CITY OF LEAWOOD GOVERNING BODY MEETING AGENDA

Monday, February 18, 2019
Council Chamber
4800 Town Center Drive
Leawood, KS 66211
7:30 P.M.

FEBRUARY 2019

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MARCH 2019

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AGENDA

(This agenda is subject to changes, additions or deletions at the discretion of the City Council)

Mayor Peggy Dunn

Councilmembers

Ward One	Ward Two	Ward Three	Ward Four
Debra Filla	Jim Rawlings	Chuck Sipple	Julie Cain
Andrew Osman	Mary Larson	Lisa Harrison	James Azeltine

1. PLEDGE OF ALLEGIANCE

2. APPROVAL OF AGENDA

3. CITIZEN COMMENTS

Members of the public are welcome to use this time to make comments about City matters that do not appear on the agenda, or about items that will be considered as part of the consent agenda. It is not appropriate to use profanity or comment on pending litigation, municipal court matters or personnel issues. Comments about items that appear on the action agenda will be taken as each item is considered. CITIZENS ARE REQUESTED TO KEEP THEIR COMMENTS UNDER 5 MINUTES.

4. PROCLAMATIONS

5. PRESENTATIONS/RECOGNITIONS

Presentation of AAA Award to Police Department to Recognize Community Traffic Safety Efforts

6. SPECIAL BUSINESS

A. Resolution reaffirming the City Administrator's decision to authorize an Amended Independent Contractor Agreement between the City and Van Booven Tree Care, for an amount not to exceed $30,000.00, for storm debris removal, related to the January, 2019, winter snow storm [Project # 74102]

B. Resolution reaffirming the City Administrator's decision to authorize an Amended Independent Contractor Agreement between the City and Arbor Masters Tree & Landscape, for an amount not to exceed $30,000.00, for storm debris removal, related to the January, 2019, winter snow storm [Project # 74102]

If you require any accommodation (i.e. qualified interpreter, hearing assistance, etc.) in order to attend this meeting, please notify this office at 913.339.6700 or at www.leawood.org no later than 96 hours prior to the scheduled commencement of the meeting.

C. Ordinance amending § 1-203 of the Code of the City of Leawood, Kansas, 2000, entitled, 'Meetings; Special Meetings' and repealing existing § 1-203 and other sections in conflict herewith **[ROLL CALL VOTE]**

7. CONSENT AGENDA

Consent agenda items have been studied by the Governing Body and determined to be routine enough to be acted upon in a single motion. If a Councilmember requests a separate discussion on an item, it can be removed from the consent agenda for further consideration.

A. Accept Appropriation Ordinance Nos. 2019-5 and 2019-6

B. Accept minutes of the February 4, 2019 Governing Body meeting

C. Accept minutes of the February 4, 2019 Governing Body Work Session

D. Accept minutes of the November 28, 2018 Stormwater Management Committee meeting

E. Accept minutes of the January 7, 2019 I-Lan Sister City Committee minutes

F. Approve Mayoral Appointments of Council Liaisons and Volunteers for Committees, Commissions and Boards [Effective March 1, 2019]

G. Approve renewal of Retail Liquor Store License to Lancaster Liquor, located at 3731 W. 133rd Street

H. Approve purchase in the amount of $37,507.40, from Ka-Comm, for ten [10] police mobile radios

I. Approve purchase in the amount of $13,300.00 from Commercial Turf & Tractor for a Stec dump trailer for the Ironhorse Golf Course

J. Approve purchase in the amount of $178,953.75 from Professional Turf Products for [2] 2019 Toro riding greens mowers; [1] 2019 Toro HD Workman Truck with edger attachment; [1] 2019 Toro 3100 Surrounds Mower; and [1] 2019 1750 Greens Sprayer for Ironhorse Golf Course

K. Approve Purchase Order in the amount of $325,000.00, to Black & McDonald, pertaining to the 2019 Street Light and Traffic Signal Maintenance

L. Resolution approving and authorizing the Mayor to execute a Cooperative Agreement in the amount of $13,500.00, between the City and Mid-America Regional Council [MARC] for funding operations of Operation Green Light Traffic Control System for a 2-year term

M. Resolution accepting a Permanent Storm Sewer Easement from Grantors Brian C. Nelson and Sarah B. Nelson, for property located at 12603 Delmar, pertaining to the Patrician Woods Stormwater Project located at approximately 127th Street and Catalina in Leawood, Johnson County, Kansas [SMAC Project TM-04-006] [Leawood Project # 77018]

N. Resolution accepting a Temporary Construction Easement from Grantors Brian C. Nelson and Sarah B. Nelson, for property located at 12603 Delmar, pertaining to the Patrician Woods Stormwater Project located at approximately 127th Street and Catalina in Leawood, Johnson County, Kansas [SMAC Project TM-04-006] [Leawood Project # 77018]

O. Resolution approving a Revised Landscape Plan for Market Square, located south of 133rd Street and east of Mission Road. (PC 88-18) *[from the January 29, 2019 Planning Commission meeting]*

P. Declaration of Surplus Property, 2010 Ford Explorer, last 4 VIN/5681, Asset # 1483; Unit # 406

Q. Police Department Monthly Report
R. Fire Department Monthly Report
S. Municipal Court Monthly Report

8. MAYOR'S REPORT

9. COUNCILMEMBERS' REPORT

10. CITY ADMINISTRATOR REPORT

11. STAFF REPORT

COMMITTEE RECOMMENDATIONS

12. STORMWATER MANAGEMENT COMMITTEE

[from the January 30, 2019 Stormwater Management Committee]

Recommendation of George Butler Associates, Inc., [GBA] for Design Consultant for Phase II of Waterford Subdivision Stormwater Project, SMAC Project # TM-04-007, [Project # 77017], and next CMP Program

13. LEAWOOD ARTS COUNCIL/ART IN PUBLIC PLACES INITIATIVE [APPI]

[from the January 22, 2019 Art in Public Places Initiative [APPI]

A. Recommendation to Accept gift of Public Art Sculpture, entitled, 'Women of the World,' from 11350 Property, LLC, by local Artist, Kwan Wu

B. Recommendation of sculpture refabrication by Cox Air Systems, for an amount not to exceed $17,500.00, for sculpture, 'The Sentinel,' by artist Tex Jernigan, currently located at Leawood City Hall, 4800 Town Center Drive

[from the November 27, 2018 Art in Public Places Initiative [APPI]

C. Recommendation to Accept gift of Public Art Sculpture, entitled, 'Inspiration,' from Leawood Resident, William Walker, by Leawood Artist, Rita Blitt; to be located on SE corner of College Boulevard & Tomahawk Creek Parkway

14. PLANNING COMMISSION

15. OLD BUSINESS

16. OTHER BUSINESS

17. NEW BUSINESS

A. Ordinance granting to MCIMetro Access Transmission Services, Corp., d/b/a Verizon Access Transmission Services, a contract franchise to construct, operate and maintain a telecommunications system in the City of Leawood, Kansas and prescribing the terms of said contract franchise and repealing Ordinance No. 2879C **[ROLL CALL VOTE]**

B. Ordinance granting to Verizon Wireless [VAW] LLC, a Delaware Limited Liability Company d/b/a Verizon Wireless, a contract franchise to construct, operate and maintain wireless facilities as a wireless service provider in the public right-of-way of the City of Leawood, Kansas **[ROLL CALL VOTE]**

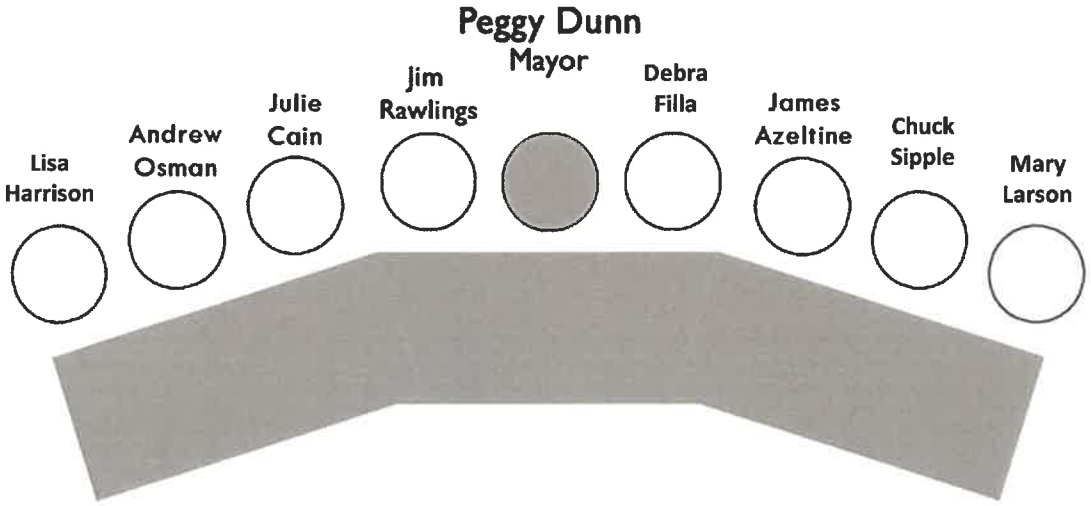
C. Resolution approving and authorizing the Mayor to execute a Master License Agreement between the City and Verizon Wireless, LLC [VAW] for attachments to City facilities

D. Schedule a Joint Meeting with Governing Body / Planning Commission / Leawood Chamber of Commerce Executive Board & Executive Economic Development Council on Tuesday, April 9, 2019 at 6:00 P.M., regarding Discussion on Future Housing Options for the City of Leawood

E. Executive Session immediately following Regular Council Meeting, to consult with attorney regarding matters subject to the attorney-client privilege; discuss matters relating to possible acquisition of real property

ADJOURN

Mayor and City Council



Leawood operates under a Council/Mayor form of government, with a separately elected mayor and 8 council persons. Council members are elected on a non-partisan basis from 4 wards. The Council develops policies and provides direction for the professional city administration. Regular meetings of the Leawood City Council are held the first and third Mondays of each month beginning at 7:30 PM. Copies of the agenda are available at the Office of the City Clerk on the Friday prior to the meeting.

Number of Votes Required:
Non-zoning Ordinances: Majority of the members-elect of the City Council **[5]**
Charter Ordinances: 2/3 of members-elect of Governing Body **[6]**
Zoning Ordinances and other Planning Commission Recommendations:

- **Passage of Ordinances Subject to Protest Petition**: ¾ majority of members of Governing Body **[7]**
- **Approving Planning Commission Recommendation**: Majority of the members-elect of the City Council **[5]**
- **Remanding to Planning Commission**: Majority of the members-elect of the City Council **[5]**
- **Approving, Overriding, Amending or Revising Recommendation after Remand:** Majority of the members-elect of the City Council **[5]**
- **Overriding, Amending or Revising Recommendation:** 2/3 majority of membership of Governing Body **[6]**

Note: Mayor may cast deciding vote when vote is one less than required.

The next regular meeting of the Leawood Governing Body will be
Monday, March 4, 2019

DATE	TIME	SUBJECT	LOCATION
February 18	**6:00 P.M.**	**Review CID Application for Ranchmart North Shopping Center, located at 95th & Mission Road**	**Main Conf. Room**
April 9	**6:00 P.M.**	**Discuss Future Housing Options for City of Leawood;** **Joint Meeting with Governing Body / Planning Commission / Leawood Chamber of Commerce Executive Board & Executive Economic Development Council**	**Vista 154**
April 15	**6:00 P.M.**	**Presentation of CIP; Discuss 2020-2024 Budget Model Assumptions**	**Main Conf. Room**
June 10	**5:30 P.M.**	**Budget & Finance Committee Work Session**	**Main Conf. Room**
June 11	**5:30 P.M.**	**Budget & Finance Committee Work Session** ***[tentative]***	**Main Conf. Room**
August 5		**NO GOVERNING BODY MEETING; NO WORK SESSION**	

The next regular meeting of the Leawood Governing Body will be
Monday, March 4, 2019

Return to Agenda

Staff Review

Fact Sheet

6.A.+
6.B.

SUBJECT: **REQUEST TO APPROVE AMENDED AGREEMENTS WITH ARBOR MASTERS AND VAN BOOVEN TREE FOR CURB SIDE TREE LIMB PICKUP AS A RESULT OF THE JANUARY 11th & 12th SNOW STORM**

February 18, 2019

DISCUSSION

Staff is requesting approval of Amendment #2 to both agreements with Arbor Masters and with VanBooven Tree Care. Both companies are providing curbside pickup of tree limbs from the January 11th and 12th snow storm.

The original contracts were approved in the amount of $7,500.00 each by the City Administrator. On January 22nd, 2019, the Governing Body approved an additional $7,500 be added to each contract for an amount not to exceed of $15,000 each.

Staff is requesting that both contracts be increased by $15,000 to each contractor for an amount not to exceed of $30,000.00.

Curbside pickup began on January 22, 2019. Arbor Masters is working at curb side pickup north of-435. VanBooven is currently providing curb side pickup south of I-435. The contractors are paid an hourly rate for their grappler truck and operator. City staff provides ground personnel, trucks and pays the disposal fees.

It is a recommendation of the Public Works Department that the Governing Body approve the referenced second amended agreements and authorize the Mayor to execute same.

David Ley, P.E. Director of Public Works

COUNCIL ACTION TO BE TAKEN

Approve Amendment No. 2 to each contractor for debris pick up

STAFF RECOMMENDATION

☑ For

☐ Against

☐ No position

COMMITTEE RECOMMENDATION

☐ For

☐ Against

☐ No position ☑ No Assignment

POLICY OR PROGRAM CHANGE

☑ No

☐ Yes

OPERATIONAL IMPACT

COSTS

$15,000 to each contractor

FUND SOURCES

11110.33110.612000
Public Works General Operating Budget
Administrative Services-Professional Services fund

Project #74102

DRAFT

6.A.

RESOLUTION NO. _____

RESOLUTION REAFFIRMING THE CITY ADMINISTRATOR'S DECISION TO AUTHORIZE AN AMENDED INDEPENDENT CONTRACTOR AGREEMENT BETWEEN THE CITY AND VAN BOOVEN TREE CARE, FOR AN AMOUNT NOT TO EXCEED $30,000.00, FOR STORM DEBRIS REMOVAL, RELATED TO THE JANUARY, 2019, WINTER SNOW STORM [PROJECT # 74102]

WHEREAS, the City entered into an Amended Independent Agreement with Van Booven Tree Care for an amount not to exceed $15,000.00 on January 22, 2019, pertaining to storm debris removal from the January winter storm;

WHEREAS, it has been determined that the amount should be increased to a maximum amount of $30,000.00;

WHEREAS, the City Administrator has authorized the increase and the Governing Body desires to reaffirm the increase by approving an amendment increasing the maximum amount to $30,000.00.

NOW THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF LEAWOOD, KANSAS:

SECTION ONE: That the Governing Body hereby reaffirms the City Administrator's decision to authorize the Agreement between the City and Van Booven Tree Care, in a total amount not to exceed $30,000.00, attached hereto as Exhibit "A," and incorporated herein by reference as if fully set out.

SECTION TWO: This resolution shall become effective upon passage.

PASSED by the Governing Body this 18th day of February, 2019.

APPROVED by the Mayor this 18th day of February, 2019.

[SEAL]

_____
Peggy J. Dunn, Mayor

ATTEST:

_____
Debra Harper, CMC, City Clerk

APPROVED AS TO FORM:

_____
Patricia A. Bennett, City Attorney

CITY OF LEAWOOD

Amended Independent Contractor Agreement

AGREEMENT BETWEEN the City of Leawood, Kansas ("City"), a Kansas Municipal

Corporation located at 4800 Town Center Drive, Leawood, Kansas, and **VanBooven Tree Care** ("Independent Contractor"), dated _____.

The Independent Contractor is a (n):
__Individual
__Sole proprietorship
__Partnership
X Corporation

The Independent Contractor is located at:

Address:	PO Box 9377
City/State/ZIP:	Shawnee Mission, Ks. 66201
Cell Phone	(913) 441-8888
Email:	greg@vanbooventree.com

The Independent Contractor's Social Security or Employer Identification Number is:

_____or ON FILE

The City and the Independent Contractor entered into an Amended Independent Contractor Agreement on or about January 22, 2019 for an amount not to exceed $15,000.00. The parties now wish to increase the amount to $30,000.00 with all other provisions remaining the same.

Therefore, the parties agree as follows:

IN CONSIDERATION of the promises and mutual covenants and agreements contained herein, the parties agree as follows:

A. Work to Be Performed
City desires that the Independent Contractor perform, and the Independent Contractor agrees to perform, the following work:

Work shall include providing Grapple truck, Dump truck, limb pick up at curbside, hauling, dumping, fees, fuel & labor within the Leawood City limits as directed by City Staff: listed on attached "Exhibit A".

B. Term of Agreement

The services called for under this Agreement shall commence on **January 22, 2019**, and shall be concluded on or before **February , 2019**. All work will be coordinated with City Representative Bill Billings, Superintendent of Public Works or designee only at times approved by the City.

C. Terms of Payment

City shall pay the Independent Contractor the following amounts, according to the following terms and conditions:

The City shall pay Independent Contractor, an amount not to exceed $30,000.000.

City agrees to remit payments to the Independent Contractor within 30 days of receipt of verified invoice of hours and amounts due.

☐ Check if tax exemption is requested. Tax exemption is applicable in State of Kansas for goods only on this project.

D. Reimbursement of Expenses

City shall not be liable to the Independent Contractor for any expenses paid or incurred by the Independent Contractor unless otherwise agreed to in writing.

E. Federal, State, and Local Payroll Taxes

Federal, state, and local income tax and payroll tax of any kind shall not be withheld or paid by the City on behalf of the Independent Contractor or the employees of the Independent Contractor. The Independent Contractor is not an employee and shall not be treated as an employee with respect to the services performed hereunder for federal, state, or local tax purposes.

F. Responsibility for Workers' Compensation and other Insurance

The City will not obtain workers' compensation insurance covering the Independent Contractor or employees of the Independent Contractor. The Independent Contractor shall comply with the workers' compensation law concerning the Independent Contractor and the employees of the Independent Contractor. Independent Contractor shall also procure sufficient insurance to cover general liability, personal injury and property damage in the following types and amounts as approved by City:

Independent Contractor shall maintain throughout the duration of this Agreement, insurance in, at a minimum, the amounts specified below, unless waived in writing by the City. The City will only accept coverage from an insurance carrier offering proof that the carrier is authorized to do business in Kansas; carries a Best's Policyholder rating of A-:VII or better or is otherwise

approved by the City. The Independent Contractor is required to carry insurance while performing the proposed work for the City. The Independent Contractor will furnish a Certificate of Insurance to the City as part of their proposal.

All general and automobile liability insurance shall be written on an occurrence basis unless otherwise agreed to in writing by the City. The Independent Contractor shall name the City as an additional insured in the amount of $500,000 for all claims determined to be subject to the Kansas Tort Claims Act. The Contractor shall name the City as an additional insured for all other claims set forth below:

1. Commercial General Liability

(a) General Aggregate..... $2,000,000.00
(b) Products / Completed Operations Aggregate..... $2,000,000.00
(c) Personal and Advertising Injury (Each Person)..... $1,000,000.00
(d) Each Occurrence..... $1,000,000.00

2. Automobile Liability

Policy shall protect the Contractor against claims for bodily injury and/or property damage arising out of the ownership or use of any owned, hired and/or non-owned vehicle and must include protection for either (a) Any Auto; or (b) All Owned Autos, Hired Autos, and Non-Owned Autos.

