

CITY OF PRAIRIE VILLAGE

August 17, 2009

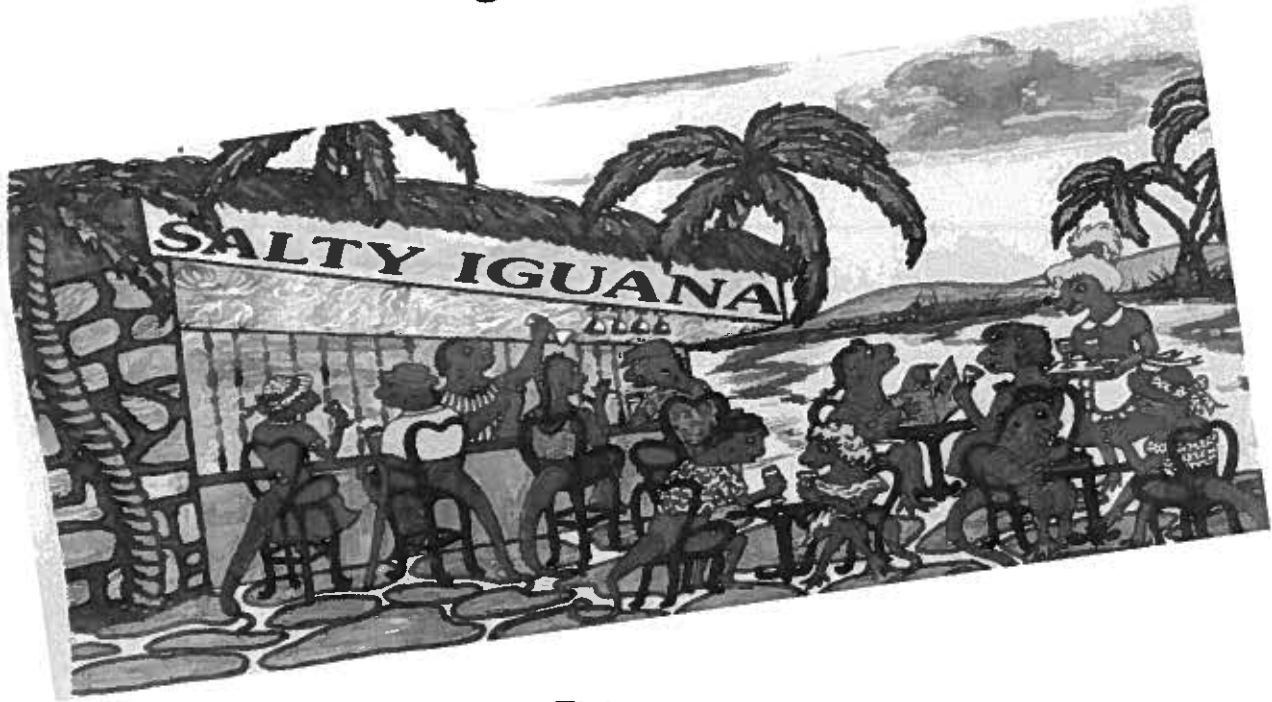
**Committee Meeting
6:00 p.m.**

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



City Council Meeting

August 17, 2009



Dinner

provided by:

SALTY IGUANA

Burritos and Enchiladas

Beans and Rice

Iguana dip,

Chips and sauce

Mely's Ice Cream Cake

COUNCIL COMMITTEE

August 17, 2009

6:00 p.m.

Council Chamber

AGENDA

MICHAEL KELLY, COUNCIL PRESIDENT

CONSENT AGENDA

***COU2009-87 Consider Project 190869 - 2009 Street Resurfacing Program - Construction Change Order #1**

AGENDA ITEMS FOR DISCUSSION

***COU2009-79 Consider Crossing Guard Compensation
Wes Jordan**

**COU2009-80 Consider Public Financing Application
Quinn Bennion & Karen Kindle**

**COU2009-81 Consider Ordinance amending Chapter 5 of the Prairie Village Municipal Code,
2003 entitled "Business Regulations."
Dennis Enslinger**

**COU2009-82 Consider Ordinance amending Chapter 5, Article 5 of the Prairie Village Municipal
Code, 2003 entitled "Massage Therapy."
Dennis Enslinger**

***COU2009-83 Consider Bid Award for Annual Tree Trimming
Bob Pryzby**

***COU2009-85 Consider Approval of Early Release of 2010 Exterior Grant Funds
Dennis Enslinger**

**COU2009-86 Consider Directing Staff & Bond Counsel to pursue a bond issue for public
improvements
Quinn Bennion & Karen Kindle**

***Council Action Requested the same night**



PUBLIC WORKS DEPARTMENT

Council Committee Meeting Date: August 17, 2009

Council Meeting Date: August 17, 2009

***COU2009-87: CONSIDER PROJECT 190869: 2009 Street Resurfacing Program - CONSTRUCTION CHANGE ORDER #1**

RECOMMENDATION

Staff recommends the City Council approve construction change order #1 with O'Donnell and Sons Construction for the construction of three speed tables on 71st Terrace between Cherokee Drive and Belinder Ave. O'Donnell and Sons Construction is City's contractor for the 2009 Street Resurfacing Program. This work will be funded from Project 190867 Traffic Calming Program in the amount of \$12,750.00.

BACKGROUND

The City Council has previously approved funding for the design of Traffic Calming projects in the City. The residents along 71st Terrace have met the requirement of 60% approval for the construction of three speed tables from Cherokee Drive to Belinder Ave. The Contractor, O'Donnell and Sons Construction, is currently under contract with the City and would construct the asphalt speed tables. The traffic signing and pavement markings would be completed by Public Works and the City's pavement marking contractor, respectively. Two price quotes were obtained for the speed tables and O'Donnell and Sons Construction was the lower of the two. Adding this work by change order, to an existing contract, allows this work to be performed in a timely matter and potentially at a lower price.

FUNDING SOURCE

Funding is available under project 190867: Traffic Calming.

ATTACHMENTS

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

PREPARED BY

S. Robert Pryzby, Director of Public Works

August 17, 2009



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

City's Project: 2009 Street Resurfacing Program 190869

Date Requested: August 17, 2009

Contract Date: February 17, 2009

Consultant's Name: N/A

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

REQUIRED CHANGES TO PRESENT CONTRACT

Contract Quantity	Previous Amount	Unit	Item Description	Adj. Quant.	Unit Price	Adjusted Amount
0	\$0.00		Speed Tables	3	\$4,250.00	\$12,750.00

TOTAL \$0.00

TOTAL \$12,750.00
NET Increase \$12,750.00

EXPLANATION OF CHANGE - This change order is to cover the following items:
Speed Tables to be constructed on 71st Terrace as a part of the Traffic Calming Program 190867.

The Consultant does not anticipate a related Engineering Change Order.

	Contract Value	Contract Days
Original Contract	\$1,949,872.40	
Current Contract including previous Change Orders	\$1,949,872.40	
NET This Change Order	\$12,750.00	
New Contract Price	\$1,962,622.40	

Contractor

Date

Engineer

Date

Bob Pryzby, Director of Public Works
City of Prairie Village, KS

Date

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

Date



POLICE DEPARTMENT

Council Committee Meeting Date: August 17, 2009
Council Meeting Date: August 17, 2009

***COU2009-79: Consider Increasing the Per Session Rate the City Pays for School Crossing Guards**

RECOMMENDATION

Staff recommends the per session rate for school crossing guards be increased from \$11.71 to \$12.00 for the 2009-10 school year.

SUGGESTED MOTION

I move for approval of the pay increase to \$12.00 per session for school crossing guards for the 2009-10 school year.

BACKGROUND

Staff has researched the pay rates of crossing guards in surrounding cities and determined this increase is warranted to not only retain our current staffing, but attract new guards should openings occur. The last increase was put into effect in August 2008.

PREPARED BY

Wes Jordan
Chief of Police
Date: August 12, 2009

WLJ:jlw

CURRENT CROSSING GUARD RATES AROUND THE METRO

PER SESSION RATE

Kansas City, MO	\$18.73 *
Leawood	\$18.73 *
Lenexa	\$14.46
Merriam	\$11.42 - \$15.98
Mission	\$12.48
Olathe	\$18.73 *
Overland Park	\$11.00
Shawnee	\$18.73 *

*contracted with Securitas



FINANCE COMMITTEE

Council Meeting Date: September 8, 2009
Committee Meeting Date: August 17, 2009

COU2009-80 Consider Approval of Revised Public Financial Participation Application

RECOMMENDATION

Council adopt the changes recommended by the Finance Committee and staff in conjunction with the City Attorney and the City's Financial Advisor.

SUGGESTED MOTION

Move to approve the revised Public Financial Participation Application as recommended by the Finance Committee.

BACKGROUND

In February 2008, the City Council reviewed its policies regarding economic development tools and approved the Public Financial Participation Application and related fees. The application is the first step in the process and provides information the City needs to begin evaluating the applicant's request for financial assistance from the City.

During the time since the Council approved the application, staff has received feedback on the form from potential applicants and staff has determined that the form could be simplified to make the process less cumbersome for applicants. In addition, the Community Improvement District (CID) tool was added as a result of the state statute change. Staff obtained input from the City's Financial Advisor and the City Attorney and presented a draft of the changes to the Finance Committee at their meeting on August 11, 2009.

RELATION TO VILLAGE VISION

Chapter 10 of the Village Vision discusses the various economic development tools available to the City.

FINANCIAL IMPACT

The City will receive application fee revenue to offset some of the administrative costs associated with processing an application for public financial participation. Incentives granted to applicants will have both short and long term effects on the City's revenues depending on which tool is used.

ATTACHMENTS: Revised Public Financial Participation Application

Prepared By:

Karen Kindle, Finance Director, 8/14/09

City of Prairie Village, Kansas
Application for Public Financial Participation

Date: _____

Application for Public Financial Participation

Indicate the type of public financial participation sought (check all that apply). In addition to completing this application, provide the information required in each corresponding application addendum.

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

A. Applicant Information

1. Project Name:
2. Project Address:
3. Name of Corporation/Partnership:
 - i. Address:
4. Primary Contact:
 - i. Name:
 - ii. Address:
 - iii. Phone:
 - iv. Fax:
 - v. Email:

B. Project Team

1. Attorney:
 - i. Name:
 - ii. Address:
 - iii. Phone:
 - iv. Fax:
 - v. Email:

City of Prairie Village, Kansas
Application for Public Financial Participation

2. ~~Construction Contractor~~ Other Contacts:

i. Name:

ii. Address:

iii. Phone:

iv. Fax:

v. Email:

3. Engineer:

_____ i. Name:

_____ ii. Address:

_____ iii. Phone:

_____ iv. Fax:

_____ v. Email:

4. Architect:

_____ i. Name:

_____ ii. Address:

_____ iii. Phone:

_____ iv. Fax:

_____ v. Email:

5. CPA:

_____ i. Name:

_____ ii. Address:

_____ iii. Phone:

_____ iv. Fax:

_____ v. Email:

City of Prairie Village, Kansas
Application for Public Financial Participation

C. Applicant Background

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

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

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

4. ~~If applicant is not in the business of real estate development, but is a separate business entity seeking TIF assistance, provide a written business plan, including a description of the business, ownership/management, date established, products and services, and future plans. Indicate exhibit number:

_____~~

5. ~~Attach profit & loss statements and balance sheets for the past three years. Indicate exhibit number:~~

D. Project Information

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

2. Describe how this project will serve a public purpose. Address issues such as those listed below. Indicate exhibit number:
 - i. Accomplishment of Village Vision goals
 - ii. Enhancement or diversification of the city's economic and tax base
 - iii. The project's contribution toward fulfillment of the city's redevelopment objectives
 - iv. Rehabilitation of a high profile or priority site
 - v. Number and types of jobs created by the project
 - vi. Enhancement of housing choices and population growth
 - vii. Additional private investment resulting from the project
 - viii. Number of visitors

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

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

City of Prairie Village, Kansas
Application for Public Financial Participation

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

6. Will the applicant be in direct competition with other Prairie Village firms? If yes, please explain. Indicate exhibit number:

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

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

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E. OTHER.

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

F. E-Application Fee and Deposit

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

- TIF - \$10,000
- TDD Sales Tax - ~~\$5,000~~ \$2,000
- TDD Special Assessment - ~~\$5,000~~ \$2,000
- Special Assessment District - ~~\$5,000~~ \$2,000
- IRB - \$2,000
- City Grant/Tax Rebate - \$2,000
- Community Improvement District - \$2,000

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

Applicant acknowledges:

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

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The undersigned; certifies that all information provided in the application is true and correct to the best of the undersigned's knowledge, agrees to update as necessary all information required herein, authorizes the City

**City of Prairie Village, Kansas
Application for Public Financial Participation**

of Prairie Village to check credit references and verify financial and other information, agrees to provide any additional information as may be requested by the city after the filing of this application, and agrees to provide the application fee, escrow deposit and to pay the additional funds into escrow as described above.

Applicant Name: _____

Signature: _____

Title: _____

City of Prairie Village, Kansas
Application for Public Financial Participation

**SAMPLE RETURN ON INVESTMENT ANALYSIS PROJECT DETAIL BUDGET
REQUIRED FOR CERTAIN PROJECTS**

	WITH NO PUBLIC FINANCING			WITH PUBLIC FINANCING		
	SOURCES AND USES			SOURCES AND USES		
	SOURCES			SOURCES		
Mortgage		9,600,000		8,667,000		
Equity		2,400,000		2,400,000		
Public Financing (Type)		0		933,000		
Other Sources		0		0		
TOTAL SOURCES		12,000,000		12,000,000		
	USES			USES		
Land		1,500,000		1,500,000		
Site Work		300,000		300,000		
Soil Correction		468,000		468,000		
Demolition		100,000		100,000		
Relocation		65,000		65,000		
Subtotal Land Costs		2,433,000		2,433,000		
Construction		6,750,000		6,750,000		
Finish Manufacturing		250,000		250,000		
Subtotal Construction Costs		7,000,000		7,000,000		
Soft Costs		350,000		350,000		
Taxes		35,000		35,000		
Finance Fees		850,000		850,000		
Project Manager		542,000		542,000		
Developer Fee		540,000		540,000		
Contingency		250,000		250,000		
Subtotal Soft Costs		2,567,000		2,567,000		
TOTAL USES		12,000,000		12,000,000		
	Income Statement			Income Statement		
	Sq. Ft.	Per-Sq. Ft.		Sq. Ft.	Per-Sq. Ft.	
Rent-Space 1	100,000	\$8.00	800,000	100,000	\$8.00	800,000
Rent-Space 2	25,000	\$8.50	212,500	25,000	\$8.50	212,500
Rent-Space 3	25,000	\$9.00	225,000	25,000	\$9.00	225,000
Other	0	\$0.00	0	0	\$0.00	0
			1,237,500			1,237,500
Mortgage		20 Term	1,051,646		20 Term	949,439
		—9.00% Interest			—9.00% Interest	
		9,600,000 Principal			8,667,000 Principal	
Net Income			185,854			288,061
Total Return on Equity			7.74%			12.00%

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Moved to	0
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Format changed	0
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**City of Prairie Village, Kansas
Application for Public Financial Participation**

Date: _____

Application for Public Financial Participation

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- Special Assessment District
- Community Improvement District.....
- Other.....

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3. Name of Corporation/Partnership:

 - i. Address:

4. Primary Contact:

 - i. Name:

 - ii. Address:

 - iii. Phone:

 - iv. Fax:

 - v. Email:

B. Project Team

1. Attorney:
 - i. Name:

 - ii. Address:

 - iii. Phone:

 - iv. Fax:

 - v. Email:

**City of Prairie Village, Kansas
Application for Public Financial Participation**

2. Other Contacts:

i. Name:

ii. Address:

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**City of Prairie Village, Kansas
Application for Public Financial Participation**

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

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

**City of Prairie Village, Kansas
Application for Public Financial Participation**

Applicant acknowledges:

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

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

Applicant Name: _____

Signature: _____

Title: _____

**City of Prairie Village, Kansas
Application for Public Financial Participation**

SAMPLE PROJECT DETAIL BUDGET

	WITH NO PUBLIC FINANCING	WITH PUBLIC FINANCING
	SOURCES AND USES	SOURCES AND USES
	SOURCES	SOURCES
Mortgage	9,600,000	8,667,000
Equity	2,400,000	2,400,00
Public Financing (Type)	0	933,000
Other Sources	0	0
TOTAL SOURCES	12,000,000	12,000,000
	USES	USES
Land	1,500,000	1,500,000
Site Work	300,000	300,000
Soil Correction	468,000	468,000
Demolition	100,000	100,000
Relocation	65,000	65,000
Subtotal Land Costs	2,433,000	2,433,000
Construction	6,750,000	6,750,000
Finish Manufacturing	250,000	250,000
Subtotal Construction Costs	7,000,000	7,000,000
Soft Costs	350,000	350,000
Taxes	35,000	35,000
Finance Fees	850,000	850,000
Project Manager	542,000	542,000
Developer Fee	540,000	540,000
Contingency	250,000	250,000
Subtotal Soft Costs	2,567,000	2,567,000
TOTAL USES	12,000,000	12,000,000



CITY CLERK DEPARTMENT

Council Committee Meeting Date: August 17, 2009

Council Meeting Date: September 8, 2009

COU2009-81: Consider Ordinance 2203 Amending Chapter 5 of the Prairie Village Municipal Code, 2003 entitled "Business Regulations".

RECOMMENDATION

Staff recommends the City Council approve Ordinance 2203 Amending Chapter 5 of the Prairie Village Municipal Code, 2003 entitled "Business Regulations".

BACKGROUND

The City Clerk's Department recommends making changes to the business licensing process due to enhanced capabilities with Springbrook Software. Currently, business licenses are renewed by type of license during a specific month of the year. For example, Home Occupation licenses are renewed in August of every year. New businesses that license after six months into the license year are charged half the license fee.

In order to spread out the work load and use Springbrook Software to its fullest capabilities, the City Clerk's Department proposes renewing licenses on a monthly basis dependent upon when the license is originally issued. Licenses would be prorated with this process but renewed based on their date of issuance.

The Ordinance also includes revisions to clarify the regulations in regards to Inspection of the Premises for Family Home Daycare and Home Occupation businesses.

In the revision, regulations for residential rental properties are placed in a separate article.

FUNDING SOURCE

N/A

ATTACHMENTS

1. Ordinance

PREPARED BY

Jeanne Koontz
Deputy City Clerk
August 10, 2009

ORDINANCE NO. 2203

AN ORDINANCE AMENDING CHAPTER 5 OF THE PRAIRIE VILLAGE MUNICIPAL CODE, 2003, ENTITLED "BUSINESS REGULATIONS" BY REPEALING THE EXISTING ARTICLE 1 ENTITLED "GENERAL REGULATIONS AND LICENSES" AND ADOPTING A NEW ARTICLE 1 ENTITLED "GENERAL REGULATIONS AND LICENSES" AND ADDING A NEW ARTICLE 7 ENTITLED "RESIDENTIAL RENTAL PROPERTIES".

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

Section I.

The existing Chapter 5, Article 1 of the Prairie Village Municipal Code, 2003, entitled "General Regulations and Licenses" is hereby repealed.

Section II.

Chapter 5 of the Prairie Village Municipal Code, 2003, entitled "Business Regulations" is hereby amended by adopting a new Article 1 entitled "General Regulations and Licenses" to read as follows:

5-101. **DEFINITIONS.** As used in this article:

- (a) **Business** means and includes business, trades, occupations, profession, the renting or leasing of property for residential or business use and also the rendering or furnishing of a service; provided, that the name of a business, trade, occupation or profession may be used, and when so used, shall refer to the particular business, trade, occupation or profession.
- (b) **Fee** An occupation or license fee upon and for the privilege of engaging in business as defined in this section.
- (c) **License** A document issued by the city acknowledging payment of the required fee and stating the name of the licensee, business and where located, a description of the business activity, the period which the fee covers, other matters as may be required, and signed by the city clerk. (A copy of same is on file in the office of the city clerk and is incorporated in this article by reference.)
- (d) **Person** Any individual, partnership, corporation, firm, organization, association, joint stock company, or syndicate who or which is engaged in any business, trade, occupation, or profession, or rendering or furnishing any service for profit or livelihood and subject to the provisions of this article; provided, any individual in the direct employ of any person licensed under the provisions of this article is exempt unless such individual operates as a subcontractor; but if such individual operates or practices his or her skill for compensation for any person other than his or her licensed employer, he or she must pay the fee and obtain a license as such is required by the terms of this article.

5-102. **LICENSE REQUIRED.** No person either as principal officer, agent, servant or employee, shall conduct, pursue, carry on, or operate in the city, any business, trade, occupation, or profession, or render or furnish its service hereinafter specified in this article without first making application to the City Clerk for a license therefore, paying to the Office of the City Clerk the license fee hereinafter prescribed and obtaining an occupation license from the City. Professions shall include, but shall not be limited to accountants, architects, attorneys, auctioneers, dentists, osteopaths and photographers.

- 5-103. **BUSINESS CATEGORIES.** A business shall be classified for purposes of payment of fees within the following categories:
- (a) Retail establishments and Administrative offices;
 - (b) Home occupations;
 - (c) Nondomiciled business;
 - (d) Solid Waste Disposal;
 - (e) Commercial Pesticide Business
 - (f) Tree Trimmer
 - (g) Family Home Day Care
- 5-104. **EXEMPTIONS.** Nothing in this article shall be construed as applying to or levying a fee against:
- (a) Instrumentality of the government of the United States, unless authorized by the laws of the United States;
 - (b) Organizations which are created and operated for charitable, religious, benevolent, fraternal, civic, educational, or similar purposes, and from which profit is not derived, either directly or indirectly, by any individual or any other business, person or organization and which is exempt from taxation by state or federal law. The City Clerk may require any business, instrumentality, or organization claiming to be exempt under this section, to file with the City Clerk a verified statement stating the facts upon which the exemption is claimed.
- 5-105. **APPEAL.** If the City Clerk disapproves any application, he or she will give the reasons therefore in writing, file same for public view and mail a copy to the applicant. The applicant may appeal such disapproval by filing a written notice thereof with the City Clerk within 15 days after the clerk files the statement of reasons for the disapproval. A hearing on such appeal shall be held by the Governing Body of the City no more than 30 days after the applicant files such notice of appeal. The Governing Body, after a hearing, may reverse or affirm the decision of the City Clerk by a majority vote. Nothing in this section shall prejudice the right of the applicant to reapply at a latter date for a license or permit(s).
- 5-106. **OCCUPATION FEE LEVIED.** An occupation fee is levied on business categories as follows:
- (a) Retail establishment and Administrative offices. Any person engaged in any type of business or profession that leases or is zoned either C-O, C-1, C-2, C-3, MXD or planned business district shall pay an occupational fee computed on the basis of interior space footage of the leased or owned space as adopted by the Governing Body and on record in the Office of the City Clerk. The fee shall be used on total square feet regardless of use; provided, however, that basement or second-story space that is used exclusively as storage or utility space shall be excluded in determining the total square feet of space.
 - (b) Home Occupations. All businesses conducted from a residential structure which is zoned residential or MXD shall pay an occupation fee adopted by the Governing Body and on record in the Office of the City Clerk; provided, however, that nothing in this section shall be construed to convey the right to use any residential structure for a business use prohibited by the City Zoning and Subdivision Regulations.
 - (c) Nondomiciled Business. Any person who is required by any ordinance of this City to obtain a permit to do business in the City shall pay an occupation fee adopted by the Governing Body and on record in the Office of the City Clerk, even if the person does not lease or own property within the City limits.
 - (d) Solid Waste Disposal. Any person engaging in the business of collecting, transporting, and processing of solid waste within the corporate limits of the City shall first obtain a license to do business in the City as required by this code.

- (e) Commercial Pesticide Business. The license required by this section for commercial pesticide business should coincide with that term set forth by the state licensing of a pesticide business as stated in the Kansas Pesticide Law, K.S.A. 2-2438(a) *et seq.* Any person engaging in the business of applying commercial pesticides shall first obtain a license to do business in the City and shall pay an occupation fee adopted by the Governing Body and on record in the Office of the City Clerk.
- (f) Tree Trimmer. Any person engaging in the business or occupation of pruning, treating or removing any trees within the City shall first obtain a license to do business in the City and shall pay an occupation fee adopted by the Governing Body and on record in the Office of the City Clerk.
- (g) Family Home Day Care. Any person providing child care services in a residential home shall first obtain a license from the State of Kansas to operate a day care and then from the City and shall pay an occupation fee adopted by the Governing Body and on record in the Office of the City Clerk.

5-107. INSPECTION OF THE PREMISES.

- (a) Home Occupations
 - i. The applicant for a home occupation license shall submit to the Office of the City Clerk, a floor plan for the home occupation along with the completed license application and applicable fees. The applicant and owner will be required to complete an affidavit certifying that he or she understands the City performance standards with respect to the operation of home occupations. The applicant will also be required to agree to comply with such standards as found in Prairie Village Zoning Ordinance Section 19.34.010.
 - ii. The City Clerk shall review the application for a home occupation license and shall, within ten (10) days from the date of such application determine whether the proposed home occupation complies with the requirements and performance standards of this section. Any finding of noncompliance shall be set forth in writing and sent to the applicant. Applicant can reapply when any deficiency is corrected.
 - iii. Any application for a home occupation license containing false information shall void the license from the date of the application.
 - iv. Home occupation license, once having been granted under the terms of this section, shall be renewed annually. With respect to such applications for renewal, the City Clerk may require the submission of floor plans, or, in lieu thereof, may require the applicant for renewal to state that no change in the floor plan is anticipated from the plans submitted with the original application. On any application for renewal, the City Clerk shall make the same determination, in the time period and manner required for original home occupation license applications, and shall either approve or disapprove such application for renewal.
 - v. The City Clerk or his or her designee may obtain a warrant to inspect the premises if the City Clerk has probable cause to believe that this ordinance is being violated.
- (b) Family Home Day Care
 - i. The applicant for a family home day care license shall submit to the City Clerk a floor plan for the facility along with the completed license application and applicable fees. The applicant and owner will be required to complete an affidavit certifying that he or she understands the City performance standards with respect to the operation of a family home day care as found in Prairie Village Zoning Ordinance Section 19.34.015. The applicant shall be approved for fire safety by the fire inspector and will not be granted a license until violations cited by the fire inspector are corrected.
 - ii. The City Clerk shall review the application for a family home day care license and shall, within ten (10) days from the date such application is filed, determine

whether the proposed family home day care complies with the requirements and performance standards of this section. Any finding of noncompliance shall be set forth in writing and sent to the applicant. Applicant can reapply when any deficiency is corrected.

