in order to carry out and perform the purposes of this Bond Resolution and to make ministerial alterations, changes or additions in the foregoing agreements, statements, instruments and other documents herein approved, authorized and confirmed which they may approve, and the execution or taking of such action shall be conclusive evidence of such necessity or advisability.

Section 1107. Severability. If any section or other part of this Bond Resolution, whether large or small, is for any reason held invalid, the invalidity thereof shall not affect the validity of the other provisions of this Bond Resolution.

Section 1108. Governing Law. This Bond Resolution shall be governed exclusively by and construed in accordance with the applicable laws of the State.

Section 1109. Effective Date. This Bond Resolution shall take effect and be in full force from and after its adoption by the governing body of the Issuer.

[BALANCE OF THIS PAGE INTENTIONALLY LEFT BLANK]

ADOPTED by the governing body of the Issuer on November 2, 2009.

(SEAL)

Mayor

ATTEST:

Clerk

CERTIFICATE

I hereby certify that the above and foregoing is a true and correct copy of the Bond Resolution of the Issuer adopted by the governing body on November 2, 2009 as the same appears of record in my office.

DATED: November 2, 2009.

Clerk

EXHIBIT A
(FORM OF BONDS)

REGISTERED
NUMBER __

REGISTERED
\$

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

UNITED STATES OF AMERICA
STATE OF KANSAS
COUNTY OF JOHNSON
CITY OF PRAIRIE VILLAGE, KANSAS
GENERAL OBLIGATION REFUNDING AND IMPROVEMENT BOND
SERIES 2009-A

Interest _____ **Maturity** _____ **Dated** _____ **CUSIP:**
Rate: ____% **Date:** September 1, ____ **Date:** Issue Date

REGISTERED OWNER:

PRINCIPAL AMOUNT:

KNOW ALL PERSONS BY THESE PRESENTS: That the City of Prairie Village, Kansas, in the County of Johnson, State of Kansas (the “Issuer”), for value received, hereby acknowledges itself to be indebted and promises to pay to the Registered Owner shown above, or registered assigns, but solely from the source and in the manner herein specified, the Principal Amount shown above on the Maturity Date shown above, unless called for redemption prior to said Maturity Date, and to pay interest thereon at the Interest Rate per annum shown above (computed on the basis of a 360-day year of twelve 30-day months), from the Dated Date shown above, or from the most recent date to which interest has been paid or duly provided for, payable semiannually on March 1 and September 1 of each year, commencing March 1, 2010 (the “Interest Payment Dates”), until the Principal Amount has been paid.

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

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

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

Authorization of Bonds. This Bond is one of an authorized series of Bonds of the Issuer designated "General Obligation Refunding and Improvement Bonds, Series 2009-A," aggregating the principal amount of \$10,165,000 (the "Bonds") issued for the purposes set forth in the Ordinance of the Issuer authorizing the issuance of the Bonds and the Resolution of the Issuer prescribing the form and details of the Bonds (jointly the "Bond Resolution"). The Bonds are issued by the authority of and in full compliance with the provisions, restrictions and limitations of the Constitution and laws of the State of Kansas, including K.S.A. 10-101 to 10-125, inclusive, K.S.A. 10-427 *et seq.*, K.S.A. 10-620 *et seq.*, K.S.A. 12-631r and 12-631s, K.S.A. 12-685 *et seq.*, K.S.A. 12-1736 *et seq.*, and all other provisions of the laws of the State of Kansas applicable thereto.

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

Redemption Prior to Maturity. The Bonds are subject to redemption prior to maturity, as follows:

Optional Redemption. At the option of the Issuer, Bonds maturing on September 1, 2015 and thereafter, may be called for redemption and payment prior to maturity on September 1, 2014, or thereafter, as a whole or in part (selection of maturities and the amount of Bonds of each maturity to be redeemed to be determined by the Issuer in such equitable manner as it may determine) at any time, at the Redemption Price of 100% (expressed as a percentage of the principal amount), plus accrued interest thereon to the date of redemption.

[Mandatory Redemption. [(a)]Each of the Bonds maturing on September 1, ____ shall also be subject to mandatory redemption and payment prior to maturity on September 1, ____, and on any September 1 thereafter, pursuant to the redemption schedule set forth in the Bond Resolution at the Redemption Price of 100% (expressed as a percentage of the principal amount), plus accrued interest thereon to the Redemption Date.]