(a) All autos Combined Single Limits (CSL).....$1,000,000.00
(b) Uninsured motorists..... $1,000,000.00

Umbrella policy may be used to meet coverage limits.

3. Workers Compensation (includes "all states" insurance)

(a) Workers Compensation.....Statutory
(b) Contractor shall also be protected against claims for disease, injury, or death of employees, which, for any reason, may not fall within the provisions of a Workers Compensation Law.
(c) Employer's Liability:

Bodily Injury by Accident	$500,000 each accident
Bodily Injury by Disease	$500,000 policy limit
Bodily Injury by Disease	$500,000 each employee

4. Subcontractor's Insurance.

If any part of this Agreement is to be sublet, the Contractor shall either:

(a) Cover all subcontractors under its insurance policies; or
(b) Require each subcontractor not so covered to secure insurance which will protect against applicable hazards or risks of loss as and in the minimum amounts designated herein, unless waived by the City.

5. Notice of Claim Reduction of Policy Limits

The Contractor, upon receipt of notice of any claim in connection with the Proposal, shall promptly notify the City, providing full details thereof, including an estimate of the amount of loss or liability.

The Contractor shall promptly notify the City of any reduction in limits of protection afforded under any policy listed in the Certificate in excess of $100,000.00, whether or not such impairment came about as a result of this Contract.

G. Termination of Agreement

City may terminate this Agreement at any time. Independent Contractor may terminate this Agreement upon 30 days written notice to the City. Notice shall be sufficient either when served personally or when sent by first-class mail addressed to the City at the address set forth in this Agreement. City shall not be liable for, nor shall the Independent Contractor be liable to perform, any services or expenses incurred after the receipt of notice of termination.

H. Independent Contractor Status

The Independent Contractor expressly represents and warrants to City that (1) he/she/it is not and shall not be construed to be an employee of City and that his/her/its status shall be that of an independent contractor for which he/she/it is solely responsible for his/her/its actions and inactions; and (2) the Independent Contractor shall act solely as an Independent Contractor, not as an employee or agent of City; and (3) the Independent Contractor is not authorized to enter into contracts or agreements on behalf of City or to otherwise create obligations of City to third parties.

I. Equal Opportunity

Independent Contractor shall observe the provisions of the Kansas Act Against Discrimination and shall not discriminate against any person in the performance of work under this Agreement because of race, religion, color, sex, disability, national origin or ancestry; in all solicitations Independent Contractor shall include the phrase, "equal opportunity employer"; if Independent Contractor fails to comply with the manner in which Independent Contractor reports to the commission in accordance with the provisions of K.S.A. 44-1031 and amendments thereto, Independent Contractor shall be deemed to have breached this Agreement and it may be canceled, terminated or suspended, in whole or in part, by City; if Independent Contractor is found guilty of a violation of the Kansas Act Against Discrimination or any other act banning discrimination or retaliation, under a decision or order of the commission which has become final, Independent Contractor shall be deemed to have breached this Agreement and it may be canceled, terminated or suspended, in whole or in part, by City; and Independent Contractor shall include the provisions of this paragraph in every subcontract or purchase order so that such provisions will be binding upon such subcontractor or vendor.

J. Assignability

This Agreement shall not be transferred or assigned, in whole or in part, by the Independent Contractor without the prior written consent of City.

K. Choice of Law

Any dispute under this Agreement, or related to this Agreement, shall be decided in accordance with the laws of the state of Kansas.

L. Agreement

This Agreement supersedes all prior oral or written agreements, if any, between the parties and constitutes the entire agreement between the parties. The Agreement cannot be changed or modified orally. This Agreement may be supplemented, amended, or revised only in writing by agreement of the parties.

M. Title to Works, Trademarks, and Inventions Produced.

Independent Contractor has acquired or shall acquire from each of his/her/its employees, consultants, and subcontractors, if any, the necessary rights to all works, trademarks, copyrights and inventions utilized in the performance of this Agreement.

N. Hold Harmless

Independent Contractor shall indemnify and hold the City harmless from and against any claims, allegations, charges, damages, costs, attorneys' fees or other expenses incurred due to the actions, inactions, fault or negligence, or the claimed actions, inactions, fault or negligence of Independent Contractor or its agents or employees.

O. Lien Waivers

The Independent Contractor will provide the City with a list of any subcontractors or others performing work on this project and the Independent Contractor will not use any other subcontractors or others on the project. The Independent Contractor will provide a lien waiver from any such subcontractor. Such waivers will hold the City free from any liens for work or materials and must be received by the city prior to final payment to the Independent Contractor.

P. **Previous Agreement**

The Independent Contractor Agreement between the parties, entered into on the 22nd day of January, 2019, is hereby rescinded.

CITY OF LEAWOOD, KANSAS

By: _____

Peggy Dunn, Mayor

ATTEST:

_____

Debra Harper, CMC, City Clerk

AS TO FORM

_____

Patricia A. Bennett, City Attorney

INDEPENDENT CONTRACTOR

VanBooven Tree Service Greg Van Booven

By: [signature]

Title: Owner

Address: PO Box 9377
Shawnee, Ks. 66201

Email greg@vanbooventree.com

Date: 2/5/19

City Of Leawood
4800 Town Center Drive
Leawood KS 66211- 5398
238-2859 339-6700
CR

P.O. BOX 9377
SHAWNEE MISSION KS 66201

(913) 722-3275

VanBooven
TREE CARE

01/15/2019

SCOPE OF WORK: CURBSIDE TREE DEBRIS PICK UP - TREE DAMAGE FROM THE JANUARY 11 - 12, 2019 SNOW STORM.
CLEAN UP OF TREE STORM DEBRIS WITHIN THE CIY LIMITS AS DIREDTED BY THE LEAWOOD CITY STAFF.

SCHEDULE OF CHARGES FOR CURBSIDE DEBRIS REMOVAL

GRAPPLE TRUCK & OPERATOR $ 215.00 / HOUR

LABOR $ 58.00 / HOUR

DISPOSAL FEES

$ 150.00 PER 30 YARD LOAD @ CS CAREY IN KANSAS CITY, KANSAS

$ 175.00 PER 30 YARD LOAD @ SUBURBAN IN SOUTH KANSAS CITY, MISSOURI

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 01/16/2019

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

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

PRODUCER
Creative Planning Property & Casualty LLC
5440 West 110th Street
Suite 101
Overland Park KS 66211

OCC LIC. #014664

CONTACT NAME: Keri Reinhardt
PHONE (A/C, No, Ext): (913) 341-0900 FAX (A/C, No): (913) 341-0901
E-MAIL ADDRESS: certificates@creativeplanning.com

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A: Amco	19100
INSURER B: American Interstate Insurance Co.	31895
INSURER C:	
INSURER D:	
INSURER E:	
INSURER F:	

INSURED
Gregory Van Booven
dba Van Booven Lawn, Landscape & Tree Care
PO Box 9377
Shawnee Mission KS 66201

COVERAGES **CERTIFICATE NUMBER:** 18-19 Master **REVISION NUMBER:**

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

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY CLAIMS-MADE / X OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: X POLICY / PRO-JECT / LOC OTHER:	Y		ACP7235941156	10/01/2018	10/01/2019	EACH OCCURRENCE	$ 1,000,000
							DAMAGE TO RENTED PREMISES (Ea occurrence)	$ 300,000
							MED EXP (Any one person)	$ 10,000
							PERSONAL & ADV INJURY	$ 1,000,000
							GENERAL AGGREGATE	$ 2,000,000
							PRODUCTS - COMP/OP AGG	$ 2,000,000
								$
A	AUTOMOBILE LIABILITY X ANY AUTO OWNED AUTOS ONLY / SCHEDULED AUTOS HIRED AUTOS ONLY / NON-OWNED AUTOS ONLY	Y		ACP7235941156	10/01/2018	10/01/2019	COMBINED SINGLE LIMIT (Ea accident)	$ 1,000,000
							BODILY INJURY (Per person)	$
							BODILY INJURY (Per accident)	$
							PROPERTY DAMAGE (Per accident)	$
								$
A	X UMBRELLA LIAB / X OCCUR EXCESS LIAB / CLAIMS-MADE DED / RETENTION $			ACP7235941156	10/01/2018	10/01/2019	EACH OCCURRENCE	$ 1,000,000
							AGGREGATE	$ 1,000,000
								$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y / N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N/A		AVWCKS2891202018	04/19/2018	04/19/2019	X PER STATUTE / OTH-ER	
							E.L. EACH ACCIDENT	$ 500,000
							E.L. DISEASE - EA EMPLOYEE	$ 500,000
							E.L. DISEASE - POLICY LIMIT	$ 500,000

RECEIVED
FEB 05 2019
PUBLIC WORKS

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

The Certificate Holder is named as Additional Insured as respects to the General Liability and Auto Liability when required by written contract or agreement.

CERTIFICATE HOLDER

City of Leawood
4800 Town Center Drive
Leawood KS 66211

CANCELLATION

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

AUTHORIZED REPRESENTATIVE

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DRAFT

6.B.

RESOLUTION NO. _____

RESOLUTION REAFFIRMING THE CITY ADMINISTRATOR'S DECISION TO AUTHORIZE AN AMENDED INDEPENDENT CONTRACTOR AGREEMENT BETWEEN THE CITY AND ARBORMASTERS TREE & LANDSCAPE, FOR AN AMOUNT NOT TO EXCEED $30,000.00, FOR STORM DEBRIS REMOVAL, RELATED TO THE JANUARY, 2019, WINTER STORM [Project # 74102]

WHEREAS, the City entered into an Amended Independent Agreement with Arbormasters Tree & Landscape for an amount not to exceed $15,000.00 on January 22, 2019, pertaining to storm debris removal from the January winter storm;

WHEREAS, it has been determined that the amount should be increased to a maximum amount of $30,000.00;

WHEREAS, the City Administrator has authorized the increase and the Governing Body desires to reaffirm the increase by approving an amendment increasing the maximum amount to $30,000.00.

NOW THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF LEAWOOD, KANSAS:

SECTION ONE: That the Governing Body hereby reaffirms the City Administrator's decision to authorize the Agreement between the City and Arbormasters Tree & Landscape, in a total amount not to exceed $30,000.00, attached hereto as Exhibit "A," and incorporated herein by reference as if fully set out.

SECTION TWO: This resolution shall become effective upon passage.

PASSED by the Governing Body this 18th day of February, 2019.

APPROVED by the Mayor this 18th day of February, 2019.

[SEAL]

_____
Peggy J. Dunn, Mayor

ATTEST:

_____
Debra Harper, CMC, City Clerk

APPROVED AS TO FORM:

_____
Patricia A. Bennett, City Attorney

CITY OF LEAWOOD

Independent Contractor Agreement

AGREEMENT BETWEEN the City of Leawood, Kansas ("City"), a Kansas Municipal

Corporation located at 4800 Town Center Drive, Leawood, Kansas, and **Arbor Masters Tree & Landscape**
("Independent Contractor"), dated _____ .

The Independent Contractor is a (n):
__Individual
__Sole proprietorship
__Partnership
X Corporation

The Independent Contractor is located at:

Address:	8250 Cole Parkway
City/State/ZIP:	Shawnee Mission, Ks. 66227
Cell Phone	913) 441-8888
Email:	mcantrell@arbormasters.com

The Independent Contractor's Social Security or Employer Identification Number is:

48-083392-8 or ON FILE

The City and the Independent Contractor entered into an Amended Independent Contractor Agreement on or about January 22, 2019 for an amount not to exceed $15,000.00. The parties now wish to increase the amount to $30,000.00 with all other provisions remaining the same.

Therefore, the parties agree as follows:

IN CONSIDERATION of the promises and mutual covenants and agreements contained herein, the parties agree as follows:

A. Work to Be Performed
City desires that the Independent Contractor perform, and the Independent Contractor agrees to perform, the following work:

Provide curbside pickup of limbs within the Leawood City limits as directed by City Staff. Work shall include providing Grapple truck, picking up limbs at curbside, hauling, dumping, fees, fuel & labor as listed on attached "Exhibit A".

B. Term of Agreement

The services called for under this Agreement shall commence on **January 22, 2019**, and shall be concluded on or before **February , 2019**. All work will be coordinated with City Representative Bill Billings, Superintendent of Public Works or designee only at times approved by the City.

C. Terms of Payment

City shall pay the Independent Contractor the following amounts, according to the following terms and conditions:

The City shall pay Independent Contractor, an amount not to exceed $30,000.000.

City agrees to remit such payment to Independent Contractor within 30 days of receipt of invoice.

☐ Check if tax exemption is requested. Tax exemption is applicable in State of Kansas for goods only on this project.

D. Reimbursement of Expenses

City shall not be liable to the Independent Contractor for any expenses paid or incurred by the Independent Contractor unless otherwise agreed to in writing.

E. Federal, State, and Local Payroll Taxes

Federal, state, and local income tax and payroll tax of any kind shall not be withheld or paid by the City on behalf of the Independent Contractor or the employees of the Independent Contractor. The Independent Contractor is not an employee and shall not be treated as an employee with respect to the services performed hereunder for federal, state, or local tax purposes.

F. Responsibility for Workers' Compensation and other Insurance

The City will not obtain workers' compensation insurance covering the Independent Contractor or employees of the Independent Contractor. The Independent Contractor shall comply with the workers' compensation law concerning the Independent Contractor and the employees of the Independent Contractor. Independent Contractor shall also procure sufficient insurance to cover general liability, personal injury and property damage in the following types and amounts as approved by City:

Independent Contractor shall maintain throughout the duration of this Agreement, insurance in, at a minimum, the amounts specified below, unless waived in writing by the City. The City will only accept coverage from an insurance carrier offering proof that the carrier is authorized to do business in Kansas; carries a Best's Policyholder rating of A-:VII or better or is otherwise approved by the City. The Independent Contractor is required to carry insurance while performing the proposed work for the City. The Independent Contractor will furnish a Certificate of Insurance to the City as part of their proposal.

All general and automobile liability insurance shall be written on an occurrence basis unless otherwise agreed to in writing by the City. The Independent Contractor shall name the City as an additional insured in the amount of $500,000 for all claims determined to be subject to the Kansas Tort Claims Act. The Contractor shall name the City as an additional insured for all other claims set forth below:

1. Commercial General Liability

(a) General Aggregate..... $2,000,000.00
(b) Products / Completed Operations Aggregate..... $2,000,000.00
(c) Personal and Advertising Injury (Each Person)..... $1,000,000.00
(d) Each Occurrence..... $1,000,000.00

2. Automobile Liability

Policy shall protect the Contractor against claims for bodily injury and/or property damage arising out of the ownership or use of any owned, hired and/or non-owned vehicle and must include protection for either (a) Any Auto; or (b) All Owned Autos, Hired Autos, and Non-Owned Autos.

(a) All autos Combined Single Limits (CSL).....$1,000,000.00
(b) Uninsured motorists..... $1,000,000.00

Umbrella policy may be used to meet coverage limits.

3. Workers Compensation (includes "all states" insurance)

(a) Workers Compensation.....Statutory
(b) Contractor shall also be protected against claims for disease, injury, or death of employees, which, for any reason, may not fall within the provisions of a Workers Compensation Law.
(c) Employer's Liability:

Bodily Injury by Accident	$500,000 each accident
Bodily Injury by Disease	$500,000 policy limit
Bodily Injury by Disease	$500,000 each employee

4. Subcontractor's Insurance.

If any part of this Agreement is to be sublet, the Contractor shall either:

(a) Cover all subcontractors under its insurance policies; or

(b) Require each subcontractor not so covered to secure insurance which will protect against applicable hazards or risks of loss as and in the minimum amounts designated herein, unless waived by the City.

5. Notice of Claim Reduction of Policy Limits

The Contractor, upon receipt of notice of any claim in connection with the Proposal, shall promptly notify the City, providing full details thereof, including an estimate of the amount of loss or liability.

The Contractor shall promptly notify the City of any reduction in limits of protection afforded under any policy listed in the Certificate in excess of $100,000.00, whether or not such impairment came about as a result of this Contract.

G. Termination of Agreement

City may terminate this Agreement at any time. Independent Contractor may terminate this Agreement upon 30 days written notice to the City. Notice shall be sufficient either when served personally or when sent by first-class mail addressed to the City at the address set forth in this Agreement. City shall not be liable for, nor shall the Independent Contractor be liable to perform, any services or expenses incurred after the receipt of notice of termination.

H. Independent Contractor Status

The Independent Contractor expressly represents and warrants to City that (1) he/she/it is not and shall not be construed to be an employee of City and that his/her/its status shall be that of an independent contractor for which he/she/it is solely responsible for his/her/its actions and inactions; and (2) the Independent Contractor shall act solely as an Independent Contractor, not as an employee or agent of City; and (3) the Independent Contractor is not authorized to enter into contracts or agreements on behalf of City or to otherwise create obligations of City to third parties.

I. Equal Opportunity

Independent Contractor shall observe the provisions of the Kansas Act Against Discrimination and shall not discriminate against any person in the performance of work under this Agreement because of race, religion, color, sex, disability, national origin or ancestry; in all solicitations Independent Contractor shall include the phrase, "equal opportunity employer"; if Independent Contractor fails to comply with the manner in which Independent Contractor reports to the commission in accordance with the provisions of K.S.A. 44-1031 and amendments thereto, Independent Contractor shall be deemed to have breached this Agreement and it may be canceled, terminated or suspended, in whole or in part, by City; if Independent Contractor is found guilty of a violation of the Kansas Act Against Discrimination or any other act banning discrimination or retaliation, under a decision or order of the commission which has become final, Independent Contractor shall be deemed to have breached this Agreement and it may be canceled, terminated or suspended, in whole or in part, by City; and Independent Contractor shall include the provisions of this paragraph in every subcontract or purchase order so that such provisions will be binding upon such subcontractor or vendor.

J. Assignability

This Agreement shall not be transferred or assigned, in whole or in part, by the Independent Contractor without the prior written consent of City.

K. Choice of Law

Any dispute under this Agreement, or related to this Agreement, shall be decided in accordance with the laws of the state of Kansas.

L. Agreement

This Agreement supersedes all prior oral or written agreements, if any, between the parties and constitutes the entire agreement between the parties. The Agreement cannot be changed or modified orally. This Agreement may be supplemented, amended, or revised only in writing by agreement of the parties.

M. Title to Works, Trademarks, and Inventions Produced.

Independent Contractor has acquired or shall acquire from each of his/her/its employees, consultants, and subcontractors, if any, the necessary rights to all works, trademarks, copyrights and inventions utilized in the performance of this Agreement.

N. Hold Harmless

Independent Contractor shall indemnify and hold the City harmless from and against any claims, allegations, charges, damages, costs, attorneys' fees or other expenses incurred due to the actions, inactions, fault or negligence, or the claimed actions, inactions, fault or negligence of Independent Contractor or its agents or employees.

O. Lien Waivers

The Independent Contractor will provide the City with a list of any subcontractors or others performing work on this project and the Independent Contractor will not use any other subcontractors or others on the project. The Independent Contractor will provide a lien waiver from any such subcontractor. Such waivers will hold the City free from any liens for work or materials and must be received by the city prior to final payment to the Independent Contractor.