- iii. Any application for a family home day care license containing false information shall void the license from the date of application.
- iv. Family Home Day Care license, once having been granted under the terms of this section, shall be renewed annually. With respect to such applications for renewal, the City Clerk may require the submission of floor plans, or, in lieu thereof, may require the applicant for renewal to state that no change in the floor plan is anticipated from the plans submitted with the original application. On any application for renewal, the City Clerk shall make the same determination, in the time period and manner required for original Family Home Day Care license applications, and shall either approve or disapprove such application for renewal.
- v. The City Clerk or his or her designee may obtain a warrant to inspect the premises if the City Clerk has probable cause to believe that this ordinance is being violated.

5-108. SAME; APPEAL OF DENIAL OR SUSPENSION OF LICENSE TO THE BOARD OF ZONING APPEALS. Appeals from denials or suspensions of licenses for home occupations or family home day cares shall be governed by Section 19.54.025 of Prairie Village Zoning Ordinance.

5-109. APPLICABLE CLASSIFICATIONS. Whenever more than one classification is applicable to a business, the business shall pay the highest classification herein. Each and every business operating at one location shall obtain an occupation license and pay the fee required for same.

5-110. LICENSE TERM.

- (a) The twelve (12) month period provided for in this article shall be the calendar year for the following license: Non-Domiciled and Solid Waste Disposal. If such person, firm, or corporation makes application during the last six months of such twelve (12) month period, she, he, it, or they shall pay one-half of the occupation fee provided for the current twelve (12) month period in which such application is made; provided however, no license shall be issued for any business conducted in violation of any state or federal law or in violation of any ordinance of the City. For purposes of this section, the person, firm, or corporation making application shall not be entitled to pay for only the last six months of such twelve (12) month period if she, he, it, or they should have applied for an occupation license, as provided by this article during the first six months of the term as provided by this section.
- (b) All other licenses shall be for a twelve (12) month period commencing at the time of licensing and renewing twelve (12) months later.

5-111. REFUNDS. No refunds will be made for fees collected under the provisions of this article.

5-112. DUTIES OF CITY CLERK. The City Clerk, upon payment of the amount specified in this article for a trade, profession, or occupation, shall give a receipt therefore stating the amount paid, for what period and to whom issued, and if, possible, the exact location where the business or occupation is carried on. The receipt shall be delivered to the party paying the occupation fee. In addition, the City Clerk shall issue to the person named in such receipt a certificate stating the kind and nature of business to be carried on or transacted, to whom issued, the time when such certificate will expire, the amount paid therefore and, if possible, the office, place or

headquarters where same is to be located. The City Clerk shall keep a record of all certificates issued showing their nature, date of expiration, to whom issued, and the location of the business as aforesaid.

- 5-113. **DISPLAY OF LICENSE.** All persons or firms doing business in a permanent location are required to have their license conspicuously displayed in their place of business, and all persons or firms to whom licenses are issued not having a permanent place of business are required, within 48 hours, to provide proof that they have been issued an occupation license when requested to do so by any properly designated City Official.
- 5-114. **NONTRANSFERABLE.** No certificate for an occupation fee issued under this article shall be transferable or assignable.
- 5-115. **APPLICATION FORM.** A form for application to the City for an occupation license is on file in the Office of the City Clerk.
- 5-116. **PENALTIES FOR VIOLATION.**
- (a) Any person which conducts, pursues, carries on, or operates, within the city limits, any trade, profession or occupation for which a certificate for the payment of the occupation fee is required by this article, or assists directly or indirectly in so doing, in any manner or to any extent, either as owner or proprietor, or as officer of any corporation, or as manager, superintendent, agent, servant, or employee of any person after an occupation, is deemed to do so unlawfully, and for such violation of this article is guilty of a misdemeanor and upon conviction thereof shall be fined in a sum of not more than \$100. Each and every day that such violation continues constitutes a separate offense.
 - (b) The payment of the fine for failure to pay the fee and to secure a license shall not constitute payment of the fee nor excuse the person from making payment, and the City may proceed by civil action to collect the tax.
 - (c) Any person liable to pay such occupation fee shall be liable for and pay in addition to the same, after the expiration of 30 days from the date the fee became payable, a penalty of 10 percent of the amount due. After 60 days delinquency a complaint may be filed in the municipal court of the City charging the alleged violator with a violation of this article.
 - (d) If any person fails or refuses to pay any fee or penalties as provided by this section, the City may collect the amount due in the same manner as a personal debt of the property owner to the City by bringing an action in the District Court of Johnson County, Kansas. Such actions may be maintained, prosecuted, and all proceedings taken, including any award of post-judgment interest the same effect and extent as for the enforcement of an action for debt. All provisional remedies available in such actions shall be and are hereby made available to the City in the enforcement of the payment of such obligations. In such actions, the City also shall be entitled to recover interest at the rate provided in K.S.A. 79-2968, and amendments thereto from and after the date a delinquency occurs in the payment of special assessments. If the amount owing is to be assessed against the property, the City Clerk, at the time of certifying other taxes to the county clerk, shall certify the aforesaid fees and penalties owing by the property owner; and the county clerk shall extend the same on the tax roll of the county against the lot or parcel of ground, and it shall be collected by the county treasurer and paid to the City as other city taxes are collected and paid. The City may pursue collection both by levying a special assessment and in the manner of a civil action as described herein, but only until the full cost and any applicable interest has been paid in full.

Section III.

Chapter 5 of the Prairie Village Municipal Code, 2003, entitled "Business Regulations" is hereby amended by adopting a new Article 7 entitled "Residential Rental Properties" to read as follows:

- 5-701. SCOPE. The provisions of this article shall apply to all residential structures in districts zoned R-1a, R-1b, R-2, R-3, R-4, or planned residential district, and MXD designated, used or intended to be used as rental property for human habitation. The term residential structure shall mean a building or portion thereof, designed exclusively for residential occupancy. The term dwelling unit shall mean any room or group of rooms located within a residential structure and forming a single habitable unit with facilities which are used or are intended to be used, for living, sleeping, cooking and eating.
- 5-702. APPLICATION FOR OCCUPATIONAL LICENSE REQUIRED. No person, as defined in section 5-101(d), shall lease or rent or offer for lease or rent any residential structure without first making application to the City for an occupation license on the terms and conditions set forth in this code. The person making application for such an occupational license shall state in the application that the residential structure for which application is sought is in compliance with the City's building and property maintenance codes, as set out in Chapter 4.
- 5-703. RENEWAL OF OCCUPATIONAL LICENSE. Any such occupational license shall be renewed on an annual basis. Application for renewal of the occupational license shall be made no more than 60 days and no less than seven days prior to the expiration of the current occupational license, if any, held by the owner of a residential structure offered for lease or rent.
- 5-704. OCCUPATIONAL FEE LEVIED.
- (a) Persons engaged in the business of owning and renting residential structures subject to being leased which are zoned R-1a, RP-1a, R-1b, or RP-1b shall pay an occupation fee per dwelling unit adopted by the Governing Body and on record in the Office of the City Clerk.
 - (b) Persons engaged in the business of owning or leasing apartments, duplexes, and all other residential rental properties which are zoned R-2, RP-2, R-3, RP-3, R-4, RP-4 and MXD shall pay an occupational fee based upon square footage of living space leased or subject to being leased, the fee shall be adopted by the Governing Body and on record in the Office of the City Clerk. The owner-lessor or the leasing agent of the rental property other than R-1a, RP-1a, R-1b, or RP-1b shall make a declaration of square footage which must accompany the fee payment to the City Clerk's Office each year. If the square footage is declared incorrectly, a fee per building as adopted by the Governing Body and on record in the Office of the City Clerk will be charged the owner-lessor or the leasing agent to help defray the additional administrative costs necessary to compute the declaration. The square footage of living space referred to above in apartments and duplexes shall be determined by measuring the area within each individual living unit. Measurement of the square footage of living space shall include the living area, and shall exclude the garage, carport area, and basement.
 - (c) For the purpose of this section, subject to being leased shall mean all residential property being offered for lease to a tenant and available for rental or lease as an apartment, duplex, or other type of residential dwelling.
 - (d) If the rental property is offered lease by a leasing agent of the owner, then the declaration hereinafter required shall be made and the fee paid by the leasing agent.

- (e) If any rental property is offered for lease by the owner who is not a resident of Johnson County, Kansas, the owner must designate a resident agent who resides in Johnson County, Kansas. The agent shall be responsible for the payment of all fees and penalties provided in this article.

5-705. PENALTIES FOR VIOLATION.

- (a) Any persons engaged in the business of owning residential rental properties for which a certificate of payment of the occupation is required, is deemed to do so unlawfully, and for such violation of this article is guilty of a misdemeanor and upon conviction thereof shall be fined in a sum of not more than \$100. Each and every day that such violation continues constitutes a separate offense.
- (b) The payment of the fine for failure to pay the fee and to secure a license shall not constitute payment of the fee nor excuse the person from making payment, and the City may proceed by civil action to collect the tax.
- (c) Any person liable to pay such occupation fee shall be liable for and pay in addition to same, after the expiration of 30 days from the date the fee became payable, a penalty of \$10 per month, for an amount not to exceed \$100 per year. After 60 days delinquency a complaint shall be filed in the municipal court of the City charging the alleged violator with a violation of this article.
- (d) If any person fails or refuses to pay any fee or penalties as provided by this section, the City may collect the amount due in the same manner as a personal debt of the property owner to the City by bringing an action in the District Court of Johnson County, Kansas. Such actions may be maintained, prosecuted, and all proceedings taken, including any award of post-judgment interest the same effect and extent as for the enforcement of an action for debt. All provisional remedies available in such actions shall be and are hereby made available to the City in the enforcement of the payment of such obligations. In such actions, the City also shall be entitled to recover interest at the rate provided in K.S.A. 79-2968, and amendments thereto from and after the date a delinquency occurs in the payment of special assessments. If the amount owing is to be assessed against the property, the City Clerk, at the time of certifying other taxes to the county clerk, shall certify the aforesaid fees and penalties owing by the property owner; and the county clerk shall extend the same on the tax roll of the county against the lot or parcel of ground, and it shall be collected by the county treasurer and paid to the City as other city taxes are collected and paid. The City may pursue collection both by levying a special assessment and in the manner of a civil action as described herein, but only until the full cost and any applicable interest has been paid in full.

5-706. LICENSE REQUIRED. No residential structure used for rental purposes shall be occupied without the owner first making application to the City for the occupation license required herein and maintaining such license in force and effect. No residential structure may be occupied if the occupational license for the residential structure is revoked. The City Clerk may declare a residential structure used for rental purposes to be uninhabitable if a valid occupational license for such structure is not in effect and, at the direction of the Governing Body, may commence civil actions to evict persons residing in such structures.

5-707. COMPLIANCE WITH THE CITY'S BUILDING AND PROPERTY MAINTENANCE CODES. The occupation license for a residential structure used for rental purposes may be granted, and shall remain in effect, only so long as the residential structure and underlying real estate are maintained in compliance with the City's building and property maintenance codes as set out in Chapters 4 and 8.

- 5-708. **SUSPENSION, REVOCATION AND DENIAL OF OCCUPATIONAL LICENSE.** An occupational license shall not be granted and may be suspended or revoked by he City Clerk if:
- (a) The owner refuses to grant to the Building Official or his or her agent access to the dwelling unit or premises; or
 - (b) The Building Official or his or her agent finds or determines that there exists in the dwelling unit or on the premises a violation of the building or property maintenance codes, as set out in Chapters 4 and 8; provided, however, that whenever the Building Official or his or her agent in inspecting a rental dwelling unit finds or determines on the premises a violation of such building or property maintenance codes, the Building Official shall provide written notice by certified mail to the owner or resident agent describing each such violation, specifying a time period for correction of the violations, and informing the owner or resident agent that reinspection of the dwelling unit will be performed within five days after notification from the owner or resident agent that the violations of the building or property maintenance codes have been corrected.
 - (c) Any decision of the City Clerk may be appealed by the owner to the Governing Body by filing a notice with the City Clerk within 10 days of the date on which the owner or resident agent was served with the City Clerk's order. If the owner does not appeal such decision to the Governing Body, the decision shall be final. In the event an appeal is filed, the Governing Body shall conduct a hearing on the decision of the City Clerk to revoke the license, and shall either affirm or deny such decision. The decision of the Governing Body shall be final.
- 5-709. **REQUEST FOR INSPECTION BY TENANT OR OCCUPANT.** Nothing herein shall be construed to prohibit an inspection by the Building Official or his or her agent of any dwelling unit when requested by the tenant or occupant of the dwelling unit.
- 5-710. **RIGHT OF ENTRY; UNLAWFUL INTERFERENCE; PENALTY.**
- (a) Any authorized officer or agent of the City, pursuant to this article, shall be allowed to enter onto any land within the City limits to investigate violations of this article, provided that such entries shall be made in such a manner as to cause the least possible inconvenience to the persons in possession and the officer or agent shall obtain an order for this purpose from a court of competent jurisdiction in the event entry is denied or resisted.
 - (b) It shall be unlawful for any person to interfere with a public officer or agent of the City in performing his or her duties pursuant to this section.
 - (c) Any person who interferes with an officer or agent of the City pursuant to this article shall be punished as provided in section 1-116.
- 5-711. **FAILURE TO OBTAIN AN OCCUPATIONAL LICENSE; FAILURE TO MAINTAIN A CURRENT VALID OCCUPATIONAL LICENSE; OCCUPYING A RESIDENTIAL STRUCTURE OFFERED FOR RENTAL PURPOSES FOR WHICH A VALID OCCUPATIONAL LICENSE IS NOT IN EFFECT; PENALTIES.** It shall be unlawful for any owner to rent or lease a residential structure for human habitation without obtaining and maintaining in force and effect a current valid occupational license for such structure. It shall be unlawful for a tenant or person in possession to occupy a lease or rental residential structure for which the owner does not hold a current valid occupational license. Persons who are in violation of this section shall be punished by a fine of up to \$500 or by a jail term not to exceed five days, or both. Each day that a violation continues shall constitute a separate offense.

Section IV.

All ordinances and parts thereof that are inconsistent with any provision of this Ordinance are hereby repealed.

Section V.

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

PASSED AND APPROVED this _____ day of September, 2009.

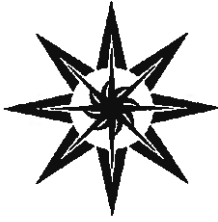
Ronald L. Shaffer, Mayor

ATTEST:

APPROVED AS TO FORM:

Joyce Hagen Mundy
City Clerk

Catherine P. Logan
City Attorney



CITY CLERK DEPARTMENT

Council Committee Meeting Date: August 17, 2009

Council Meeting Date: September 8, 2009

COU2009-82: Consider Ordinance 2204 Amending Chapter 5 of the Prairie Village Municipal Code, 2003 entitled "Business Regulations".

RECOMMENDATION

Staff recommends the City Council approve Ordinance 2204 Amending Chapter 5 of the Prairie Village Municipal Code, 2003 entitled "Business Regulations".

BACKGROUND

The attached Ordinance reflects changes to the Massage Therapy regulations. The Ordinance is modeled after the City of Lenexa. Current regulations require 70 hours of instruction and a minimal background check. The proposed regulations would require:

- 500 hours of instruction
- CPR/First Aid certification
- 12 hours of Continuing Education
- Background investigation by the Police Department

FUNDING SOURCE

N/A

ATTACHMENTS

1. Ordinance

PREPARED BY

Jeanne Koontz
Deputy City Clerk
August 10, 2009

ORDINANCE NO. 2204

AN ORDINANCE AMENDING CHAPTER 5 OF THE PRAIRIE VILLAGE MUNICIPAL CODE, 2003, ENTITLED "BUSINESS REGULATIONS" BY REPEALING THE EXISTING ARTICLE 5 ENTITLED "MASSAGE THERAPY" AND ADOPTING A NEW ARTICLE 5 ENTITLED "MASSAGE THERAPY".

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

Section I.

The existing Chapter 5, Article 5 of the Prairie Village Municipal Code, 2003, entitled "Massage Therapy" is hereby repealed.

Section II.

Chapter 5 of the Prairie Village Municipal Code, 2003, entitled "Business Regulations" is hereby amended by adopting a new Article 5 entitled "Massage Therapy" to read as follows:

5-501. LICENSE REQUIRED.

- (a) No person shall operate an in-office massage therapy establishment, or massage establishment, as defined in this Article, without first having obtained a license therefore, issued by the City Clerk. It is unlawful to conduct such a business unless the license for said business is current, valid, and not suspended. A separate license shall be required for each and every separate place of business operated by any licensee.
- (b) Licenses are valid for a period of twelve (12) months from the date of issuance. Individuals conducting "in-office massage therapy" as defined by this Article shall be required to hold only one (1) permit; provided, however, that individuals providing massages at massage establishments on permanent premises, in addition to providing in-office massage therapy, must hold a separate permit for the in-office massage therapy and for the massage establishment conducted on premises.

5-502. MASSAGE THERAPY LICENSE REQUIRED. No person shall perform massage therapy or in-office massage therapy within the City unless he or she has a valid massage therapist license issued by the City pursuant to the provisions of this Article.

5-503. REQUIREMENTS FOR THE LICENSE. To be eligible for a massage therapist license, an applicant must provide proof of the following:

- (a) That the applicant has successfully completed:
 - i. A course of instruction made up of not less than five hundred (500) hours, in the theory, method, or practice of massage. Proof that the applicant has passed the National Certification Examination for Therapeutic Massage and Bodywork will be accepted as proof of fulfillment of this requirement of completion of a course of instruction; or
 - ii. A massage therapeutic training course of instruction consisting of not less than one hundred (100) hours, in the theory, method, or practice of massage and is a State-licensed health care professional in good standing.
- (b) That the applicant has successfully completed the requirements for certification in first aid and in cardiopulmonary resuscitation by the American Heart Association or the equivalent.

5-504. OBTAINING A LICENSE.

- (a) Proof of completion of educational and training requirements must be by certified transcript. The educational and training requirements imposed by this Article may be fulfilled by proof of attendance at more than one school
- (b) Individuals licensed with the City as massage therapists as of the effective date of this Section have until December 31, 2011 to satisfy the educational and training requirements of this Article; provided, however, all applicants for a massage therapist license must provide proof of successful completion of the requirements for certification in first aid and in cardiopulmonary resuscitation by December 31, 2009

5-505. CONTINUING EDUCATION REQUIREMENT. As of December 31, 2009 all licensed massage therapists applying for a renewal license must provide proof that they have received a minimum of twelve (12) hours (50 minutes per hour) of continuing education during the preceding twelve (12) month licensing period. One (1) hour continuing education credit will be awarded for each hour of training relating to the theory or clinical application of theory of massage, to include, but not limited to, clinical business practices, hygiene, record keeping, medical terminology, professional ethics, business management, human behavior, client interaction and State and local laws. Credits to be used toward the continuing education requirement of this Article must be received from an accredited college or university.

5-506. APPLICATION FOR BUSINESS LICENSE.

- (a) Every applicant for a license to maintain, operate, or conduct any establishment covered by this Article shall file an application with the Office of the City Clerk and pay an annual fee as adopted by the Governing Body and on record in the Office of the City Clerk. The application for a license to operate a massage therapy business shall set forth the exact nature of the services to be provided; the proposed place of business and facilities; and the name, address, and telephone number of each applicant, including any stockholder holding more than ten percent (10%) of the stock of the corporation, any partner, when a partnership is involved, and any manager. In addition to the foregoing, any applicant for a business license shall furnish the following:
 - i. Written proof that the applicant is at least eighteen (18) years of age.
 - ii. The business, occupation, or employment of the applicant for the three (3) years immediately preceding the date of the application.
 - iii. The massage therapy and in-office massage therapy establishment business license history of the applicant; whether such person has previously had any massage license revoked or suspended and the reason therefore.
 - iv. Any criminal convictions, other than traffic infractions, including the jurisdiction in which the offense took place; the sentence or other penalty, if any; and the current status of the case.
 - v. Authorization for the City, its agents and employees to conduct an investigation into the truth of the statements set forth in the application and the qualifications of the applicant.
 - vi. Massage therapy establishments who employ massage therapists conducting in-office massages at a client's business facilities shall maintain an annual log (ledger) of such in-office massages which includes the therapist's name, name of business visited, physical address of the business, and date and time of appointment.
- (b) Applicants for a business license who also desire to provide massage therapy themselves, must apply for and receive a massage therapist license as provided for in Section 5-507 of this Article.

5-507. APPLICATION FOR MASSAGE THERAPIST LICENSE.

- (a) Any person who desires to perform massage therapy or in-office massage therapy shall file a written application with the Office of the City Clerk and pay an annual filing fee as adopted by the Governing Body and on record in the Office of the City Clerk. A massage therapist license shall be valid for a period of twelve (12) months from the date of issuance. This fee shall cover the cost of processing the application. Only one (1) massage therapy license shall be required for a massage therapist regardless of the activity or activities, permitted by this Article, in which the therapist engages.
- (b) Any applicant for a massage therapist license shall furnish the following:
 - i. The applicant's name, home address, and home phone number, and description of the individual, including height, weight, race, and color of hair and eyes.
 - ii. Written proof that the applicant is at least (18) year of age.
 - iii. Date of Birth and Social Security number for the purpose of processing a background check.
 - iv. The business, occupation, or employment of the applicant for the three (3) years immediately preceding the date of the application.
 - v. Any criminal convictions, other than traffic infractions, including the jurisdiction in which the offense took place; the sentence or other penalty, if any; and the current status of the case.
 - vi. The position or function the applicant is expected to perform within the business.
 - vii. Proof of completion of the educational requirements for a massage therapist license, as set forth in Section 5-504 of this Article.
 - viii. Authorization for the City, its agents and employees to conduct an investigation into the truth of the statements set forth in the application and the qualifications of the applicant.

5-508. PROCESSING OF APPLICATIONS. Upon receipt of an application for a massage therapy business license, the City Clerk shall immediately transmit (1) copy of the application to the Chief of Police or his or her designee to investigate the applicant. In addition, the City Clerk shall transmit a copy of the application to the Building Official. It shall be the duty of the Police Department to investigate the applicant and to determine whether the information contained in the application is accurate and whether the applicant is qualified to be issued a license. The Chief of Police shall report the results of such investigation to the City Clerk no later than ten (10) working days from the date the application is received by the City Clerk. It shall be the duty of the Building Official to determine whether the structure where the business will be located complies with the requirements of the applicable zoning, building, fire and property maintenance codes of the City. The Building Official shall report the results of his investigation to the City Clerk. Upon receipt of the reports from the Chief of Police and the Building Official, the City Clerk shall issue a license to the applicant provided it is in compliance with Section 5-510. Items relating to the structural design of the building in which the business will be located which the Building Official cannot verify prior to consideration by the City Clerk may be verified by approving the application contingent on a final inspection.

5-509. IDENTIFICATION CARDS. All massage therapists holding licenses under the provisions of this Article shall, at all times when working in a massage therapy establishment or providing any service regulated by this Article, have in their possession valid identification cards issued by the City and bearing the massage therapist's license number and photograph. All persons granted licenses under the provisions of this Article shall, at times, keep their licenses available for inspection upon request by any person authorized by law to inspect the same.

5-510. ISSUANCE OF BUSINESS LICENSES.

- (a) Upon receipt of an application for a business license, in the proper form, the City Clerk shall issue a license; unless upon examination of the application, it finds that:
- i. The correct license fee has not been tendered to the City, or, in the case of a check or bank draft, it has not been honored with payment on presentation;
 - ii. The operation, as proposed by the applicant, would not comply with all applicable laws, including, but not limited to, the City's building, zoning and health regulations;
 - iii. The applicant, if an individual; or any of the stockholders holding more than ten percent (10%) of the stock of the corporation; or any of the officers or directors, if the applicant is a corporation; or any of the partners, if the applicant is a partnership; or the manager or other person principally responsible for the operation of the business, has been convicted of, or diverted on, any of the following:
 - a. A felony;
 - b. An offense involving sexual misconduct with children;
 - c. An offense involving obscenity;
 - d. Prostitution;
 - e. Promoting prostitution;
 - f. Solicitation for prostitution; or
 - g. Any sex-related offense.
 - iv. The applicant has knowingly made any false, misleading, or fraudulent statement of fact in the license application or in any document required by the City in conjunction therewith;
 - v. The applicant has had a massage therapy establishment or other similar permit or license denied, suspended, or revoked for any of the above listed causes by this City or any other state or local jurisdiction within five (5) years of the date of the application;
 - vi. The applicant has previously been issued a license for an adult entertainment business or escort service, or has been employed by any such establishment;
 - vii. The applicant, if an individual; or any of the officers and directors, if the applicant is a corporation; or any of the partners, if the applicant is a partnership; or the manager or other person primarily responsible for the operation of the business, has not attained the age of eighteen (18) years; or
 - viii. The manager or other person primarily responsible for the operation of the business would be ineligible to receive any license under the provisions of this Article.
- (b) If approved, the City Clerk shall issue the proper license. The license shall state that it is not transferable or refundable. The license shall be kept posted in a conspicuous place on the premises of the licensee. If an applicant is disapproved, the applicant shall be immediately notified by certified mail, return receipt requested, mailed to the last known mailing address of the applicant, and the notice shall state the basis for the disapproval. Any applicant aggrieved by the disapproval may seek a review by the City Council.
- (c) Any license issued under the provisions of this Article shall, at all times, be displayed by the licensee in an open and conspicuous place on the premises where the licensed business is conducted.