[(b)] Each of the Bonds maturing on September 1, 20__ shall also be subject to mandatory redemption and payment prior to maturity on September 1, ____, and on any September 1 thereafter, pursuant to the redemption schedule set forth in the Bond Resolution at the Redemption Price of 100%

(expressed as a percentage of the principal amount), plus accrued interest thereon to the Redemption Date.]

Redemption Denominations. Whenever the Bond Registrar is to select Bonds for the purpose of redemption, it shall, in the case of Bonds in denominations greater than a minimum Authorized Denomination, if less than all of the Bonds then Outstanding are to be called for redemption, treat each minimum Authorized Denomination of face value of each such Bond as though it were a separate Bond in the denomination of a minimum Authorized Denomination.

Notice of Redemption. Notice of redemption, unless waived, shall be given by the Issuer to the State Treasurer of Kansas, and to the Purchaser of the Bonds and to the Bond Registrar in accordance with the Bond Resolution. The Issuer shall cause the Bond Registrar to notify each Registered Owner at the address maintained on the Bond Register, such notice to be given by mailing an official notice of redemption by first class mail at least 30 days prior to the redemption date. Notice of redemption having been given as aforesaid, the Bonds or portions of Bonds to be redeemed shall, on the redemption date, become due and payable at the redemption price therein specified, and from and after such date (unless the Issuer defaults in the payment of the redemption price), such Bonds or portions of Bonds shall cease to bear interest.

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

Transfer and Exchange. EXCEPT AS OTHERWISE PROVIDED IN THE BOND RESOLUTION, THIS GLOBAL BOND MAY BE TRANSFERRED, IN WHOLE BUT NOT IN PART, ONLY TO ANOTHER NOMINEE OF THE SECURITIES DEPOSITORY OR TO A SUCCESSOR SECURITIES DEPOSITORY OR TO A NOMINEE OF A SUCCESSOR SECURITIES DEPOSITORY. This Bond may be transferred or exchanged, as provided in the Bond Resolution, only on the Bond Register kept for that purpose at the principal office of the Bond Registrar, upon surrender of this Bond, together with a written instrument of transfer or authorization for exchange satisfactory to the Bond Registrar duly executed by the Registered Owner or the Registered Owner's duly authorized agent, and thereupon a new Bond or Bonds in any authorized denomination of the same

maturity and in the same aggregate principal amount shall be issued to the transferee in exchange therefor as provided in the Bond Resolution and upon payment of the charges therein prescribed. The Issuer shall pay all costs incurred in connection with the issuance, payment and initial registration of the Bonds and the cost of a reasonable supply of bond blanks. The Issuer and the Paying Agent may deem and treat the person in whose name this Bond is registered on the Bond Register as the absolute owner hereof for the purpose of receiving payment of, or on account of, the principal or redemption price hereof and interest due hereon and for all other purposes. The Bonds are issued in fully registered form in Authorized Denominations.

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

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

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

CITY OF PRAIRIE VILLAGE, KANSAS

(Facsimile Seal)

By: _____ (facsimile)
Mayor

ATTEST:

By: _____ (facsimile)
Clerk

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of a series of General Obligation Refunding and Improvement Bonds, Series 2009-A, of the City of Prairie Village, Kansas, described in the within-mentioned Bond Resolution.

Registration Date _____

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

By _____

Registration Number _____

BOND ASSIGNMENT

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

(Name and Address)

(Social Security or Taxpayer Identification No.)

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

Dated _____

Name

Social Security or
Taxpayer Identification No.

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

Signature guarantee:

By _____

LEGAL OPINION

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

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

(PRINTED LEGAL OPINION)

MAYOR'S ANNOUNCEMENTS
November 2, 2009

Committee meetings scheduled for the next two weeks include:

Board of Zoning Appeals	11/03/2009	6:30 p.m.
Planning Commission	11/03/2009	7:00 p.m.
Sister City Committee	11/09/2009	7:00 p.m.
Communications Committee	11/10/2009	5:30 p.m.
Parks and Recreation Committee	11/11/2009	7:00 p.m.
Council Committee of the Whole	11/16/2009	6:00 p.m.
City Council	11/16/2009	7:30 p.m.

=====

The Prairie Village Arts Council is pleased to announce an exhibit by the Mid-America Pastels Society during the month of November. The reception will be held on November 13th from 6:30 - 8:30 p.m.

Flu shots have been rescheduled for **November 18, 2009** from 7:30 - 9:00 am at Public Works or 2:00 - 4:00 pm at City Hall. Flu Shots are available to Council Members for \$10.