P. Previous Agreement

The Independent Contractor Agreement between the parties, entered into on the 22nd day of January, 2019, is hereby rescinded.

CITY OF LEAWOOD, KANSAS

_____

Peggy Dunn, Mayor

Date: _____

A T TES T:

_____

Debra Harper, CMC, City Clerk

AS TO FORM

_____

Patricia A. Bennett, City Attorney

INDEPENDENT CONTRACTOR

Arbor Masters Tree & Landscape

By: Mark Cantrell

Title: VICE PRESIDENT

Address: 8250 Cole Parkway
Shawnee, Ks. 66227

Email mcantrell@arbormasters.com

Date: 2/5/19

Arbor Masters
Tree & Landscape®

"Exhibit A"

January 16, 2019

David Ley,
City Engineer
City of Leawood, Kansas

David,
These are the bids and rates requested for Grapple Trucks for Storm Debris Disposal. The following outline the scope of services to be provided.

SCOPE OF SERVICES

Provide curbside pickup of limbs within the Leawood City Limits as directed BY City Staff. Work shall include providing Grapple Truck, picking up limbs at curbside, hauling, dumping, fees, fuel, and labor

PRICING

1. Grapple Truck/Operator - $200.00 per hr.(one way travel)
2. Grapple Truck/Operator and Laborer - $250.00 per hr.(one way travel)
3. Uni-Loader/Operator - $125.00 per hr.

If you have any questions please feel free to contact me at 913-530-8831

Sincerely,
Mark Cantrell

Mark Cantrell

8250 Cole Parkway • Shawnee, KS 66227 • 913-441-8888 • www.ArborMasters.com

ARBOMAS-04 | MARTINEZANTE

DATE (MM/DD/YYYY) 1/16/2019

CERTIFICATE OF LIABILITY INSURANCE

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

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

PRODUCER
The Robert E Miller Group
6363 College Blvd., Suite 400
Overland Park, KS 66211
OCC LIC. # 002415

CONTACT NAME:
PHONE (A/C, No, Ext): (816) 333-3000 FAX (A/C, No): (816) 822-1634
E-MAIL ADDRESS:

INSURED
Arbor Masters Tree & Landscape A Div. of Shawnee Mission TreeService
A Div. of Shawnee Mission Tree
8250 Cole Parkway
Shawnee Mission, KS 66227

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A: Zurich America Ins Co. (AC)	16535
INSURER B: Navigators Insurance Company	42307
INSURER C: Western World Insurance Group	
INSURER D:	
INSURER E:	
INSURER F:	

COVERAGES | CERTIFICATE NUMBER: | REVISION NUMBER:

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

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY CLAIMS-MADE [X] OCCUR	X		GL0591802205	3/1/2018	3/1/2019	EACH OCCURRENCE $	1,000,000
							DAMAGE TO RENTED PREMISES (Ea occurrence) $	100,000
							MED EXP (Any one person) $	10,000
							PERSONAL & ADV INJURY $	1,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE $	2,000,000
	POLICY [X] PRO-JECT [X] LOC						PRODUCTS - COMP/OP AGG $	2,000,000
	OTHER:						EMP BENEFIT AGG $	1,000,000
A	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident) $	1,000,000
	[X] ANY AUTO	X		BAP591802306	3/1/2018	3/1/2019	BODILY INJURY (Per person) $	
	OWNED AUTOS ONLY / SCHEDULED AUTOS						BODILY INJURY (Per accident) $	
	X HIRED AUTOS ONLY / X NON-OWNED AUTOS ONLY						PROPERTY DAMAGE (Per accident) $	
							$	
B	X UMBRELLA LIAB / X OCCUR						EACH OCCURRENCE $	4,000,000
	EXCESS LIAB / CLAIMS-MADE	X		HO18EXC7997331V	3/1/2018	3/1/2019	AGGREGATE $	4,000,000
	DED / RETENTION $						$	
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY						X PER STATUTE / OTH-ER	
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) Y/N [N] N/A			WC591802105	3/1/2018	3/1/2019	E.L. EACH ACCIDENT $	1,000,000
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE $	1,000,000
							E.L. DISEASE - POLICY LIMIT $	1,000,000
C	Excess Umbrella			ELX100026700	3/1/2018	3/1/2019	Limit	6,000,000

RECEIVED
JAN 16 2019
PUBLIC WORKS

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
Certificate holder is an additional insured as respects to liability coverage, excluding Workers Compensation and Employers Liability, as required by contract.

CERTIFICATE HOLDER

City of Leawood, KS
4400 Town Center Drive
Leawood, KS 66211

CANCELLATION

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

AUTHORIZED REPRESENTATIVE
Mot Miller

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Return to Agenda

Meeting Date: 2/18/2019

6.C.

City of Leawood

Memo

To: **Mayor Dunn and Members of the Governing Body**

From: **Scott Lambers & Patricia A. Bennett**

Date: **February 7, 2019**

Re: **Revisions to City Code Section 1-203**

Mayor Dunn and Members of the Governing Body,

Attached please find recommended amendments to Section 1-203 of the City Code. The amended ordinance would be effective May 1 and changes the regular start time for Governing Body meetings to 7:00 p.m. unless a work session is scheduled, in which case, the meeting will commence at 7:30 p.m.

For each meeting, the staff will:

- Highlight the meeting start time on the agenda; and
- Post the meeting start time on the City's website.

Prior to May 1, the City will post the revised start time on the City's website and will notify the residents by:

- Email to homes associations who have their email address on file with the City;
- Via social media [Nextdoor and Facebook].

Please let either of us know if you have any questions or suggestions.

DRAFT

ORDINANCE NO. _____

AN ORDINANCE AMENDING SECTION 1-203 OF THE CODE OF THE CITY OF LEAWOOD, KANSAS, 2000, ENTITLED "MEETINGS; SPECIAL MEETINGS" AND REPEALING EXISTING SECTION 1-203 AND OTHER SECTIONS IN CONFLICT HEREWITH.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LEAWOOD, KANSAS:

SECTION ONE: Section 1-203 of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

1-203. **MEETINGS; SPECIAL MEETINGS**. The mayor and councilmembers shall have regular sessions on the first and third Mondays of each and every month, at 7:00 p.m., provided, however, if a governing body work session is scheduled prior to the regular session, then the regular session shall commence at 7:30 p.m. if notice is given on the meeting agenda and on the City's website. Regular sessions may be cancelled if notice is given on the City's website. ~~7:30 p.m.~~ In case a regular session falls on a holiday, the regular session shall be held on the next day thereafter which is not a holiday. Special sessions shall be called by the mayor in accordance with statute, specifying the object and purpose of such meeting, which request shall be read at the meeting and entered at length on the journal. All sessions shall be held at the city hall unless circumstances make that place impracticable for a particular session, in which case it may be held at any convenient place within the city. In all cases, it shall require a majority of the councilmembers-elect to constitute a quorum to do business, but a smaller number may adjourn from day to day.

(Ord. 1757C; 11-02-98)

SECTION TWO: This ordinance shall be construed as follows:

A. Liberal Construction. The provisions of this Ordinance shall be liberally construed to effectively carry out its purposes which are hereby found and declared to be in furtherance of the public health, safety, welfare, and convenience.

B. Savings Clause. The repeal of Ordinance sections, as provided herein below shall not affect any rights acquired, fees, fines, penalties, forfeitures or liabilities incurred there under, or actions involving any of the provisions of said Ordinances or parts thereof. Said Ordinance repealed is hereby continued in force and effect after the passage, approval, and publications of this Ordinance for the purposes of such rights, fees, fines, penalties, forfeitures, liabilities and actions therefore.

C. Invalidity. If for any reason any chapter, article, section, subsection, sentence, portion or part of this proposed Ordinance set out herein, or the application thereof to any person or circumstances is declared to be unconstitutional or invalid, such decision will not affect the validity of the remaining portions of this Code or other Ordinances.

SECTION THREE: That existing Section 1-203 and any provisions in conflict herewith are hereby repealed.

SECTION FOUR: This ordinance shall take effect on May 1, 2019 after publication in accordance with law.

PASSED by the Governing Body this 18th day of February, 2019.

APPROVED by the Mayor this 18th day of February, 2019.

[SEAL]

_____
Peggy J. Dunn, Mayor

ATTEST:

_____
Debra Harper, City Clerk, CMC

APPROVED AS TO FORM:

_____
Patricia A. Bennett, City Attorney

Return to Agenda

7.A.

CITY OF LEAWOOD
Check Date 02/06/2019
Ordinance 2019-5

Final Check List

Check #	Vendor	Description	Amount Paid	Check Total
99623	ACCU-SCREEN INC	POST-ACCIDENT SCREENINGS	424.14	**424.14**
99624	ACUSHNET CO - TITLEIST	RETURN TRIAL CLUBS	-887.40	
		PROSHOP MERCHANDISE	753.90	
		PROSHOP MERCHANDISE	264.75	
		PROSHOP MERCHANDISE - RETURN	-2,438.56	
		PROSHOP MERCHANDISE	545.35	
		PROSHOP MERCHANDISE	1,303.42	
		PROSHOP MERCHANDISE	1,202.61	**744.07**
99625	ADP LLC	ADP ENHANCED TIME & ATTENDANCE	3,078.00	**3,078.00**
99626	ALL CITY MANAGEMENT SERVICES	JAN - JUN 2019 PORTION OF	3,766.46	**3,766.46**
99627	AMERICAN EQUIPMENT COMPANY	VEHICLE SUPPLIES	83.85	**83.85**
99628	AMERICAN RIGGER'S SUPPLY INC	VEHICLE SUPPLIES	102.25	**102.25**
99629	ASBURY, JEAN	LUNAR DINNER DECOR/SUPPLIES	35.91	**35.91**
99630	AT&T	VOIP PHONE SERVICE	1,138.08	**1,138.08**
99631	AT&T	VOIP PHONE SERVICE	1,079.81	**1,079.81**
99632	BAYSINGERS STORE	SHIPPING FROM PREVIOUS ORDER	11.99	**11.99**
99633	BLUE CROSS BLUE SHIELD OF KC	JANUARY 2019 HEALTH PREMIUM	331,846.95	**331,846.95**
99634	BLUE VALLEY GOODYEAR	TIRES (4) UNIT 505	477.56	**477.56**
99635	BLUE VALLEY LABORATORIES INC	FOUNTAIN MAINTENANCE	825.00	**825.00**
99636	BRADEN ROOFING INC	REFUND PERMIT BD-19-00034	142.40	**142.40**
99637	BRUNER CONTRACTING CO LLC	2018 DESIGN/BUILD PW MAIN 2-BAY ADDITION	56,383.00	**56,383.00**

Check #	Vendor	Description	Amount Paid	Check Total
99638	C & C GROUP DIVISIONS	BUILDING & GROUNDS~	310.00	**310.00**
99639	CHRIST, CHARLES	CDL REIMBURSEMENT	36.75	**36.75**
99640	CINTAS CORPORATION NO 2	FIRST AID SUPPLIES	366.81	**366.81**
99641	CORNERSTONES OF CARE	Q1 ALCOHOL TAX FUND ALLOCATION	2,638.25	**2,638.25**
99642	CORPORATE HEALTH KU MEDWEST	PRE-EMPLOYMENT TESTING	641.00	**641.00**
99643	DOCUMART INC	OFFICE SUPPLIES	237.22	**237.22**
99644	DUTZELS CATERING	CATER STATE OF THE CITY 2019	2,415.00	**2,415.00**
99645	FACTORY MOTOR PARTS CO	VEHICLE SUPPLIES	132.71	**132.71**
99646	FAGAN COMPANY, THE	HVAC SERVICE CALL	1,252.92	**1,252.92**
99647	FIRST CALL ALCOHOL/DRUG PREV	Q1 ALCOHOL TAX FUND ALLOCATION	2,858.00	**2,858.00**
99648	FRIENDS OF RECOVERY ASSOC	Q1 ALCOHOL TAX FUND ALLOCATION	2,550.25	**2,550.25**
99649	GALLS LLC	UNIFORMS	300.00	
		UNIFORMS	272.00	
		UNIFORMS	68.00	
		UNIFORMS	44.00	**684.00**
99650	GT DISTRIBUTORS INC	AMMUNITION	184.20	**184.20**
99651	HALO BRANDED SOLUTIONS INC	400 EMBOSSED BOXED CHOCOLATE BARS	3,297.85	**3,297.85**
99652	HEARTLAND REG ASSESSMENT CTR	Q4 ALCOHOL TAX FUND ALLOCATION	7,023.25	**7,023.25**
99653	HERITAGE TRACTOR INC	EQUIPMENT MAINTENANCE	885.03	**885.03**
99654	IAM STARGUARD ELITE	TRAINING CENTER ANNUAL FEE	350.00	**350.00**
99655	IBT INC	VEHICLE SUPPLIES	172.84	**172.84**
99656	INSIGHT PUBLIC SAFETY	PRE-EMPLOYMENT SCREENING	150.00	**150.00**
99657	INTERSTATE ALL BATTERY CENTER	PATROL BATTERIES	33.32	**33.32**

Check #	Vendor	Description	Amount Paid	Check Total
99658	IRONHORSE GOLF CLUB	GRATUITY - STATE OF CITY LUNCHEON	95.00	**95.00**
99659	JO CO DEPT OF CORRECTIONS	Q1 ALCOHOL TAX FUND ALLOCATION	793.25	**793.25**
99660	KA COMM INC	MOUNTING CAR CAMERAS	614.68	
		MOUNTING CAR CAMERAS	754.50	
		MOUNTING CAR CAMERAS	719.61	**2,088.79**
99661	KANSAS DEPT OF REVENUE	CEREAL MALT BEVERAGE LIC PERMIT	25.00	**25.00**
99662	KANSAS GENERAL WIRE SUPPLY CO	FENCING MATERIALS	11,482.63	**11,482.63**
99663	KANSAS SECRETARY OF STATE	2018 KSA SUPPLEMENT SETS	1,728.00	**1,728.00**
99664	KASTLE GRINDING LLC	SHARPEN BRUSH CHIPPER KNIVES	40.00	**40.00**
99665	KELLER FIRE & SAFETY	BUILDING & GROUNDS	164.75	**164.75**
99666	KELLERMAN, PAUL	INSPECTION EXPENSES	3,207.50	**3,207.50**
99667	KENT, NAOMI	REIMBURSE MILEAGE	100.92	**100.92**
99668	KISSICK CONSTRUCTION CO	2018 CMP PROGRAM	19,516.81	**19,516.81**
99669	LASER CYCLE INC	PRINTER TONER - RETURN	-94.99	
		PRINTER TONER	284.97	**189.98**
99670	LEAWOOD CHAMBER OF COMMERCE	CHAMBER BOARD MEETING 1-28-19	16.50	
		CHAMBER LUNCHEON 2-12-19	30.00	**46.50**
99671	LEGAL RECORD	ORDINANCE PUBLICATION	235.84	**235.84**
99672	LENNOX INDUSTRIES INC	HVAC MATERIALS & SUPPLIES	264.00	**264.00**
99673	LIGHT BULBS ETC	LIGHTING SUPPLIES	105.36	
		BUILDING MAINTENANCE SUPPLY	465.90	**571.26**
99674	LOWES	HARDWARE SUPPLIES	36.13	
		HARDWARE SUPPLIES	75.19	
		HARDWARE SUPPLIES	9.48	**120.80**

Check #	Vendor	Description	Amount Paid	Check Total
99675	LOWES	HARDWARE SUPPLIES	20.62	
		HARDWARE SUPPLIES	51.40	
		HARDWARE SUPPLIES	60.72	
		WILD BIRD FOOD	45.54	
		HARDWARE SUPPLIES	10.31	
		HARDWARE SUPPLIES	29.44	
		HARDWARE SUPPLIES	15.51	**233.54**
99676	MID AMERICA REGIONAL COUNCIL	TRAINING - RECORDS~	914.00	**914.00**
99677	MIRROR INC	Q1 ALCOHOL TAX FUND ALLOCATION	7,738.50	**7,738.50**
99678	MOBILFONE WIRELESS	COMMUNICATION	155.71	**155.71**
99679	MOORE MEDICAL LLC	MATERIAL AND SUPPLIES	111.46	
		MATERIAL & SUPPLIES	228.50	**339.96**
99680	MYSIDEWALK INC	MISC. SERVICES	500.00	**500.00**
99681	NATIONAL LEAGUE OF CITIES	'19 NATL LEAGUE OF CITIES MEMBER DUES	3,355.74	**3,355.74**
99682	NIGROS WESTERN STORE INC	BOOTS~	115.00	**115.00**
99683	O DONNELL & SONS CONSTRUCTION	2018 IRONWOODS PARKING LOT RENOVATE	84,781.44	**84,781.44**
99684	O REILLY AUTO PARTS	WIPER BLADES	118.60	
		VEHICLE MAINT	17.99	
		MATERIALS & SUPPLIES	19.97	
		MATERIALS & SUPPLIES	83.83	
		OIL FILTER	4.11	
		EQUIPMENT SUPPLIES	8.98	
		EQUIPMENT SUPPLIES	79.99	
		EQUIPMENT SUPPLIES	12.98	**346.45**
99685	OBIJI, MISHEA	CLEANING	150.00	**150.00**
99686	PATTERSON, WILLIAM	REFUND DUPLICATE ALARM FEE	10.00	**10.00**
99687	PB HOIDALE CO INC	MATERIALS & SUPPLIES	418.54	**418.54**

Check #	Vendor	Description	Amount Paid	Check Total
99688	PENDERGRASS, BRIAN	CDL REIMBURSEMENT	36.90	**36.90**
99689	PETTY CASH - CITY OF LEAWOOD	REIMBURSEMENTS	106.92	**106.92**
99690	PREFERRED FAMILY HEALTHCARE	Q1 ALCOHOL TAX FUND ALLOCATION	5,030.00	**5,030.00**
99691	PRIME INDUSTRIAL PRODUCTS INC	VEHICLE SUPPLIES	628.65	**628.65**
99692	PROFESSIONAL TURF PRODUCTS	EQUIPMENT SUPPLIES	199.40	
		CORE RETURN	-300.00	
		FUEL PUMP	1,115.26	
		EQUIPMENT SUPPLIES	192.39	**1,207.05**
99693	PROJECT GRAPHICS PRINT LLC	BANNER PRODUCTION- 5 DESIGNS	14,879.55	**14,879.55**
99694	RANCH MART ACE HARDWARE	PATROL SUPPLIES	14.99	
		EQUIPMENT MAINT	19.98	
		MATERIAL & SUPPLIES	13.99	**48.96**
99695	REEVES WIEDEMAN COMPANY	PLUMBING SUPPLIES	270.00	
		PLUMBING SUPPLIES	10.20	**280.20**
99696	REGIONAL JUSTICE INFORMATION	WEB SUBSCRIPTION FEES	2,340.01	**2,340.01**
99697	REGIONAL JUSTICE INFORMATION	WEB SUBSCRIPTION SERVICE	87.01	**87.01**
99698	SHERWIN WILLIAMS CO	PAINT & SUPPLIES	375.39	**375.39**
99699	SINGLE SOURCE	LEAWOOD BANNERS	277.50	**277.50**
99700	SMITTYS LAWN & GARDEN EQUIP	EQUIPMENT SUPPLIES	58.68	
		EQUIPMENT SUPPLIES	104.40	
		THROTTLE CABLE	19.46	**182.54**