5-511. PROCESSING OF MASSAGE THERAPIST APPLICATIONS. The City Clerk shall issue a massage therapist license within twenty-one (21) days of receiving a completed application unless, upon examination of the application, it is determined that:

- (a) The applicant for the massage therapist license has been convicted of, or diverted on, any of the following:
- i. A felony;

- ii. An offense involving sexual misconduct with children;
 - iii. An offense involving obscenity;
 - iv. Prostitution;
 - v. Promoting prostitution;
 - vi. Solicitation for prostitution; or
 - vii. Any sex-related offense.
- (b) The applicant has knowingly made any false, misleading, or fraudulent statement of fact in the license application or in any document by the City in conjunction therewith.
 - (c) The correct license fee has not been tendered to the City; or, in the case of a check or bank draft, it has not been honored with payment on presentation.
 - (d) The applicant has not successfully completed the educational requirements under the provisions of this Article. In any case in which the applicant is refused a massage therapist license for failure to provide proof of successful completion of the educational requirements, the applicant will be afforded the opportunity for a hearing before the City Council.

5-512. REVOCATION OF BUSINESS LICENSE.

- (a) Any license issued for an in-office massage therapy establishment may be revoked or suspended by the City Clerk where it is found that any of the provisions of this Article are violated or the licensee or any employee of the licensee, including a massage therapist, has been convicted of any offense which would make them ineligible to receive a license; or in any case, in which the licensee refused to permit any duly authorized police officer or employee of the City to enter upon and inspect the premises or the operations of the licensee.
- (b) The City Clerk, before revoking or suspending any license, shall give the licensee at least ten (10) days' written notice of the charges against him and the opportunity for a hearing before the City Administrator at which time the licensee may present evidence bearing upon the question. In such cases, the charges shall be specific and in writing. The City Administrator may uphold the revocation or suspension; or may rescind the revocation or suspension, and if applicable, specify certain conditions and stipulations associated therewith.
- (c) All revocation or suspensions affirmed by the City Administrator may be appealed to the City Council upon written notice of appeal, filed with the City Clerk, within ten (10) days of receipt of the notice of revocation or suspension.

5-513. REVOCATION OF THERAPIST LICENSE.

- (a) A massage therapist license issued by the City Clerk may be revoked or suspended upon determination by the City Clerk that the therapist has been convicted of any offense which would make the therapist ineligible to receive a license or that the therapist has violated any of the provisions of this Article.
- (b) The City Clerk, before moving to revoke or suspend any massage therapist license, shall give the therapist at least ten (10) days' written notice of the inquiry into the therapist's eligibility and the opportunity for a hearing before the City Administrator. The City Administrator may uphold the revocation or suspension; or may rescind the revocation or suspension, and if applicable, specify certain conditions and stipulations associated therewith.
- (c) All revocations or suspensions affirmed by the City Administrator may be appealed to the City Council upon written notice of appeal, filed with the City Clerk, within ten (10) days of receipt of the notice of revocation or suspension.

5-514. TRANSFER OF LICENSES.

- (a) No massage therapy business license, in-office massage therapy business license, or massage therapist license is transferable and such authority as a license confers shall be conferred only on the individual named therein.

(b) Any application made, fee paid, and license obtained under the provisions of this Article shall be in addition to and not as a substitute for any other fee, permit or license required under the provisions of this Code.

5-515. **INSPECTION NECESSARY.** No business shall be conducted on licensed premises unless, after an inspection, the Building Official certifies that the establishment complies with each of the following requirements:

- (a) The walls shall be clean and painted with washable, mold-resistant paint in all rooms where water or steam baths are given. Floors shall be free from any accumulation of dust, dirt, or refuse. All equipment used in the operation of the business shall be maintained in a clean and sanitary condition. Towels, linens, and items for personal use of operators and patrons shall be clean and freshly laundered for each patron. Towels, cloths, and sheets shall not be used for more than one (1) patron. Heavy white paper may be substituted for sheets; provided, that such paper is changed for each patron. No service or practice shall be carried on within any cubicle, room, booth, or other area within any licensed premises which is fitted with a door that can be locked.
- (b) Toilet facilities shall be provided in convenient locations. When five (5) or more employees and patrons are on the premises at the same time, separate toilet facilities shall be provided for men and women.
- (c) Lavatories or wash basins with both hot and cold running water shall be installed in either the toilet room or a vestibule. Lavatories or wash basins shall be provided with soap in a dispenser and with sanitary towels.

5-516. **RIGHT OF ENTRY.** The Chief of Police and Building Official may, from time to time, make an inspection of each licensed massage therapy establishment in the City, including locations where an in-office massage therapy establishment provides services, for the purposes of determining that the provisions of this Article are being complied with. Such inspections shall be made at reasonable times and in a reasonable manner. Any failure on the part of any licensee or employee to permit immediate access to an inspector shall be grounds for revocation or suspension of any business license or therapist license.

5-517. **REGULATIONS PERTAINING TO OPERATIONS.** Operation of any in-office massage therapy establishment or massage therapy establishment shall be subject to the following regulations:

- (a) **Hours of Operation:** Businesses shall be closed and operations shall cease between the hours of ten (10:00) P.M. and six (6:00) A.M. each day, with the exception that in-office massage therapy may be provided during those hours on the premises of a business which has evening and night shifts.
- (b) **Separation of Sexes:** It shall be unlawful for a massage therapy business to provide treatment for customers of the opposite sex in the same room at the same time.
- (c) **Alcoholic Beverages:** No consumption of alcoholic beverages shall be permitted in or upon any premises licensed under the provisions of this Article.
- (d) **Conduct on Premises:** All licensees licensed under the provisions of this Article shall, at all times, be responsible for the conduct of business on the premises and for any act or conduct on the part of the employees of the business which constitutes a violation of the provisions of this Article. Any violation of any State or Federal laws committed on the premises by any such licensee or employee touching upon the eligibility of or sustainability of the person to hold a license may be grounds for suspension or revocation of a license.

5-518. **SUPERVISION.** A licensee shall have the premises supervised at all times when open for business. The licensee or a person employed by the business shall be

present and personally supervise on the premises, and not violate or permit others to violate any applicable provision of this Article. The violation of any provisions of any section of this Article by any employee of the licensee shall be deemed a violation by the licensee.

- 5-519. **EMPLOYEE REGISTERS.** All operators licensed under the provisions of this Article shall keep and maintain on the premises a current register of all employees, showing the employees' names, addresses, and license numbers. Such register shall be open to inspection at all reasonable times by any City inspector or the Police Department.
- 5-520. **REGULATION OF DRESS.**
- (a) All employees who provide massage therapy services must wear sanitary outer garments. Provisions must be made for separate dressing rooms for each sex, on the premises, with individual lockers for each employee who provides massage therapy services.
 - (b) All licensed employees and massage therapists must be modestly clothed while providing massage therapy services, and both male and female therapists must cover their upper torso while providing services.
 - (c) Patrons' genitalia must be covered by sanitary towels, cloths, or undergarments while in the presence of an employee or massage therapist. Contact by an employee or massage therapist with a patron's genital area is strictly prohibited.
- 5-521. **RESTRICTIONS ON ADVERTISING.** No establishment granted a license under the provisions of this Article shall place, publish, or distribute any advertisement for the business that depicts any activity or any portion of the human body that would suggest to any reasonable person who viewed such advertising that the business provides any service other than those permitted under this Article, or that the employees of the business will be dressed in any manner inconsistent with the regulations set forth in Section 5-520(c) of this Article, nor shall any massage therapy business licensed under the provisions of this Article indicate in the text of any advertising promulgated by that business that any service is available other than those services permitted under this Article.
- 5-522. **PERSONS UNDER EIGHTEEN PROHIBITED FROM PREMISES.** No licensee shall perform any massage therapy for or permit any massage therapy to be provided to any person under the age of eighteen (18) years of age unless accompanied by a parent or legal guardian.
- 5-523. **RESTRICTION OF BUSINESS TO PREMISES.** All business or activity provided for under this article shall be conducted and performed on the respective premises; provided, however, that massage therapy business licensees or masseurs or masseuses employed by a licensee may perform their services in behalf of patients in such patient's home, residence or other designated place, provided that they are licensed under this article.
- 5-524. **FURTHER REGULATIONS.** The Chief of Police may, after a public hearing, make and enforce reasonable rules and regulations not in conflict with, but to carry out, the intent of this article.
- 5-525. **FALSE INFORMATION.**
- (a) It shall be unlawful for any person to give false information either in writing or orally for the obtaining of any license to operate a business license pursuant to this Article.

- (b) Any person convicted of a violation of subsection (a) shall be punished by a fine not to exceed \$250 nor less than \$100, or by imprisonment in the city jail for a period not to exceed 90 days, or by both such fine and imprisonment.

5-526. PENALTY. Any person convicted of a violation of any of the provisions of this Article shall be deemed guilty of a public offense and subject to the provisions of Section 5-116 of this code.

5-527. DEFINITIONS. When used in this Article, the following words and terms shall have the meanings ascribed to them in this Section:

- (a) Accredited College or University: An institution of higher education offering undergraduate or graduate degrees.
- (b) Healing Arts Practitioner: A person who has been licensed pursuant to K.S.A. 65-3801 *et seq.* to practice medicine and surgery, osteopathic medicine and surgery or chiropractic.
- (c) In-office Massage Therapy: Massage therapy conducted on the premises of the license massage therapist's clients as opposed to a single permanent location or in a private residence.
- (d) Massage Therapist: A person who applies any method of pressure on or friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating of the external soft parts of the body with the hands or with the aid of any mechanical or electrical apparatus or appliance with or without such supplementary aids as rubbing alcohol, liniments, antiseptics, oils, powder, creams, lotions, ointments, or other similar preparations commonly used in this practice. Massage therapy, as defined herein, does not include the touching in any fashion of human genitalia. A massage therapist must also successfully complete at least the minimum educational and practical requirements as set out specifically in this Code.
- (e) Massage Therapy: Any method of pressure on or friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating of the external soft parts of the body with the hands or with the aid of any mechanical or electrical apparatus or appliance with or without such supplementary aids as rubbing alcohol, liniments, antiseptics, oils, powder, creams, lotions, ointments, or other similar preparations commonly used in this practice. Massage therapy, as defined herein, does not include the touching in any fashion of human genitalia.
- (f) Massage Therapy Establishment (Also referred to as Massage Establishment): any establishment, operation or business primarily engaged in offering the services of massage therapy and licensed under Chapter 5 of the Code of the City of Prairie Village.
- (g) Medical or Dental Clinic: An establishment where patients, who are not lodged overnight except for observation or emergency treatment, are admitted for examination and treatment by a person or group of persons practicing any form of healing or health-building services, whether such persons be medical doctors, chiropractors, osteopaths, chiropodists, naturopaths, optometrists, dentists, or any such profession, the practice of which is lawful in the State, and also includes establishments which provide massage therapy subject to the licensing provisions in this Code.

Section III.

All ordinances and parts thereof that are inconsistent with any provision of this Ordinance are hereby repealed.

Section IV.

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

PASSED AND APPROVED this _____ day of September, 2009.

Ronald L. Shaffer, Mayor

ATTEST:

APPROVED AS TO FORM:

Joyce Hagen Mundy
City Clerk

Catherine P. Logan
City Attorney



PUBLIC WORKS DEPARTMENT

Council Committee Meeting Date: August 17, 2009

Council Meeting Date: August 17, 2009

*COU2009-83: Consider Bid Award for Annual Tree Trimming

RECOMMENDATION

Staff recommends the City Council approve the award of a bid to Arbor Masters Tree & Landscape for \$58,520.00 for trimming trees in City right-of-way.

COUNCIL ACTION REQUESTED ON: August 17, 2009

BACKGROUND

This bid is the annual tree trimming of trees in the City right-of-way. There are approximately 1,300 trees in the area bounded by 63rd Street, Roe Avenue, 71st Street and Mission Road. These trees will be trimmed to remove any dead wood larger than 2-inches, remove limbs interfering with sight line to traffic signals and street signs, and with a cone under the street lights.

Two bids were received and opened on August 3, 2009, by the City Clerk. The bid tab is:

Bidder	Area 21	Area 22	Total
Arbor Masters	\$11,220.00	\$47,300.00	\$58,520.00
VanBooven Tree	\$15,875.00	\$48,750.00	\$64,625.00

FUNDING SOURCE

Funding is available in the 2009 Public Works Operating Budget.

RELATION TO VILLAGE VISION

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

CFS2: Preserve and protect natural areas

CFS3: Ensure streets and sidewalks are in good condition by conducting maintenance and repairs as needed

PUBLIC NOTICE

None

ATTACHMENTS

Construction Agreement for Tree Trimming

PREPARED BY

S Robert Pryzby, Director of Public Works

August 11, 2009

CONSTRUCTION AGREEMENT

for

TREE TRIMMING

BETWEEN

CITY OF PRAIRIE VILLAGE, KS

AND

**CONSTRUCTION AGREEMENT
BETWEEN
THE CITY OF PRAIRIE VILLAGE, KANSAS
AND
FOR
TREE TRIMMING**

THIS AGREEMENT, is made and entered into this _____ day of _____, 2008, by and between the City of Prairie Village, Kansas, hereinafter termed the "City", and _____, hereinafter termed in this agreement, "Contractor", for the construction and completion of Tree Trimming _____, designated, described and required by the Project Manual and Bid proposal, to wit:

CONTRACT COST: The City shall pay to the Contractor for the performance of the Work embraced in this Contract, and the Contractor will accept in full compensation therefore the sum (subject to adjustment as provided _____ by _____ the _____ Contract) _____ of \$ _____ for all Work covered by and included in the Contract award and designated in the foregoing Article I; payment thereof to be made in cash or its equivalent and in a manner provided in the Contract Documents.

CONTRACT TERM: The Contractor will complete all work by this Contract within the Contract completion date of October 1, 2009.

1. DEFINITIONS:

1.1. Following words are given these definitions:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1.2. Whenever any word or expression defined herein, or pronoun used instead, occurs in these Contract Documents; it shall have and is mutually understood to have the meaning commonly given. Work described in words, which so applied have a well-known technical or trade meaning shall be held to refer to such, recognized standards.

1.3. Whenever in these Contract Documents the words "as ordered," "as directed", "as required", "as permitted", "as allowed", or words or phrases of like import are used, it is understood that the order, direction, requirement, permission or allowance of the City and/or the City Public Works Field Superintendent is intended.

1.4. Whenever any statement is made in the Contract Documents containing the expression "it is understood and agreed", or an expression of like import, such expression means the mutual understanding and agreement of the parties hereto

1.5. The words "approved", "reasonable", "suitable", "acceptable", "properly", "satisfactorily", or words of like effect in import, unless otherwise particularly specified herein, shall mean approved, reasonable, suitable, acceptable, proper or satisfactory in the judgment of the City and/or the City Public Works Field Superintendent.

1.6. When a word, term or phrase is used in the Contract, it shall be interpreted or construed, first, as defined herein; second, if not defined, according to its generally accepted meaning in the construction industry; and, third, if there is no generally accepted meaning in the construction industry, according to its common and customary usage.

1.7. All terms used herein shall have the meanings ascribed to them herein unless otherwise specified.

2. ENTIRE AGREEMENT:

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

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

3. INTENT AND INTERPRETATION

3.1. The intent of the Contract is to require complete, correct and timely execution of the Work. Any Work that may be required, including construction, labor, materials, tools, equipment and transportation, implied or inferred by the Contract Documents, or any one or more of them, as necessary to produce the intended result, shall be provided by the Contractor for the Contract Price.

3.2. All limits stated in the Contract Documents are of the essence of the Contract.

3.3. The Contract is intended to be an integral whole and shall be interpreted as internally consistent. What is required by any one Contract Document shall be considered as required by the Contract.

3.4. The specification herein of any act, failure, refusal, omission, event, occurrence or condition as constituting a material breach of this Contract shall not imply that any other, non-specified act, failure, refusal, omission, event, occurrence or condition shall be deemed not to constitute a material breach of this Contract.

3.5. The Contractor shall have a continuing duty to read, carefully study and compare each of the Contract Documents and shall give written notice to the City Public Works Field Superintendent of any inconsistency, ambiguity, error or omission, which the Contractor may discover, or should have discovered, with respect to these documents before proceeding with the affected Work. The review, issuance, or the express or implied approval by the City or the City Public Works Field Superintendent of the Contract Documents shall not relieve the Contractor of the continuing duties imposed hereby, nor shall any such review be evidence of the Contractor's compliance with this Contract.

3.6. The City has prepared or caused to have prepared the Project Manual. **HOWEVER, THE CITY MAKES NO REPRESENTATION OR WARRANTY AS TO ACCURACY OR FITNESS FOR PARTICULAR PURPOSE INTENDED OR ANY OTHER WARRANTY OF ANY NATURE WHATSOEVER TO THE**

CONTRACTOR CONCERNING SUCH DOCUMENTS. By the execution hereof, the Contractor acknowledges and represents that it has received, reviewed and carefully examined such documents, has found them to be complete, accurate, adequate, consistent, coordinated and sufficient for construction, and that the Contractor has not, does not, and will not rely upon any representation or warranties by the City concerning such documents as no such representation or warranties have been made or are hereby made.

3.7. As between numbers and scaled measurements in the Project Manual, the numbers shall govern; as between larger scale and smaller scale drawings, (e.g. 10:1 is larger than 100:1) the larger scale shall govern.

3.8. The organization of any of the Project Manual into divisions, sections, paragraphs, articles (or other categories), shall not control the Contractor in dividing the Work or in establishing the extent or scope of the Work to be performed by Subcontractors.

3.9. The Contract Documents supersedes all previous agreements and understandings between the parties, and renders all previous agreements and understandings void relative to these Contract Documents.

3.10. Should anything be omitted from the Project Manual, which is necessary to a clear understanding of the Work, or should it appear various instructions are in conflict, and then the Contractor shall secure written instructions from the City Public Works Field Superintendent before proceeding with the construction affected by such omissions or discrepancies.

3.11. It is understood and agreed that the work shall be performed and completed according to the true spirit, meaning, and intent of the Contract Documents.

3.12. The Contractor's responsibility for construction covered by conflicting requirements, not provided for by addendum prior to the time of opening Bids for the work represented thereby, shall not extend beyond the construction in conformity with the less expensive of the said conflicting requirements. Any increase in cost of work required to be done in excess of the less expensive work of the conflicting requirements will be paid for as extra work as provided for herein.

3.13. The apparent silence of the Project Manual as to any detail, or the apparent omission from them of a detailed description concerning any point, shall be regarded as meaning that only the best general practice is to be used. All interpretations of the Project Manual shall be made on the basis above stated.

3.14. The conditions set forth herein are general in scope and are intended to contain requirements and conditions generally required in the work, but may contain conditions or requirements which will not be required in the performance of the work under contract and which therefore are not applicable thereto. Where any stipulation or requirement set forth herein applies to any such non-existing condition, and is not applicable to the work under contract, such stipulation or requirement will have no meaning relative to the performance of said work.

3.15. Pursuant to K.S.A. No. 16-133, if the Contractor to whom the Contract is awarded is not a resident firm of the State of Kansas, he shall execute and file "Certificate of Appointment of Process of Agent" with the Clerk of the District Court at the Johnson County Courthouse. These forms may be obtained at the Office of the Clerk of the District Court. After execution of the documents, they shall be filed with the Clerk of the District Court. A filing fee of Five Dollars (\$5.00) is required. These certificates

are pursuant to the General Statutes of Kansas, and shall be filed prior to the formal execution of the Contract Documents. Failure to comply with these requirements shall disqualify the Contractor for the awarding of this Contract.

4. WORK SUPERINTENDENT

4.1. The Contractor shall provide and maintain, continually on the site of Work during its progress, an adequate and competent superintendent of all operations for and in connection with the work being performed under this Contract, either personally or by a duly authorized superintendent or other representative. This representative shall be designated in writing at the preconstruction meeting.

4.2. The superintendent, or other representative of the Contractor on the Work, who has charge thereof, shall be fully authorized to act for the Contractor, and to receive whatever orders as may be given for the proper prosecution of the work, or notices in connection therewith. Use of Subcontractors on portions of the work shall not relieve the Contractor of the obligation to have a competent superintendent on the work at all times.

4.3. The City shall have the right to approve the person who will be the Superintendent on the basis of skill, knowledge, experience and work performance. The City shall also have the right to request replacement of any superintendent.

4.4. The duly authorized representative shall be official liaison between the Owner and Contractor regarding the signing of pay estimates, change orders, work day reports and other forms necessary for communication and Work status inquiries. Upon Work commencement the Owner shall be notified, in writing, within five (5) working days of any changes in the Contractor's representative. In the absence of the Contractor or representative, suitable communication equipment, which will assure receipt of messages within one (1) hour during the course of the workday will also be required.

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

5. CITY PUBLIC WORKS FIELD SUPERINTENDENT

5.1. It is mutually agreed by and between the parties to this Contract Agreement that the City Public Works Field Superintendent shall act as the representative of the City and shall observe, as required, the work included herein.

5.2. In order to prevent delays and disputes and to discourage litigation, it is further agreed by and between the parties to this Contract that the City Public Works Field Superintendent shall, in good faith and to the best of its ability, determine the amount and quantities of the several kinds of work which are to be paid for under this Contract; that City Public Works Field Superintendent shall determine, where applicable, questions in relation to said Work and the construction thereof; that City Public Works Field Superintendent shall, where applicable decide questions which may arise relative to the execution of this Contract on the part of said Contractor; that the City Public Works Field Superintendent's decisions and findings shall be the conditions precedent to the rights of the parties hereto, to any action on the Contract, and to any rights of the Contractor to receive any money under this Contract provided, however, that should the City Public Works Field Superintendent render any decision or give any direction which, in the opinion of either party

hereto, is not in accordance with the meaning and intent of this Contract, either party may file with the City Public Works Field Superintendent and with the other party, within thirty (30) days a written objection to the decision or direction so rendered and, by such action, may reserve the right to submit the question to determination in the future.

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

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

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

5.6. The City Public Works Field Superintendent will review the Contractor's Applications for Payment and will certify to the City for payment to the Contractor those amounts then due the Contractor as provided in this Contract. The City Public Works Field Superintendent's recommendation of any payment requested in an Application for Payment will constitute a representation by City Public Works Field Superintendent to City, based on City Public Works Field Superintendent's on-site observations of the Work in progress as an experienced and qualified design professional and on City Public Works Field Superintendent's review of the Application for Payment and the accompanying data and schedules that the Work has progressed to the point indicated; that, to the best of the City Public Works Field Superintendent's knowledge, information and belief, the quality of the Work is in accordance with the Project Manual (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, to the results of any subsequent tests called for in the Project Manual, to a final determination of quantities and classifications for Unit Price Work if such is called for herein, and to any other qualifications stated in the recommendation); and that Contractor is entitled to payment of the amount recommended. However, by recommending any such payment City Public Works Field Superintendent will not thereby be deemed to have represented that exhaustive or continuous on-site inspections have been made to check the quality or the quantity of the Work beyond the responsibilities specifically assigned to City Public Works Field Superintendent in the Project Manual or that there may not be other matters or issues between the parties that might entitle Contractor to be paid additionally by City or City to withhold payment to Contractor.