The National League of Cities conference is November 10-14 in San Antonio, TX.

The Northeast Johnson County Chamber of Commerce Annual dinner is November 21st at 6:00 pm.

The Municipal Foundation will be hosting the annual Mayor's Holiday Tree Lighting on Monday, November 30th at Corinth Square from 6:00 - 7:30 pm.

The Johnson and Wyandotte Counties Council of Mayor Annual Holiday Social Dinner is December 2, 2009 at 5:30 pm at The Lodge at Ironwoods Park.

The Mayor's Holiday Volunteer Party is December 4, 2009 at 6:30 pm at Homestead Country Club.

The Municipal Foundation will be hosting a Gingerbread House Decorating Party on Sunday, December 13th at the Community Center at 2:00pm and 4:00 pm.

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

INFORMATIONAL ITEMS
November 2, 2009

1. Board of Zoning Appeals Agenda -November 3, 2009
2. Planning Commission Agenda - November 3, 2009
3. Prairie Village Arts Council Minutes - August 19, 2009
4. Prairie Village Arts Council Minutes - September 16, 2009
5. Mark Your Calendars
6. Committee Agenda

**BOARD OF ZONING APPEALS
CITY OF PRAIRIE VILLAGE, KANSAS
AGENDA
TUESDAY, NOVEMBER 3, 2009
6:30 P.M.
Council Chambers**

I. ROLL CALL

II. APPROVAL OF MINUTES - September 1, 2009

III. ACTION ITEM

BZA2009-03 Request for a Variance from P.V.M.C.
19.34.020(j)(4) to construct a pool with a four-foot
setback in the side yard rather than ten-feet
8162 Delmar
Zoning: R-2 - Two Family Residential District
Applicant: Kevin Corcoran

IV. NEW BUSINESS

V. OLD BUSINESS

Clarification on conditions of approval for BZA2009-01
At 7338 Roe Circle

VI. ADJOURNMENT

If you can not be present, comments can be made by e-mail to
Cityclerk@Pvkansas.com

**PLANNING COMMISSION AGENDA
CITY OF PRAIRIE VILLAGE
MUNICIPAL BUILDING - 7700 MISSION ROAD
TUESDAY, NOVEMBER 3, 2009
Council Chambers
7:00 P. M.**

- I. ROLL CALL
- II. APPROVAL OF PC MINUTES - October 6, 2009
- III. PUBLIC HEARINGS
- IV. NON-PUBLIC HEARINGS
 - PC2009-110 Request for Site Plan Approval - retaining wall
8162 Delmar
Current Zoning: R-2 (Two Family Residential District)
Applicant: Kevin Corcoran
 - PC2009-111 Approval of 17 Park Identification Signs within City Parks
Applicant: City of Prairie Village
- V. OTHER BUSINESS
 - Consider 2010 Meeting & Submittal Schedule
- VI. ADJOURNMENT

Plans available at City Hall if applicable

If you can not be present, comments can be made by e-mail to
Cityclerk@Pvkansas.com

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

**Prairie Village Arts Council
August 19, 2009
Minutes**

The Prairie Village Arts Council met at 7:00 pm in the City Council Chambers of City Hall. Members present: Randy Kronblad, Chair, Bill Rose, Shelly Trewolla, Pam Marshall, Annie Brabson, Jeff Preuss, Mike Riley, David Paul Stoutenborough and David Morrison. Also present: Dennis Enslinger, City Staff.

Randy Kornblad, Chair, introduced David Paul Stoutenborough

Updated roster will be sent out

Minutes

Council approved minutes from the July 15th meeting with the notation that Bill Rose was not at the meeting.

Update from the City Council

David Morrison indicated that the Council was on board with the Jazz Program. Randy also indicated that Park and Recreation also was very supportive the Jazz Program.

Financial Report

Dennis Enslinger provided an overview of the current financial sheets. There was a general discussion about the State of the Arts budget.

Monthly Art Exhibits

It was reported that the August exhibit with the Senior Council, on Friday, August 14, 2009 was well attended. The September exhibit reception will be the Harriet Bigham and will be held on September 11, 2009 from 6:30 to 7:30 p.m. Linda, Angi, Shelley and Anne volunteered for the reception.

Old Business

Update on State of the Arts Event, October 9, 2009 (6.00pm to 8.00pm awards at 7.00pm)

Randy Kronblad went through the submissions for the State of the Arts exhibition and provided a notation of those pieces which were selected. There were 247 pieces entered and 39 were selected.