Check #	Vendor	Description	Amount Paid	Check Total
99701	STAPLES BUSINESS ADVANTAGE	OFFICE SUPPLIES	25.31	
		OFFICE SUPPLIES	29.92	
		OFFICE SUPPLIES	9.49	
		OFFICE SUPPLIES	57.73	
		OFFICE SUPPLIES	43.69	
		OFFICE SUPPLIES	20.12	
		OFFICE SUPPLIES	35.61	
		OFFICE SUPPLIES	10.35	
		OFFICE SUPPLIES - RETURN	-10.35	
		OFFICE SUPPLIES	25.14	
		OFFICE SUPPLIES	115.31	
		OFFICE SUPPLIES	57.18	
		OFFICE SUPPLIES	47.45	
		OFFICE SUPPLIES	83.32	
		OFFICE SUPPLIES	103.29	
		EQUIPMENT MAINT.	96.80	
		EQUIPMENT MAINT	181.98	
		OFFICE SUPPLIES	50.42	
		OFFICE SUPPLIES	42.85	**1,025.61**
99702	SUBURBAN LAWN & GARDEN INC	YARD WASTE TIP FEE	20.00	
		YARD WASTE TIP FEE	30.00	**50.00**
99703	SUMMIT TRUCK GROUP	VEHICLE SUPPLIES	420.41	**420.41**
99704	TIDE DRY CLEANERS	2018 UNIFORM CLEANING	138.84	
		UNIFORM CLEANING	7.23	
		UNIFORM CLEANING	7.43	**153.50**
99705	TRACKER DOOR SYSTEMS	BUILDING & GROUNDS~	391.25	**391.25**
99706	TROON GOLF LLC	REIMBURSEMENT - SHIPPING	15.94	**15.94**
99707	ULINE INC	MATERIALS & SUPPLIES	499.54	**499.54**
99708	US TOY COMPANY INC	EVENT SUPPLIES	70.56	
		EVENT SUPPLIES	56.32	**126.88**

Check #	Vendor	Description	Amount Paid	Check Total
99709	VERMEER SALES & SERVICE INC	EQUIPMENT SUPPLIES	766.27	
		EQUIPMENT SUPPLIES	280.93	**1,047.20**
99710	WALKER TOWEL & UNIFORM SERVICI	MAT CLEANING	103.78	**103.78**
99711	WALKER TOWEL & UNIFORM SERVICI	MAT CLEANING	96.04	
		MAT CLEANING	96.04	
		MAT CLEANING	96.04	
		MAT CLEANING	96.04	**384.16**
99712	WASTE MANAGEMENT OF KANSAS IN	TRASH DISPOSAL	259.24	
		TRASH DISPOSAL	277.27	
		TRASH DISPOSAL	289.49	
		TRASH DISPOSAL	326.90	
		TRASH DISPOSAL	168.19	**1,321.09**
99713	WATER DISTRICT 1 JO CO	WATER SERVICE	222.25	
		WATER SERVICE	70.75	
		WATER SERVICE	17.80	
		WATER SERVICE	65.32	
		WATER SERVICE	25.10	
		WATER SERVICE	44.20	
		WATER SERVICE	64.90	
		WATER SERVICE	25.10	
		WATER SERVICE	38.48	
		WATER SERVICE	18.65	
		WATER SERVICE	169.11	
		WATER SERVICE	64.90	
		WATER SERVICE	64.90	
		WATER SERVICE	793.19	
		WATER SERVICE	25.10	
		WATER SERVICE	232.04	
		WATER SERVICE	14.20	
		WATER SERVICE	123.05	**2,079.04**
99714	WAYTEK INC	FLEET SUPPLIES	155.68	
		MATERIALS & SUPPLIES	358.74	**514.42**

Check #	Vendor	Description	Amount Paid	Check Total
99715	WCA WASTE SYSTEMS INC	RECYCLING SERVICE	91.46	**91.46**
99716	WESTLAKE HARDWARE	HARDWARE SUPPLIES	20.89	**20.89**
99717	WORLD FUEL SERVICES INC	UNLEADED FUEL	14,673.99	**14,673.99**
8380219	KC POWER & LIGHT CO	POWER SERVICE	377.47	**377.47**

96 checks in this report.

Grand Total All Checks: 614,866.09

CITY OF LEAWOOD
Check Date 02/13/2019
Ordinance 2019-6

Final Check List

Check #	Vendor	Description	Amount Paid	Check Total
99719	PETTY CASH - CITY OF LEAWOOD	REPLENISH SNOW MEALS~	850.00	**850.00**
99721	US POSTMASTER	POSTAGE SPRING/SUMMER GUIDE	2,800.00	**2,800.00**
99722	ALLEN MARKING PRODUCTS INC	MATERIALS & SUPPLIES	18.33	**18.33**
99723	AMERICAN EQUIPMENT COMPANY	HOUSING ASSEMBLY FOR UNIT 450	1,114.04	**1,114.04**
99724	AMERICAN PLANNING ASSOC	MEMBERSHIP	700.00	**700.00**
99725	AMSOIL INC	SYNTHETIC HEAVY DUTY OIL	105.80	**105.80**
99726	AREA DEVELOPMENT COUNCIL, KANS	KC AREA DEV COUNCIL MEMBERSHIP	10,000.00	**10,000.00**
99727	AT&T	PHONE SERVICE	312.16	**312.16**
99728	AT&T	PHONE SERVICE	260.84	**260.84**
99729	BATTERIES PLUS	LITHIUM/SLA RECYCLING	18.50	**18.50**
99730	BERNIE ELECTRIC WHOLESALE INC	BUILDING & GROUNDS	33.38	**33.38**
99731	BLUE VALLEY LABORATORIES INC	FOUNTAIN WINTERIZATION	725.00	
		FOUNTAIN WINTERIZATION	532.00	
		GOLF HOLE #11 POND MAINTENANCE	225.00	
		GOLF HOLE #6 POND MAINTENANCE	450.00	**1,932.00**
99732	BLUE VALLEY PUBLIC SAFETY	CITY EQUIPMENT FUND	25,209.22	**25,209.22**
99733	BLUE VALLEY TRACTOR & SUPPLY	EQUIPMENT SUPPLIES	19.23	**19.23**
99734	BOTACH INC	EXPENDABLE EQUIPMENT	1,999.75	**1,999.75**
99735	BRANICK, DUSTIN	TRAVEL RECONCILIATION - ST LOUIS	290.00	**290.00**

Check #	Vendor	Description	Amount Paid	Check Total
99736	BRUNGARDT HONOMICHL & CO PA	2019 LEE BLVD DESIGN	12,933.50	**12,933.50**
99737	BURRIS, CHAD P	DIRECTOR - MAN WHO CAME TO DINNER	800.00	**800.00**
99738	CDW GOVERNMENT INC	10 SAMSUNG SSDs	4,550.00	
		VMWARE LICENSES	14,496.00	**19,046.00**
99739	CINTAS CORPORATION NO 2	FIRST AID SUPPLIES	265.04	**265.04**
99740	COLEMAN EQUIPMENT INC	GREASE KIT	34.83	**34.83**
99741	COMMENCO INC	CHANGE OUT LINK ANTENNAS	770.44	**770.44**
99742	COMMERCIAL AQUATIC SERVICES	POOL MAINTENANCE EQUIPMENT	152.84	
		POOL MAINTENANCE SUPPLIES	60.00	
		POOL MAINTENANCE EQUIPMENT	711.15	**923.99**
99743	CORPORATE HEALTH KU MEDWEST	PRE-EMPLOYMENT/POST-ACCIDENT TESTS	729.00	**729.00**
99744	COSENTINOS PRICE CHOPPER	TRAINING ROOM SUPPLIES	35.46	**35.46**
99745	DIGITAL SOUND SYSTEMS INC	LIGHTING - MAN WHO CAME TO DINNER	3,756.00	**3,756.00**
99746	DOCUMART INC	BUSINESS CARDS	28.00	**28.00**
99747	DOUGLAS PUMP SERVICE INC	SERVICE PUMP - CITY PARK	220.00	**220.00**
99748	DREXEL TECHNOLOGIES	CUTTER-PLOTTER SERVICE/SUPPLIES	116.76	**116.76**
99749	E EDWARDS WORK WEAR INC	UNIFORMS	137.62	
		WORK BOOTS	256.46	**394.08**
99750	EMERGENCY MEDICAL PRODUCTS IN	PATROL SUPPLIES	174.65	**174.65**
99751	ENTENMANN-ROVIN CO	BADGE	115.50	**115.50**
99752	FACTORY MOTOR PARTS CO	VEHICLE PARTS	102.06	
		VEHICLE PARTS	143.03	**245.09**
99753	FITZGERALD, COLIN	TRANSPORTATION	59.16	**59.16**

Check #	Vendor	Description	Amount Paid	Check Total
99754	GALLS LLC	CREDIT MEMO	-6.00	
		UNIFORMS	1,020.00	**1,014.00**
99755	GALLS LLC	UNIFORM PANTS	66.16	**66.16**
99756	GEMPLERS	MATERIALS & SUPPLIES	287.80	**287.80**
99757	GPSI LEASING II - ACCORD LLC	GOLF CAR GPS SERVICES FOR 2019	1,628.00	**1,628.00**
99758	GRAINGER INC	RETURN BUILDING MAINTENANCE SUPPLY	-1.03	
		RETURN BUILDING MAINTENANCE SUPPLY	-0.51	
		MATERIALS & SUPPLIES	126.84	
		55 GAL UTILITY CONTAINERS (3)	319.98	
		MATERIAL & SUPPLIES	80.16	**525.44**
99759	HALLBROOK HOMES ASSOCIATION	LED LIGHTING REIMBURSEMENT	20,419.71	**20,419.71**
99760	HEN HOUSE BALLS FOOD STORES	SUPPLIES - STATE OF THE CITY	73.00	**73.00**
99761	HUNT, TOI	STAGE MANAGER - MAN WHO CAME TO DINNEF	300.00	**300.00**
99762	IACP	SUBSCRIPTION	875.00	**875.00**
99763	ICE MASTERS INC	ICE MACHINE RENTAL	172.00	
		ICE MACHINE RENTAL	67.00	
		ICE MACHINE RENTAL	157.00	**396.00**
99764	INDUSTRIAL SALES CO INC	PVC PIPE	30.06	**30.06**
99765	INSIGHT PUBLIC SAFETY	PRE-EMPLOYMENT PSYCH EVALUATION	450.00	**450.00**
99766	J & A TRAFFIC PRODUCTS	MATERIALS & SUPPLIES	945.00	**945.00**

Check #	Vendor	Description	Amount Paid	Check Total
99767	JO CO WASTEWATER	WASTEWATER SERVICE	16.58	
		WASTEWATER SERVICE	44.80	
		WASTEWATER SERVICE	1,141.57	
		WASTEWATER SERVICE	39.55	
		WASTEWATER SERVICE	26.19	
		WASTEWATER SERVICE	349.25	
		WASTEWATER SERVICE	15.84	
		WASTEWATER SERVICE	119.06	**1,752.84**
99768	KA COMM INC	CITY EQUIPMENT	3,160.00	
		CITY EQUIPMENT	201.25	
		CITY EQUIPMENT	7,583.83	**10,945.08**
99769	KA COMM INC	MOUNTING CAR CAMERA	624.06	
		MOUNTING CAR CAMERA	531.51	
		MOUNTING CAR CAMERA	644.10	
		MOUNTING CAR CAMERA	622.35	
		MOUNTING CAR CAMERA	609.92	
		MOUNTING CAR CAMERA	610.64	
		MOUNTING CAR CAMERA	605.67	
		MOUNTING CAR CAMERA	580.95	**4,829.20**
99770	KANSAS GOLF & TURF INC	EQUIPMENT MAINTENANCE SUPPLIES	185.00	**185.00**
99771	KANSAS STATE TREASURER	REINST, JUD, LEO TRAIN,DUI,SEAT BELT	10,788.50	**10,788.50**
99772	KELLER FIRE & SAFETY	FIRE SUPPRESSION SYSTEM MAINT	239.93	
		FIRE SUPPRESSION SYSTEM MAINT	287.11	**527.04**
99773	KIMBALL MIDWEST	EQUIPMENT MAINTENANCE SUPPLIES	179.00	
		EQUIPMENT MAINTENANCE SUPPLIES	48.72	**227.72**
99774	KONICA MINOLTA BUSINESS SOL	COPY MACHINE MAINTENANCE	1,855.60	
		COPY MACHINE MAINTENANCE	63.04	**1,918.64**
99775	KOTULIC, ROSITA	INSTRUCTOR FEES	80.85	**80.85**
99776	LANGUAGE LINE SERVICES	INTERPRETATION SERVICES	54.39	**54.39**

Check #	Vendor	Description	Amount Paid	Check Total
99777	LAWSON PRODUCTS INC	EQUIP INSTALL SUPPLIES - FLEET	1,023.22	**1,023.22**
99778	LAZER-PIPES SERVICES INC	TOW SERVICE - UNIT 606	200.00	**200.00**
99779	LEAWOOD CHAMBER OF COMMERCE	MEETING EXPENSE	30.00	**30.00**
99780	LEAWOOD CHAMBER OF COMMERCE	CHAMBER LUNCHEON 2-12-19~	30.00	**30.00**
99781	LEGAL RECORD	BID PUBLICATION	32.15	
		HEARING NOTICE	9.32	
		HEARING NOTICE	13.18	
		HEARING NOTICE	9.32	
		HEARING NOTICE	11.25	
		HEARING NOTICE	11.25	
		HEARING NOTICE	11.25	
		HEARING NOTICE	11.25	
		HEARING NOTICE	5.79	
		HEARING NOTICE	37.94	
		HEARING NOTICE	17.04	
		HEARING NOTICE	9.32	
		HEARING NOTICE	9.32	
		HEARING NOTICE	7.72	
		HEARING NOTICE	5.79	
		HEARING NOTICE	5.79	
		HEARING NOTICE	5.79	
		HEARING NOTICE	7.72	
		HEARING NOTICE	5.79	
		HEARING NOTICE	7.72	
		HEARING NOTICE	5.79	
		HEARING NOTICE	5.79	
		HEARING NOTICE	7.72	
		HEARING NOTICE	9.32	**263.32**
99782	LEONARD, WALTER E.	SET DESIGN/CONSTRUCTION~	200.00	**200.00**

Check #	Vendor	Description	Amount Paid	Check Total
99783	LOWES	HARDWARE SUPPLIES	52.91	
		HARDWARE SUPPLIES	105.23	
		HARDWARE SUPPLIES	72.68	
		HARDWARE SUPPLIES	13.40	
		HARDWARE SUPPLIES	12.34	
		HARDWARE SUPPLIES	4.75	
		HARDWARE SUPPLIES	141.84	
		HARDWARE SUPPLIES	16.57	
		BUILDING MAINTENANCE SUPPLIES	38.23	
		BUILDING & GROUNDS	4.12	
		LUMBER	69.85	
		HARDWARE SUPPLIES	12.34	
		HARDWARE SUPPLIES	69.92	
		HARDWARE SUPPLIES	70.07	
		ASPHALT	257.38	
		HARDWARE SUPPLIES	5.51	
		ASPHALT	314.71	
		HARDWARE SUPPLIES	77.54	**1,339.39**
99784	LOWES	HAND TOOLS	45.68	
		HARDWARE SUPPLIES	25.65	
		HARDWARE SUPPLIES	126.35	
		HARDWARE SUPPLIES	197.25	**394.93**
99785	LOWES	HAND TOOLS	101.60	**101.60**
99786	LYNN PEAVEY CO	PROPERTY ROOM SUPPLIES	233.25	**233.25**
99787	MAHER OIL CO	DIESEL FUEL	529.30	
		UNLEADED FUEL	450.68	**979.98**
99788	MAIL IT	MATERIAL & SUPPLIES	21.31	**21.31**
99789	MCCLURE ENGINEERING CO	2017-2018 PROF SVC LW S STORMWATER	29,514.67	
		2017-2018 PROF SVC LW S STORMWATER	9,522.25	
		2017-2018 PROF SVC LW S STORMWATER	34,161.68	**73,198.60**

Check #	Vendor	Description	Amount Paid	Check Total
99790	MCKEEVERS PRICE CHOPPER	FOOD/BEVERAGE EXPENSE	127.75	
		SUPPLIES	59.22	
		FOOD/BEVERAGE EXPENSE	22.14	
		FOOD/BEVERAGE EXPENSE	26.53	
		SUPPLIES	4.38	**240.02**
99791	MIDWAY FORD TRUCK CENTER INC	VEHICLE SUPPLIES	227.97	**227.97**
99792	MULTIPLE SERVICES EQUIPMENT CO	POSTAGE MACHINE MAINTENANCE	575.00	**575.00**
99793	NATL ENTERTAINMENT TECH INC	EGGSTRAVAGANZA EGGS 2019	1,725.00	**1,725.00**
99794	NELSON, BRIAN OR SARAH	REFUND PLANNING APPLICATIONS~	1,280.00	**1,280.00**
99795	NORTHERN TOOL & EQUIP, BLUE TAR	EQUIPMENT SUPPLIES	104.48	**104.48**
99796	O REILLY AUTO PARTS	OIL FILTER	13.52	
		FUEL FILTERS (2)	94.64	
		ICE MELT	13.99	
		VEHICLE SUPPLIES	25.14	
		OIL FILTER	13.52	
		BATTERIES	167.52	
		ICE MELT	39.95	
		MATERIAL & SUPPLIES	46.95	
		CORE RETURN	-28.00	
		OIL FILTER	14.34	
		OIL FILTER	4.11	**405.68**
99797	PET CREMATION SERVICES	ANIMAL CREMATION SERVICES	365.00	**365.00**
99798	PHILLIPS PINEWOOD MULCH INC	PLAYGROUND WOOD FIBER	1,675.00	**1,675.00**
99799	PLAN-IT GEO LLC	PLAN IT SUBSCRIPTION RENEWAL	3,500.00	**3,500.00**
99800	PRAXAIR DISTRIBUTION INC 493	INDUSTRIAL ACETYLENE	950.91	**950.91**

Check #	Vendor	Description	Amount Paid	Check Total
99801	PROGRESSIVE ELECTRONICS INC	ANNUAL FIRE ALARM/SPRINKLER TEST	5,813.00	
		FIRE ALARM MONITORING JAN-MAR	84.00	
		FIRE ALARM MONITORING JAN-MAR	84.00	
		FIRE ALARM MONITORING JAN-MAR	84.00	
		FIRE ALARM MONITORING JAN-MAR	84.00	**6,149.00**
99802	Q4 INDUSTRIES LLC	PAPER TOWEL DISPENSER	158.23	
		SOFTENER SALT CRYSTAL	153.30	
		FACILITY SUPPLIES	653.11	**964.64**
99803	RANCH MART ACE HARDWARE	DISPATCH TEMP LIGHT	26.99	**26.99**
99804	RED FORCE FIRE & SECURITY, THE	FIRE EXTINGUISHER ANNUAL MAINTENANCE	638.55	
		FIRE EXTINGUISHER INSPECTION	33.00	
		FIRE EXTINGUISHER INSPECTION	93.00	
		FIRE EXTINGUISHER INSPECTION	41.00	
		FIRE EXTINGUISHER INSPECTION	428.25	
		FIRE EXTINGUISHER INSPECTION	45.00	
		FIRE EXTINGUISHER INSPECTION	12.00	
		FIRE EXTINGUISHER INSPECTION	403.00	
		FIRE EXTINGUISHER INSPECTION	132.50	
		BUILDING & GROUNDS	144.65	
		BUILDING & GROUNDS	49.00	
		BUILDING & GROUNDS	107.15	
		FIRE EXTINGUISHER INSPECTION	100.25	
		FIRE EXTINGUISHER INSPECTION	118.75	
		FIRE EXTINGUISHER INSPECTION	33.00	**2,379.10**
99805	RED WING SHOE STORE	UNIFORMS	210.00	**210.00**
99806	REEVES WIEDEMAN COMPANY	WATER HEATER & INSTALL SUPPLIES	1,325.04	
		PLUMBING SUPPLIES	682.12	
		PLUMBING SUPPLIES	376.40	**2,383.56**
99807	REINDERS INC	ICE MELT	513.61	**513.61**
99808	ROB SIGHT FORD	GASKET	9.07	**9.07**