5.7. City Public Works Field Superintendent may refuse to recommend the whole or any part of any payment if, in City Public Works Field Superintendent's opinion, it would be incorrect to make such representations to City. City Public Works Field Superintendent may also refuse to recommend any such payment, or, because of subsequently discovered evidence or the results of subsequent inspections or tests, nullify any such payment previously recommended, to such extent as may be necessary in City Public Works Field Superintendent's opinion to protect City from loss because:

- The Work is defective, or completed Work has been damaged requiring correction or replacement,
- The Contract Price has been reduced by Written Amendment or Change Order,

- City has been required to correct defective Work or complete Work in accordance with the Project Manual,
- 5.8. City may refuse to make payment of the full amount recommended by City Public Works Field Superintendent because claims have been made against City on account of Contractor's performance or furnishing of the Work or liens have been filed in connection with the Work or there are other items entitling City to a set-off against the amount recommended, but City must give Contractor written notice (with a copy to City Public Works Field Superintendent) stating the reasons for such action.
- 5.9. The City Public Works Field Superintendent will have the authority to reject Work, which is defective or does not conform to the requirements of this Contract. If the City Public Works Field Superintendent deems it necessary or advisable, the City Public Works Field Superintendent shall have authority to require additional inspection or testing of the Work for compliance with Contract requirements.
- 5.10. The City Public Works Field Superintendent will review, or take other appropriate action as necessary, concerning the Contractor's submittals, including Shop Drawings, Product Data and Samples. Such review, or other action, shall be for the sole purpose of determining general conformance with the design concept and information given through the Project Manual.
- 5.11. The City Public Works Field Superintendent shall have authority to order minor changes in the Work not involving a change in the Contract Price or in Contract Time and not inconsistent with the intent of the Contract. Such changes shall be effected by verbal direction and then recorded on a Field Order and shall be binding upon the Contractor. The Contractor shall carry out such Field Orders promptly.
- 5.12. The City Public Works Field Superintendent shall, upon written request from the Contractor, conduct observations to determine the date of substantial completion and the date of final acceptance. The City Public Works Field Superintendent will receive and forward to the City for the City's review and records, written warranties and related documents from the contractor required by this Contract and will issue a final Certificate for Payment to the City upon compliance with the requirements of this Contract.
- 5.13. The City Public Works Field Superintendent's decisions in matters relating to aesthetic effect shall be final if consistent with the intent of this Contract.
- 5.14. The City Public Works Field Superintendent will NOT be responsible for Contractor's means, methods, techniques, sequences, or procedures or construction, or the safety precautions and programs incident thereto and will not be responsible for Contractor's failure to perform the work in accordance with the Project Manual. The City Public Works Field Superintendent will not be responsible for the acts or omissions of Contractor or any Subcontractor or any of its or their agents or employees, or any other person at the site or otherwise performing any of the work except as may otherwise be provided.
- 5.15. Any plan or method of work suggested by the City Public Works Field Superintendent, or other representatives of the City, to the Contractor, but not specified or required, if adopted or followed by the Contractor in whole or in part, shall be used at the risk and responsibility of the Contractor, and the City Public Works Field Superintendent and the City will assume no responsibility therefore.
- 5.16. It is agreed by the Contractor that the City shall be and is hereby authorized to appoint or employ, either directly or through the City Public Works Field Superintendent, such City representatives or observers as the City may deem proper, to observe the materials furnished and the work performed under

the Project Manual, and to see that the said materials are furnished, and the said work performed, in accordance with the Project Manual therefore. The Contractor shall furnish all reasonable aid and assistance required by the City Public Works Field Superintendent, or by the resident representatives for proper observation and examination of the Work and all parts thereof.

5.17. The Contractor shall comply with any interpretation of the Project Manual by the City Public Works Field Superintendent, or any resident representative or observer so appointed, when the same are consistent with the obligations of the Project Manual. However, should the Contractor object to any interpretation given by any subordinate City Public Works Field Superintendent, resident representative or observer, the Contractor may make written appeal to the City Director of Public Works for a decision.

5.18. Resident representatives, observers, and other properly authorized representatives of the City or City Public Works Field Superintendent shall be free at all times to perform their duties, and intimidation or attempted intimidation of any one of them by the Contractor or by any of its employees, shall be sufficient reason, if the City so decides, to annul the Contract.

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

6. WORK SCHEDULE:

6.1. The Contractor shall, within ten (10) calendar days after being instructed to do so in a written notice from the City, commence work to be done under this Contract.

6.2. The rate of progress shall be such that the Work shall have been completed in accordance with the terms of the Contract Documents on or before the completion date for the construction period named in the contract agreement, subject to any extension or extensions of such time made as hereinafter provided.

6.3. The Contractor shall be required to furnish the City Public Works Field Superintendent with a schedule, in the form of a tabulation, chart, or graph (or critical path diagram) must be in sufficient detail to show the chronological relationship of all activities of the project including the start and completion of various activities and procurement of materials. The construction schedule must reflect the completion of all work under contract within the specified time. If the Contractor wishes to make a major change in his/her operations after beginning construction, he/she must submit a revised construction schedule in advance of the revised operations.

6.4. If at any time, in the opinion of the City Public Works Field Superintendent, proper progress is not being maintained; such changes shall be made by the Contractor in the schedule and resubmitted for consideration.

6.5. If the Contractor has not completed Work segments and is within a non-performance penalty period, he/she shall not be allowed to undertake a new Work segment, until the Work segment in dispute is completed, unless expressly permitted by the City.

6.6. No work is to be conducted on Sundays or Holidays (Christmas, New Years, Martin Luther King's Birthday, President's Day, Memorial Day, Independence Day, Labor Day and Thanksgiving) without express written consent or approval from the City. Request for approval must be submitted a minimum of two weeks in advance. If it is necessary to perform proper care, maintenance, or protection

of work already completed or of equipment used, or in the case of an emergency verbal permission may be obtained through the City Public Works Field Superintendent.

6.7. Night work may be established by the Contractor, as a regular procedure, with the written permission of the City; such permission, however, may be revoked at any time by the City if the Contractor fails to maintain adequate equipment for the proper prosecution and control of all operations performed as the Work.

7. DELAYS AND EXTENSIONS OF TIME

7.1. In executing the Contract, the Contractor expressly covenants and agrees that, in undertaking the completion of the work within the time herein fixed, he has taken into consideration and made allowances for all of the ordinary delays and hindrances incident to such work, whether growing out of delays in securing materials, workers, weather conditions or otherwise. No charge shall be made by the Contractor for hindrances or delays from any cause during the progress of the Work, or any portion thereof, included in this Contract.

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

8. ADVERSE WEATHER:

8.1. Extensions of time for adverse weather shall be granted only under the conditions as hereinafter provided.

8.2. For conditions of weather or conditions at the site, so unusual as not to be reasonably anticipated, as determined by the City Public Works Field Superintendent, an average or usual number of inclement days when work cannot proceed are to be anticipated during the construction period and are not to be considered as warranting extension of time.

8.3. Adverse Weather is defined as atmospheric conditions or the impact thereof at a definite time and place, which are unfavorable to construction activities such that they prevent work on critical activities for 50 percent or more of the Contractor's scheduled work day.

8.4. Unusually Severe Weather is defined as weather, which is more severe than the adverse weather anticipated for the season, location, or activity involved.

8.5. Time Extensions for Unusually Severe Weather:

- 8.5.1. In order for any request for time extension due to unusually severe weather to be valid, the Contractor must document both of the following conditions:
- 8.5.2. The weather experienced at the Work site during the Contract period is more severe than the adverse weather anticipated for the Work location during any given month.
- 8.5.3. The unusually severe weather actually caused a delay to the completion of the Work. The delay must be beyond the control and without fault or negligence by the Contractor.
- 8.6. The following schedule of monthly anticipated adverse weather delays will constitute the baseline for monthly weather time evaluations. The Contractor's Progress Schedule must reflect these anticipated adverse weather delays in all weather affected activities:
- MONTHLY ANTICIPATED ADVERSE WEATHER DELAY
WORK DAYS BASED ON FIVE (5) DAY WORK WEEK
- | JAN | FEB | MAR | APR | MAY | JUN | JUL | AUG | SEP | OCT | NOV | DEC |
|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| 10 | 8 | 7 | 6 | 7 | 7 | 5 | 5 | 5 | 4 | 5 | 9 |
- 8.7. Upon receipt of the Notice to Proceed, and continuing throughout the Contract, the Contractor shall record on their daily construction report, the occurrence of adverse weather and resultant impact to normally scheduled work.
- 8.8. The number of actual adverse weather delay days shall include days impacted by actual adverse weather (even if adverse weather occurred in the previous month), and shall be calculated chronologically from the first to the last day of each month, and be recorded as full work days.
- 8.9. If the number of actual adverse weather delay days in a given month exceeds the number of days anticipated above, the difference shall be multiplied by 7/5 to convert any qualifying work day delays to calendar days. The resulting number of qualifying lost days shall be added to the Contract Time.
- 8.10. The determination that unusually severe weather occurred does not automatically mean an extension of time will be granted. The Contractor must substantiate the unusually severe weather delayed work activities on the critical path of the Progress Schedule.
- 8.11. Full consideration for equivalent fair weather work days shall be given. If the number of actual adverse weather delays in a given month is less than the number of days anticipated as indicated above, the difference shall be multiplied by 7/5 to convert any work day increases to calendar days. The resulting number of qualifying extra days will be accumulated and subtracted from any future month's days lost due to unusually severe weather.
- 8.12. The net cumulative total of extra days/lost days shall not result in a reduction of Contract Time and the Date of Substantial Completion shall not be changed as a result of unusually favorable weather.
- 8.13. In converting work days to calendar days, fractions 0.5 and greater shall be rounded up to the next whole number. Fractions less than 0.5 shall be dropped.

8.14. The Contractor shall summarize and report all actual adverse weather delay days for each month to the City Public Works Field Superintendent by the tenth (10th) day of the following month. A narrative indicating the impact of adverse weather conditions on the scheduled critical activities shall be included.

8.15. Any claim for extension of time due to unusually severe weather shall be submitted to the City Public Works Field Superintendent within 7 days of the last day of the commencement of the event giving rise to the delay occurred. Resolution of any claim shall follow the procedures established by the Regulations of the Contract and Special Conditions and as described above.

8.16. The Contractor shall include and indicate the monthly anticipated adverse weather days, listed above, in their Progress Schedule. (Reference Section 3.1.1 for Progress Schedule requirements).

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

9. PAYMENT PROCEDURE:

9.1. The Contractor warrants that title to all Work covered by an Application for Payment will pass to the City no later than the time of payment. The Contractor further warrants that upon submittal on the first day of each month of an Application for Payment, all Work for which payments have been received from the City shall be free and clear of liens, claims, security interest or other encumbrances in favor of the Contractor or any other person or entity whatsoever.

9.2. Each application for payment must be submitted with Contractor's waiver for period of construction covered by application. Each progress payment will be submitted with executed waivers from the subcontractors or sub-contractors and suppliers for the previous period of construction covered by the previous application. The final payment application must be submitted together with or preceded by final or complete waivers from every entity involved with performance of the work covered by the payment request.

9.3. The Contractor will submit waivers on forms, and executed in a manner, acceptable to Owner.

10. The Contractor shall promptly pay each Subcontractor out of the amount paid to the Contractor on account of such Subcontractor's Work the amount to which such Subcontractor is entitled. In the event the City becomes informed that the Contractor has not paid a Subcontractor as herein provided, the City shall have the right, but not the duty, to issue future checks in payment to the Contractor of amounts otherwise due hereunder naming the Contractor and such Subcontractor as joint payees. Such joint check procedure, if employed by the City, shall be deemed payment to the Contractor but shall create no rights in favor of any person or entity beyond the right of the named payees to payment of the check and shall not be deemed to commit the City to repeat the procedure in the future.

10.1. The City Public Works Field Superintendent will, upon receipt of a written Application for Payment from the Contractor, review the amount of work performed during the preceding period and the value thereof at the unit prices contracted. From the amounts so ascertained, there shall be deducted ten percent (10%) to be retained until after final completion of the entire work to the satisfaction of the City. The City Public Works Field Superintendent will submit an estimate each month to the City for payment to

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

10.2. Deductions will be made from progress payments if the Contract includes a provision for a lump sum or a percentage deduction. Lump sum deductions will be that portion of the stated lump sum computed as the ratio that the amount earned bears to the Contract amount. Percentage deductions will be computed at the stated percentage of the amount earned.

10.3. No progress payment, nor any use or occupancy of the Work by the City, shall be interpreted to constitute an acceptance of any Work not in strict accordance with this Contract.

10.4. The City may decline to make payment, may withhold funds, and, if necessary, may demand the return of some or all of the amounts previously paid to the Contractor, to protect the City from loss because of:

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

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

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

11. COMPLETION AND FINAL PAYMENT

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

11.2. When all of the Work is finally complete and the Contractor is ready for a final inspection, it shall notify the City and the City Public Works Field Superintendent thereof in writing. Thereupon, the City Public Works Field Superintendent will make final inspection of the Work and, if the Work is complete in accordance with this Contract, the City Public Works Field Superintendent will promptly issue a final Certificate for Payment certifying to the City that the Work is complete and the Contractor is entitled to the

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

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

11.4. The City shall make final payment of all sums due the Contractor within thirty (30) days of the later of the City Public Works Field Superintendent's execution of a final Certificate for Payment, or execution of the documents contemplated herein.

11.5. Acceptance of final payment shall constitute a waiver of all claims against the City by the Contractor except for those claims previously made in writing against the City by the Contractor, pending at the time of final payment, and identified in writing by the Contractor as unsettled at the time of its request for final inspection.

12. CLAIMS BY THE CONTRACTOR

12.1. All Contractor claims shall be initiated by written notice and claim to the City Public Works Field Superintendent. Such written notice and claim must be furnished within seven (7) calendar days after occurrence of the event, or the first appearance of the condition, giving rise to the claim.

12.2. The Contractor shall diligently proceed with performance of this Contract whether or not there be such a claim pending and the City shall continue to make payments to the Contractor in accordance with this Contract. The resolution of any claim shall be reflected by a Change Order executed by the City, the City Public Works Field Superintendent and the Contractor.

12.3. Should concealed and unknown conditions which could not, with reasonable diligence, have been discovered in the performance of the Work (a) below the surface of the ground or (b) in an existing structure differ materially with the conditions indicated by this Contract, or should unknown conditions of an unusual nature differing materially from those ordinarily encountered in the area and generally recognized as inherent in Work of the character provided by this Contract, be encountered, the Contract Price shall be equitably adjusted by the Change Order upon the written notice and claim by either party made within seven (7) days after the first observance of the condition. As a condition precedent to the City having any liability to the Contractor for concealed or unknown conditions, the Contractor must give the City written notice of, and an opportunity to observe, the condition prior to disturbing it. The failure by the Contractor to make the written notice and claim as provided in this Subparagraph shall constitute a waiver by the Contractor of any claim arising out of or relating to such concealed or unknown condition.

12.4. If the Contractor wishes to make a claim for an increase in the Contract Price, as a condition precedent to any liability of the City therefore, the Contractor shall give the City written notice of such claim

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

12.5. The City reserves the right to increase or decrease quantities, and alter the details of construction including grade and alignment as the City Public Works Field Superintendent may consider necessary or desirable, by approved Change Order. Such modifications shall not invalidate the Contract nor release the surety. Unless such alterations and increases or decreases change the total cost of the Work, based on the originally estimated quantities and the unit prices bid, by more than 25 percent, or change the total cost of any major item, based on the originally estimated quantities and the unit price bid, by more than 25 percent, the Contractor shall perform the work altered, increased or decreased, at a negotiated price or prices. (A major item shall mean any bid item, the total cost of which exceeds 12-1/2 percent of the total Contract amount based on the proposed quantity and the contract unit price).

12.6. When the alterations cause an increase or decrease in excess of the 25 percent indicated above, either the Contractor or the City Public Works Field Superintendent may request an adjustment of the unit price to be paid for the item or items.

12.7. If a mutually agreeable adjustment cannot be obtained, the City reserves the right to terminate the Contract as it applies to the items in question and make such arrangements as may be deemed necessary to complete the Work.

12.8. In connection with any claim by the Contractor against the City for compensation in excess of the Contract Price, any liability of the City for the Contractor's costs shall be strictly limited to direct costs incurred by the Contractor and shall in no event include standby costs, indirect costs or consequential damages of the Contractor. The City shall not be liable to the Contractor for claims of third parties.

12.9. If the Contractor is delayed in progressing any task which at the time of the delay is then critical or which during the delay becomes critical, as the sole result of any act or neglect to act by the City or someone acting in the City's behalf, or by changes ordered in the Work, unusual delay in transportation, unusually adverse weather conditions not reasonably anticipated, fire or any causes beyond the Contractor's control, then the date for achieving Final Acceptance of the Work shall be extended upon the written notice and claim of the Contractor to the City, for such reasonable time as the City may determine. Any notice and claim for an extension of time by the Contractor shall be made not more than seven (7) calendar days after the occurrence of the event or the first appearance of the condition giving rise to the claim and shall set forth in detail the Contractor's basis for requiring additional time in which to complete the Work. In the event the delay to the Contractor is a continuing one, only one notice and claim for additional time shall be necessary. If the Contractor fails to make such claim as required in this subparagraph, any claim for an extension of time shall be waived.

12.10. The Contractor shall delay or suspend the progress of the work or any part thereof, whenever so required by written order of the City, and for such periods of time as required; provided, that in the event of such delay or delays or of such suspension or suspensions of the progress of the work, or any part thereof, the time for completion of work so suspended or of work so delayed by such suspension or suspensions shall be extended for a period equivalent to the time lost by reason of such suspension or suspensions; but such order of the City or City Public Works Field Superintendent shall not otherwise modify or invalidate in any way, any of the provisions of this Contract. In the event that the work shall be stopped by written order

of the City, any expense which, in the sole opinion and judgment of the City, is caused by the City, shall be paid by the City to the Contractor.

12.11. In executing the Contract Documents, the Contractor expressly covenants and agrees that, in undertaking to complete the Work within the time herein fixed, it has taken into consideration and made allowances for all hindrances and delays incident to such work, whether growing out of delays in securing materials or workers or otherwise. No charge shall be made by the Contractor for hindrances or delays from any cause during the progress of the work, or any portion thereof, included in this Contract, except as provided herein.

12.12. In addition to the Project Manual particular to Mobilization found elsewhere in this document, additional mobilization shall not be compensable for work outside of the designated areas for work deemed essential by the Owner. A quantity of work equal to as much as 10% of the total Contract may be required to be performed beyond the boundaries of the designated work areas

13. CHANGES IN THE WORK.

13.1. Changes in the Work within the general scope of this Contract, consisting of additions, deletions, revisions, or any combination thereof, may be ordered without invalidating this Contract, by Change Order or by Field Order.

13.2. The City Public Works Field Superintendent shall have authority to order minor changes in the Work not involving a change in the Contract Price or in Contract Time and not inconsistent with the intent of the Contract. Such changes shall be effected by verbal direction and then recorded on a Field Order and shall be binding upon the Contractor. The Contractor shall carry out such Field Orders promptly.

13.3. Any change in the Contract Price resulting from a Change Order shall be) by mutual agreement between the City and the Contractor as evidenced by the change in the Contract Price being set forth in the Change Order, and, together with any conditions or requirements related thereto, being initialed by both parties.

13.4. If no mutual agreement occurs between the City and the Contractor relative to a change in the Work, the Contractor shall proceed with the work that is the subject of the Change Order, and the change in the Contract Price, if any, shall then be determined by the City Public Works Field Superintendent on the basis of the reasonable expenditures or savings of those performing, deleting or revising the Work attributable to the change, including, in the case of an increase or decrease in the Contract Price, a reasonable allowance for direct job site overhead and profit. In such case, the Contractor shall present, in such form and with such content to the City, as the City Public Works Field Superintendent requires, an itemized accounting of such expenditures or savings, plus appropriate supporting data for inclusion in a Change Order. Reasonable expenditures or savings shall be limited to the following: reasonable costs of materials, supplies or equipment, including delivery costs, reasonable costs of labor, including social security, old age and unemployment insurance, fringe benefits required by agreement or custom, and worker's compensation insurance, reasonable rental costs of machinery and equipment exclusive of hand tools, whether rented from the Contractor or others, permit fees, and sales, use or other taxes related to the Work, and reasonable cost of direct supervision and job site field office overhead directly attributable to the change. In no event shall any standby time or any expenditure or savings associated with the Contractor's home office or other non-job site overhead expense be included in any change in the Contract Price. Further, in no event shall the Contractor's overhead expense exceed ten (10%) percent of the reasonable

expenditures. Pending final determination of reasonable expenditures or savings to the City, payments on account shall be made to the Contractor on the City Public Works Field Superintendent's Certificate for Payment.

13.5. If unit prices are provided in the Contract, and if the quantities contemplated are so changed in a proposed Change Order that the application of such unit prices to the quantities of Work proposed will cause substantial inequity to the City or to the Contractor, the applicable unit prices shall be equitably adjusted.

13.6. The execution of a Change Order by the Contractor shall constitute conclusive evidence of the Contractor's agreement to the ordered changes in the Work, this Contract as thus amended, the Contract Price and the Contract Time. The Contractor, by executing the Change Order, waives and forever releases any claim including impact against the City for additional time or compensation for matters relating to or arising out of or resulting from the Work included within or affected by the executed Change Order.

14. INSURANCE AND HOLD HARMLESS.

14.1. The Contractor shall assume full responsibility for the protection of all public and private property, structures, sewers, and utilities, both above and below the ground, along, beneath, above, across or near the site or sites of the work being performed under this Contract, or which are in any manner affected by the prosecution of the Work or the transportation of men/women or materials in connection therewith. Barriers shall be kept placed at all times to protect persons other than those engaged on or about the Work from accident, and the Contractor will be held responsible for all accidents to persons or property resulting from the acts of Contractor or its employees.

14.2. To the fullest extent permitted by law, the Contractor shall indemnify, defend, and hold harmless the City, the City Public Works Field Superintendent, Johnson County, Kansas, and their agents and employees from and against all claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from the performance of the Work, provided that any such claim, damage, loss or expense (1) is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of property (other than the Work itself) including the loss of use resulting there-from, and (2) is caused in whole or in part by any intentional or negligent act or omission of the Contractor, any Subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity, which would otherwise exist.

14.3. All property damaged shall be repaired or replaced to a condition immediately prior to the time of damage, and to the satisfaction of the City.

14.4. All loss or damage arising out of the nature of the work to be done, or from the action of the elements, or from floods or overflows, or from ground water, or from unusual obstructions or difficulties, or any other natural or existing circumstances either known or unforeseen, which may be encountered in the prosecution of the said work shall be sustained and borne by the Contractor at its own cost and expense.

14.5. The Contractor shall give reasonable notice to the owner or owners of public or private property and utilities when such property is liable to injury or damage through the performance of the Work, and

shall make all necessary arrangements with such owner or owners relative to the removal and replacement or protection of such property or utilities.

14.6. The Contractor shall satisfactorily shore, support, and protect any and all structures and all pipes, sewers, drains, conduits, and other utility facilities, and shall be responsible for any damage resulting thereto. The Contractor shall not be entitled to any damages or extra compensation on account of any postponement, interference, or delay caused by any such structures and facilities being on the line of the Work whether they are shown on the plans or not, specifically including, but not limited to, damages due to delay in utility relocation.

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

14.8. The City and the City Operations Superintendent shall be a named insured on such policies. Satisfactory certificates of insurance shall be filed with the City prior to starting any construction work on this Contract. The certificates shall state that thirty (30) days written notice will be given to the City before any policy coverage thereby is changed or canceled.

14.9. The Contractor shall secure and maintain through the duration of this Contract insurance on an occurrence basis of such types and in such amounts as may be necessary to protect the Contractor and the City and agents of the City against all hazards or risks of loss as hereinafter specified. The form and limits of such insurance, together with the underwriter thereof in each case, shall be approved by the City, but regardless of such approval it shall be the responsibility of the Contractor to maintain adequate insurance coverage at all times. Failure of the Contractor to maintain adequate coverage shall not relieve it of any contractual responsibility or obligation, including but not limited to, the indemnification obligation.

14.10. Satisfactory certificates of insurance shall be filled with the City prior to Contractor's starting any construction work on this Contract. The Certificates shall state that the thirty (30) days written notice will be given to the City before any policy covered thereby is changed or cancelled. Failure by the Contractor to furnish the required insurance within the time specified in the notice of award of the Contract by the City may, at the City's option, be the basis for the City's exercising its right to terminate the Contract.

14.11. The liability limits shall be as stated:

- Worker's Compensation and Employer's Liability: This insurance shall protect the Contractor against all claims under applicable state worker's compensation laws. The Contractor shall also be protected against claims for injury, disease, or death of employees, which, for any reason, may not fall within the provisions of a worker's compensation law. This policy shall include an "all states" endorsement.

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

\$300,000 single limit (on contracts less than \$100,000)
\$1,000,000 single limit (on contracts \$100,000 and more)
- **Commercial General Liability.** This insurance shall be written in comprehensive form including Products, completed operations and Personal and Advertising injury and shall protect the Contractor against all claims arising from injuries to members of the public or damage to property of others arising out of any act or omission of the Contractor or its agents, employees, or subcontractors. In addition, this policy shall specifically insure the contractual liability assumed by the Contractor under this Contract entitled "Insurance and Hold Harmless." The property damage liability coverage shall contain no exclusion relative to blasting, explosion, collapse of building, or damage to underground property. Unless otherwise specified, Contractor's insurance shall include the following:

\$2,000,000 combined single limit (on contracts in excess of \$100,000)
\$300,000 combined single limit (on contracts in excess of \$10,000 to \$100,000)
\$100,000 combined single limit (on contracts of \$10,000 and less)
- **Additional Insurance:** Excess Liability coverage or additional insurance covering special hazards may be required on certain projects. Such additional insurance requirements shall be as specified in Instructions to Bidders or Special Conditions.

15. INDEMNITY:

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

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

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

15.3. It is agreed as a specific element of consideration of this Contract that this indemnity shall apply notwithstanding the joint, concurring or contributory or comparative fault or negligence of the City and County or any third party and, further, notwithstanding any theory of law including, but not limited to, a characterization of the City's or County's or any third party's joint, concurring or contributory or comparative fault or negligence as either passive or active in nature.

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

15.5. With respect to the City's or County's rights as set forth herein, the Contractor expressly waives all statutory defenses, including, but not limited to, those under workers compensation, contribution, comparative fault or similar statutes to the extent said defenses are inconsistent with or would defeat the purpose of this section.

16. SUCCESSORS AND ASSIGNS

16.1. The City and Contractor bind themselves, their successors, assigns and legal representatives to the other party hereto and to successors, assigns and legal representatives of such other party in respect to covenants, agreements and obligations contained in this Contract.

16.2. The Contractor shall not assign or sublet the work, or any part thereof, without the previous written consent of the City, nor shall it assign, by power of attorney or otherwise, any of the money payable under this Contract unless by and with the like written consent of the City. In case the Contractor assigns all, or any part of any moneys due or to become due under this Contract, the instrument of assignment shall contain a clause substantially to the effect that it is agreed that the right of the assignee in and to any moneys due or to become due to the Contractor shall be subject to all prior liens of all persons, firms and corporations for services rendered or materials supplied for the performance of the Work called for in this Contract.