There was a general discussion about improvements to the delivery system. It was noted that there were some server issues.

It was decided that the hanging and placement of the pieces would be on the 29th at 7:00p.m. – ***Please note that this will need to be changed to the 30th at 7:00 p.m. because of conflict with the notifications***

Reception preparation will be on Thursday, October 8th at 6 p.m. Council decided that members should dress black and white dress code.

Peoples Choice voting will be held October 1st through October 9th 6:00 p.m. It was decided that each person will need to provide an email address to vote.

Food choices have been selected: smoked salmon, antipasto, sweet and sour meatballs, little smokies, cheese and dried fruit assortment, stuffed grape leaves, cucumber yogurt soup. Andre's chocolates, wine, soda, coffee, water.

Music will be three string players- Shelly said that SM South and SM West may have strings but SM East does not. Mike said that Sumner may also be a possibility. It was decided that it would be ok to pay them a small fee (\$50-\$75) each.

There was a discussion about how to conduct the awards. One idea was to project the images on a screen during the presentation. It was agreed that ribbon will be used this year again. Arts Council will need speaker system.

Invitations to the event have not been completed and Mr. Enslinger noted that staff would work on this item. They will be mailed three weeks before the event – September 18th. Other items that need to be done are development of the Exhibit Cards and the banner installed.

Ice sculpture will be 300 lbs. – discussion about how to support the sculpture.

There was also a general discussion about possible donations.

Possible Jazz event in 2010

No major updates.

There will be a subcommittee meeting on September 22nd at 7:00 p.m. location to be determined.

Johnson County Arts Council Luncheon, August 25th, meeting at 12:00 noon, Angi will attend this event.

Phillip Mentor Artist in Residence

The council held a general discussion about the potential of bringing him in for a program in October the week of October 12th or October 19th. Randy Kronblad went over Mr. Mentor's credentials and the associated costs. It was decided that given the current budget constraints the Council would look at next year and asked staff to contact him.

The meeting was then adjourned at 8:25 p.m.

Prairie Village Arts Council
September 16, 2009
Minutes

The Prairie Village Arts Council met at 7:00 pm in the City Council Chambers of City Hall. Members present: Randy Kronblad, Chair, Bill Rose, Shelly Trewolla, Pam Marshall, Annie Brabson, Jack Shearer, Dan Andersen, Angi Jones and David Morrison. Also present: Chris Engel, City Staff.

Michelle Diane Brown from Kacico Dance presented the different offerings the group would be willing to hold in Prairie Village in 2010. The first is a full production currently being developed by the company that would cost \$3,000. The second is a 60 minute family-friendly event targeting children and seniors based on a children's book. Another option is a 45 minute improvisational impromptu dance at public events that gets attendees involved in the dance for \$1,000. Also offered is a song and dance project similar to what was offered in 2007 at Asbury for \$3,500 or a 45 minute 'freedom of speech' themed dance geared to young adults that could include a workshop. If the Council decides to utilize their services she would like to be notified by the end of the year for planning and advertising purposes.

Donna Potts presented the Council with the idea of a 'purchase patron party' before the PV Arts Show. This would consist of a tent with food/wine for patrons that pledge to spend a certain amount of money on art. Donna does not have the time or money to follow-up on this and would like the Council to consider handling it. Donna said it would require a lot of work and time but would elevate the shows status. To offset the costs donors would need to be found for the tent, food, and/or wine. Angi volunteered to begin researching such an event.

Minutes

Approval of the August minutes was held over until the October meeting.

Update from the City Council

David Morrison indicated the City Council was looking forward to the State of the Arts.

Financial Report

Council reviewed the annual budget and the SOA budget but questioned their accuracy because they were both over 60 days old.

Monthly Art Exhibits

It was reported that the September show was a good show but had low attendance due to other events occurring in the metro that evening.

Old Business

Angi handed out a timeline for preparing for the event. Food preparations will be at 3308 71st Street on October 8th at 6.00pm.

Dan reported the Parks Committee and City Council were supportive of the Jazz Program. He mentioned Donna Potts recommends going to Lane4 for a donation. However, he is going to first ask the merchants for some in-kind donations (food, tent, etc.) at their October meeting before asking for money. Jack is following up a few leads to arrange for the talent.

New Business

Randy reported the Air Force Band has offered to come and play on January 31st 2010. The Council agreed to accept their offer and will find a venue for the event. One suggestion was the SME Theater if it will be completed by then.