Check #	Vendor	Description	Amount Paid	Check Total
99809	ROBINSON, ROCKY	REIMBURSE MATERIALS & SUPPLIES	31.91	**31.91**
99810	SHRED-IT USA LLC	SHREDDING SERVICE	868.77	**868.77**
99811	SHRED-IT USA LLC	SHREDDING SERVICE	287.50	**287.50**
99812	SOUTHEASTERN SECURITY CONS IN(	VOLUNTEER BACKGROUNDS (3)	55.50	**55.50**
99813	STAPLES BUSINESS ADVANTAGE	OFFICE SUPPLIES	25.11	
		OFFICE SUPPLIES	47.45	
		OFFICE SUPPLIES - RETURN	-47.45	
		OFFICE SUPPLIES	63.31	
		OFFICE SUPPLIES	13.17	
		OFFICE SUPPLIES	69.42	
		OFFICE SUPPLIES	64.96	
		OFFICE SUPPLIES	11.34	
		OFFICE SUPPLIES	45.08	
		OFFICE SUPPLIES	24.29	
		OFFICE SUPPLIES	41.88	
		OFFICE SUPPLIES	5.16	**363.72**

Check #	Vendor	Description	Amount Paid	Check Total
99814	SUBURBAN LAWN & GARDEN INC	YARD WASTE TIP FEE	35.00	
		YARD WASTE TIP FEE	35.00	
		YARD WASTE TIP FEE	35.00	
		YARD WASTE TIP FEE	35.00	
		YARD WASTE TIP FEE	35.00	
		YARD WASTE TIP FEE	35.00	
		YARD WASTE TIP FEE	45.00	
		YARD WASTE TIP FEE	35.00	
		YARD WASTE TIP FEE	35.00	
		YARD WASTE TIP FEE	35.00	
		YARD WASTE TIP FEE	35.00	
		YARD WASTE TIP FEE	45.00	
		YARD WASTE TIP FEE	45.00	
		YARD WASTE TIP FEE	35.00	
		YARD WASTE TIP FEE	35.00	
		YARD WASTE TIP FEE	45.00	
		YARD WASTE TIP FEE	35.00	
		YARD WASTE TIP FEE	45.00	
		YARD WASTE TIP FEE	35.00	
		YARD WASTE TIP FEE	35.00	
		YARD WASTE TIP FEE	35.00	
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Check #	Vendor	Description	Amount Paid	Check Total
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Check #	Vendor	Description	Amount Paid	Check Total
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		YARD WASTE TIP FEE	35.00	
		YARD WASTE TIP FEE	45.00	
		YARD WASTE TIP FEE	35.00	**3,544.00**
99815	SUMMIT TRUCK GROUP	VEHICLE SUPPLIES	303.97	**303.97**
99816	SYSCO FOOD SERVICE OF KC INC	OPERATING SUPPLIES	386.80	**386.80**
99817	TABEN GROUP LC	FEBRUARY 2019 125 ADMIN FEES	161.50	**161.50**
99818	TEES PLEASE INC	TEES	207.46	**207.46**
99819	TIDE DRY CLEANERS	UNIFORM CLEANING	22.29	**22.29**
99820	TIME WARNER CABLE	CABLE~	124.98	
		CABLE~	36.33	**161.31**
99821	TOWN & COUNTRY BLDG SERVICES	CLEANING SERVICES AT JC	4,950.00	
		FEBRUARY CLEAN - CITY HALL LL	950.00	
		FEBRUARY CLEAN - PW MAINT	695.00	
		FEBRUARY CLEAN - CITY HALL 1ST/2ND	1,280.00	
		CONSTRUCTION CLEAN-UP 1-2-19	195.00	**8,070.00**

Check #	Vendor	Description	Amount Paid	Check Total
99822	TRACKER DOOR SYSTEMS	SERVICE FS #3 BAY DOORS	945.00	
		BUILDING & GROUNDS	630.00	**1,575.00**
99823	TRANSUNION RISK & ALTERNATIVE	PROFESSIONAL INVESTIGATION SERVICES	50.00	**50.00**
99824	TRIANGLE SALES INC	MATERIALS & SUPPLIES	36.00	**36.00**
99825	TROON GOLF LLC	CENTRALIZED SERVICES TROON 2019	1,129.27	
		COOP MKTG & SERVICES TROON 2019	1,625.00	
		TROON REWARDS MATERIALS 2019	1,750.00	
		MANAGEMENT FEES - TROON 2019	9,292.24	**13,796.51**
99826	US TOY COMPANY INC	DARE SUPPLIES	56.88	**56.88**
99827	VAN BOOVEN LAWN & TREE CARE	JAN '19 SNOW STORM DEBRIS PICK UP	1,720.00	
		JAN '19 SNOW STORM DEBRIS PICK UP	1,720.00	
		JAN '19 SNOW STORM DEBRIS PICK UP	1,720.00	
		JAN '19 SNOW STORM DEBRIS PICK UP	1,720.00	
		JAN '19 SNOW STORM DEBRIS PICK UP	1,720.00	**8,600.00**
99828	VAN METER & ASSOC INC	TRAINING	20.00	**20.00**
99829	VANCE BROS INC	ASPHALT	232.50	
		ASPHALT	175.00	**407.50**
99830	VONBEVERN, SUSIE	INSTRUCTOR FEES	133.65	**133.65**
99831	WALKER TOWEL & UNIFORM SERVICI	MAT CLEANING	128.03	**128.03**
99832	WASTE MANAGEMENT OF KANSAS IN	TRASH DISPOSAL~	88.13	
		TRASH DISPOSAL~	171.72	
		TRASH DISPOSAL	607.62	
		TRASH DISPOSAL	216.12	
		TRASH DISPOSAL	49.00	
		TRASH DISPOSAL~	120.33	**1,252.92**
99833	WATER DISTRICT 1 JO CO	WATER SERVICE~	61.09	
		WATER SERVICE~	132.90	
		WATER SERVICE~	87.71	**281.70**

Check #	Vendor	Description	Amount Paid	Check Total
99834	WEX BANK	MOTORCYCLE FUEL	33.71	**33.71**
2600219	KC POWER & LIGHT CO	POWER SERVICE	6.27	**6.27**
3140219	KC POWER & LIGHT CO	POWER SERVICE	6.09	**6.09**
3380219	KC POWER & LIGHT CO	POWER SERVICE	187.82	**187.82**
5090219	KC POWER & LIGHT CO	POWER SERVICE	104.75	**104.75**
6040219	KC POWER & LIGHT CO	POWER SERVICE	14.50	**14.50**
6240219	KC POWER & LIGHT CO	POWER SERVICE	5.57	**5.57**
6400219	KC POWER & LIGHT CO	POWER SERVICE	35.00	**35.00**
6540219	KC POWER & LIGHT CO	POWER SERVICE	6.95	**6.95**
4100219	KC POWER & LIGHT CO	POWER SERVICE	107.35	**107.35**
6170219	KC POWER & LIGHT CO	POWER SERVICE	146.74	**146.74**
2030219	KC POWER & LIGHT CO	POWER SERVICE	5.54	**5.54**
0420219	KC POWER & LIGHT CO	POWER SERVICE	5.27	**5.27**
8830219	KC POWER & LIGHT CO	POWER SERVICE	16.31	**16.31**
9120219	KC POWER & LIGHT CO	POWER SERVICE	9.07	**9.07**
4340219	KC POWER & LIGHT CO	POWER SERVICE	95.00	**95.00**
5430219	KC POWER & LIGHT CO	POWER SERVICE	5.42	**5.42**
5520219	KC POWER & LIGHT CO	POWER SERVICE	4.69	**4.69**
3130219	KC POWER & LIGHT CO	POWER SERVICE	63.97	**63.97**
2020219	KC POWER & LIGHT CO	POWER SERVICE	113.62	**113.62**
6510219	KC POWER & LIGHT CO	POWER SERVICE	24.71	**24.71**

135 checks in this report.

Grand Total All Checks:	288,132.08

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7.B.

Regular Meeting

THE LEAWOOD CITY COUNCIL

February 4, 2019

Minutes

DVD No. 434

The City Council of the City of Leawood, Kansas, met in regular session in the Council Chambers, 4800 Town Center Drive, 7:30 P.M. on Monday, February 4, 2019. Mayor Peggy Dunn presided.

Councilmembers Present: Julie Cain, Mary Larson, Debra Filla, Lisa Harrison, Chuck Sipple, Jim Rawlings and Andrew Osman

Councilmembers Absent: James Azeltine

Staff Present: Scott Lambers, City Administrator
Patty Bennett, City Attorney
Chief Troy Rettig, Police Department
Brian Anderson, Parks Superintendent
Mark Tepesch, Info. Services Specialist III
Debra Harper, City Clerk
Dawn Long, Finance Director
David Ley, Public Works Director
Brian Scovill, City Engineer
Nic Sanders, Human Resource Director
April Bishop, Cultural Arts Coordinator
Cindy Jacobus, Assistant City Clerk

Others Present: None

1. PLEDGE OF ALLEGIANCE

Eight Scouts from Troop 395, all students at Curé of Ars School, presented the flags and led the Pledge. Mayor Dunn shared her three Scouts all attended Curé of Ars and two went on to attain Eagle Rank. She thanked the Scouts and Leaders for their assistance and invited them to stay to work on their Citizenship Merit Badges.

2. APPROVAL OF AGENDA

A motion to approve the agenda was made by Councilmember Larson; seconded by Councilmember Harrison. The motion was approved with a unanimous vote of 7-0.

3. CITIZEN COMMENTS – None

Members of the public are welcome to use this time to make comments about City matters that do not appear on the agenda, or about items that will be considered as part of the consent agenda. It is not appropriate to use profanity or comment on pending litigation, municipal court matters or personnel issues. Comments about items that appear on the action agenda will be taken as each item is considered. CITIZENS ARE REQUESTED TO KEEP THEIR COMMENTS UNDER 5 MINUTES.

4. PROCLAMATIONS **National Engineers' Week, February 17-23, 2019**

Mayor Dunn read the proclamation into the record. She presented the proclamation to City Engineer Brian Scovill and thanked him for his great work.

Mr. Scovill thanked the Governing Body for the opportunity to recognize and promote the engineering profession. He is a member of the Professional Society of Engineers, a group which works closely with Missouri engineers in the metro area. The society hosts several programs for youth, the three largest of which are the Future Cities competition, Bridge Building competition and Math Counts competition. He will be assisting with the Math Counts competition early tomorrow morning at the Jewish Community Center. The Bridge Building competition was held last weekend at Prairie Fire and the Future Cities competition was held at the end of January. Bridges are demolished in the Bridge Building competition, so there is no national level competition for that event. Regional winners from the Future Cities and Math Counts, proceed to the national competitions whose winners are recognized during a National Engineers' Week luncheon. The luncheon is the second largest gathering of engineers in the country during National Engineers' Week. Kansas City has an active and vibrant engineering community.

Mayor Dunn stated the City was delighted to have Mr. Scovill, since he joined the team in September 2018.

5. PRESENTATIONS/RECOGNITIONS – None

6. SPECIAL BUSINESS – None

7. CONSENT AGENDA

Consent agenda items have been studied by the Governing Body and determined to be routine enough to be acted upon in a single motion. If a Councilmember requests a separate discussion on an item, it can be removed from the consent agenda for further consideration.

A. Accept Appropriation Ordinance Nos. 2018-55, 2018-Final, 2019-2, 2019-3 and 2019-4
B. Accept minutes of the January 22, 2019 Governing Body meeting
C. Accept minutes of the November 27, 2018 Leawood Arts Council meeting
D. Accept minutes of the November 8, 2018 Sustainability Advisory Board [SAB]
E. Approve purchase in the amount of $35,577.96 from Coleman Implement, pertaining to the purchase of P&R Equipment; Kubota Excavator U55-4R3A
F. Approve payment in the amount of $20,419.71 to Hallbrook Homes Association, pertaining to LED Lighting Reimbursement for 2018 /Electric Usage
G. **Resolution No. 5123**, approving and authorizing the Mayor to execute a Cooperative Memorandum of Understanding, in an annual amount not to exceed $47,876.53, by and between the City of Leawood, Prairie Village, Mission Hills, and Johnson County, Kansas, pertaining to providing a Johnson County Mental Health Co-Responder
H. **Resolution No. 5124**, amending the disbursement amounts of Special Alcohol Funds for purpose of supporting the efforts of the various schools in providing a safe environment for Leawood students for after-prom and after-graduation events, and repealing Resolution No. 3992

Councilmember Sipple requested Consent Agenda Item 7.A. be pulled.
Councilmember Filla requested Consent Agenda Item 7.D. be pulled.

A motion to approve the remainder of the Consent Agenda was made by Councilmember Filla; seconded by Councilmember Larson. The motion was approved with a unanimous vote of 7-0.

7.A. Accept Appropriation Ordinance Nos. 2018-55, 2018-Final, 2019-2, 2019-3 and 2019-4

Councilmember Sipple inquired about the location of the retaining wall in regard to payment for design services to vendor H W Lochner Inc. listed on the first page of Appropriation Ordinance 2018-55. Mr. Ley stated the retaining wall is for the Mission Road 119th to 127th Street Project. This same vendor designed the retaining wall at 127th Street and Mission Road. The project will involve going through an existing wall because of a modified design to place the storm sewer on the west side of Mission Road. Mr. Scovill confirmed one additional small disbursement for estimation of engineering costs is expected.

Councilmember Larson applauded the City's disbursements to Shawnee Mission East and Blue Valley North High Schools for graduation and after prom events, as these may help to keep young people safe and is money well-spent. Mayor Dunn agreed and stated the City is fortunate to have funds from Alcohol Tax Funds to contribute.

A motion to approve Consent Agenda Item 7.A. was made by Councilmember Sipple; seconded by Councilmember Larson. The motion was approved with a unanimous vote of 7-0.

7.D. Accept minutes of the November 8, 2018 Sustainability Advisory Board [SAB]

Councilmember Filla offered thanks for support of the Tree Committee and tree ordinance changes worked on by volunteers and City Staff in her absence. She reminded the Sustainability Advisory Board 10th Annual Home Owners Association dinner is Thursday, February 21. There is no cost for the dinner, but registration is required. Mayor Dunn stated the event is always great and Parks & Recreation Graphics Technician Marica Putman is handling reservations. Mayor Dunn and Councilmember Cain stated they have registered to attend.

A motion to approve Consent Agenda Item 7.D. was made by Councilmember Filla; seconded by Councilmember Cain. The motion was approved with a unanimous vote of 7-0.

In regard to Consent Agenda Item 7.F., Councilmember Filla asked for a status update on the Energy Cost Savings Program for LED streetlight replacement in Hallbrook. Mr. Ley stated approval of the third payment is being requested for the second full year of use. The first payment was for a partial year as streetlights were changed to LED in October. The second year payment for 2018 was approximately $22,000.

8. MAYOR'S REPORT

A. Our sympathies to the family of Leawood resident Ruth Johnson who recently passed away at the age of 97. She was a longtime member of both the Leawood Singers and the Leawood Woman's Club – a great lady who remained very involved in our community throughout her entire life.

B. Thanks to I-Lan Sister City Committee Chair Bette Monson and her Committee, along with Staff Liaison Julie Berger, for organizing a splendid Lunar New Year event celebrating the "Year of the Pig." We had a great crowd including nearly all City Councilmembers.

C. I attended a Johnson County Republican Party event featuring remarks from Senator Jerry Moran.

D. I also attended a roundtable discussion with Congresswoman Sharice Davids and the Mayors of the Kansas Third District.

E. My thanks to Scott Lambers, Chris Claxton and Deb Harper for assisting with the State of the City event last week. All City Councilmembers as well as all Department Heads were in attendance. The year 2018 had many reasons to celebrate.

F. The year 2019 has already scored a big award in the area of public safety. The National Council for Home Safety and Security has ranked Leawood as the number one safest city in Kansas. Our crime rate per 1,000 people was 0.013; violent crimes per 1,000 were 0.885; and property crimes per 1,000 were 12.532. Congratulations to Chief Rettig and to all involved.

G. The Leawood Arts Council and the Leawood Stage Company are working together to present a Romance Art Exhibition, February 14 through February 17, 2019, at the Ironwoods Lodge. The exhibition will coincide with opening evening of the Leawood Stage Company's production of "The Man Who Came to Dinner." The exhibition will be open for free viewing hours Saturday, February 16, from 10:00 A.M. to 4:00 P.M, and there will be an artists' reception that morning with coffee and refreshments.

9. COUNCILMEMBERS' REPORT

Councilmember Rawlings - Consideration of possible start time of City Council meetings

Councilmember Rawlings stated his pleasure of being a member of the Council with his 20th anniversary this April. Only Mayor Dunn has been a member of the Council for a longer period of time. Within the past two or three months he has personally questioned if the start time of the Council meeting might be revised to 7:00 P.M. rather than 7:30 P.M. if there was no Work Session to precede a Council meeting. There are a limited number of Work Sessions, which are planned well in advance. If the proposed start time was approved, there would be ample time to provide public notice. Presenters, especially those on topics that occur later on an agenda, and City Staff that must attend the meetings, would likely prefer the earlier start time.

Councilmember Osman stated agreement with Councilmember Rawlings, but differing start times might be confusing for applicants, who may be unaware that a Work Session is scheduled. He questioned if Work Session start time should be revised from 6:00 P.M. to 5:30 P.M. Mayor Dunn stated her schedule could not accommodate an earlier Work Session start time.

Councilmember Sipple stated agreement with Councilmembers Rawlings and Osman about the convenience of a 7:00 P.M. start. He asked how meeting start times would be distributed to external parties to facilitate participation/attendance, suggesting postings and listing of meeting dates/times on the website, and notification of planned attendees. He requested to receive a list of administrative changes that would be made in regard to meeting start time.

Ms. Bennett confirmed to Mayor Dunn an ordinance with public notice would be needed with change effective after publication or upon a stated effective date. Social apps could be used to distribute meeting start time information and Ms. Harper could notify Scout troops. Ms. Harper pointed out there are two Work Sessions currently scheduled, February 18 and April 15, so an effective date of June 1 would not disrupt this schedule.