16.3. Should any Subcontractor fail to perform in a satisfactory manner, the work undertaken, its subcontract shall be immediately terminated by the Contractor upon notice from the City. Performing in an unsatisfactory manner is defined as consistently having more than 10% of work unacceptable. The Contractor shall be as fully responsible to the City for the acts and omissions of the subcontractors, and of persons either directly or indirectly employed by them, as Contractor is for the acts and omissions of persons directly employed. Nothing contained in this Contract shall create any contractual relations between any Subcontractor and the City, nor shall anything contained in the Contract Documents create any obligation on the part of the City to pay or to see to the payment of any sums due any Subcontractor.

16.4. The Contractor shall not award subcontracts which total more than forty-five (45%) of the Contract Price and shall perform within its own organization work amounting to not less than fifty-five percent (55%) of the total Contract Price. Approval by the City of any Subcontractor shall not constitute a waiver of any right of the City to reject defective work, material or equipment not in compliance with the requirements of the Contract Documents. The Contractor shall not make any substitution for any Subcontractor accepted by the City unless the City so agrees in writing.

16.5. The Contractor shall not subcontract, sell, transfer, assign or otherwise dispose of the Contract or any portion thereof without previous written consent from the City. In case such consent is given, the Contractor, shall be permitted to subcontract a portion thereof, but shall perform with his own organization

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

16.6. The Contractor shall cause appropriate provisions to be inserted in all subcontracts relative to the Work to bind Subcontractors to the Contractor by the terms of the Contract Documents insofar as applicable to the work of the Subcontractor and to give the Contractor the same power to terminate any Subcontract as the City has to terminate the Contractor under any provisions of the Contract Documents.

16.7. Prior to the City's approval of the Contract bid, the successful bidder shall submit to the City for acceptance, a list of names of all Subcontractors proposed for portions of the work and shall designate which work each is to perform.

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

17. NON-DISCRIMINATION LAWS

17.1. The Contractor further agrees that the Contractor shall abide by the Kansas Age Discrimination in Employment Act (K.S.A. 44-1111 et seq.) and the applicable provision of the Americans With Disabilities Act (42 U.S.C. 1201 et seq.) as well as all other federal, state and local laws, ordinances and regulations applicable to this Work and furnish any certification required by any federal, state or local governmental agency in connection therewith.

17.2. In all solicitations or advertisements for employees, the Contractor shall include the phrase, "equal opportunity employer", or similar phrase to be approved by the Kansas Human Rights Commission (Commission);

17.3. If the Contractor fails to comply with the manner in which the Contractor reports to the Commission in accordance with the provisions of K.S.A. 44-1031 and amendments thereto, the Contractor shall be deemed to have breached the present contract and it may be cancelled, terminated or suspended, in whole or in part, by the contracting agency;

17.4. If the Contractor is found guilty of a violation of the Kansas Act Against Discrimination under a decision or order of the Commission which has become final, the Contractor shall be deemed to have breached the present Contract and it may be cancelled, terminated or suspended, in whole or in part, by the contracting agency; and

17.5. The Contractor shall include the provisions of this section in every subcontract or purchase order so that such provisions will be binding upon such Subcontractor or vendor.

17.6. The provisions of this section shall not apply to a contract entered into by a Contractor who employs fewer than four employees during the terms of such contract; or whose contracts with the City cumulatively total \$5,000 or less during the fiscal year of the City.

18. RELATIONS WITH OTHER CONTRACTORS:

18.1. The Contractor shall cooperate with all other contractors who may be performing work on behalf of the City, and workers who may be employed by the City, or any other entity on any work in the vicinity of the Work to be done under this Contract, and the Contractor shall so conduct his operations as to interfere to the least possible extent with the work of such contractors or workers. The Contractor shall be responsible for any injury or damage, that may be sustained by other contractors, workers, their work or employees of the City, because of any fault or negligence on the Contractor's part, and shall, at his own expense, repair or pay for such injury or damage. If the work of the Contractor is delayed because of any acts or omissions of any other Contractor or Contractors, the Contractor shall have no claim against the City on that account other than for an extension of time.

18.1.1. When two or more Contracts are being executed at one time in such manner that work on one Contract may interfere with that on another, the City shall decide which Contractor shall progress at which time.

18.1.2. When the territory of one Contract is the necessary or convenient means of access for the transportation or movement of workers, materials, or appliances required for the execution of another Contract, such privileges of access or any other responsible privilege may be granted by the City to the Contractor so desiring, to the extent such may be reasonably necessary.

18.2. Upon execution of the Contract, the Contractor shall furnish the City, in writing, the names of persons or entities proposed by the Contractor to act as a Subcontractor on the Work. The City shall promptly reply to the Contractor, in writing, stating any objections the City may have to such proposed Subcontractor. The Contractor shall not enter into a Subcontract with a proposed Subcontractor with reference to whom the City has made timely objection. The Contractor shall not be required to Subcontract with any party to whom the Contractor has objection

RIGHT OF CITY TO TERMINATE

18.3. If the Contractor persistently or repeatedly refuses or fails to prosecute the Work in a timely manner, or supply enough properly skilled workers, supervisory personnel or proper equipment or materials, or if it fails to make prompt payment to Subcontractors or for materials or labor, or persistently disregards laws, ordinances, rules, regulations or orders of any public authority having jurisdiction, or if this Contract is assigned by Contractor without authorization or if Contractor is adjudged as bankrupt, or if a general assignment of assets be made for the benefit of creditors; or if a receiver is appointed, or otherwise is guilty of a substantial violation of a provision of this Contract, then the City may by written notice to the Contractor, without prejudice to any right or remedy, terminate the employment of the Contractor and take possession of the site and of all materials, equipment, tools, construction equipment and machinery thereon owned by the Contractor and may finish the Work by whatever methods it may deem expedient. In such case, the Contractor and its surety shall be liable to the City for any and all excess cost sustained by the City by reason of such prosecution and completion including any additional legal, engineering or bid-letting costs therefore. In such case, the Contractor shall not be entitled to receive further payment. In the event the Contractor is found in a court of law to have been wrongfully terminated for cause, then such

termination shall be deemed a termination for convenience and the Contractor shall be compensated as provided herein.

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

19. MISCELLANEOUS:

19.1. The Contractor warrants to the City that all labor furnished to progress the Work under the Contract will be competent to perform the tasks undertaken, that the product of such labor will yield only first-class results, that materials and equipment furnished will be of good quality and new unless otherwise permitted by this Contract, and that the Work will be of good quality, free from faults and defects and in strict conformance with the Project Manual. All Work not conforming to these requirements may be considered defective.

19.2. The Contractor shall obtain and pay for all permits, fees and licenses necessary or ordinary for the Work. The Contractor shall comply with all lawful requirements, including federal and state laws, City and County laws and ordinances and building codes, applicable to the Work and shall give and maintain copies of any and all notices required by applicable law pertaining to the Work.

19.3. Both the business address of the Contractor given in the Bid or proposal upon which this Contract is founded, and the Contractor's Office in the vicinity of the Work, is hereby designated as the places to which all notices, letters, and other communications to the Contractor may be mailed or delivered. The delivering at either of the above named addresses, or depositing in any mail box regularly maintained by the Post Office, of any notice, letter or other communication so addressed to the Contractor, and the date of said service shall be the date of such delivery or mailing. Such addresses may be changed at any time by an instrument in writing, executed by the Contractor, presented, and delivered to the City Public Works Field Superintendent and to the City. Nothing herein contained shall be deemed to preclude or render inoperative the service of any notice, letter, or communication upon the Contractor personally.

19.4. It is mutually agreed by and between the parties to this Contract that all royalties and fees for and in connection with patents, or patent infringement, claims for materials, articles, apparatus, devices or equipment (as distinguished from processes) used in or furnished for the work shall be included in the Contract amount and the Contractor shall satisfy all demands that may be made at any time for such, and the Contractor shall at its cost and expense, defend any and all suits or proceedings that may be instituted at any time against the City for infringement or alleged infringement of any such patents involved in the work, and Contractor shall pay any award of damages.

19.5. The right of general administration of the City shall not make the Contractor an agent of the City, and the liability of the Contractor for all damages to persons, firms, and corporations, arising from the Contractor's execution of the Work, shall not be lessened because of such general administration, but as to all such persons, firms, and corporations, and the damages, if any, to them or their property. The Contractor herein is an independent Contractor in respect to the work.

19.6. For a period of time, from the inception of the Contract to three (3) years from the date of final payment under the Contract, the Contractor and subcontractors shall maintain books, accounts, ledgers, invoices, drafts, pages and other records pertaining to the performance of this Contract. At all reasonable times during this period these records shall be available within the State of Kansas at a field or permanent business office for inspection by authorized representatives of the Owner or of any other agency, which has contributed funds in connection with the Contract or to which the Owner is obligated to make such inspections available. In addition, this requirement shall be included in all subcontracts entered into in connection with this Contract.

19.7. Titles and subheadings as used herein and other Contract Documents are provided only as a matter of convenience and shall have no legal bearing on the interpretation of any provision of the Contract Documents.

19.8. No waiver of any breach of this Contract shall be construed to be a waiver of any other subsequent breach.

19.9. Should any provision of this Agreement or other Contract Documents be determined to be void, invalid, unenforceable or illegal for whatever reason, such provision(s) shall be null and void; provided, however, that the remaining provisions of this Agreement and/or the other Contract Documents shall be unaffected thereby and shall continue to be valid and enforceable.

19.10. The Contractor shall keep fully informed of all existing and current regulations of the City, and County, State, and National Laws, which in any way limit or control the actions or operations of those engaged upon the work, or affecting materials supplied, to or by them. The Contractor shall at all times observe and comply with all ordinances, laws, and regulations, and shall protect and indemnify the City and the City's officers and agents against any claims or liability arising from or based on any violation of the same.

19.11. Nothing contained in these Project Manual shall create, or be interpreted to create, privity or any other contractual agreement between the City and any person or entity other than the Contractor.

19.12. Duties and obligations imposed by the Contract Documents, rights, and remedies available hereunder shall be in addition to and not a limitation of duties, obligations, rights and remedies otherwise imposed or available by law.

19.13. No action or failure to act by the City, City Public Works Field Superintendent or Contractor shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval or acquiescence in a breach hereunder, except as may be specifically agreed in writing.

19.14. Contractor specifically acknowledges and confirms that: 1.) he has visited the site, made all inspections he deems appropriate and has read and fully understands the Contract Documents, including all obligations and responsibilities undertaken by he as specified herein and in other Contract Documents and knowingly accepts the same; 2.) he has furnished copies of all Contract Documents to his insurance carrier(s) and his surety (ies); and 3.) his insurance carrier(s) and surety(ies) agree to be bound as specified herein, in the Contract Documents and in the insurance policy(ies) and bonds as to liability and surety coverage.

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

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

WITNESSETH:

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

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

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

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

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

*WHEREAS, in consideration of the compensation to be paid the Contractor, and of the mutual agreements herein contained, the parties hereto have agreed and hereby agree, the City for itself and its successors, and the Contractor for itself, himself, herself or themselves, its, his, hers or their successors and assigns, or its, his, hers or their executors and administrators, as follows: **IN WITNESS WHEREOF**, the City, has caused this Agreement to be executed in its behalf, thereunto duly authorized, and the said Contractor has executed five (5) counterparts of this Contract in the prescribed form and manner, the day and year first above written.*

CITY OF PRAIRIE VILLAGE

By: _____
(signed)

Ronald L. Shaffer

Mayor

City of Prairie Village

7700 Mission Road

Prairie Village, KS 66208

By: _____
(signed)

(typed name)

(typed title)

(typed company name)

(typed address)

(typed city, state, zip)

(typed telephone number)

(date of execution)

(date of execution)

SEAL

ATTEST:

APPROVED BY:

City Clerk, Joyce Hagen-Mundy

City Attorney, Catherine P. Logan

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

PERFORMANCE, MAINTENANCE AND STATUTORY BOND**KNOW ALL MEN BY THESE PRESENTS**

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

THE CONDITION OF THE FOREGOING OBLIGATION IS SUCH THAT:

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

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

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

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

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

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

CONTRACTOR

BY: _____ (SEAL)

(Official Title)



ADMINISTRATION

Council Committee Meeting Date: August 17, 2009
City Council Meeting Date: August 17, 2009

COU2009-85 -Consider Early Release of 2010 Exterior Grant Funds

RECOMMENDATION

Staff recommends the Council authorize the early release of 2010 Exterior Grant Funds.

Action is requested at the August 17, 2009 City Council Meeting

SUGGESTED MOTION

The City Council authorizes the early release of 2010 Exterior Grant Funds.

BACKGROUND

The city began the Exterior Grant Program in 2008 to encourage reinvestment in residential properties within targeted areas of the city. The grant is awarded as a 20% reimbursement of the total project cost. The total cost of the improvements must equal or exceed \$5,000, with the maximum awardable grant amount being \$2,500.

In 2008, the city awarded just over \$34,000 dollars in grant funds to 14 residents. There were also 8 individuals on the waiting list for 2009 funds. The City Council increased the amount of funds available in 2009 to \$50,000. Currently, the 2009 program has 22 approved applications and has 7 individuals on the waiting list.

In order to accommodate the individuals on the waiting list in 2009, city staff is requesting the early release of 2010 Exterior Grant Funds. The FY2010 budget includes \$50,000 for the Exterior Grant Program from the Economic Development Fund. Staff anticipates that approximately \$10,000 - \$15,000 of the FY2010 funds would be expended in FY 2009. This would leave approximately \$40,000 - \$35,000 to be awarded in FY2010. There is a closing deadline of September 1, 2009 for participation in the 2009 program.

ATTACHMENTS

N/A

FUNDING SOURCE

City Council approved a FY2010 budget which included \$50,000 for the Exterior Grant Program. These funds were allocated from the Economic Development Fund.

PREPARED BY

Dennis J. Enslinger
Assistant City Administrator
Date: August 13, 2009



FINANCE COMMITTEE

Committee Meeting Date: August 17, 2009

COU2009-86 - Consider Directing Staff & Bond Counsel to Pursue a Bond Issue for Public Improvements

RECOMMENDATION

Council direct City staff and bond counsel to prepare the necessary bond and other documents to pursue a bond issue for public improvements in late 2009 or early 2010.

SUGGESTED MOTION

Move to direct City staff and bond counsel to prepare the necessary bond and other documents to pursue a bond issue for public improvements in late 2009 or early 2010.

BACKGROUND

In the past year, the financial markets have changed considerably. Low municipal bond interest rates have resulted from current economic situation. With the low rates, the Finance Committee, City staff, the City Attorney, the City's Bond Counsel and the City's Financial Advisor have discussed a potential bond issue including the potential projects, maturity schedules, funding sources for the debt service payments, effect on the CIP, the schedule, etc.

Discussions included the following market conditions that support this unique window of opportunity:

- Construction costs have declined significantly.
- Very low borrowing costs. It is anticipated that the City could issue five-year bonds at a rate as low as 2.5% due to the City's strong bond rating and financial performance.
- Competitive design/engineering market as engineering and architectural firms search for projects in the recession
- Competitive construction bids as contractors seek projects
- The City has an excellent bond rating – Aa1 from Moody's
- City's low existing municipal debt (\$820k at the end of 2009).

The Finance Committee recommends the City pursue a bond issue to take advantage of the low interest rates, to accelerate project schedules and save design and construction costs.

The attached summary provides a list of proposed projects to include in the bond issue as well as their estimated cost and related estimated annual debt service amounts. The summary also includes a comparison of the CIP as adopted on August 3, 2009 as part of the 2010 Budget vs. the CIP if bonds were issued for the proposed projects.

Debt service for storm drainage projects would be funded with stormwater utility fee revenues. Because the other projects are being funded by the bonds in 2010, the money needed to fund them in years 2011 - 2013 will be used to pay the debt service. There would be no effect on the City's total mill levy as a result of this bond issue as the funding for bond projects is included in the City's five-year plan.

In order to facilitate the issuance of bonds and include parks projects, the City Council approved Charter Ordinance #25 at the last Council meeting. The ordinance was published the weeks of Aug. 10th and Aug. 17th.

Upon approval by the Council Committee of the Whole, staff and bond counsel would begin work on the bond issue targeting a bond sale date in late 2009/early 2010 depending on the market.

RELATION TO VILLAGE VISION

CFS2B - Enhance parks for active and passive recreation through capital improvement such as landscaping, tree and flower planting, shelters, picnic facilities, athletic fields, etc.

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

FINANCIAL IMPACT

The City will have increased debt service obligations; however, by accelerating the projects in the CIP, the City will be able to take advantage of lower design and construction costs now. There will be no effect on the City's total mill levy as a result of the bond issue.

ATTACHMENTS: City of Prairie Village Bond Financing Possibilities Schedule

Prepared By:

Karen Kindle

Finance Director

Date: 8/14/09

**City of Prairie Village Bond Financing Possibilities
 Project List**

Project Description	Estimated Cost	Estimated Annual Debt Service¹
Drainage Projects		
Alhambra & Mission Rd	\$ 250,000	\$ 53,000
Replace Corrugated Metal Pipe with Concrete Pipe (Citywide)	2,000,000	231,000
Prairie Lane & Oxford	800,000	171,000
	<u>\$ 3,050,000</u>	<u>\$ 455,000</u>
Street Projects		
Street Reconstructions (10-12 projects)	4,000,000	\$ 850,000
	<u>\$ 4,000,000</u>	<u>\$ 850,000</u>
Parks Projects		
Parks Master Plan Projects	2,000,000	\$ 425,000
	<u>\$ 2,000,000</u>	<u>\$ 425,000</u>
Energy Conservation		
Energy Conservation Projects (i.e., solar panels on municipal buildings, energy efficient windows)	370,000	\$ 79,000
	<u>\$ 370,000</u>	<u>\$ 79,000</u>
Grand Totals	<u>\$ 9,420,000</u>	<u>\$ 1,809,000</u>

¹ Annual debt service assumes \$50,000 in fixed costs of issuance, \$10/bond in underwriting expenses and interest rates based on the MMD AAA scale plus 20 basis points. The all inclusive interest cost (including COI) is equal to 2.10% for the 5yr amortization and 2.82% for the 10yr amortization.

All annual debt service amounts assume a 5yr amortization, except the Corrugated Metal Pipe, which assumes a 10yr amortization with the option to pay off at 5 years.

CIP Comparison

	CIP Adopted 8-3-09	CIP With Bonds
2010		
Parks Projects	\$ 613,000	\$ 2,113,000
Drainage Projects	630,000	3,430,000
Street Projects	3,051,000	6,051,000
Building Projects	245,000	570,000
Sidewalk & Curb Projects	785,000	785,000
Total	<u>\$ 5,324,000</u>	<u>\$ 12,949,000</u>
2011		
Parks Projects	\$ 670,000	\$ 170,000
Drainage Projects	724,000	524,000
Street Projects	2,314,000	1,314,000
Building Projects	-	-
Sidewalk & Curb Projects	687,000	687,000
Total	<u>\$ 4,395,000</u>	<u>\$ 2,695,000</u>
2012		
Parks Projects	\$ 750,000	\$ 250,000
Drainage Projects	741,000	541,000
Street Projects	3,590,000	2,590,000
Building Projects	-	-
Sidewalk & Curb Projects	720,000	720,000
Total	<u>\$ 5,801,000</u>	<u>\$ 4,101,000</u>
2013		
Parks Projects	\$ 934,000	\$ 434,000
Drainage Projects	750,000	550,000
Street Projects	3,156,000	2,156,000
Building Projects	-	-
Sidewalk & Curb Projects	755,000	755,000
Total	<u>\$ 5,595,000</u>	<u>\$ 3,895,000</u>

**COUNCIL MEETING AGENDA
CITY OF PRAIRIE VILLAGE
August 17, 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 - August 3, 2009
2. Approve Claims Ordinance 2862
3. Approve the purchase of two (2) Harley Davidson Road King Motorcycles from Gail's Harley Davidson for a total purchase price of \$10,920 less trade-in of \$20,000.
4. Approve a letter of understanding for the Johnson County HOME Rehabilitation Program.
5. Approve the revised user agreement with the City of Overland Park to implement and support the Police Department's Computer Aided Dispatch (CAD), Mobile and Record Management Systems (RMS) subject to the approval of the City Attorney.
6. Authorize the Mayor to execute a proclamation honoring former Congressman Larry Winn, Jr.

VI. MAYOR'S REPORT

VII. COMMITTEE REPORTS

Council Committee of the Whole

COU2009-87 Consider Project 190869 - 2009 Street Resurfacing Program - Construction Change Order #1 - Michael Kelly

COU2009-79 Consider Crossing Guard Compensation - Michael Kelly

COU2009-83 Consider Bid Award for Annual Tree Trimming - Michael Kelly

COU2009-85 Consider Approval of Early Release of 2010 Exterior Grant Funds - Michael Kelly

Parks and Recreation Committee

Consider increase in fees for reservation of facilities

VIII. STAFF REPORTS

IX. OLD BUSINESS

X. NEW BUSINESS

XI. ANNOUNCEMENTS

XII. ADJOURNMENT

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

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

CONSENT AGENDA

CITY OF PRAIRIE VILLAGE, KS

August 17, 2009

**CITY COUNCIL
CITY OF PRAIRIE VILLAGE
July 20, 2009**

The City Council of Prairie Village, Kansas, met in regular session on Monday, August 3, 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, David Voysey, 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; Bob Pryzby, Director of Public Works; Dennis Enslinger, Assistant City Administrator; Karen Kindle, Finance Director; Chris Engel, Assistant to the City Administrator and Joyce Hagen Mundy, City Clerk.

Mayor Shaffer led all those present in the Pledge of Allegiance. He requested a change in the agenda moving the Consent Agenda forward to accommodate individuals present. The Council agreed with the change.

CONSENT AGENDA

Michael Kelly moved the approval of the Consent Agenda for Monday, August 3, 2009.

1. Approve Regular Council Meeting Minutes - July 20, 2009
2. Approve the exemption of the following Homes Associations from city-provided Solid Waste Collection Services for 2010: Countryside East Homes Association; Normandy Square Homes Association and Town & Country Homes Association.
3. Ratify the Mayor's appointment of Phil Monning to the Sister City Committee with his term expiring in April, 2012.

4. Ratify the Mayor's appointments of John Wilinski, Michael Arrandale-Arnold, Heather Schrotberger and Nici Flinn to the Communications Committee with their terms expiring in April, 2001; April, 2011; April, 2012 and April, 2012 respectively.
5. Adopt Resolution 2009-06 proclaiming the week of October 5-9, 2009 as Prairie Village Peanut Butter week.
6. Approve the change to Personnel Policy 1007 entitled "Sick Leave" modifying the accrual method to 3.70 hours per pay period.
7. Authorize staff to sign-up for the National League of Cities Prescription Drug Discount Program.

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

Mayor Shaffer welcomed newly appointed communications committee members John Wilinski and Michael Arrandale-Arnold who were present.

PUBLIC PARTICIPATION

Mayor Shaffer acknowledged the presence of a Boy Scout from Troop 199 at St. Michael's who was in attendance for his "Citizenship and the Community" badge.

PRESENTATION

Karen Clawson and Frank Lenk, with Mid-America Regional Council, presented an update on Transportation 2040, the region's long range transportation plan for the area. The overriding purpose of the of Transportation 2040 is to prepare a long term transportation plan, identify future transportation needs, consider available resources and funding, coordinate and collaborate across jurisdictional boundaries, directly guide future investment and comply with federal requirements.

Ms Clawson reviewed the many changes occurring in the area including growth in size, aging demographics, different lifestyles, desire for more transportation choices and creation of new jobs. The focus of the Transportation 2040 is on system preservation, integration of land use and transportation, increase travel options and

modify model options. The policies being established fall within the following framework: Accessibility, Economic Viability, Climate Change and Energy, General Environmental Issues, _____, Public Health, Safety and Security and System Performance.

Frank Lenk reviewed the processes followed in forecasting the future demographics, population, development and redevelopment. It is their vision to become "America's Green Region".

Ms Clawson stated the next step in this eighteen month process is preparation for potential projects. There will be a call for projects between August 5th and September 4th. MARC will hold an informational workshop on August 12th.

MAYOR'S REPORT

Mayor Shaffer noted a recent article in "The Best Times" publication recognizing Ruth Hopkins recent receipt of the "Making Democracy Work" award. He complimented Mrs. Hopkins on her excellent work as a representative of the City of Prairie Village.

COMMITTEE REPORTS

Council Committee of the Whole

COU2009-78 Consider approval of a Charter Ordinance relating to the City's authority to issue General Obligation Bonds

On behalf of the Council Committee of the Whole, Michael Kelly moved the Governing Body adopt a Charter Ordinance exempting the City of Prairie Village, Kansas from the provisions of K.S.A. 13-1024a and providing substitute and additional provisions on the same subject relating to general improvements and the issuance of bonds for the purpose of paying for said improvements. The motion was seconded by Dale Beckerman.

David Morrison spoke in opposition to the motion stated he felt the public should be allowed to decide on the issuance of bonds. David Voysey confirmed that the only time a public vote is required by statute is for the issuance of bonds for park land purchase.

A roll call vote was taken with the following members voting "aye": Al Herrera, Dale Warman, Ruth Hopkins, David Voysey, Michael Kelly, Andres Wang, Laura Wassmer, Dale Beckerman, Charles Clark, Diana Ewy Sharp, David Belz and Mayor Shaffer; voting "nay" David Morrison. The Ordinance was adopted by a vote of 12 to 1.