There was discussion concerning the requirement that an artist applying to show in the gallery needs to have been in a juried show. Shelly feels the Council may be missing out on some quality young artists. **Dan made a motion to change the online application to not require a juried show as a prerequisite and also to add that all applications need to be accompanied by 10 – 15 pieces for judging. Jack seconded and the motion carried.**

The Council selected the following artists to show in the gallery: Joan Gerding, Ric Cummings, Marcus Cain, and a joint showing by Rod Atteberry and Otto Miller. The Council also requested that Dennis contact Anne Nye to see if she has enough pieces to fill the gallery. If not, they would like Sheila Jewell for a joint showing. Dennis/Connie will be notifying the artists.

Johnson County Arts Council Luncheon, October 27th in Prairie Village City Hall, Jack will attend this event.

The meeting was then adjourned at 9.00 p.m.

**Council Members
Mark Your Calendars
November 2, 2009**

November 2009	Mid America Pastel Society exhibit in the R. G. Endres Gallery
November 13	Artist reception in the R. G. Endres Gallery 6:30 - 8:30
November 16	City Council Meeting
November 26	City offices closed in observance of Thanksgiving
November 27	City offices closed in observance of Thanksgiving
December 2009	Mimi Pettigrew oils exhibit in the R. G. Endres Gallery
December 2	Johnson and Wyandotte County Mayor's Association Holiday Party
December 4	Mayor's 2009 Holiday Party
December 7	City Council Meeting
December 11	Artist reception in the R. G. Endres Gallery 6:30 - 8:00
December 21	City Council Meeting
December 25	City offices closed in observance of Christmas
January 2010	Anne Nye photography exhibit in the R. G. Endres Gallery
January 1	City offices closed in observance of the New Year holiday
January 4	City Council Meeting
January 8	Artist reception in the R. G. Endres Gallery 6:30 - 7:30
January 18	City offices closed in observance of Martin Luther King Jr. holiday
January 19(Tues.)	City Council Meeting
February 2010	Student mixed media Art Show in the R. G. Endres Gallery
February 1	City Council Meeting
February 12	Artist reception in the R. G. Endres Gallery 6:30 - 7:30
February 15	City offices closed in observance of Presidents' Day holiday
February 16(Tues.)	City Council Meeting
March 2010	Lynne Hodgman mixed media exhibit in the R. G. Endres Gallery
March 1	City Council Meeting
March 12	Artist reception in the R. G. Endres Gallery 6:30 - 7:30
March 15	City Council Meeting
April 2010	Dolyna Art Exhibit in the R. G. Endres Gallery
April 5	City Council Meeting
April 9	Artist reception in the R. G. Endres Gallery 6:30 - 7:30
April 19	City Council Meeting
May 2010	Rod Atteberry and Otto Miller mixed media exhibit in the R. G. Endres Gallery
May 3	City Council Meeting
May 14	Artist reception in the R. G. Endres Gallery 6:30 - 7:30
May 17	City Council Meeting
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 Societ 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 meda 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

COMMITTEE AGENDA

November 2, 2009

ANIMAL CONTROL COMMITTEE

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

COMMUNICATIONS COMMITTEE

COM2008-01 Consider upgrade to City's Website (assigned 10/8/2007)

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)
- COU2009-04 Consider Project P5000: 2009 Crack Seal/Slurry Seal Program (assigned 12/23/2008)
- COU2009-05 Consider Project P5001: 2009 Street 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)
- COU2009-27 Consider Project 190871: Mission Lane Bridge Replacement (assigned 2/6/2009)
- COU2009-63 Consider Project 190866 - 75th Street Paving (assigned 6/10/2009)
- COU2009-87 Consider Project 190869 - 2009 Street Resurfacing Program - Construction Change Order #1 (assigned 8/12/2009)
- COU2009-88 Consider adopting Resolution Nos. 2009-07 through 2009-13 (assigned 8/27/2009)
- 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)
- COU2009-99 Consider Project 190721: 2009 Storm Drainage Repair Program Construction Change Order #1 (Final) (assigned 10/14/2009)
- COU2009-100 Consider Project 190728: Prairie Lane Drainage Project - Design Agreement (assigned 10/14/2009)
- COU2009-104 Consider renewing Blue Cross Blue Shield of Kansas City as the City's health care provider for the 2010 plan year (assigned 10/30/2009)**
- COU2009-105 Consider rescinding Personnel Policy 1096: YMCA Membership effective December 31, 2009 (assigned 10/30/2009)**

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)