Councilmember Filla stated the revised start time would allow students and Scouts to arrive and depart earlier. She stated the City's distribution list for meeting agendas is vast and agendas are also posted on the City's website. Some of the public is not aware the Council meets. With the proposed earlier start time as standard, participants/attendees would arrive early for Council meeting if there happened to be a Work Session. Councilmember Filla suggested an effective date of May 1 for the 7:00 P.M. start time.

Councilmember Cain stated the proposal was a great idea, but questioned if it would cause confusion and if there was precedent in other cities. Mr. Lambers stated most cities observe a consistent start time for their meetings. The day after a Council meeting he reviews the draft agenda for the next scheduled Council meeting, so there could not give much more than two-week notice. Work Sessions are usually scheduled well in advance. The Governing Body's next meeting scheduled for February 18 will begin at 7:30 P.M. because the RanchMart Community Improvement District will be reviewed at the Work Session prior to that Governing Body meeting. He stated Work Session documentation for February 18 will be distributed this week in advance of typical schedule.

Mayor Dunn stated Councilmember Azeltine had provided similar comment expressing "concern about confusion."

Ms. Harper stated meeting start time could be red-flagged and bolded on agendas. Councilmember Sipple stated this would be acceptable.

Councilmember Rawlings opined meeting attendees would be able to comprehend stated start times. Mayor Dunn thanked Councilmember Rawlings for his initiative.

A motion to approve a 7:00 P.M. start of Council meetings without preceding Work Session effective May 1, 2019 was made by Councilmember Rawlings; seconded by Councilmember Filla. The motion was approved with a unanimous vote of 7-0.

10. CITY ADMINISTRATOR REPORT – None

11. STAFF REPORT – None

COMMITTEE RECOMMENDATIONS

12. PLANNING COMMISSION – None

13. OLD BUSINESS – None

14. OTHER BUSINESS – None

15. NEW BUSINESS – None

ADJOURN

There being no further business, the meeting was adjourned at 8:00 P.M.

_____

Debra Harper, CMC, City Clerk

_____

Cindy Jacobus, Assistant City Clerk

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7.C.

Work Session

THE LEAWOOD CITY COUNCIL

February 4, 2019

Minutes

The City Council of the City of Leawood, Kansas, met for a Special Call Meeting, 4800 Town Center Drive, at 6:00 P.M., on Monday, February 4, 2019. Mayor Peggy Dunn presided.

Councilmembers Present: Jim Rawlings, Julie Cain, Andrew Osman, Debra Filla, Mary Larson, Lisa Harrison and Chuck Sipple

Councilmembers Absent: James Azeltine

Staff Present: Scott Lambers, City Administrator
Chief Dave Williams, Fire Department
Brian Anderson, Parks Superintendent
April Bishop, Cultural Arts Coordinator
Dawn Long, Finance Director
Richard Coleman, Community Dev. Director
Debra Harper, City Clerk
Patty Bennett, City Attorney
Chief Troy Rettig, Police Department
David Ley, Public Works Director
Deputy Fire Chief Colin Fitzgerald
Deputy Fire Chief Jarrett Hawley
Cindy Jacobus, Assistant City Clerk

Others Present: Jeffrey DeGasperi, 6240 W. 135th Street, Overland Park, President, DeGasperi & Associates Architecture
Dustin Burton, Renaissance Infrastructure Consulting, 132 Abbie Avenue, Kansas City, Kansas
Roger Cassity, Civil Engineer, Renaissance Infrastructure Consulting, 132 Abbie Avenue, Kansas City, Kansas
Susan Grogan, 9619 Lee Boulevard
Jay Senter, 4121 W. 74th Street, Prairie Village, Shawnee Mission Post

Review proposal, plans, elevation and layout of new Fire Station No. 1 Building, to be located at 96 & Lee Boulevard [not park portion]

Mayor Dunn thanked attendees and introductions with affiliation were made.

Chief Williams thanked the Council for the opportunity to design a new fire station as existing Fire Station No. 1 has required extensive maintenance for some time. The project has been ongoing for two and one-half years and the design has been complete for 16 or 17 months. Starting in 2016, a committee was formed within the department compromised of Fire Station No. 1 personnel. The committee discussed design and toured other stations built in the last few years. Prior project costing from 18 months ago is obsolete due to inflation and was not included in meeting documentation.

A project cost of $6 Million, including furniture, is now estimated. Chief Williams thanked Mr. DeGasperi for his assistance.

Mr. DeGasperi thanked Work Session attendees for the opportunity to present. The design has been awaiting its debut. He is happy to reveal the plan, answer any questions and adopt changes. It is hoped the project can be submitted to the Planning Commission in the near future.

The new fire station would utilize the former Police Station property parcel, which grades up to the east and will need to flatten to the east and back. There is a fairly steep hill on the east which would flow into the existing City Hall structure. Extensive landscaping would buffer residential on the east and south. The structure was designed with a compact as possible footprint, and still provide functionality. The structure has three stories including a basement, three apparatus bays, dorms along the building back, and a training room on the top floor. The building plan has 2,800 sq. ft. on the top level, 8,000 sq. ft. on the main floor and a 2,100 sq. ft. basement for a total of 13,000 sq. ft. The entrance drive is along the south and visitor parking is located in the southwest corner. Staff parking to accommodate 16 during shift change overlap is located behind the building. The hill and dorm location offer acoustical protection to neighbors. The generator is positioned as far from residential as possible and would be screened by a solid wall enclosure. There would be a retaining wall and fence along the back lot to keep future park visitors from meandering near the fire station and dense landscaping along the ramp to encourage visitors to utilize the sidewalk.

MAIN FLOOR [Plan A11]
The main floor has a dayroom near the front door for staff to gather in provided seating. A kitchen with a large table has three separate pantries. There is a small screened patio on the west side that opens to the south, with the possibility to contain a grill and picnic table. The window watch station faces a "buzzer" security door. Captain's Quarters and office are separate, but near individual crew rooms. Gear lockers are environmentally separated for odor and exhaust control, and there is a contamination wash-down shower and laundry. The main floor has three pull-through apparatus bays with possibility to utilize bi-fold horizontal opening/closing doors. These doors are the latest design, offering faster operation than traditional vertical opening/closing doors, and less chance of accidental impact by trucks. The doors have some glass, but are not all glass. The doors can be left open if desired. There is a utility area on the far side of the bays. A central stairwell and elevator would be used to access the basement and top floor.

Mayor Dunn inquired if there were separate accommodations for males and females. Mr. DeGasperi stated the crew members would have their own dorm rooms and there are three separate bathrooms each having a shower.

BASEMENT [Plan A10]
The basement is a hardened space with concrete floor. The stairwell and elevator come into a central small hallway. There is a large exercise room with some window wells offering natural light. The basement would house mechanical building equipment, and a small desk for Facilities personnel and electronic building controls. There are individual shower areas with seven lockers for females and 24 lockers for males. The basement would be considered a safe area, with possibility to offer shelter to the public.

TOP FLOOR [Plan A12]
The upstairs floor contains a training room, similar to Fire Station No. 3, which would accommodate up to 30 persons and could be used as a community room open to the public. There would be a credenza for a coffee bar, two separate restrooms and a room to store tables as needed to reconfigure the training room.

Mayor Dunn confirmed to Councilmember Osman it was planned for the new fire station to house the 1949 antique fire truck. Chief Williams stated the antique truck would not have a true display area. Having a true display area would take more of the building footprint. When a tour is expected, the truck would be pulled out on the front apron of the station. Councilmember Osman stated his belief the antique truck was going to be displayed in a glass-enclosed bay, visible from the outside as an automobile art piece.

Referring to Plan A11, Mr. DeGasperi stated it was planned the ladder truck would be stored in Apparatus Bay 1, pumper stored in Apparatus Bay 2 located between Bay 1 and Bay 3, and utility pickup truck and antique truck stored tandem, parked behind each other, in Apparatus Bay 1. Length of the bays are 68 ft., being based on length of ladder truck with ease allowed around each end. Chief Williams stated the big truck is 46 ft. long. The pumper is the primary response truck and the ladder is the reserve ladder truck and not the City's primary ladder truck.

Councilmember Cain recalled discussion about need for a small vehicle for emergency medical calls. Chief Williams stated the utility truck could be parked outside. The utility truck is used for travel to offsite training and to retrieve the boat from Fire Station No. 3. A SUV, being about the same size as the utility pickup truck, would be used by two persons for quick response to emergency medical calls and this vehicle would be parked inside the station. Experience gained and discussion following the 2017 floods revealed the need to have the boat located at Fire Station No. 1 rather than farther away at Fire Station No. 3. The boat is only suitable for backwater put-in near an area such as U.S. Toy. Circumstances would need to be dire to attempt put-in in the strong current near Fire Station No. 3. The department may procure another boat at some future time.

Councilmember Sipple asked if the bays should be extended by another 6 ft. to 10 ft. to accommodate a boat, paramedic van or other equipment, perhaps just extending the south bay only. Councilmember Cain stated doing this may eliminate daylight on the end of the building.

Councilmember Osman asked about the possibility to extend the building footprint close to Lee Boulevard, if a small library with computers or quiet area had been considered, and if there would be a push-button traffic signal light on Lee Boulevard to facilitate truck parking, similar to that used at 95th Street and Antioch in Overland Park. Mayor Dunn stated extension closer to Lee Boulevard would not be possible because of required building setbacks. Mr. DeGasperi stated personnel typically go to their dorm for quiet and the watch station near the front door would have a computer. Mr. Ley stated he and Chief Williams had discussed a traffic signal with pedestrian crossing button for the fire station and for park access. Exact signal location would need to be determined, but likely placed on the west side near the north end of the ramp for park access. Chief Williams stated traffic on Lee Boulevard can be very heavy at times and the signal may be equipped with an Opticom infrared light to override.

Councilmember Osman asked how the training room on the top floor would be accessed by the public and if head-in access to the trash dumpster would be problematic for service providers that are moving to 2-yard roll-off containers. Mr. DeGasperi stated the kitchen and dayroom would also be open to access during public use to the training room. The property parcel is tight and parking at the station is very limited. Parking offered at the park would need to be utilized by the community. It is assumed disposal service would be a roll-out accessed with a fork drive, with the solid wall enclosure having an angled gate. This will be explored with vendor.

Mayor Dunn pointed out the community room at the Justice Center is reserved in advance by groups. The proposed training room would be reserved in a similar manner. Chief Rettig stated there are no walk-in reservations of the community room at the Justice Center, only walk-ins to make a future reservation. Councilmember Sipple shared that his Home Owners Association has used the training room at Fire Station No. 3 for many years without issue, with hallway access to restrooms. Councilmember Osman stated there is a difference because a fire station has residents and the police station does not.

Councilmember Harrison inquired what would happen if personnel leave for a call while a room is being used by the public. Chief Williams stated if the station has minimal staffing at the time of the call, personnel will leave. Most calls are short-lived and visitors would be advised. This is the process used at Fire Stations No. 2 and 3.

Chief Williams confirmed to Councilmember Cain that none of the City's current fire stations have stairs. Councilmember Sipple stated he would like to see the training room located on the main floor and the dayroom moved to the top floor to ease public access. Chief Williams stated personnel live on the main floor, so having the dayroom on the main floor would facilitate access to fire trucks and quicker response times. Mayor Dunn noted response times are a factor in the department's ISO rating and International Accreditation.

Councilmember Filla asked if there would be public restrooms and suggested a door near the Captain's Quarters. She also inquired if the stairwell could be shifted to the front of the building. Councilmembers Harrison and Larson suggested use of good signage within the building such as "Personnel Only." Mr. DeGasperi stated various stairwell locations were considered, but a central location was determined best because the main portion of the building is centrally stacked.

Mr. DeGasperi displayed photographs of the area and stated houses in the area are generally ranch-style on large lots, though there is some modernizing through teardown/rebuild in mid-century modern style. The current driveway at the site would likely remain and then be modified when the park is developed. The cell tower will eventually be removed.

Councilmember Filla asked for an update on cell tower removal. Mayor Dunn and Mr. Lambers stated three years notice was given. Mr. Lambers stated the possibility remains for litigation or for the process to be drawn out. Receipt of notice has been acknowledged, but not agreement. The City will get the fire station project through the planning process and then out for bid once there are no issues.

Mr. Lambers stated he would need to give future consideration as to whether the U.S. mail drop box would remain. Councilmember Rawlings stated the mail box is heavily used. Mayor Dunn pointed out the current City Hall does not have its own U.S. mail drop box.

ELEVATIONS

Mr. DeGasperi stated the design team desired to blend the best of the new and have a residential soft feel through use of materials related to the neighborhood, but also have the presence of an institution. The station needs to project "here are your taxpayer dollars and fire trucks ready to serve." The symbolic visitor door enters into a vestibule which would be lit 24/7, the dayroom is located in the middle of the building and the higher mass of the building is receded towards the back and is the training room. The back of the building depicts the kitchen, Captain's Quarters and dorms. The east elevation shows the apparatus drive-through bays on the right, dorms and upper station on the left. The north elevation shows the low level of local natural prairie stone rubble and brick on back of bays/main portion of building. The upper portion of building was conceived as wood-look.

Mr. DeGasperi confirmed to Mr. Lambers there will be blinds in all upper-level windows and lights will not be left on in the training room. There is a 49 ft. setback of the building from nearby residential and extensive landscaping used for screening.

Councilmember Cain questioned if wood was one of the exterior materials. Mr. DeGasperi stated the design utilizes exterior materials for maintenance-free for many decades. The upper portion of the building is a painted aluminum product, similar to that used in aluminum frame windows, that has the appearance of plank siding. Mr. Coleman stated aluminum siding is prohibited by City Code, but cement board siding is allowed. Mr. DeGasperi stated pre-finished cement board could be used, but it would not be as attractive as the proposed aluminum and the finish may not last 50 years. Wood would not be a good choice.

Councilmember Osman asked if aluminum siding would be prone to hail damage. Mr. DeGasperi stated using heavy gauge aluminum siding would not be a problem. The roof is low slope the proposed design uses dark metal, not aluminum, roofing. Chief Williams stated Fire Station No. 3 has an asphalt roof on the office and the dorms/bay is a flat roof. Mr. DeGasperi confirmed to Mr. Lambers no additional structural support would be needed if cement product is used.

Mr. DeGasperi confirmed to Councilmember Cain exterior materials are not yet chosen and the colors in the elevations/projected from the computer are slightly off. He referred to actual samples of proposed materials. Mayor Dunn stated the samples were attractive. Councilmember Cain stated the colors were too orange; red brick is used throughout the neighborhood and on other City Buildings. She would like to see more harmony with colors blending with the Old City Hall, park and water feature, perhaps using limestone. Councilmember Sipple suggested the example of St. Mary's at Nativity Parish School.

Councilmember Filla referenced the east elevation, noting the left portion shown in brick would be dorms. She asked if a garage could be added to the end of area. Mr. DeGasperi stated doing so may make the turning radius for the ladder truck drive too tight. Parking is needed behind the building and the building cannot be moved further back on the site. Mr. DeGasperi stated he would need to review.

Councilmember Filla suggested the possibility of reducing the design from three to two bays, by placing antique truck and emergency need SUV, which are not as large, in storage placed on the back. Reducing the number of bays would improve the availability of green space. Councilmember Filla stated there are 16 parking spaces in the back; Councilmember Larson stated a count of 20. Mayor Dunn pointed out the future possibility of another boat and the City currently has the antique truck. Councilmember Osman inquired if a setback variance could be obtained. Mr. Lambers stated the variance would be denied because the project would create its own hardship. The building would be new construction, not an existing structure.

Councilmember Sipple stated neighbors have expressed sentimental attachment to the cupola on the current fire station which has been there for 150 years. He asked if there was a reasonable way to use the cupola in the design of the new fire station. Mr. DeGasperi stated anything is possible, but proposed design is of a different style. Councilmember Cain stated previous discussion had suggested using the cupola on a park shelter.

Councilmember Sipple expressed concern about having the picnic area very close to the front door since the area is for relaxation and it should be moved farther to the back of the building. Mr. DeGasperi stated location has been discussed. The proposed location would work well because of proximity to the kitchen.

Councilmember Sipple inquired if LEED [Leadership in Energy and Environmental Design] certification was a possibility as the City promotes this type of building. Materials and large bay doors may make this impractical. Mr. DeGasperi stated plans were designed to latest energy standards, but to actually apply and obtain LEED certification would add time and money to the project. Mayor Dunn stated a LEED philosophy was used in the construction of the Justice Center, but the City did not go through LEED certification.

Councilmember Sipple noted negative feedback had been received indicating the exterior building and parking lot lighting of Brookwood School at 103rd Street and Wenonga is so bright a newspaper can be read in the parking lot. He stated pedestrian and parking safety is priority, and questioned if exterior lighting of the proposed fire station could be toned down around 10:00 P.M. or turned off at 2:00 A.M. Mr. DeGasperi stated building lighting could be run up and down on the stone and the front ramp does not need to be lit. A couple of lights are needed on the back. Lighting is pushed to the building and not towards residential.

Chief Williams confirmed to Councilmember Harrison the 24-hour shift change is 7:30 A.M. Councilmember Harrison stated based on this, no lights are needed at 10:00 P.M.

Councilmember Sipple asked what mechanical repairs might be anticipated after a run, which might occur at 2:00 A.M. Chief Williams stated typically hoses are reloaded. Saws and other equipment are not typically operated. It would be a rare occasion to need to perform maintenance just to prepare for next run. The drive on south side positions the bays as far away from residential as possible. Noise complaints received in regard to Fire Station No. 2 have usually been about raising ladders and saws, never exiting for a call.

Councilmember Sipple reiterated he would like to have the training room relocated to the main floor. He would like City arborists to review the landscaping plan to ensure species diversity and perhaps use less maple trees. Mr. DeGasperi stated review of the landscaping plan was to occur before Planning Commission review. Chief Williams stated he had promised City arborists the review opportunity.

Mr. DeGasperi confirmed to Councilmember Cain the fencing is not used from the front of the building forward. Large dense bushes are proposed to preclude accessibility from the rest of the property.

Councilmember Filla expressed desire for co-parking and a scenic walk through the woods to the fire station. Public use of the parking spaces at the station could be restricted by signage to 9:00 A.M. to 10:00 P.M., with towing enforcement. No parking would be allowed during the 7:30 A.M. shift change. This would double the amount of parking spaces available. Councilmember Cain stated the parking would need clear signage and she doubted if the public would utilize unless well-marked. If the training room is used by the public, the parking might be used. Councilmember Sipple inquired if the ground between the parking lots could be graded, terraced and joined at the back property line once the cell tower is removed. Chief Williams stated walking access through the woods would involve clearing a 4 ft. to 5 ft. retaining wall, requiring steps and ramp/ADA access.

Councilmember Cain stated priority had been to ensure the four acres were green with the least amount of parking as possible, and she expressed doubt this had been accomplished.

Councilmember Rawlings stated he had the pleasure of being a liaison for the Justice Center project. The Justice Center project team met and received input from the Police Department and City Staff on design, which the Council did not re-do. He stated Chief Williams would like the dayroom and living quarters all on the main floor. The Council should move forward with the three-bay footprint developed by the experts, a plan that will work for 50 years. Exterior brick color can be worked out.