COU2009-71 Consider approval of emergency repairs to the Police Department's Radio System caused by lightning

Michael Kelly moved the Governing Body approve the payment of \$7,677.20 to Communications Associates from the Risk Management Fund for emergency repairs to the Police Department's Radio System. The motion was seconded by Laura Wassmer and passed unanimously.

PUBLIC HEARING

Michael Kelly moved the City Council meeting be suspended for the scheduled public hearing on the proposed 2010 budget for the City of Prairie Village. The motion was seconded by Dale Beckerman and passed unanimously.

2010 BUDGET HEARING

Mayor Shaffer called upon Finance Director Karen Kindle to present the 2010 proposed budget for the City of Prairie Village.

The proposed budget and notice of hearing was published on July 21, 2009, per state statute guidelines. The City's mill rate remains at 18.182, which is comprised of the General Fund mill levy and the Bond & Interest Fund mill levy. Mrs. Kindle noted

that state statutes require the City Council adopt an ordinance increasing the mill levy if the total dollars levied in the General Fund (\$4,958,597) are higher than allowed by the state's formula. While the mill rate was maintained, the total dollars levied in the General Fund exceed the limit established requiring an ordinance to be adopted if the budget is approved.

Karen Kindle reviewed the process followed in the creation of the 2010 budget reviewing the goals and objectives, challenges faced by the City, steps taken to meet those challenges and highlights of the budget. Challenges included a decrease in assessed valuation resulting in less property tax revenue, machinery and equipment exemption from taxation, decrease in gas tax revenue and the poor condition of the financial markets resulting in a decrease in interest income and increased funding requirements for pension plans.

The 2010 budget includes a new contract with Deffenbaugh for solid waste services at an annual assessment of \$177.62. The stormwater utility assessment rate increased from \$0.037/sq. ft. of impervious surface to \$0.038/sq. ft. of impervious area. The budget includes the first installment (\$90,000) of a reserve account for the future purchase of a street sweeper. The proceeds from the County Public Safety Sales Tax #2 will allow for \$200,000 to fund the reserve for the new police radio system in 2011 and \$250,000 for 2010 information technology initiatives including municipal court software and e-mail ticketing software. New revenue sources created include a Tow Company Business License; an increase in facility reservation fees, a change to the municipal court fee structure and a Natural gas transport fee. The budget does reflect the elimination of three FTE (full time equivalent) positions and a reduced employee salary merit pool.

The 2010 Capital Improvements Budget totals \$5,324,000 with CARS funding of \$488,000 and the use of reserve funds in the amount of \$300,000.

Mayor Shaffer asked for questions from the Council and for comments from the public. No one was present to address the proposed budget.

Michael Kelly moved to close the public hearing and resume the City Council meeting. The motion was seconded by Dale Beckerman and passed unanimously. The public hearing was closed at 8:10 p.m.

Michael Kelly moved the Governing Body adopt the 2010 budget as certified in the amount of \$24,897,011 with ad valorem tax in the amount of \$5,217,507. The motion was seconded by Laura Wassmer and passed unanimously.

Ruth Hopkins moved the Governing Body adopt Ordinance 2202 attesting to an increase in the property tax dollars levied in the General Fund in excess of the amount allowed by the state formula. The motion was seconded by Laura Wassmer.

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

Mayor Shaffer thanked Karen Kindle and the entire staff for their work on the preparation of the 2010 budget and their guidance to the City Council during the discussion of the budget and options.

OLD BUSINESS

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

NEW BUSINESS

Al Herrera noted there are no sidewalks along State Line Road from 71st to 75th Street and encourage staff to consider adding sidewalks in conjunction with future projects.

Al Herrera asked if residential windmills were allowed by the City's zoning regulations. Dennis Enslinger responded it would not be allowed under the current regulations and noted the Planning Commission would be reviewing regulations relative to all environmental issues including solar energy, which is currently very restrictive. Mayor Shaffer noted a windmill is being installed at 435 and Roe in Overland Park.

ANNOUNCEMENTS

Committee meetings scheduled for the next two weeks include:

Communications Committee	08/06/2009	5:30 p.m.
Sister City Committee	08/10/2009	7:00 p.m.
Parks & Recreation Committee	08/12/2009	7:00 p.m.
Council Committee of the Whole Meeting	08/17/2009	6:30 p.m.
City Council	08/17/2009	7:30 p.m.

The Prairie Village Arts Council is pleased to announce a mixed media exhibit by the Senior Arts Council for the month of August. The reception will be held on August 14th from 6:30 p.m. to 7:30 p.m.

The final moonlight swim for this season at the pool will be on August 7th.

Reduced hours at the pool begin on August 17th.

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 8:15 p.m.

Joyce Hagen Mundy
City Clerk

CITY TREASURER'S WARRANT REGISTER

DATE WARRANTS ISSUED:

Warrant Register Page No. 1

August 10, 2009

Copy of Ordinance
2862

Ordinance Page No.

An Ordinance Making Appropriate for the Payment of Certain Claims.

Be it ordained by the governing body of the City of Prairie Village, Kansas.

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

NAME	WARRANT NUMBER	AMOUNT	TOTAL
EXPENDITURES:			
Accounts Payable			
92593-92599	7/1/2009	71,156.92	
92600-92704	7/10/2009	389,707.83	
92705-92709	7/15/2009	11,921.94	
92710-92809	7/24/2009	649,066.00	
92810-92811	7/23/2009	1,702.31	
92812-91815	7/28/2009	66,208.37	
 Payroll Expenditures			
7/1/2009		271,805.46	
7/17/2009		292,977.12	
7/31/2009		277,172.16	
Electronic Payments			
Intrust Bank -credit card fees (General Oper)		407.74	
State of Kansas - sales tax remittance		1,319.63	
Marshall & Ilsley - Police Pension remittance		10,872.72	
Intrust Bank - fee		413.68	
KCP&L		15,524.70	
CBIZ - Section 125 admin fees		252.92	
Intrust Bank - purchasing card transactions		13,953.01	
United Health Care		1,171.24	
Kansas Gas		701.39	
Wells Fargo HSA		2,703.22	
TOTAL EXPENDITURES:			\$ 2,079,038.36
 Voided Checks			
TOTAL VOIDED CHECKS:			-
GRAND TOTAL CLAIMS ORDINANCE			2,079,038.36

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

Passed this 17th day of August 2009.

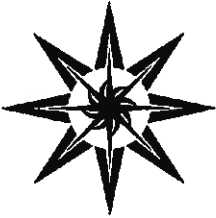
Signed or Approved this 17th day of August 2009.

(SEAL)

ATTEST: _____

City Treasurer

Mayor



POLICE DEPARTMENT

Council Meeting Date: August 17, 2009

Consent Agenda: **Consider purchase of two traffic motorcycles.**

RECOMMENDATION

Staff recommends the purchase of two (2) Harley Davidson Road King Motorcycles from Gail's Harley Davidson for a total purchase price of \$10,920 less trade-in of \$20,000.

COUNCIL ACTION REQUESTED ON

August 17, 2009

SUGGESTED MOTION

I move that the Police Department purchase (2) Harley Davidson Motorcycles from Gail's Harley Davidson for \$10,920.

BACKGROUND/COST BREAKDOWN

The traffic motorcycles are on a two-year rotation agreement with Gail's Harley Davidson in order to attain optimum trade-in value and minimal maintenance costs. The purchase was approved as part of the 2009 Police Department Budget.

FUNDING SOURCE

1-3-31-7100 - \$6,750.00

1-3-25-6320 - \$4,170.00

PREPARED BY

Wes Jordan

Chief of Police

Date: August 12, 2009



ADMINISTRATION

City Council Meeting Date: August 17, 2009

COU2009-84: Consider Approval of Letter of Understanding for the Johnson County HOME Rehabilitation Program.

RECOMMENDATION

Staff recommends the Council authorize the mayor to execute a Letter of Understanding for the Johnson County HOME Rehabilitation Program with Johnson County Human Services to administer the Home Rehabilitation Program.

SUGGESTED MOTION

The City Council authorizes the Mayor to execute a Letter of Understanding for the Johnson County HOME Rehabilitation Program.

BACKGROUND

Earlier this year, Johnson County Human Services Department approached the city about participating in the Johnson County Housing Service HOME Rehabilitation Program (HOME Program).

The HOME Program assists eligible homeowners of Johnson County, Kansas with rehabilitation needs of their owner-occupied homes. The program will bring a home into compliance with local housing codes and address health and safety issues.

Assistance is provided as a deferred payment loan (at 0% interest and is forgiven 10% per year for 10 years.) The loan instrument is recorded with the Johnson County Records & Tax Administration. If, at any time, the property changes ownership, the remaining amount of the loan is repaid.

The U.S. Department of Housing and Urban Development requires a match from a non-Federal source of \$25 for every \$100 of HOME Funds spent. While the maximum grant amount for each residence is \$40,000, the average amount spent per residence is about \$20,000. There are currently nine Prairie Village residents on the waiting list to participate in the program. The City Council has allocated \$20,000 which could fund approximately 2-4 projects.

ATTACHMENTS

Letter of Understanding for the Johnson County Home Rehabilitation Program

FUNDING SOURCE

City Council authorized \$20,000 from the Economic Development Fund on June 15, 2009.

PREPARED BY

Dennis J. Enslinger
Assistant City Administrator
Date: August 13, 2009

LETTER OF UNDERSTANDING FOR THE JOHNSON COUNTY HOME REHABILITATION PROGRAM

This service agreement is between the Housing Services office of the Johnson County Department of Human Services and the **CITY OF PRAIRIE VILLAGE**. This agreement is specific to rehabilitation work to be performed on homes located in this City.

PURPOSE

The purpose of this agreement is to enable Johnson County Housing Services to provide more extensive home rehabilitation to qualified low to moderate income residents of the City as long as funds are available for this purpose.

ADMINISTRATION

The Housing Services office, located at 12425 W. 87th Street Pkwy. Ste. 200 Lenexa, KS 66215 will provide all personnel necessary to administer and manage an effective program.

The program will be administered according to HOME guidelines and the Policies and Procedures for the Johnson County HOME Rehabilitation Program (Copies of Policies & Procedures available upon request). These Policies and Procedures are made a part of this agreement and are incorporated herein by reference.

FUNDING

The HOME Rehabilitation Program is a partnership program between the County and participating Cities. In order to leverage non-federal dollars, the County agrees to match City funds on a three to one basis with County HOME funds to the extent these funds are made available. **With this Letter of Understanding the City agrees to provide City funding in an amount up to \$ 20,000 for the HOME Rehabilitation Program.** This amount represents 25% of the maximum cost for completion of repairs on 2 residences.

HOLD HARMLESS

The County agrees to hold and save the City harmless from any and all claims, settlements, and judgements for personal injury, bodily injury, property damage, and/or death arising out of the County's or any of its officers', employees' or agents' negligent acts and/or omissions with respect to the performance of home repairs provided under this agreement.

INSURANCE

The County will maintain coverage of the types of insurance and in such amounts as may be necessary to protect itself and the City against all hazards or risks of loss.

In no event shall the County be subjected to any liability greater than found in the Kansas Tort Claims Act, K.S.A. 75-6101 et seq., and amendments thereto.

AMENDMENT

This Agreement may be amended by supplemental writing signed by the parties to the agreement.

TERMINATION

This agreement may be terminated by either party upon thirty (30) days' written notice. In the event of termination, all unexpended City funds shall be returned to the City within thirty (30) days of termination.

RENEWAL

A new agreement will be signed for each calendar year. Any portion of funds not used for the current year will be automatically transferred to the next program year or returned to the City upon request. **Requests must be received in writing, in our office, no later than December 1, 2009.**

GOVERNING LAW

This agreement shall be governed by, construed, and enforced in accordance with the laws of the State of Kansas.

NON DISCRIMINATION

The County shall not discriminate against any person in the performance of work under this Agreement because of race, religion, age, color, sex, handicap, national origin, familial status or ancestry.

PAYMENT

Upon execution of this agreement, payment in the amount of \$ 20,000 shall be made to Johnson County Housing Services.

RECORDS AND REPORTS

The County agrees to retain all program records for a minimum of three years. The City shall have access to program records at all reasonable times upon request.

The Housing Services office shall prepare and submit to the City a statement at the end of each calendar year showing expenditures and the remaining balance of City funds. Other data, pertinent to the City, may also be included with this report.

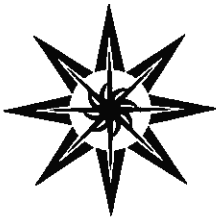
**CITY OF PRAIRIE VILLAGE, KANSAS HOUSING SERVICES OFFICE,
JOHNSON COUNTY HUMAN SERVICES**

Signature

Deborah Collins
Director, Human Services

Title

Date



CITY CLERK DEPARTMENT

**Council Meeting Date: August 17, 2009
Consent Agenda**

Consider Amended User agreement with City of Overland Park to support the Police Department's Computer Aided Dispatch (CAD), Mobile and Record Management Systems (RMS)

RECOMMENDATION

Move the Governing Body approve the revised agreement with the City of Overland Park to implement and support the Police Department's Computer Aided Dispatch (CAD), Mobile and Record Management Systems (RMS) subject to the approval of the City Attorney.

BACKGROUND

On January 20th, the Governing Body approved agreements with Intergraph and the City of Overland Park for the implementation and support of upgraded technology for the Police Department's Computer Aided Dispatch (CAD), Mobile and Record Management Systems (RMS). The City of Overland Park has made revisions to their agreement for implementation and support. The revised agreement has been forwarded to the City Attorney for review.

ATTACHMENTS

Revised User Agreement

PREPARED BY

Joyce Hagen Mundy
City Clerk

Date: August 14, 2009

**USER AGREEMENT
BETWEEN
THE CITY OF OVERLAND PARK
AND
THE CITY OF PRAIRIE VILLAGE**

This AGREEMENT made and entered into on this 1st day of August, 2009 by and between the City of Overland Park, Kansas, hereinafter referred to as "SYSTEM PROVIDER," and the City of Prairie Village, Kansas, hereinafter referred to as "USER AGENCY."

WHEREAS, the SYSTEM PROVIDER is the operator of the Computer Aided Dispatch (CAD), Records Management (RMS), and Mobile Data Computer (MDC) systems, hereinafter referred to collectively as "SYSTEM;" and

WHEREAS, the USER AGENCY desires to utilize said SYSTEM; and

WHEREAS, the parties hereto wish to enter into an AGREEMENT pursuant to which SYSTEM PROVIDER will allow USER AGENCY access to the SYSTEM for the consideration and upon the terms and conditions herein provided.

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

WHEREAS, the governing bodies of each of the parties have determined to enter into this AGREEMENT as authorized by K.S.A. 12-2908; and

NOW, THEREFORE, in consideration of the compensation to be paid to SYSTEM PROVIDER the sufficiency of which is hereby acknowledged and of the mutual agreements herein contained, the parties hereto have agreed, and hereby agree, the SYSTEM PROVIDER for itself and its successors, and the USER AGENCY for itself, and its successors and assigns or its executors and administrators as follows:

ARTICLE 1. OBLIGATIONS OF SYSTEM PROVIDER

The SYSTEM PROVIDER shall be responsible for providing the servers, server software (I/CAD, I/LEADS, I/MDT), databases, system administration, and necessary interfaces for the SYSTEM. The SYSTEM PROVIDER will be responsible for maintaining the interface to the Kansas City, Missouri ALERT system and to the Johnson County Sheriff's Radio Network Controller (RNC) as long as these connections are necessary. The SYSTEM PROVIDER will also be responsible for maintaining the Intergraph Public Safety supplied interfaces to mugshot systems, fingerprint identification systems, and interfaces between Intergraph Public Safety products. The SYSTEM PROVIDER will further be responsible to execute a maintenance contract for the servers, server software, and the hardware necessary for the operation of the SYSTEM and to apply appropriate upgrades as necessary at the SYSTEM PROVIDER'S sole discretion. The SYSTEM PROVIDER shall be responsible to monitor new technology to

maintain a technologically current SYSTEM. Based upon the data gathered, it shall be the sole responsibility of the SYSTEM PROVIDER to determine the hardware and software that will maximize benefits to both the SYSTEM and the USER AGENCY. The SYSTEM PROVIDER shall establish and maintain a protocol for the diagnosis and correction of system errors. The SYSTEM PROVIDER shall establish and coordinate user groups to facilitate communication, direction, problem solving and to provide technical assistance for the operation of the SYSTEM. The SYSTEM PROVIDER shall have the responsibility to carefully consider and evaluate all requests, suggestions and recommendations that user groups present in writing to the SYSTEM PROVIDER. The SYSTEM PROVIDER must respond to all requests, suggestions and recommendations presented to it by a user group within a reasonable amount of time.

ARTICLE 2. OBLIGATIONS OF USER AGENCY

A. Workstation and Software

The USER AGENCY shall be responsible for providing the required workstations and workstation software along with all appropriate software licenses. The workstations will be located in Prairie Village, Kansas. The workstation software shall be compatible with the software operating on server of SYSTEM PROVIDER. USER AGENCY shall execute maintenance agreements for the software installation on the equipment used by USER AGENCY to access the SYSTEM.

B. Connection to Network

The USER AGENCY is responsible for establishing a connection to the network of SYSTEM PROVIDER. This includes all acquisition, installation, and maintenance of network connections. USER AGENCY shall provide the physical cabling and software necessary to attach to the network of SYSTEM PROVIDER. This connection will be done at the direction and under the supervision of the Information Technology Department of SYSTEM PROVIDER. No action will be taken relative to this connection without the written consent of SYSTEM PROVIDER.

The USER AGENCY shall comply with all of the terms and conditions of the Connectivity Attachment, a copy of which has been attached hereto and incorporated by reference herein as Exhibit A.

C. User Agreement for ALERT and KCJIS Access

The USER AGENCY is required to maintain a current user agreement with the Board of Police Commissioners of Kansas City, Missouri for access to the criminal justice information provided on SYSTEM including but not limited to, Alert, the National Crime Information Center (NCIC), Missouri Uniform Law Enforcement System (MULES), Missouri Department of Revenue (DOR), Kansas Department of Revenue (KDOR), the Automated Statewide Telecommunications Records Access (ASTRA), and the National Law Enforcement

Telecommunications System (NLETS). The USER AGENCY agrees to abide by all terms and conditions of the user agreement with the Board of Police Commissioners of Kansas City, Missouri. Violation of that agreement shall be considered a violation of this AGREEMENT and pursuant to Article 5, is grounds for immediate termination of this AGREEMENT. The USER AGENCY further agrees to abide by the policies and procedures set forth in the Memorandum of Agreement regarding the installation and use of KIBRS Gateway software received from the Kansas Criminal Justice Information System (KCJIS). A violation of those policies and procedures shall be considered a violation of this AGREEMENT and pursuant to Article 5, is grounds for immediate termination of this AGREEMENT.

D. Dissemination of Information

The USER AGENCY agrees to abide by all federal and state laws and regulations, relating to the collection, storage, retrieval, and dissemination of criminal justice information. Under no circumstances will the USER AGENCY disseminate information entered into the SYSTEM by SYSTEM PROVIDER or any other user agency. The SYSTEM PROVIDER will not disseminate information entered into the SYSTEM by the USER AGENCY.

Both parties understand that information entered into the system can be viewed by other user agencies as well as law enforcement support groups, Emerging Threat Analysis Capability Center (ETAC) and Kansas City Terrorism Early Warning Group (KCTEW), and such access by these agencies is not considered a dissemination of this information for purposes of this AGREEMENT.

E. Completeness, Accuracy, Submission, and Security

The USER AGENCY agrees to be responsible for the accuracy, timeliness, and completeness of information entered into or through the SYSTEM by the USER AGENCY. The USER AGENCY agrees to make a good faith effort to maintain the integrity of the I/LEADS Master Name Index, Master Location Index, and Master Property Index. The USER AGENCY is responsible for the submission of criminal offense and criminal arrest data to the State of Kansas or any other entity as is required by law. The USER AGENCY is responsible for managing security of information contained in the databases, as well as the user access and security for its employees.

F. Training

USER AGENCY agrees to train any personnel accessing the SYSTEM according to the training standard provided by Intergraph Public Safety. The USER AGENCY represents and agrees that they assume the responsibility to ensure that all persons operating the software shall be properly qualified, supervised, and trained, and have demonstrated effectively that the operator is proficient to properly access the SYSTEM.

USER AGENCY further agrees to train any personnel accessing the SYSTEM regarding all obligations of USER AGENCY created herein. USER AGENCY shall adequately supervise

personnel accessing the system to ensure compliance herewith.

ARTICLE 3. BACKUP SERVER

The SYSTEM PROVIDER and the USER AGENCY may agree to work together to implement and maintain a backup server at the USER AGENCY site. The USER AGENCY will supply this server and have primary responsibility for its maintenance.

ARTICLE 4. TERM

This AGREEMENT shall commence upon the date it is executed, and shall continue in effect until Midnight, December 31 of the year of execution. The term of this AGREEMENT shall be automatically extended at the end of the initial term for a twelve month period, and in a like manner in succeeding years, unless either party notifies the other, in writing, at least 120 days prior to the end of the AGREEMENT current at the time, that the party intends to terminate the AGREEMENT and it will not be extended.

Notwithstanding the foregoing or any other language contained in this AGREEMENT, the USER AGENCY is obligated to pay only such periodic payments or monthly installments thereof as may lawfully be made from funds budgeted and approved for the purpose. USER AGENCY agrees to notify SYSTEM PROVIDER at the earliest possible time of the non-availability of funds from which to make any periodic payment or monthly installment.

In the event the USER AGENCY fails to make any payments due to SYSTEM PROVIDER under this AGREEMENT, SYSTEM PROVIDER may at its option immediately thereafter terminate this AGREEMENT upon 15 days written notice from SYSTEM PROVIDER of an overdue payment.

ARTICLE 5. TERMINATION

The SYSTEM PROVIDER or the USER AGENCY may terminate this AGREEMENT for any reason upon at least 120 days notice. If the USER AGENCY fails to comply with terms and conditions of this AGREEMENT, the SYSTEM PROVIDER reserves the right to immediately terminate the AGREEMENT.

ARTICLE 6. CONSIDERATION

Consideration for this AGREEMENT will be calculated on an annual basis and an invoice for the costs thereafter will be distributed to each USER AGENCY by June 1 of each year so that agencies can budget for the expenditure. During the Initial Term, costs will be calculated and distributed based upon the current year's Maintenance Agreement costs. Costs will be determined by the number of access licenses declared each year by USER AGENCIES, and such declaration will remain in effect for that year. For the initial term of this AGREEMENT, USER AGENCIES will declare the number of necessary access licenses prior to execution. Thereafter, USER AGENCIES must declare to SYSTEM PROVIDER their

necessary access licenses by May 1 for the following calendar year. Any invoices served on USER AGENCY hereunder must be paid no later than January 31 of the following year.

For purposes of this AGREEMENT an access license is defined as a live connection to either the I-Cad database, I-Leads database and/or I-Netviewer. The access license is granted by the SYSTEM PROVIDER in return for compensation, and may be terminated under the terms of this AGREEMENT.

ARTICLE 7. INDEMNIFICATION

To the extent permitted by law and subject to the immunity and maximum liability provisions of the Kansas Tort Claims Act, the USER AGENCY agrees to indemnify and hold harmless the SYSTEM PROVIDER, and its agents, servants, and employees from and against any and all claims, demands, actions, suits, judgments, and proceedings by others, against all liability, including but not limited to, any liability for damages by reason of or arising out of any false arrests, imprisonment, or any loss, cost expense, or damage arising from, arising out of or in connection with this AGREEMENT to the extent that such liability results from the intentional or negligent acts or omissions of the USER AGENCY, its employees or agents. This Agreement to indemnify shall not run in favor of or inure to the benefit of any liability insurer or third party.

ARTICLE 8. WARRANTY

The SYSTEM is provided without any warranty or condition, expressed or implied. SYSTEM PROVIDER specifically disclaims any implied warranties of title, merchantability, fitness for a particular purpose, and non-infringement. The USER AGENCY acknowledges that the SYSTEM may not operate totally without interruption and warrants that it shall maintain a manual system adequate to back up the SYSTEM should it become unavailable for use, either planned or unplanned. SYSTEM PROVIDER makes no representations, warranties, or guarantees regarding "up-time" for the SYSTEM. The SYSTEM PROVIDER and THE USER AGENCY both agree to pursue remedies through Intergraph Public Safety to all software problems arising from software provided by Intergraph Public Safety. Remedies for problems arising that are caused by circumstances outside of Intergraph Public Safety's control (network connection issues, user errors, hardware failures, etc.) shall be pursued jointly by the SYSTEM PROVIDER and the USER AGENCY until a resolution is achieved.

ARTICLE 9. NON-DISCRIMINATION

A. USER AGENCY and SYSTEM PROVIDER, for purposes this section referred to singularly as "AGENCY" and collectively as "AGENCIES," agree that:

1. AGENCIES shall observe the provisions of the Kansas act against discrimination and shall not discriminate against any person in the performance of the work under the present contract because of race, color, religion, age, disability, sex, ancestry, national origin, veteran status or low income.

2. In all solicitations or advertisements for employees, AGENCIES shall include the phrase, "equal opportunity employer," or a similar phrase to be approved by the Kansas Human Rights Commission, hereinafter, "Commission."
3. If the AGENCIES fail to comply with the reporting requirements of K.S.A. 44-1031 and amendments thereto, the offending AGENCY shall be deemed to have breached the present AGREEMENT it may be canceled, terminated or suspended, in whole or in part, by the contracting agency.
4. If AGENCIES are found guilty of a violation of the Kansas Act Against Discrimination under a decision or order of the Commission which has become final, the offending AGENCY shall be deemed to have breached the present AGREEMENT and it may be canceled, terminated or suspended, in whole or in part, by the contracting agency.
5. AGENCIES shall include the provisions of Article 9, subsections (1) through (4) in every subcontract or purchase order so that such provisions will be binding upon such subcontractor or vendor.