Chief Williams distributed comparison data for existing Fire Stations No. 1, 2 and 3, and for the proposed new fire station, which had been quickly compiled earlier today in response to questions posed by Councilmember Filla. The number of actual and forecast incidents, and confidence interval are for existing Fire Station No. 1 are presented on Page 4 through year 2029. Councilmember Filla inquired why the number of incidents increased, when the number of homes served would remain about the same. Deputy Chief Fitzgerald stated confidence interval is based on historic precedent and he plans to prepare this same data for Fire Stations No. 2 and 3. Chief Williams thanked Deputy Chiefs Hawley and Fitzgerald for document preparation, stating most of the data was developed during the accreditation process.

Councilmember Cain asked if four bays would have been proposed, if unlimited space was available. Chief Williams stated that would have been the recommendation, and he would have preferred one level with a training room on the main floor. Councilmember Cain asked if another one-half-bay or one-third-bay could be incorporated for boat and SUV, perhaps by bumping out on the north side on the west. She did not wish design to be short-sided for 50 years. Chief Williams stated a pickup and/or boat could be in a smaller bay, but the bay must be heated and have interior access. Bays are approximately 16 ft. wide. The original design tried to stay south of old City Hall. Mr. Coleman stated there are setback requirements and the front of the building needs to line-up with other building fronts along the street.

Councilmember Sipple questioned whether the size of the bays could be reduced. Councilmember Harrison stated an addition to the building could be added at a later time. Chief Williams expressed concern that a future addition would be unlikely to occur once the park is developed. At some point the City will need an SUV or ambulance. Mayor Dunn asked if enlargement was needed, would one-half bay suffice. Chief Williams stated he would like to speak with Mr. Lambers about tonight's discussion.

Councilmember Cain gave the proposed plan a "yes" for functionality. She stated if a narrow bay was added, this might be used to store the antique truck visible from the front.

Mayor Dunn stated this is the only Work Session to occur on plan review and the planning process would begin after this. Professionals created the design and now there is discussion of adding one-half bay. After driving through the area, she is very comfortable with how the design fits the area. She stated Mr. Lambers had originally planned to move forward with both the preliminary plan and final plans simultaneously. Mr. Lambers stated tonight started the process to go forward to the preliminary plan.

Mayor Dunn thanked Mr. DeGasperi and the project design team.

There being no further business, the meeting was adjourned at 7:23 P.M.

_____

Debra Harper, CMC, City Clerk

_____

Cindy Jacobus, Assistant City Clerk

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7.D.

MINUTES of the
STORMWATER MANAGEMENT COMMITTEE
Meeting of: Wednesday, November 28, 2018
Leawood City Hall, Main Conference Room

COMMITTEE MEMBERS PRESENT:
James Azeltine, CHAIR and Councilmember Ward 4
Debra Filla, Vice Chair and Councilmember Ward 1
Lisa Harrison, Councilmember Ward 3
Skip Johnson
Mary Larson, Councilmember Ward 2
Carole Lechevin David Lindley
David Lindley
Bill Ramsey
Curt Talcott

COMMITTEE MEMBERS ABSENT:
John Kahl

STAFF PRESENT:
David Ley, P.E., Director of Public Works
Bria Scovill, P.E. City Engineer
Julie Stasi, Admin. Services Manager, Sr.

GUEST:
Justin McGeeney, 2701 W 86th Street, Leawood, KS 66206

CALL TO ORDER: Chair Azeltine called the meeting to order at 7:32 A.M.
FIRST ITEM OF BUSINESS: Previous Meeting Minutes
ACTION: Debra Filla made a Motion to approve the Minutes of August 29, 2018.
Skip Johnson seconded the Motion to approve. All members in attendance were in favor. Motion passed; Minutes approved.

INTRODUCTION: Brian Scovill, P.E., City Engineer
David Ley introduced Mr. Brian Scovill our City Engineer that was hired in September. Brian previously was at the City of Overland Park for ten years and prior to that worked for Platt County and the Missouri Department of Transportation. We are glad to have him on board.

SECOND ITEM OF BUSINESS: Staff Updates
David Ley-Gave an update for the storm water maps have been worked on and we have a final version. We have not yet posted the map to the City's Web Site, as the Information Services Director is updating the City's Web Page at this time. Once the web site is ready, we will have the map posted on the City's Web site.
Julie Stasi-Gave an update of the BMP's (Best Management Practices) this year; the stormwater cost share program with residents for installation of rain gardens, rain barrels, native trees. This year we have had an increase in participation with five (5) different properties participating. That is up from two (2) that participated in 2017. The City received reimbursement this past week from the Johnson County Program, just over $400.00. Our residents this year installed five (5) rain barrels and one (1) native tree. A map is included in today's packet. The properties involved this year are throughout the City; areas of 89th & High Drive, 97th & Sagamore, 128th & Sagamore, 129th & Briar and the area east of Nall on 130th Terrace. We plan to continue the program in 2019, once the County has the next Agreement available. We have participated in this program since 2013, this is the most participation we have had. As the web page changes we will post again and continue with the brochures and promotion of the program.

THIRD ITEM OF BUSINESS: New Business; review Selection Grading of Design Consultants for a stormwater Project in Waterford. David Ley-advised in 2019, the City has a SMAC (Stormwater Management Advisory Council) stormwater project for pipe replacement through the Waterford subdivision. This will be Phase 2 of a project that is currently under design. At this time we need to hire a consultant. We will be needing to go out and request for qualifications (RFQ) to five (5) consultants. Staff wanted to discuss the grading before we go out to choose the firms to respond to the RFQ to ask if everyone is okay with the five firms. Do you think five is too many or do you want more to review?

Deb Filla asks for an explanation of the map and the whole project in Waterford.
David Ley – Shows 127th Street and an area on Wenonga Road on the map. Dave explained that there is a low point that collects a couple hundred acres of drainage. We have undersized pipes here. In 2010 and in 2013, there was flooding of about 2 ½ feet in the street. Roadway flooding and the water got into a few of the homes. The residents in this neighborhood came to us with a petition to do a SMAC Project. We were able to get funding thru the Johnson County SMAC Program.

David Ley-shows Phase 1 and it is currently under design; running down Wenonga to the Golf Course, crossing south to Sagamore Street. That phase is currently designed by Shafer Kline & Warren. The Leawood South portion.

The current project we are looking to for 2019, is Phase 2 and goes north to Pawnee and replaces pipes; placing a larger pipe system in the Waterford portion. The total construction cost is estimated at roughly $2.5 Million with the City receiving $1.66 Million from the County's SMAC Funds and about $800,000 in City Budget Funds. We would like to hire a consultant for the second phase design with selection by this Committee in January of 2019. The firm would probably then start their design in March with construction probably in the fall of next year. We also need to be aware that the Golf Course is there and they would most likely prefer us be there in the winter and not during a summer tournament.

Chair Azeltine asked how we arrived at the five firms.
David Ley advised typically Brian and him use the firms we have worked with in the past and eliminate the current ones being used (so we spread the wealth/work around). These area all firms that we have worked well with or that have worked well for others (Overland Park) that we are familiar with. If we have any negative issue with the firm or in their designs we would not use them in the grouping. Typically we go for qualification based bids for the Engineer. Then we work with them on their contract cost. Typically the consultant's fee is around 10 to 12 percent of the construction cost.

Chair Azeltine asked why we do not bid the project? Staff advised we generally have the Committee's select the consultants and the construction is bid. We have standard contracts as well that we use.

David Ley-advised when we do the ratings, staff does not have any input with your ratings. But we are comfortable with any of these five firms chosen for RFQ. The Public Works Committee recently changed how they rank the firms due to the difference of how each individual ranks firms. Some

members rate firms with large separations of points while others rate firms close to each other. This method could change the order of the selected consultant. Instead of tallying the total scores, the PW Committee now ranks each firm based on the total points. For example if five firms submit an RFQ the firm with the highest overall points would receive five (5) points while the firm with the lowest overall points would receive (1) point. The scoring sheets would remain the same. The firm with the highest score would be the selected firm.

Brian Scovill-When asked about the grade sheet, Brian advised Leawood's is identical to the ones he has used for the last 10 years.
Lisa Harrison-asked if pricing comes into play with the consultant selection?
Dave Ley-advised there is no pricing discussion, engineering is just on qualifications.
Lisa Harrison-So it is not about who comes in at the cheapest.
Curt Talcott-Technically with a City this size we are not supposed to select on price.
Bill Ramsey-We really do not want to be known as a City that selects engineering services for their bids. That is different than the construction. It is much better to have selected someone on their qualifications with the design. The design will outline exactly how the project is going to be built. You want to make sure they know what they are doing in the design. The construction can be
Curt Talcott-Cutting costs. Good quality engineering can save you a lot on the construction side of things. You do not want to cut costs in the engineering side.

David Ley-Did not need any Motion unless the group wanted to. Advised staff could go ahead and notify the consultants in early December and then come back to the group at a January meeting for the actual ranking of the firms.
Chair Azeltine-confirmed then there were no Motions voiced and that there being a consensus that this methodology appears it will work and be better than the 0 to 100 point system. All members present were in agreement to give it a try and to ask five (5) firms.
Chair Azeltine concluded the meeting's Business at 8:00 AM.

Resident McGeeney-had a question about what types of projects are eligible for the Johnson County SMAC Funding and what is the process like?
David Ley-Currently SMAC works on flood control projects. There typically has to have several homes involved in order to qualify for SMAC Funding. The County is looking at and is in the process of updating their funding to do maintenance projects in the future and some stormwater treatment projects. They have not provided those updates to us yet, but they are expected in the future.

Curt Talcott-Elaborated that there is a point system, and there has to be things such as erosion issues, flooding of the streets, flooding of homes, frequency of the storms (5, 10, 100 year). Number of storms in the last 10 years. Also they fund 75%/25% and that is changing to a more watershed based approach. Where they feel the project would benefit the whole watershed possibly could be 100% but if it is more localized it would be more 50%/50% split. And a group of cities will decide. One City cannot decide on a project.
David Ley-Gave an example of the Waterford area's SMAC rating qualifiers.

Chair Azeltine adjourned the meeting at 8:26 AM.

Minute summary transcribed by Julie Stasi, Leawood Public Works Department.

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Leawood / I-Lan Sister City Committee Meeting
Minutes – January 7, 2019

7.E.

Meeting convened at 4:00 pm in the Community Room at the Justice Center.
Attending committee members: Jean Asbury, Julie Berger (City staff), Annie Best, Tom Hammonds, Patty Hattaway, Valerie Horton, Bette Monson (Chair), Jim Rawlings (City Council liaison), Jim Rochel, Cindy Siemers, Diana Sun. Excused: Debra Filla.

Chairman's Comments: Bette

- Motion to accept Minutes of August, 2018 meeting; approved unanimously. Julie will forward Minutes on to Deb Harper, City Clerk.
- Any additional details re: event will be sent to committee via email.
- Final meeting w Ironhorse staff, Bo Lings, Decorations / Entertainment on Jan. 23.
- Wrap-up meeting will be held on Monday, Feb. 4 at 4:00 pm – Justice Center's Community Room.

Reservations: Julie

- Tracking new guests' reservations as to how event was publicized, i.e. website, flyers, invites, etc.
- Reservation Table: Julie and Diana will greet guests w nametags/table assignments.
- Chris Claxton to handle all outside signage.
- Bo Lings will be sent proper tax ID paperwork for tax exemption.
- Committee asked to connect w friends who've attended event in past and encourage their participation. Reservations coming in slower than usual.
- Deadline for final count is Jan. 16.
- Julie requested by Jim Rawlings to send him a file copy of event flyer; he will share it with Rotary members.

Decorations: Jean

- Report filed.
- Final meeting with Ironhorse will be held on Jan 23 – decorations / entertainment / Bo Lings / logistics.
- Additional lanterns and parasols purchased; to be hung by Ironhorse staff.
- Bo Lings menu decided (Asbury / Monson did sampling).
- Ballroom to be set-up on Sunday, Jan 27 at 11:00 a.m.
- Candy favors available soon at Pan Asia store or 888 Marketplace.
- Cindy will purchase 2020 table favors during her Taiwan visit in March.

Entertainment: Annie

- Asian music will be used again from Monson's iPod for event background music.
- Thumb drive w video montage passed on to Monson for use at event.
- Annie will connect with Drum Roller director Wei for preferred performance style at event.
- Payment for Drum Roller will be presented at event. Julie to hand off payment to Annie.
- No additional entertainment this year – last year was special event of 30th Anniversary.

Publicity / Marketing: Cindy & Diana

- Promotion of event via Leawood service groups, Chinese School, Taiwanese Association, libraries, City Hall, and Ironhorse Golf Club.
- Emails were sent to service groups w flyer attached.
- Several additional invites passed out to committee members for use at promotional groups gatherings.

Venue: Bette/Jim

- Jim Rochel will coordinate alcoholic beverages for event with Ironhorse staff. Suggested wines offered by committee.
- Menu for event shared by Bette / Jean. 5-course meal with costs of $38 per person.
- Approx. evening timeline for event shared; early arrivals expected and cash bar will be ready!!

- Jim Rawlings will be in charge of "gong" at 5:45 pm.

Set up/Take down: Jim / Tom

- Anticipate ease of job due to good cooperation with Ironhorse staff.
- All committee members asked to assist in "take down". Bins will be available for supplies to be stored in.
- Do not dispose of any red envelopes or centerpieces.

Invitations: Valerie

- 250 "Save the Date" cards mailed on Oct 18
- 242 formal invites mailed on Dec. 12

NOTE: Committee to be at Reservation Table by 4:35 pm at event for committee photo.

Next Meeting: Wrap-up meeting Monday, Feb 4 at 4:00 pm in Community Room; 2 copies of committee report.

Adjourned at 5:00 pm.

Submitted by Bette Monson

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City of Leawood

7.F.

4800 Town Center Drive • Leawood, Kansas 66211 • (913) 339-6700
(913) 339-6781 Fax

DATE: **FEBRUARY 18, 2019**

TO: **LEAWOOD CITY COUNCIL MEMBERS**

FROM: **MAYOR PEGGY DUNN**

RE.: **MAYORAL APPOINTMENTS**

I am recommending for your approval the individuals listed on the attached to serve in a volunteer role for the City of Leawood. Please contact me in advance of the meeting if you have any questions, etc.

Thank you for your willingness to serve both as Council Liaisons and Committee Members on those groups as noted. As a reminder, the duties for the Council Liaison position are different than those when serving as an actual Committee Member. The Liaison serves as ex officio, without vote and is generally not counted in quorum. Their role is to reinforce the viewpoint from the Governing Body's perspective and provide guidance. Groups that have Council Liaison positions include the Arts Council, the Leawood Foundation, the Historic Commission, the Ironhorse Golf Course Advisory Board and the Parks & Recreation Advisory Board.

Please note that there have been some instances when a quorum was not present in the past. It is extremely important that if you are a Committee Member, you and/or the volunteers need to notify the Staff Liaison in advance with any conflict so that quorum will be confirmed. Your attendance is very important and greatly appreciated!

Please continue to remind all of the volunteer groups serving the City of Leawood that when actions are taken, they are to be in the form of a recommendation to the Governing Body. Any Committee recommendations will be acted upon at an upcoming City Council meeting.

Again, many thanks for your generous service to our community!

City of Leawood

4800 Town Center Drive • Leawood, Kansas 66211 • (913) 339-6700
(913) 339-6781 Fax

DATE: **February 18, 2019**

TO: **Leawood City Council Members**

FROM: **Mayor Peggy Dunn**

RE.: **Sustainability Advisory Board Appointments**

Council Member Jim Rawlings is nominating the following individual for a two-year term on the Sustainability Advisory Board:

Mark Ciaramitaro
9620 Manor Road
Leawood, KS 66206

Council Member Lisa Harrison is nominating the following individual for a two-year term on the Sustainability Advisory Board:

Erin Chácey
12809 Glenfield Road
Leawood, KS 66209

Please find attached resumes for your review.

Thank you very much.

2019 COUNCIL LIAISON APPOINTMENTS BY COUNCILMEMBER

COUNCILMEMBER CHUCK SIPPLE
Sustainability Advisory Board [Chair]
Ironhorse Advisory Board
Public Works Committee
Park & Recreation Advisory Board
Budget & Finance Committee

COUNCILMEMBER ANDREW OSMAN
Public Works Committee [Chair]
Gezer Sister City Committee [Chair]
Economic Development Council
Budget & Finance Committee

COUNCILMEMBER JULIE CAIN
Public Works Committee [Vice Chair]
Arts Council
Parks & Recreation Advisory Board
Budget & Finance Committee

COUNCILMEMBER JIM RAWLINGS
Public Works Committee
I-Lan Sister City Committee
Economic Development Council
Historic Commission
Budget & Finance Committee

COUNCILMEMBER JAMES AZELTINE
Stormwater Management Committee [Chair]
Arts Council
Leawood Foundation
Budget & Finance Committee

COUNCILMEMBER DEBRA FILLA
Stormwater Management Committee [Vice-Chair]
I-Lan Sister City Committee
Historic Commission
Leawood Foundation
Budget & Finance Committee

COUNCILMEMBER LISA HARRISON
Sustainability Advisory Board [Vice-Chair]
Stormwater Management Committee
Budget & Finance Committee
Tree Committee

COUNCILMEMBER MARY LARSON
Gezer Sister City Committee [Vice-Chair]
Ironhorse Advisory Board
Stormwater Management Committee
Budget & Finance Committee

2019 COUNCIL LIAISON APPOINTMENTS BY COMMITTEE

ARTS COUNCIL
Councilmember Julie Cain
Councilmember James Azeltine

BUDGET & FINANCE COMMITTEE
Mayor Peggy Dunn [Chair]
Councilmember Jim Rawlings
Councilmember James Azeltine
Councilmember Debra Filla
Councilmember Julie Cain
Councilmember Andrew Osman
Councilmember Chuck Sipple
Councilmember Lisa Harrison
Councilmember Mary Larson

ECONOMIC DEVELOPMENT COUNCIL
Mayor Peggy Dunn [Ex-officio]
Councilmember Andrew Osman
Councilmember Jim Rawlings

GEZER REGION SISTER CITY COMMITTEE
Councilmember Andrew Osman [Chair]
Councilmember Mary Larson [Vice-Chair]

HISTORIC COMMISSION
Councilmember Debra Filla
Councilmember Jim Rawlings

I-LAN SISTER CITY COMMITTEE
Councilmember Debra Filla
Councilmember Jim Rawlings

IRONHORSE ADVISORY BOARD
Councilmember Chuck Sipple
Councilmember Mary Larson

LEAWOOD FOUNDATION
Mayor Peggy Dunn [Ex-officio]
Councilmember Debra Filla
Councilmember James Azeltine

PARK & RECREATION ADVISORY BOARD
Councilmember Chuck Sipple
Councilmember Julie Cain

PUBLIC WORKS COMMITTEE
Councilmember Andrew Osman [Chair]
Councilmember Julie Cain [Vice-Chair]
Councilmember Jim Rawlings
Councilmember Chuck Sipple

STORMWATER MANAGEMENT COMMITTEE
Councilmember James Azeltine [Chair]
Councilmember Debra Filla [Vice-Chair]
Councilmember Mary Larson
Councilmember Lisa Harrison

SUSTAINABILITY ADVISORY BOARD
Councilmember Chuck Sipple [Chair]
Councilmember Lisa Harrison [Vice-Chair]