The provisions of this section shall not apply to a contract entered into by a contractor:

- (a) who employs fewer than four employees during the term of such contract; or
 - (b) whose contracts with the AGENCY cumulatively total \$5,000.00 or less during the fiscal year of the AGENCY.
- B. The AGENCIES further agree that they shall abide by the Kansas Age Discrimination In Employment ACT (K.S.A. 44-1111 *et seq.*) and the applicable provision in the Americans With Disabilities Act (42 U.S.C. 1201 *et seq.*) as well as all federal, state and local laws, ordinances and regulations applicable to this project and to furnish any certification required by any federal, state or local governmental agency in connection therewith.

ARTICLE 10. MISCELLANEOUS

- A. This AGREEMENT shall supersede and replace all other Agreements between the parties relative to the extension of Intergraph Access Services.
- B. Amendments to this AGREEMENT may be made only in writing and must be signed and dated by both parties. Validly executed amendments shall be considered official changes to the AGREEMENT and shall require no further action.

IN WITNESS WHEREOF, the parties hereto caused this AGREEMENT to be executed by the proper officers and officials.

APPROVED AS TO FORM:

CITY OF PRAIRIE VILLAGE, KANSAS

CITY ATTORNEY

By _____

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY OF OVERLAND PARK, KANSAS

John J. Knoll
SENIOR ASSISTANT CITY ATTORNEY

By _____
CARL GERLACH
MAYOR

ATTEST:

MARIAN COOK
CITY CLERK

EXHIBIT A
CONNECTIVITY AND FIBER USE ATTACHMENT

1. **Definitions.** When the term "Network" is used in this Exhibit, it shall mean the data network owned and maintained by the SYSTEM PROVIDER which includes but is not limited to copper wire, fiber-optic cable, conduits, junction boxes, and networking equipment. When the term "Connection" is used in this Exhibit, it shall mean the USER AGENCY's connection to the Network via a high speed data connection and/or other connection.

2. **Connection, Equipment and Access.** SYSTEM PROVIDER hereby grants to USER AGENCY the right to establish a Connection or Connections at the USER AGENCY's sole cost and expense with the Network as outlined herein. The USER AGENCY may also place USER AGENCY owned networking equipment ("Equipment") in certain SYSTEM PROVIDER facilities to allow access to and use of the Connection. The location of the Equipment will be at SYSTEM PROVIDER's sole discretion. The location and description of the Equipment and Connection are set forth in Attachment A, attached hereto and incorporated by reference herein. SYSTEM PROVIDER will provide accompanied access to the Equipment at times convenient to SYSTEM PROVIDER upon reasonable notice from USER AGENCY.

3. **Fiber Connection and Use.** If USER AGENCY is connecting to SYSTEM PROVIDER via fiber, is utilizing SYSTEM PROVIDER fiber, and/or is pulling USER AGENCY fiber through SYSTEM PROVIDER conduit the following provisions apply:
 - a. A specific description of the location of any Connection and/or the strands of fiber as well as a designation of ownership is set forth in Attachment A.

 - b. The USER AGENCY is responsible at its sole cost and expense for running fiber to a location specified by the SYSTEM PROVIDER's Director of Information Technology for the purpose of making the Connection to SYSTEM PROVIDER's fiber via a junction box. SYSTEM PROVIDER will then, at USER AGENCY's sole cost and expense, connect the USER AGENCY's fiber to SYSTEM PROVIDER's fiber. If there is not currently a junction box for the USER AGENCY to connect to the Network, a junction box will be installed at the USER AGENCY's cost and expense, ownership of the junction box shall vest in the City. Within thirty (30) days of the receipt of an invoice, the USER AGENCY shall reimburse SYSTEM PROVIDER the actual cost of the connection.

 - c. The USER AGENCY is responsible at its sole cost and expense for securing access to all public or private rights of way and easements, as well as any necessary pole attachments, needed to run USER AGENCY fiber from USER AGENCY facilities to the City's designated Network connection points.

4. **Use of Contractors.** If a Contractor is performing any work described herein on behalf

of the USER AGENCY, Director of Information Technology of SYSTEM PROVIDER shall be notified in advance. The USER AGENCY shall insert the following paragraphs as special provisions to any Contractor chosen to do the work:

The Contractor shall defend, indemnify and save the City of Overland Park, Kansas harmless from and against all liability for damages, costs and expenses including attorney fees arising out of any claim, suit, action or otherwise for injuries and/or damages sustained to persons or property by reasons of the acts or omissions of the Contractor, or its sub-contractors, agents or employees in the performance of its contract.

The City of Overland Park, Kansas shall be named as an additional insured on all policies of insurance issued to the Contractor and required by the terms of the Contractor's agreement with the USER AGENCY.

5. **Insurance.** During the performance of this Agreement, USER AGENCY agrees to maintain insurance coverage of the types and minimum liability as set forth below. USER AGENCY shall furnish to the SYSTEM PROVIDER a Certificate of Insurance verifying such coverage, listing the certificate holder as an additional insured for the general liability coverage. The certificate holder on the Certificate of Insurance shall be as follows:

City of Overland Park, Kansas
8500 Santa Fe Drive
Overland Park, KS 66212

Prior to any material change or cancellation, the SYSTEM PROVIDER will be given thirty (30) days advanced written notice by registered mail to the stated address of the certificate holder.

- a. Commercial General Liability insurance on an occurrence basis in amounts no less than \$500,000 bodily injury and property damage per occurrence, including personal and advertising injury; \$500,000 general aggregate.
- b. Automobile Liability insurance in an amount no less than \$500,000 bodily injury and property damage combined single limit, including all owned (if any), hired and non-owned autos.
- c. Workers' Compensation and Employers' Liability, protecting against all claims under applicable state Workers' Compensation laws. USER AGENCY shall also be protected against claims for injury, disease or death of employees which, for any reason may not fall within the provisions of a Workers' Compensation law. The policy shall include "all states" insurance, and the liability limits shall not be

less than Statutory (Workers' Compensation); \$100,000 / \$500,000 / \$100,000 (Employers Liability).

SYSTEM PROVIDER will only accept coverage from an insurance carrier who carries a Best's policyholder rating of A-:VIII or better; or is a company mutually agreed upon by the SYSTEM PROVIDER and USER AGENCY.

6. **Maintenance of, Changes to, or Construction of the Network and Equipment.** USER AGENCY and SYSTEM PROVIDER acknowledge that SYSTEM PROVIDER is the owner of the Network and that SYSTEM PROVIDER shall have the sole responsibility for maintenance of same. SYSTEM PROVIDER agrees that maintenance and repair of the Network or changes to or construction of the Network shall be at no charge, cost, or expense to USER AGENCY.

The USER AGENCY is the owner of the Equipment and the USER AGENCY shall have the sole responsibility for repair and maintenance of the same and shall be at no charge, cost, or expense to SYSTEM PROVIDER. SYSTEM PROVIDER shall not be responsible for any damage to the Equipment. USER AGENCY shall maintain insurance sufficient to cover the Equipment.

The USER AGENCY understands that SYSTEM PROVIDER has a Network change policy and procedure which is incorporated by reference as it now exists or may be adopted or amended in the future, acknowledges receipt of same, and agrees to abide by same to the extent that any changes would impact the Network's general operation.

7. **Interference with Network.** USER AGENCY agrees that its use of the Network shall not interfere with the Network's general operation. USER AGENCY will take whatever steps necessary to ensure that such interference does not occur or to eliminate any interference.

In the event that USER AGENCY is unable to eliminate interference to SYSTEM PROVIDER's Network within a reasonable time as determined at the sole discretion of the Information Technology Director for SYSTEM PROVIDER, SYSTEM PROVIDER or its contractors are authorized to adjust, relocate or remove USER AGENCY's Equipment, as is reasonably necessary to eliminate the interference. Consistent with Article 8, below, SYSTEM PROVIDER shall not be liable for any damage to USER AGENCY's Equipment resulting from such activity.

8. **Troubleshooting.** USER AGENCY agrees that its employees will contact the USER AGENCY Information Technology (IT) Department or representatives before contacting SYSTEM PROVIDER regarding issues related to this Agreement. USER AGENCY agrees that if its IT Department determines there is a problem related to connectivity with SYSTEM PROVIDER, the USER AGENCY will contact SYSTEM PROVIDER's IT Help Desk at (913) 895-5050 and will send an email to netnotify@opkansas.org. After business hours, USER AGENCY may contact the SYSTEM PROVIDER Police

Command and Control Center at (913) 895-6300 for assistance. SYSTEM PROVIDER agrees to make reasonable efforts to identify and remediate any problem as quickly as possible; however, SYSTEM PROVIDER does not guarantee any specific uptime, nor is SYSTEM PROVIDER liable for any damages associated with performance under this Agreement, including but in no way limited to any downtime.

9. **Limitation of Liability.** In no event shall SYSTEM PROVIDER be liable for any damages, including special, incidental, direct, indirect, punitive, reliance or consequential damages, whether foreseeable or not, arising out of, or in connection with this Agreement. This shall include but not be limited to damages resulting from , transmission interruptions or problems, damage or loss of property or equipment, loss of profits or revenue, cost of capital, cost of replacement services, or claims of customers, whether occasioned by any repair or maintenance performed by, or failed to be performed by SYSTEM PROVIDER, or any other cause whatsoever, including, without limitation, breach of contract, breach of warranty, negligence, or strict liability. USER AGENCY releases SYSTEM PROVIDER from any claims related to same.

USER AGENCY's access to and use of the Network is provided without any warranty or condition, expressed or implied. The USER AGENCY understands and acknowledges that the Network may not operate totally without interruption and warrants that it shall maintain processes to provide redundancy to the Network should it become unavailable for use, either planned or unplanned.

10. **Security and Privacy Protocols.** USER AGENCY understands and agrees that all use of the Network shall be subject to and consistent with all applicable City, State and Federal standards and protocols related to security and privacy. All of which are incorporated by reference as they exist now or may be adopted or amended in the future.
11. **Miscellaneous.** This Attachment shall be governed by and construed in accordance with the laws of the State of Kansas. The provisions of this Intergraph User's Agreement and Attachment encompass the entire agreement between the parties regarding connectivity. No modification, addition, or deletion to this Attachment shall be effective unless placed in writing and signed by the parties hereto. The provisions of this Attachment are intended to be for the sole benefit of the parties hereto and their respective successors and assigns. None of the provisions of this Attachment are intended to be, nor shall they be construed to be, for the benefit of any third party. The language used in this Attachment shall be deemed to be the language chosen by both parties to express their mutual intent, and no rule of strict construction against either party shall apply to any term or condition of this Attachment.

Attachment A may be amended or supplemented by the parties hereto from time to time. Such amendment or supplement may be executed by the Director of Information Technology on behalf of Overland Park and by _____ on behalf of the USER AGENCY.

Attachment A

Intergraph connectivity locations:

Antioch Justice Center

Mission

Merriam

Roeland Park

Shawnee

JCSO

Westgate

Olathe

JCSO

Park Police

ECC

Lenexa

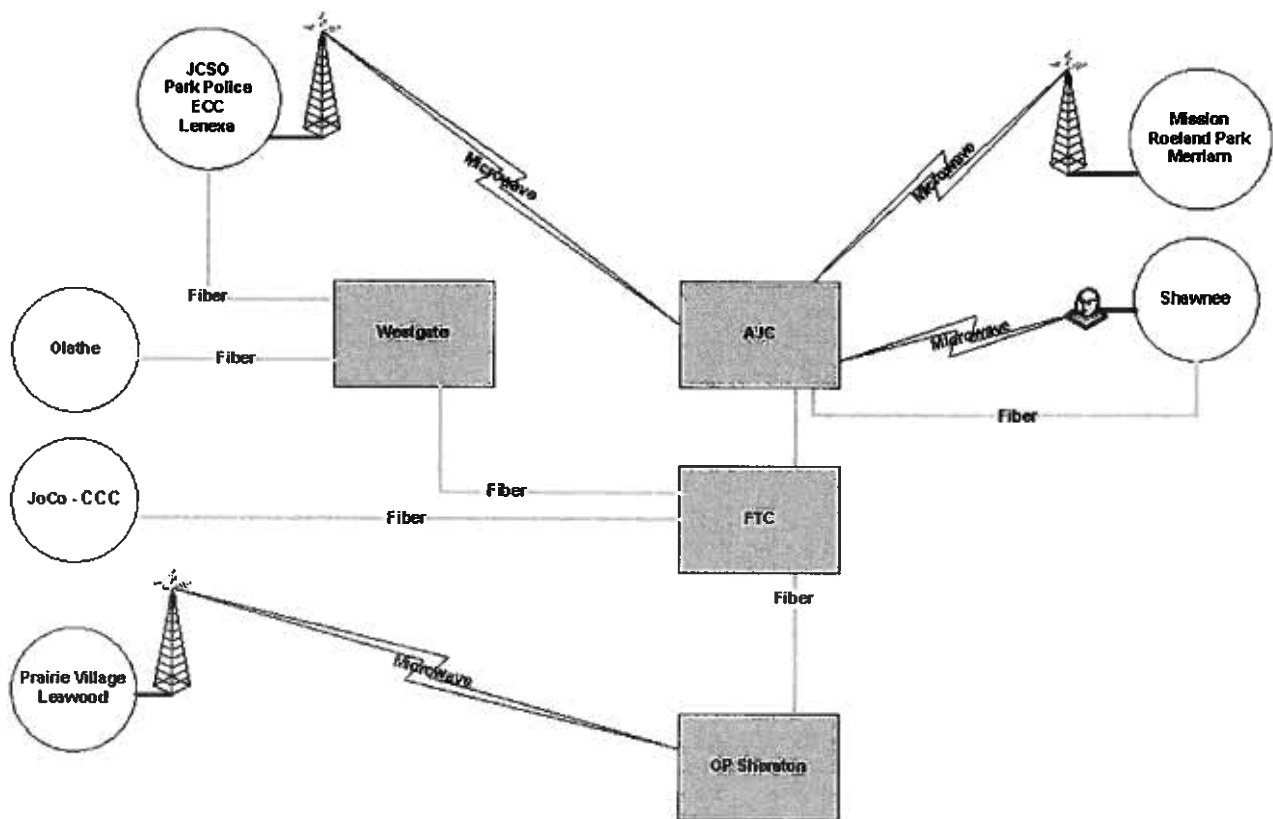
Fire Training Center

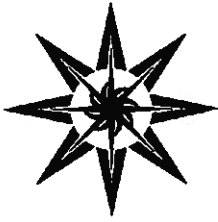
County CCC

OP Sheraton

Prairie Village

Leawood





MAYOR

**Council Meeting Date: August 17, 2009
CONSENT AGENDA**

Consider Proclamation honoring former Congressman Larry Winn, Jr.

RECOMMENDATION

Authorize the Mayor to execute a proclamation honoring former Congressman Larry Winn, Jr.

BACKGROUND

On August 22nd, Larry Winn, Jr. will celebrate his 90th birthday. In recognition of his service to this community on this special occasion a proclamation has been prepared honoring former Congressman Larry Winn, Jr. for his many years of service to this community.

ATTACHMENTS

Proclamation

PREPARED BY

Joyce Hagen Mundy
City Clerk

Date: August 14, 2009

CITY OF PRAIRIE VILLAGE
PROCLAMATION OF RECOGNITION
FOR DISTINGUISHED SERVICE AND LEADERSHIP
EDWARD LAWRENCE WINN, JR.

WHEREAS, Larry Winn, Jr., was born on August 22, 1919 in Kansas City, Missouri and is hereby celebrating his 90th birthday; and

WHEREAS, Larry Winn, Jr. has led an active life dedicated to improving the quality of life and developing this area as a private builder, as Vice President of Winn-Rau Corp, as a Director on the National Association of Home Builders and past President of the Home Builders Association of Kansas; and

WHEREAS, Larry Winn, Jr. demonstrated his vision and leadership through twenty years of service in the United States House of Representatives representing the Kansas Third Congressional District from 1966 to 1985; serving on the House Committees on Space and Aeronautics, Select Committee on Crime, Veterans' Affairs Committee and Foreign Affairs Committee; and

WHEREAS, Larry Winn, Jr. was recognized in June of 2006 for his tireless efforts on behalf of our community with the passage of H.R. 5504 naming the postal facility at 6029 Broadmoor Street as the "Larry Winn, Jr. Post Office Building"; and

WHEREAS, Larry Winn, Jr. is a respected resident of the City of Prairie Village, Kansas; and

WHEREAS, Larry Winn, Jr.'s life has touched and will continue to impact residents of Kansas for years to come.

THEREFORE, I Ronald L. Shaffer, Prairie Village Mayor take this opportunity to thank Larry for his public service, his friendship and advice and wish him a very happy 90th Birthday and many more.

Adopted this 18th day of August, 2009.

Mayor Ronald L. Shaffer



PARK & RECREATION COMMITTEE

Council Meeting Date: August 17, 2009

Consider increase in fees for reservation of facilities

PARK COMMITTEE RECOMMENDATION

Move the Governing Body approve the following fees for 2010 Facility Reservations:

Ball Fields - \$80 per team; \$7.50 per hour

Park Shelters - \$8 per hour resident; \$15 per hour non-resident

Tennis Courts - \$7 per hour per court

Alcohol Permit - \$60

Community Center - \$12 per hour for multiple uses

\$15 per hour for weekday reservations

\$20 per hour for weekend reservations

BACKGROUND

The City Council approved the 2010 budget which included an increase in revenue from facility reservations based on an estimated five percent increase in fees. After reviewing existing fees, fee history and comparison of other cities' fees, my staff is recommending the following changes:

Ball Field Reservations

Increased from \$50 per team to \$75 per team for 2009. An initial fee of \$50 per team was set in 2006. A five percent rounded increase is \$80 per team.

Park Shelters

In 2006, the City began charging for the reservation of park shelters charging \$5 per hour for residents and \$10 per hour for non-residents. This fee was increased for 2009 to \$7.50 per hour for residents and \$12 per hour for non-residents. Several concerns have been expressed over the past year regard maintenance and vandalism by both the City and individuals using the shelters. An increase to \$8 per hour for residents reflects a 5% increase rounded up for even dollars. Since the residents took a greater hit than non-residents in last year's increase, we are proposing an increase from \$12 per hour to \$15 per hour for non residents. Based on 2008 usage this will result in an increase in revenue of approximately \$750.

Another issue on which we need your direction is the handling of requests for exemption by schools, etc. In 2009, 59 hours of use have been issued at no charge.

Community Center

Over the years several methods of charging and a wide range of fees have been charged for the Community Center. The most recent was a change in reservation charges from resident/non-resident to weekdays/weekends due to the increased custodial charges incurred for weekend reservations. Also an alcohol permit fee was created last year for those reservations serving alcoholic beverages. The last fee increase was effective in 2007.

In 2009, approximately \$8000 in revenue was received from group meetings at the Community Center, many of those monthly. Individual parties accounted for approximately \$3600 in revenue. In order to better accommodate those community groups which generally meet are low maintenance reservations, we recommend proposing a three tier fee schedule offering a lower rate for multiple uses. This was done previously and appreciated by the groups, many of whom are non-profit, that meet in the Center. The Dowsing Society pays \$240 for its 12 monthly meetings. The Fine Arts Singles, which meets on Saturdays, pays \$600 for ten meetings. We are proposing to charge of fee of \$12 per hour for multiple use reservations. Individual weekday reservations would increase from \$10 per hour to \$15 per hour and weekend reservations from \$15 per hour to \$20 per hour.

Tennis Courts

The current reservation fee for City tennis courts is \$5 per hour per court. This is charged generally for league play or non-school tournaments. The last increase of this fee was from \$2 per hour to \$5 per hour in 1997. We are proposing an increase of \$2 to \$7 per hour per court.

ATTACHMENTS

Chart of proposed increases

PREPARED BY

Joyce Hagen Mundy
City Clerk

Date: August 13, 2009

Proposed Facility Fee Increases

Revenue Source	Date of Increase	Previous Fee	Date of Increase	Current Fee	PROPOSED	# of hours or permits	Revenue	Increased Revenue
Facility Reservation Fees								
		\$50 Team 1-time		\$75 team	\$80.00	80	\$6,400	\$400.00
Ballfield Reservation	1/17/2006	\$1/hr	2009	\$5/hour	\$7.50/hour	10	\$75	\$25.00
		\$5/hr - Res		\$7.50 - Res	\$8 - Resident	895	\$7,160	
Park Shelters	1/17/2006	\$10/hr - NR	2009	\$12 - NR	\$15 - Non-resident	105	\$1,575	\$747.50
				\$10/hr weekday	\$12/hr - multiple uses	641		
				\$15/hr	\$15/hr - weekdays	50		
Meeting Rooms			9/17/2007	weekend	\$20/hr - weekends	196	13,408	1,873
					\$10 processing fee	100	\$1,000.00	\$1,000.00
Tennis Courts	1997	\$2/hr/court	1997	\$5/hr/court	\$7/hr/court		\$3,500	\$1,000.00
Alcohol Permit			2009	\$50	\$60	10	\$600	\$100
								\$4,720.50

MAYOR'S ANNOUNCEMENTS

Monday, August 17, 2009

Committee meetings scheduled for the next two weeks include:

Prairie Village Arts Council	08/19/2009	7:00 p.m.
Environment/Recycle Committee	08/26/2009	7:00 p.m.
Board of Zoning Appeals	09/01/2009	6:30 p.m.
Planning Commission	09/01/2009	7:00 p.m.
Council Committee of the Whole (Tuesday)	09/08/2009	6:00 p.m.
City Council (Tuesday)	09/08/2009	7:30 p.m.

The Prairie Village Arts Council is pleased to announce a mixed media exhibit by the Senior Arts Council for the month of August.

The pool began reduced hours today and closes for the season at 6:00 p.m. on Monday, September 7th.

The City offices will be closed Monday, September 7th in observance of the Labor Day holiday. Deffenbaugh also observes this holiday so trash and recycling will be delayed one day.

The Council Committee of the Whole and regular Council meeting on September 8 (Tuesday) will be held in the Multi-Purpose room.

The Shawnee Mission Education Foundation 17th Annual Fall Breakfast is September 24th at 7:30 am at the Overland Park Convention Center. The City has reserved a table of 10. If you would like to attend, RSVP to Jeanne Koontz at jkoontz@pvkansas.com.

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

INFORMATIONAL ITEMS
August 17, 2009

1. Council Committee of the Whole Minutes - August 3, 2009
2. Park and Recreation Committee Minutes - May 13, 2009
3. VillageFest Committee Minutes - June 25, 2009
4. Finance Committee Minutes - July 22, 2009
5. VillageFest Committee Minutes - July 23, 2009
6. Finance Committee Minutes - August 11, 2009
7. Mark Your Calendars
8. Committee Agenda

COUNCIL COMMITTEE OF THE WHOLE
August 3, 2009

The Council Committee of the Whole met on Monday, August 3, 2009 at 6:00 p.m. The meeting was called to order by Mayor Ron Shaffer with the following members present: Mayor Shaffer, Al Herrera, Dale Warman, Ruth Hopkins, David Voysey, 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; Wes Jordan, Chief of Police; Bob Pryzby, Director of Public Works; Katie Logan, City Attorney; Dennis Enslinger, Assistant City Administrator; Karen Kindle, Finance Director; Chris Engel, Assistant to the City Administrator and Joyce Hagen Mundy, City Clerk.

Presentation of the 2008 Comprehensive Annual Financial Report

Finance Director Karen Kindle introduced Audrey Odermann with Lowenthal, Singleton, Webb & Wilson who performed the 2008 Financial Statement Audit for the City. Ms. Odermann stated their firm has given the City its highest rating as stated in the auditor's report which will be submitted with the Comprehensive Annual Financial Report to the Government Finance Officers Association (GFOA) for consideration in their award program. For the past several years the City has received the Certificate of Achievement for Excellence in Financial Reporting.

The first section of the report contains management's discussion and analysis. Also included in the report is the City's implementation of the new GASB regulations covering retiree insurances and the handling of the City's pension plans. The final statistical section includes material that shows various trend analyses of the past ten years.

The auditor's evaluation as presented in their management letter is very positive. There are no significant deficiencies or violations. The audit recommended strengthening the internal controls and operating efficiencies in the handling of pool receipts. Mrs. Kindle has formally addressed how the City will implement the recommendations from the audit. Ms. Odermann commended the City staff on the accounting practices followed and expressed her appreciation to Karen and the staff for their assistance during the audit process.

***COU2009-78 Consider a Charter Ordinance 25 relating to the City's authority to issue General Obligation bonds**

Quinn Bennion noted the current state statutes govern the authority and ability of cities to issue general obligation debt relating to general improvements. The statute provisions are non-uniform among Kansas cities and therefore cities may exercise certain home rule powers, including passing charter ordinances which exempt such cities from non-uniform statutes.

The City's Bond Counsel, Financial Advisor and City Attorney recommend that this Charter Ordinance be given consideration to allow the City greater flexibility and broader authority

when issuing general obligation (GO) debt for public improvements. The Charter Ordinance allows the City to proceed without an election for certain types of projects.

City staff and Finance Committee have recently discussed the possibility of issuing GO debt to take advantage of the current markets and sluggish economy. They recommend the Governing Body consider pursuing a bond issue in late 2009 or early 2010 for the following reasons:

- Very low cost of borrowing (as low as 2.10% for a 5 year bond)
- City's superb bond rating
- Very low existing municipal debt
- Low labor, materials and construction costs
- Very competitive design/engineering market
- Accelerate project construction schedule to realize project benefits sooner than currently scheduled

Mr. Bennion advised that regardless if a bond issue is pursued at this time, the proposed Charter Ordinance will provide the same benefits to the City at a future date if and when GO bonds are considered. The Finance Committee has approved in concept the provisions in the charter ordinance which does not have any specific associated costs except for nominal publication costs. If the Governing Body decides to go forward with the ordinance, specific projects for funding will be discussed at a later meeting.

Mr. Bennion noted Gary Anderson with Gilmore & Bell, Jeff White with Columbia Financial and City Attorney Katie Logan are available to answer any questions.

Gary Anderson stated under the Kansas Home Rule cities are allowed to charter out or exempt themselves from certain statutes that are not uniform statutes and acts of the Kansas Legislature. There are several statutes have been on the books for several years and are not uniformly applicable to all cities within the State. K.S.A. 13-1024a relating to general improvements and the issuance of bonds for the purpose of paying for these improvements is one of them. Mr. Anderson stated that most of the first class cities in Johnson County have chartered out of this regulation and reviewed the process to do so, noting a charter ordinance must be passed by 2/3rd of the Governing Body (not 2/3 present) and then published for two weeks. The charter ordinance is also subject to a protest of 10% of the voters in the last City election.

Mr. Anderson stressed the adoption of the charter ordinance does not commit the City to the issuance of any bonds.

Under the current regulations, the City would not be able to issue bonds for park improvements without having the question presented to the voters on a ballot. Mr. Voysey asked how the most recent pool/park improvements were funded. Mr. Anderson replied an interpretation was taken that the improvements were to an existing structure and did not fall under the regulations.

David Morrison stated he opposed the charter ordinance as he felt it was the residents' right to vote. He did not feel it was appropriate to not allow residents to have a voice in a decision of this magnitude.

Diana Ewy Sharp noted some of the park improvements may still go out to a vote by the public.

Andrew Wang asked if official publication and notification was required for the issuance of bonds. Mr. Anderson replied there is not a statutory requirement for publication other than the regular ordinance requirements.

David Voysey asked how the process would work without the charter ordinance. Mr. Anderson stated some improvements have statutory approval without a vote such as street improvements. The biggest issue is there is no other way to fund park improvements through general obligation bonds without a special vote under the current statutes.

Laura Wassmer made the following motion, which was seconded by David Voysey and passed by a vote of 10 to 1 with David Morrison voting "nay".

**MOVE THE GOVERNING BODY ADOPT A CHARTER ORDINANCE
EXEMPTING THE CITY OF PRAIRIE VILLAGE, KANSAS FROM THE
PROVISIONS OF K.S.A. 13-1024a AND PROVIDING SUBSTITUTE
AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT RELATING
TO GENERAL IMPROVEMENTS AND THE ISSUANCE OF BONDS
FOR THE PURPOSE OF PAYING FOR SAID IMPROVEMENTS
COUNCIL ACTION TAKEN
AUGUST 3, 2009 .**

COU2009-77 Consider Approval of emergency repairs to the Police Department's Radio System caused by lightning

Chief Jordan advised that the Department's Radio System was damaged by lightning during an electrical storm on June 16, 2009. The Communications Center lost the ability to communicate through consoles and emergency repairs were made by Communications Associates.

The Police Department has been proactively trying to mitigate the probability of damage caused by lightning. Chief Jordan reviewed the strategies that are under consideration and the extensive background of expenditures for related repairs from lightning strikes during the past four years.

Chief Jordan noted the equipment is currently in the tower complex which also contains AT&T equipment. They would like to move the equipment from that location into the municipal building. The current site due to its location and proximity to the tower and to water is susceptible to lightning strikes. He noted the new radio system will not be operational for two years, so it is not feasible to not take action.

Dale Warman agreed with the susceptibility of the current location and that action needed to be taken as there is no way to protect from lightning hits at this location.

Chief Jordan noted the action this evening is to pay for the repair of the damage. Charles Clark stated this was an appropriate use of the risk reserve.

David Voysey made the following motion, which was seconded by Laura Wassmer and passed unanimously:

**MOVED THE GOVERNING BODY APPROVE THE PAYMENT OF \$7,677.20 TO COMMUNICATIONS ASSOCIATES FROM THE RISK MANAGEMENT FUND FOR EMERGENCY REPAIRS TO THE POLICE DEPARTMENT'S RADIO SYSTEM.
COUNCIL ACTION TAKEN
AUGUST 3, 2009**

STAFF REPORTS:

Public Safety

- Chief Jordan apologized for the Code Red "test message" that went out at 6 a.m. this morning
- Shawnee Mission East will be opening soon and traffic problems are anticipated with the new traffic patterns and construction. The traffic unit will be at the school the first few days to provide assistance and direction.
- Chief Jordan stated he would be bringing before the Council at the next meeting proposed revisions to the salary classification for the ten school crossing guards. Several cities operate through vendors for these services with a daily pay rate of \$18.
- August 6th will be the retirement party for former Crime Prevention Officer Dan Robles. Council members were encouraged to attend the event for the 21 year veteran.
- The animal nuisance on Birch is moving out of the City.

Public Works

- Mission Lane Bridge surface is good. They will begin doing curb and sidewalk. The anticipated completion date is just after Labor Day.
- Bob Pryzby provided an update on street projects and work locations.
- The 69th and Tomahawk traffic calming group have decided on the placement of ten speed bumps on 69th from Tomahawk to Nall
- Mr. Pryzby also provided an update on the El Monte Island noting that the City will be adding curb and he is still working on plans for the fountain. When completed the plans will be presented to the homes association for review. He noted curb and sidewalk will be added to the Oxford/Prairie Lane island.
- A traffic calming group representing 71st Street between Belinder and Cherokee is looking at the possible installation of three speed bumps.
- Last Friday, the City received competitive bids for tree trimming with Shawnee Mission Tree submitting the low bid.
- Stormwater Utility Fees for 2010 are being finalized and will be sent to the County. There were changes in 400+ properties with increased square footage as the 2008 aerial maps were used for calculation, resulting in approximately 170,000 additional square feet for an additional \$42,000.

Dale Beckerman asked what the status of the traffic calming group on 81st & Rosewood. Mr. Pryzby responded they met last week and are looking at requiring the traffic to go around the island. They are currently doing traffic counts and getting the necessary signatures.

Michael Kelly noted additional funds are not included in the 2010 budget for traffic calming and asked if there would be funding to do these projects. Mr. Pryzby replied he anticipated having funding, but noted it would probably expend most of the budgeted amount.

Administration

- Dennis Enslinger provided an update on the construction taking place at Shawnee Mission East. He stated the City has issued a number of temporary occupancy certificates for various rooms in the building to allow the school to prepare for the new school year. They have encountered problems with the company selected to do their sprinkler systems. The unsprinkled parts of the building will be required to have a manual fire watch for the first few weeks of school until the sprinkler system installation can be completed. The Building Official is doing inspections on a daily basis and the City is working with the contractor to complete as much as possible prior to the start of school.
- As Chief Jordan stated, he anticipates traffic problems with the new entrance and traffic pattern at the beginning of the school year.
- The Alternative House Style Tour is being scheduled for Saturday, September 26th. It will probably include four sites and will be for Planning Commission, City Council and staff. He is working with the Home Builders Association and anticipates the tour to be from 9 a.m. to 2 p.m.
- The Prairie Village Arts Council will be coming before the Council to discuss a future joint sponsored event with the Park & Recreation Committee for next September. The proposed event will be a jazz concert in one of the City parks.
- Quinn Bennion stated the City Fitness Room is progressing well. All the files have been removed from the room and moved to Building B at Public Works or into the redesigned upstairs file room. The HVAC equipment has been installed and the walls painted. The flooring should arrive within the next couple of weeks.
- Mr. Bennion reported on the initial meeting of the "Save Our Post Office" committee providing an update on future meetings, activities and what information is known at this time. The group will be ready to mobilize if needed. It will meet again on August 17th. Some of the group will be meeting with the Shawnee Mission Postmaster this Friday to discuss the process followed and criteria used in their evaluation. Representatives of Senator Brownback and Representative Moore's office will also be in attendance.

Al Herrera reported the post office has released a list of potential offices to be closed. The list can be found online at the Fox4 website. David Belz noted the list is of offices that are being looked at and is not final.

Adjournment

Council Michael Kelly adjourned the committee meeting at 7:30 p.m.

Michael Kelly
Council President

PARK AND RECREATION COMMITTEE
May 13, 2009

The Park and Recreation Committee met at 6.00pm in the Harmon Park Pavilion. Present and presiding, Chairperson Diana Ewy Sharp. Members present: Sally Holmes, Diane Mares, A.J. LoScalzo, Peggy Couch, Ann Bontrager and Jim Bernard, Jr.
Staff: Bob Pryzby, Mike Helms and Chris Engel. Also present: Doug Pickert and Dan Searles.

CONSENT AGENDA

Jim moved for approval of the consent agenda. Sally seconded and it passed unanimously.

REPORTS

Public Works Report

Mike reported summer help would be starting soon. Two benches were currently being installed at Franklin, rubber mulch is being installed in a few parks, Harmon courts were almost done with the crack fill and replacements and MARC was installing a rain garden at Meadowlake.

Recreation Program Report

Chris reported staff was in place and guards trained. Pool passes were selling well and the new SuperPass was also selling well. Vendors were coming next week to set up concessions and prepare the ice machine. Team registrations were similar to last year but Dive and Synchro numbers were low. There was discussion concerning what to do if the numbers did not increase. **Jim moved to cancel either or both Dive or Synchro Team this year if memberships did not exceed 20 on each team by May 21st. Diane seconded and it passed unanimously.**

Park Master Plan Sub-Committee

Jim reported the final Park Master Plan will be coming before the City Council on Monday May 18th at 6.00pm and requested everyone be there as a show of support.

Chairperson's Report

Diana reported that recent meetings with representatives of the Prairie Village Homes Association had not resolved the funding gap to repair the El Monte fountain. There was discussion over what to do with the fountain if more funding from PVHA did not become available. It was determined that the fountain should be given back to the homes association and Public Works will continue to maintain the island but not repair the fountain. Jim Bernard recommended that the City Council return ownership of the El Monte Fountain to the Prairie Village Homes Association if repairs can not be made with available funding. Peggy seconded and the motion passed with A.J. the lone 'nay' vote.

The meeting adjourned at 6.50pm to board the bus for the parks crawl.

INFORMATIONAL ITEMS

The next meeting will be August 12, 2009 at 7.300pm.

Diana Ewy Sharp
Chairperson

VILLAGEFEST COMMITTEE

June 25, 2009

The VillageFest Committee met June 25, 2009. Present and Presiding, Chairman, John Capito. Members present: Jim Bernard, Jr., Ed Roberts, Luci Mitchell, Ann Doyle, Michael Doyle, Lillian Kuras, Nici Flinn, Katie Aguilera, Jim Hanson, Joel Crown, Bob Engel, Art Dick, Julie Weiss, Chris Andrews, Mike Helms, Wes Jordan, Sgt. Byron Roberson and Jeanne Koontz.

Minutes

Joel Crown moved approval of the minutes of the May 2009 meeting. Jim Bernard, Jr. seconded the motion which passed unanimously.

Budget Report

Jeanne Koontz reported we are under budget. \$678 has been received through Friends of VillageFest.

Staff Reports

Byron Roberson said parking should be available at Shawnee Mission East. Mike Helms will post a sign for parking. Med-Act will be on-site with three personnel from 9 am - 2 pm. The Bike Rodeo is ready and volunteers are lined up. Jim Bernard, Jr. said the information booth could not communicate with Med-Act by radio last year. The Police Department will coordinate with Med-Act.

Chris Andrews reported the target practice activity used to be where the church built a new playground area. He will need the first row of parking blocked until the Fire Department is set-up.

Sub-Committee Reports

A. Decorations

The decorations committee will be meeting at 6 am to set-up. They need 2 dozen bricks.

B. Entertainment

There will be signs posted for the pavilion events. Annabeth Surbaugh will be making an appearance at noon on stage before the band performs.

C. Sponsorships

The City is still waiting on \$500 from Brighton Gardens.

D. Advertising

Lillian Kuras will follow-up with news releases. The newsletter should arrive next week.

E. Creativity Center

Everything is ordered and ready. Katie Aguilera will set-up on Friday afternoon.

F. Patriotic Service

Jeanne Koontz will prepare handouts for the sing-a-long. The Prairie Village Color Guard will be performing.

G. Food

There will be two additional food vendors selling sno-cones, cotton candy and ice cream.

H. Hospitality

No report.

I. Volunteers

Nici Flinn reported that volunteers are still needed for afternoon shifts for the climbing wall and creativity center. She will send a reminder out to all volunteers.

J. Children's Parade

No report.

K. Information Booth

No report.

L. Student Contest

No report.

M. Community Spirit Award

The judges met and four awards will be given in the categories of citizen, business and lifetime spirit award.

N. Bike Rodeo

No report.

O. Child Fingerprinting

No report.

P. Committee Shirts

The committee shirts are in.

Q. Committee Booths

No report.

R. Train Show

The train show will set-up on Friday at 1 pm.

Joel's Flying Lawn Mower Brigade

No report.

Green Bags

Green Bags will be sold at the Information Booth.

Schedule

No report.

Mustang Clug

The mustang club will be bringing nine cars.

The meeting was adjourned at 7:30 pm.

John Capito
Chair

FINANCE COMMITTEE

JULY 22, 2009

The Finance Committee met on July 22, 2009. Present: Mayor Ron Shaffer, David Voysey, Charles Clark, Dale Warman. Staff Present: Quinn Bennion, Karen Kindle, Bob Pryzby and Keith Bredehoeft. Consultants Present: Gary Anderson, Gilmore & Bell and Jeff White, Columbia Capital

Possible Bond Issue

- Mrs. Kindle reviewed the worksheet she prepared that summarized the effect the potential bond issue would have on the CIP as presented to Council on June 15th.
- The Committee reviewed the reasons to do a bond issue at this time – good rates for entities with high bond ratings, the ability to accelerate projects in the CIP and get them done at a lower cost, etc.
- The Committee discussed the project list again. Mr. Anderson noted, and Mr. White agreed, that some more detail would be needed on a couple of the projects in order to provide adequate information about the asset being constructed to potential bond buyers. The descriptions did not have been decided right now.
 - Mr. Pryzby noted that the Parks Master Plan projects will be determined by the Parks & Rec Committee using the Parks Master Plan document. He noted they would begin that process at their August meeting.
 - What if the City decided not to do one of the projects after the bonds were issued? Mr. Anderson and Mr. White both explained that with a resolution, a different project could be substituted.
- Mr. Bennion asked Mr. Anderson to comment on what statutory authority the City had for issuing bonds for the projects listed. Mr. Anderson explained that there are many parts of the statutes that allow bonds to be issued for various purposes; however, there was not any statutory authority for park improvements. Bonds for park improvements would have to be approved during an election. While the statutes provide authority for the other projects on the list, there are requirements that must be met, such as designating a street as a main traffic way, etc., that can be cumbersome.
 - Mr. Anderson recommended that the Council charter out of KSA 13-1020a as other first class cities have done in order to have the most flexibility for issuing bonds. A charter ordinance would allow the Council to issue bonds for park improvement projects without an election. He also explained that even if the Council decides not to issue bonds this year, he would recommend they still pursue the Charter ordinance so that is in place when the next bond issue opportunity presents itself.
 - Mr. Anderson explained that a charter ordinance takes 90 days to go into effect due to publication and protest period requirements. If the City wants to pursue the bond issue, the charter ordinance should be pursued as soon as possible. Some of the bond issue activities can take place during the protest period, so the bond issue process would not come to a complete stop.
 - The Committee discussed the charter ordinance and decided to recommend it to the Council. The Committee directed staff to bring the

FINANCE COMMITTEE
JULY 22, 2009

item to the August 3, 2009 Council meeting. The Committee requested Mr. Anderson attend that meeting and present the item to Council.

- The Committee directed staff to prepare information for a bond issue update for the Council meeting on August 3rd. Due to staff vacations, the information and the update will be presented at the August 17th Council meeting.

Voluntary Separation Incentive

- Mr. Bennion provided an update on the status of the voluntary separation incentive program. Mr. Bennion noted that the plan approved by the Council was reviewed by the City's legal counsel. Based on the review a couple of minor changes to the program were made which resulted in one more person being eligible for the program. Since the anticipated separation dates are at the end of the year, the separation agreements cannot be signed until that time. Staff plans to give letters to the eligible employees in November and give them 45 days to respond.
- Mr. Bennion commented that there is little interest among those that are eligible.

VILLAGEFEST COMMITTEE

July 23, 2009

The VillageFest Committee met July 23, 2009. Present and Presiding, Chairman, John Capito. Members present: Diana Ewy Sharp, Doug Sharp, Jim Bernard, Jr., Ed Roberts, Luci Mitchell, Lillian Kuras, Nici Flinn, Katie Aguilera, Joel Crown, Bob Engel, Art Dick, Kathy Peters, Julie Weiss, Mike Helms, Sgt. Byron Roberson and Jeanne Koontz.

Minutes

Ed Roberts moved approval of the minutes of the June 2009 meeting. Jim Bernard, Jr. seconded the motion which passed unanimously.

Budget Report

Jeanne Koontz reported the final revenue received is \$23,175.00. The final expenses are \$17,018. \$778 has been received through Friends of VillageFest. We were well under budget this year. There is \$6,600 in the Municipal Foundation.

The Good

John Capito's review:

- A lot of little kids
- Good job spreading out events
- Couple of concerns about signage for the pavilion and train show
- New entertainment offerings worked out well
- Sign for Chinook crew was a wonderful touch
- Under budget
- Sign pick-up went well; signs were well spaced; thank you to Mike Helms and Public Works for picking them up
- Volunteer coordination went very well
- Marketing was great
- Creativity Center was great
- Friends of VF and new sponsors

Public Works review:

- Staffing was okay

Police Department review:

- Event went smoothly
- Addition of volunteers was helpful
- Pancake Breakfast went fine
- Movement of vehicles in the lot was better this year
- Med-Act presence
- No lost children
- 320 bike helmets were given away

Jeanne Koontz's review:

- Event went smoothly
- Climbing wall and Ferris Wheel were well attended
- Kids loved the face painters

Jim Bernard's review:

- Like volunteer check-in at information booth

Luci Mitchell's review:

- Silas Goodrich was good
- Miller Marley dancers are good at the pavilion

Diana Ewy Sharp's review:

- Event went smooth and seamless
- HyVee's prices are reasonable and the line went much faster

Lillian Kuras' review:

- Climbing wall went well; the little kids loved it
- People came and stayed all day
- Missouri Bank wants to know about volunteer opportunities

Katie Aguilera's review:

- Glue dots were a huge hit

The Bad

John Capito's review:

- Traffic control at North driveway
- Need entertainers to work the lines
- Ran out of coffee due to cooler weather

Public Works review:

- Vendors using helium tanks need to stake and chain them

Police Department review:

- Would like to get flight plan for the Chinook
- Radio system was messed up but should be fixed next year
- Issues at barricaded entrance

Jeanne Koontz's review:

- Hold volunteer training session next year

Kathy Peters' review:

- Vendors left when people were still walking around; no vehicles in the driveway needs to be enforced

Nici Flinn's review:

- More trash cans needed
- Easier way to sign up for volunteers

Joel Crown's review:

- People in uniform need to disperse about the site more especially around the entrance/exit
- Use gator for handicap more effectively

Luci Mitchell's review:

- Timing of Benjamin Franklin did not work out
- No one was singing during the sing-a-long

Diana Ewy Sharp's review:

- One resident reported that Cosgrove was acting like a Prima Donna and took 20 minutes to start
- Mustangs felt like we neglected communication with them

Bob Engel's review:

- Need more volunteers at the climbing wall and also need to reconfigure the wall

Katie Aguilera's review:

- Volunteer showed up at 9am and opened up
- Ran out of hats at noon

The Ugly

- The weather for awhile

Other Items

Nici Flinn reported that a Border Collie Rescue group would like a table next year. A lady requested that dogs be banned from the site.

Jim Bernard, Jr. reported that a few people asked for the Marching Cobras. One resident was upset about wasting money on the event.

Julie Weiss reported that a few people wanted to buy a t-shirt. She would like to see Fresher than Fresh Sno Cones next year and would like to include something on the Declaration of Independence.

Diana Ewy Sharp suggested having historical figures walk through the crowd next year.

Doug Sharp thanked the committee for honoring Diana.

Ed Roberts reported that Chris Cakes suggested having 2 tables next year with people going through the middle to move the line along faster. He also suggested having a tethered hot air balloon next year.

John Capito thanked everyone for all their hard work.

Diana Ewy Sharp reported that the Mayor would like to reappoint John Capito as VillageFest Chair for 2010.

The meeting was adjourned at 7:50 pm.

John Capito
Chair

FINANCE COMMITTEE AUGUST 11, 2009

The Finance Committee met on August 11, 2009. Present: Mayor Ron Shaffer, Charles Clark, Dale Warman and Dale Beckerman. Staff Present: Quinn Bennion, Karen Kindle and Dennis Enslinger. Consultants Present: City Attorney, Katie Logan and Jeff White, Columbia Capital

Possible Bond Issue

- Mr. Bennion informed the Committee that a protest petition could be filed regarding Charter Ordinance No. 25 that was approved at the August 3, 2009 Council Meeting.
 - Mr. Bennion and Mr. Enslinger explained the protest petition process.
 - The Committee discussed the options available if the Charter Ordinance is not available as bonding authority.
- The Committee reviewed the summary schedule and noted that the format was good and included all of the needed information.
- The Committee decided to proceed with the Council presentation at the August 17, 2009 Council Committee of the Whole meeting and not make changes to the project list or the bond issue plans at this time.
- Mr. White presented information regarding current interest rates, which are better than a few months ago when the Committee began discussing a possible bond issue.
- The Committee reviewed the reasons to do a bond issue at this time – good rates for entities with high bond ratings, the ability to accelerate projects in the CIP and get them done at a lower cost, etc.
- The Committee directed staff to include an article in the next Village Voice discussing the possible bond issue and the reasons why the City is pursuing it at this time.
- Mr. Bennion noted that he and Mrs. Kindle would present this item jointly at the August 17, 2009 Council Committee meeting.

Community Improvement District (CID)

- Mr. Bennion explained that CID's are a new economic development tool that became available to Kansas entities on July 1, 2009. He noted that Ms. Logan had done a presentation at one of the Council Committee meetings regarding this new tool.
- Mr. Bennion gave an overview of how a sales tax CID works.
- Mr. Bennion informed the Committee that the new owner of the Village Shops and Corinth has indicated they are interested in using this tool.
- The Committee discussed the policy issues created by this new tool – specifically the broad array of uses of the money allowed in the statute.
- The Committee directed staff to bring the CID policy questions to the joint Council/Planning Commission meeting in September.

Application for Public Financial Participation

- Mr. Bennion explained that staff reviewed the application document and updated it based on comments from potential applicants as well as the City Attorney and the City's Financial Advisor. Staff's goal was to make the application form less cumbersome.

**FINANCE COMMITTEE
AUGUST 11, 2009**

- The Committee directed staff to include both the marked up version and a clean version in the Council Committee meeting packet so that the Council could see the changes and also see the final product.
- The item will be presented at the August 17, 2009 Council Committee meeting and if approved would be forwarded to the Council for approval on September 8, 2009.

**Council Members
Mark Your Calendars
August 17, 2009**

August 2009 Senior Arts Council mixed media exhibit in the R. G. Endres Gallery

September 2009

September 7 City offices closed in observance of Labor Day
September 8 (Tues.) City Council Meeting - **to be held in the Multi-Purpose Room**
September 21 City Council Meeting

October 2009

State of the Arts exhibit in the R. G. Endres Gallery
October 3-6 2009 LKM Annual Conference - Topeka Expocentre & Capitol Plaza Hotel
October 5 City Council Meeting
October 9 Artist reception in the R. G. Endres Gallery 6:00 - 8:00
October 19 City Council Meeting

November 2009

Mid America Pastel Society exhibit in the R. G. Endres Gallery
November 2 City Council Meeting
November 13 Artist reception in the R. G. Endres Gallery 6:00 - 8:00
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 4 Mayor's 2009 Holiday Party
December 7 City Council Meeting
December 11 Artist reception in the R. G. Endres Gallery 6:70 - 7:30
December 21 City Council Meeting
December 25 City offices closed in observance of Christmas

COMMITTEE AGENDA

August 17, 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)
- COU2009-79 Consider Crossing Guard Pay Increase (assigned 8/3/2009)
- COU2009-80 Consider Public Financing Application (assigned 8/10/2009)
- COU2009-81 Consider Ordinance Amending Chapter 5 of the Prairie Village Municipal Code, 2003 entitled "Business Regulations" (assigned 8/12/2009)
- COU2009-82 Consider Ordinance Amending Chapter 5, Article 5 of the Prairie Village Municipal Code, 2003 entitled "Massage Therapy" (assigned 8/12/2009)
- COU2009-83 Consider Bid Award for Annual Tree Trimming (assigned 8/12/2009)
- COU2009-84 Consider Johnson County HOME Rehabilitation Program (assigned 8/12/2009)
- COU2009-85 Consider Approval of Early Release of 2010 Exterior Grant Funds (assigned 8/12/2009)
- COU2009-86 Consider Directing Staff & Bond Counsel to pursue a bond issue for public improvements (assigned 8/12/2009)
- COU2009-87 Consider Project 190869 - 2009 Street Resurfacing Program - Construction Change Order #1 (assigned 8/12/2009)

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)