TREE COMMITTEE
Councilmember Lisa Harrison

February 18, 2019

2019 MAYORAL APPOINTMENTS

ARTS IN PUBLIC PLACES [APPI] **[3-year Term]**

Michael Shirley	**[Chair]**	**[2022]**

ARTS COUNCIL COMMITTEE **[3-year Term]**

Anne Blessing	**[Chair]**	**[2022]**
Stephanie Hamil		[2022]

BIKE/WALK COMMITTEE **[2-year Term]**

David Harwood	[2021]
Ronald Schikevitz	[2021]

BOARD OF ZONING APPEALS [BZA] **[3-Year Term]**

Gary Bussing	[2022]
Pat Dunn	[2022]

BUDGET & FINANCE **[1-Year Term]**

Jim Morris	[2019]
Linda Hanson	[2019]
Anab Abdulahi	[2019]

BUILDING & FIRE CODE BOARD OF APPEALS **[3-Year Term]**

Marnie Clawson	[2022]
Wayne Lischka	[2022]

COMMUNITY GARDEN TASK FORCE

Michelle Mathis *	[2019]
Adam Shaull *	[2019]
Abbey Shaull *	[2019]
Lorraine Fowler *	[2019]
Mac Fechtling *	[2019]

* New Appointment
**Filing 1-yr. unexpired term of Commissioner Strauss

GEZER REGION SISTER CITY COMMITTEE		**[2-Year Term]**
Dr. Robert Tanenbaum	[2021]	
Chuck Udell	[2021]	
Mike Lynch	[2021]	
Carol Wei *	[2021]	

HISTORIC COMMISSION		**[3-Year Term]**
Janet O'Neal [Vice-Chair]	[2022]	

I-LAN SISTER CITY COMMITTEE		**[1 & 2 Year Terms]**
Bette Monson [Chair]	**[2021]**	
James Rochel	[2020]	
Tom Hammonds	[2020]	
Cindy Siemers	[2021]	
Diane Sun	[2020]	
Jean Asbury	[2021]	
Annie Best	[2021]	
Debbie Azeltine *	[2021]	
Sophie Lin [Honorary]	[2020]	
Patricia Hattaway [Honorary]	[2020]	

IRONHORSE ADVISORY BOARD		**[3-Year Term]**
Dick Fuller [Chair]	**[2022]**	
Leo Morton	[2022]	
Dr. Gregory Peppes	[2022]	

PARKS & RECREATION ADVISORY BOARD		**[3-Year Term]**
Bob Wright	[2022]	
Gary Swanson	[2022]	

PLANNING COMMISSION		**[3-Year Term]**
Marc Elkins	[2022]	
Matt Block	[2022]	
Stacey Belzer	[2022]	
Steve McGurren*	[2022]	
Art Peterson**	[2020]	

* New Appointment
**Filing 1-yr. unexpired term of Commissioner Strauss

PUBLIC WORKS COMMITTEE **[2 -Year Term]**

Marsha Monica	[2021]
Chris White	[2021]
Drew Alingh	[2021]
Todd Harris	[2021]
Lori Ames*	[2021]

STORMWATER MANAGEMENT **[2-Year Term]**

Saint 'Skip' Johnson	[2021]
David Lindley	[2021]
Matthew Kayrish *	[2021]

SUSTAINABILITY ADVISORY BOARD **[2 Year Term]**

Jim Potter		[2021]
Bob Pierson		[2021]
Mark Ciaramitaro *	[Rawlings]	[2021]
Erin Chacey *	[Harrison]	[2021]

TREE COMMITTEE **[1,2,3-Year Terms]**

Debbi Adams*	[2020]
Dr. John Kenney*	[2020]
Jim Decker*	[2021]
Thad Carver*	[2021]
Dr. Jim Earnest*	[2022]
Bruce North*	[2022]

* New Appointment
**Filing 1-yr. unexpired term of Commissioner Strauss

CAROL WEI

OBJECTIVE

Carol is the founder and president of the Mid-America Asian Culture Association, a nonprofit organization with goals to cultivate interest and attention for Asian cultures and to connect, assist and promote Asian-owned businesses. This association current has 24 Asia country and 110 thousand members at Kansas and MO. She has been recently honored with a small business advocacy award and a national recognition for her Asian community leadership. Carol was selected the "2014 Kansas Minority Business Advocate of the Year"by the Kansas Department of Commerce Office of Minority & Woman Business Development. She was chosen for the award based on her dedication to promoting Asian-owned businesses and the Asian business culture in the metro Kansas City area through her organization's annual festival and other events and activities. Carol recently received a national "2014 Small Business Influencer"recognition in the Leadership category. Carol emigrated from China to America in 2007.

In 2014, Carol organized, managed and produced the first MAACA "Asian Cultural Festival." The festival showcased Asian arts, foods, activities and performances. President of Mid-America Asian Culture Association.

In 2015, she invited Ambassador of Bangladesh Mohammad Ziauddin to come to Kansas for a meeting with governor Sam Brownback, and to give a speech at the 2015 Asian Cultural Festival. This eventually opened up visa service to Bangladesh in Kansas. She also host the meeting for Philippine Ambassador Jose Cuisia and his visa officer. Both Ambassador is first time visit Kansas in history. She won"50 Kansans You Should Know" award by Ingram's magazine, and Kansas City Business Journal's People on the Move

In 2016, she work on invite Indian Ambassador to Kansas at April23 to have a speech 2016Asian festival, which is a more than ten thousand people will attend this event.

In 2017to 2019, she organize first Asia Business Summit in United State she invited Ambassador of Partisan and 7 countries Asia Counsel general come to Kansas for a meeting with governor Jeff Colyer and Missouri governor Make Parson ,

During this two years, she won 2018 Philanthropist Award, Gold Stevie Awards for Women in Business and "Female Innovator of the Year" by Small Business Influence Magazine.

In 2019, She organize first Miss Asia contest in Kansas and MO, more than 11 country joining this 9months beauty contest.

Carol also president of Mid-America International Trade Business Center LLC, this company create by 2007 and focuses business consulting and technical support center that promotes business to business interactivity while fostering innovation on an International business with world-class tenants.

SKILLS & ABILITIES

Event planning , Public Relation, Strategic Planning, Marketing, Social Media, Fundraising, Team Building, New business Development, leadership

EDUCATION

UMKC- Accounting and Business

The Chinese Academy of School Sciences-Psychological Counseling Institute of Psychology

Wuhan University-Bachelor of Arts (B.A.)

VOLUNTEER

Olathe Medical Center 2 year

Missouri sister city committee 1year

KU Medical Center Advancement Board 6 year

Overland Park Independent Citizens Advisory Board 5 year

The United Nations Association of Greater Kansas City director 3 year

HONOR

PHI THETA KAPPA HONOR 2011

Winner of 2014 Kansas Minority Business Advocate of the Year award

Winner of National 2014 Small Business Influencer in the Leadership Award

Winner of 2015"Person of the Year" from Chinese community

Kansas City Business Journal's People on the Move in 2016

"50 Kansans You Should Know" award by Ingram's magazine

Gold winner of Stevie Award in 2017

Asia Philanthropist Award in 2018

PLANNING COMMISSION APPLICATION

Name: Steve McGurren

Address:

Phone:

Cell:

How long have you lived in Leawood? Since 1991.

How long have you lived in Johnson County? Since 1962.

List any professional education, training, skills, or experience you have which may help you evaluate planning and development issues:

MBA from Rockhurst University, Ewing M. Kauffman Foundation FastTrac Graduate, Worked the 3 summers of college on local JE Dunn Construction sites for U.S. Engineering.

If your occupation or profession requires skills relating to the planning or development process, please indicate what you do: Finance / Credit Manager – Hallmark Cards Inc (35 years)

Do you have experience or training in public policy issues? Likely.

Describe examples of previous public service, including any committees in Leawood:

Leawood Parks & Recreation Board Member for the last 4 years.

Also supporting The United Way, Christmas in October & various educational institutions.

State your personal goal and purpose for wanting to serve on the Planning Commission:

Give back to my city by enhancing our city through well planned development in alignment with our Comprehensive Plan.

Describe your attitude toward development activity in Leawood. Please consider the following: Residential, Commercial, Redevelopment, Services, Character or ambiance, Mix of uses.

It starts with: Leawood has developed excellent residential housing. People want to live in Leawood because the housing is beautiful, meets their needs today and well into the future, and is paired with wonderful benefits that enhance their lives. To name a few, they are convenient commercial developments that provide a wide range of stores, offices, services and restaurants people are looking for. Churches, schools, parks, trails, art and wonderful common areas and city services enhance the city and what it provides its citizens. All of this brings great housing values, excellent experiences, and enhanced lives. Leawood can be proud of what it has developed and has redeveloped over time, especially the ability to react to new patterns like mixed-use developments. All of this creates a wonderful quality of life people strive for!

What should be Leawood's position in the community? Consider the following:
Type(s) of residential and business development, Transportation, Employment opportunities, Community facilities (churches, schools, recreation, public, other).

Leawood should continue to grow with distinction, as noted above. We should do so, always guided by our beliefs & values, and strong financial expectations. As a city, we need to assure we are following a well-designed comprehensive plan that enhances our position and the support we provide our citizens. We should be open minded to new ways to meet our objectives and further diversify our tax base.

What are the pressing issues for Leawood in terms of planning?

1) How do we take the remaining undeveloped land in Leawood, and develop it most appropriately?
2) How do we redevelop in an appropriate way that enhances the lives of our citizens / customers?
3) How do we improve our teamwork within the city and with our citizens to assure we are getting the best result from our investment of time and money?

Do you have any other pertinent comments?
I was happy to accept the Mayor's 3 year appointment to the Leawood Planning Commission effective 3/1/19. I look forward to serving, to further enhance our wonderful city. Thank you for the opportunity. Steve

Steven P McGurren (Steve)

- Life-long Johnson County citizen
- Leawood resident since 1991
- Married to Pam McGurren (married in Leawood)
- Two grown children: Dan (26) & Kelly (24). Both children are in Medicine
- Lived in Verona Gardens (1991-2000) and WhiteHorse since.
- Has worked at Hallmark since 1984. Member of the Hallmark Finance Division, supporting the Hallmark Retail Division with business and financial expertise.
- Graduate of Rockhurst University – BSBA & MBA
- 4 year member of the Leawood Parks and Recreation Board
- As of 3/1/19: member of the Leawood Planning Commission
- Eagle Scout – Troop 395 – Cure' of Ars (1975)

PLANNING COMMISSION APPLICATION

Name: Arthur C. Peterson

Address:

Phone:

Cell: _____

How long have you lived in Leawood? 23 years, since June, 1996.

How long have you lived in Johnson County and/or the metro KC area?

37 years (1975 – 1985, and 1992 to present).

List any professional education, training, skills, or experience you have which may help you evaluate planning and development issues: In college and graduate school I majored in Economics and Business and took several business and financial planning classes. Those courses assisted greatly in my business planning and development responsibilities during my career.

If your occupation or profession requires skills relating to the planning or development process, please indicate what you do: During my business career, I have worked on and been responsible for all financial, business, marketing, systems and disaster recovery planning and development for several corporations.

Do you have experience or training in public policy issues? My primary public policy experience has been related to work on the Leawood Sustainability Advisory Board.

Describe examples of previous public service, including any committees in Leawood: I have been on the Leawood Sustainability Advisory Board since March, 2018, primarily working on the HOA database and encouraging HOAs to offer glass recycling to all residents. I also organized a group of approximately thirty HOAs in Leawood to discuss common issues and seek group HOA pricing from vendors.

State your personal goal and purpose for wanting to serve on the Planning Commission:

In light of the fact Leawood has a limited land mass area for development, I believe careful consideration should be given to future proposals. My goal and objective is to assist the Planning Commission in the evaluation process in order to provide the City Council with the best recommendations for the future development of this community.

Describe your attitude toward development activity in Leawood. Please consider the following:
Residential Leawood is known for its prestigious residential communities. I believe the City's Comprehensive Plan does and should take this into consideration in future development.

Commercial The current commercial developments planned should have a positive impact on the business climate of Leawood. Future developments should be evaluated with this in mind.

Redevelopment Redevelopment planning should also be evaluated with the potential positive business impact in mind and in keeping with the City's Comprehensive Planning.

Services Population growth and commercial and residential development will increase the demand for City services such as the Police, Fire Department, etc. These services should be a serious consideration in developmental planning .

Character or ambiance Leawood has been known as a distinctive, safe and attractive community. Maintaining the character and ambiance of Leawood should be considered in any planning matters.

Mix of uses I believe mixed use projects such as Park Place and Missions Farms can add to the business and housing development within Leawood. I appreciate the work done on the 135th Street Plan and look forward to its future development. Mixed use development can add to the character and attractiveness of living and working in Leawood.

What should be Leawood's position in the community? Consider the following:
Type(s) of residential and business development Leawood is one of the most desirable and attractive cities in the metro area and the country. Leawood is known as a distinctive, safe and

attractive community. Leawood should continue to maintain its leadership role in the community and metro area.

Transportation Transportation issues, including public transportation, need to be a serious consideration in all development planning.

Employment opportunities Commercial development, such as Hallbrook Office Center, Park Place or Pinnacle Corporate Centre, can attract new businesses to Leawood and increase employment opportunities within Leawood.

Community facilities (churches, schools, recreation, public, other) Schools, churches, recreation, etc. are important factors to all residents of Leawood. These must be considered in future development planning.

What are the pressing issues for Leawood in terms of planning? As I see it, one of the most pressing issues facing Leawood is the limited land area for development. Because of the limited area available development plans must keep in mind the character of the community.

Do you have any other pertinent comments? My wife and I have lived in several cities in this country and believe Leawood is the best city to live and work. Now that I am retired, I hope to use my experience and skills to give back to the community through volunteer work. I appreciate your consideration to be appointed to the Leawood City Planning Commission.

Note: This form should be returned to the Mayor along with your cover letter and resume, if applicable.

Arthur C. Peterson

Biographical Information

Leawood resident (Berkshire Homes subdivision) since 1996
Born in Chicago, IL – 1953
Retired in 2012 from the securities industry.
Former President – Berkshire Homes Association, currently Corp. Secretary & Board Member.

Volunteer Activities

City of Leawood Sustainability Advisory Board Member since March, 2018. Headed the cleanup of the City's HOA database and recruited six HOAs to offer glass recycling to all HOA residents.

Business Experience

Extensive experience in the financial services and securities industry in management, operations, marketing, finance, accounting, data processing and securities regulatory compliance.

Assist Investment Management Co., Inc. Leawood, KS
President, CEO, CFO & Chief Compliance Officer. 1993 to 2012

President and founder of Assist Investment Management Company, an S.E.C. registered broker/dealer and member of FINRA, SIPC and the MSRB. The firm was registered in 32 states.

Mellon Financial Services Chicago, IL
Vice President & Regional Manager of securities transfer services.

AMA Investment Advisors Chicago, IL
Senior Vice President of Brokerage Operations.

Kemper Financial Services Chicago, IL
Director of Mutual Fund and UIT trading operations.

The Boston Company Boston, MA
Vice President of Mutual Fund Transfer Agency.

DST Systems, Inc. Kansas City, MO
Operations Manager, mutual fund operations.

Merrill Lynch Kansas City, MO
Stockbroker.

Professional Licenses (now expired)

Series 4, Registered Options Principal; Series 7, General Securities Representative
Series 24, General Securities Principal; Series 27, Financial & Operations Principal
Series 53, Municipal Securities Principal; Series 63, Uniform Securities Agent State Law Examination; Series 66, Uniform Combined State Law Examination

Education

Rockhurst College, Kansas City, MO. MBA candidate, 1982 – 1985.

Cornell College, Mt. Vernon, IA. Bachelors Degree, 1971 – 1975. Major: Economics & Business.

Lori L Ames

SUMMARY OF QUALIFICATIONS

- Proven leader and team builder with strong organizational, deployment, and technical skills.
- Self-starter, goal oriented with a proven record of success throughout a 23-year professional career.
- A versatile performer able to quickly grasp and apply complex concepts to new situations.
- Extensive experience negotiating solutions which benefit all stakeholders.
- Excellent oral and written communications skills with extensive experience creating and delivering executive level presentations.
- Consistent record of achievement utilizing tenacious initiative, analysis, problem solving and decision-making skills.

EXPERIENCE

Vice President, Network Central Region

- Lead the team accountable for the engineering, deployment and performance management of Sprint's Network Central Region.
  - Accountable for all aspects of managing ~12,000 cell sites across 15 states.
  - Accountable for the deployment of ~$2B in capital improvements across the Central region. FY2018 deployment is on track to baseline commitments.
  - Provide support to Enterprise and Retail sales teams in the Central Region.

Director, Network Engineering

- Accountable for performance of all fiber backhaul in the Sprint Network.
  - Manage ~$700M annual BH budget.
  - Weekly monitoring of BH performance ensuring conformance to engineering specifications.
  - Work with Sprint Service Assurance and vendors to resolve out of compliance sites
  - Execute major programs (build, audits, etc) to continually improve performance.

- Accountable for cost effective routing of all Sprint's wireless voice traffic.
  - Routing of over 58 Billion MOU per month.
  - Delivered over $135M in annual OPEX reduction since 2015.

- Conceptualized and implemented a program to remove all old access technology (TDM) from the Sprint Wireless Voice network resulting in over $200M annual OPEX reduction.
  - Developed the strategy and business case.
  - Drove SOW development, RFP execution, and vendor selection.
  - Led the project execution to on schedule completion.

- Accountable for the design, engineering and deployment of Sprint's Dark Fiber Backhaul program. Program consists of site acquisition, site construction, hardware and fiber deployment to ~14,000 new and existing macro sites.
  - Developed the technical approach and design/engineering standards.
  - Completed metro designs across over 75 markets
  - Drove Services SOW development, RFP execution, and vendor selections.

EDUCATION

Masters Business Administration **May 2001**
Emphasis in Finance
Rockhurst University

BS of Business Administration **December 1994**
Emphasis in Finance
Missouri State University

PROFESSIONAL CERTIFICATIONS

Project Management Professional (PMP) **September 2008**
Project Management Institute

Bio: Matthew Kayrish

Matthew Kayrish is a registered professional engineer in the State of Kansas. He holds multiple advanced degrees in electrical engineering and systems engineering from Virginia Tech. As a professional, Matthew has over 15 years of engineering design, planning, project management, and team leadership experience in the manufacturing, power, and construction industry. Throughout his career, Matthew has faced a wide variety of projects and technical challenges. In a recent project, he was the project management and technical design lead on over $200M of factory acceptance test systems at the National Nuclear Security Administration's production facility in Kansas City, MO. On this project, he led all facets of both technical design and project management. The technical design side included a wide range of electrical and mechanical engineering design activities, including power systems design and analysis, industrial instrumentation and controls, protection and relay system design, circuit design, FPGA design, embedded system design, and software design and development. The project management side included implementing project management and leadership from conception to completion, including building statements of work, schedules, budgets, vendors, procurements, reporting, tracking costs, and delivery. Matthew is also an active husband and father of two. He spends his free time with his family, reading, and pursuing a Ph.D at UMKC in electrical engineering with a focus in big data and power system analysis. Matthew's contact information is below.

Peggy Dunn

Subject: FW: Mark C profile

Mark Ciaramitaro

Education:
-Bachelor of Science- Urban Forestry, Michigan State University 1979
-Associates Degree- Horticulture & Grounds Maintenance - WR Harper College, Illinois 1983
- Arboriculture Training certificate - Hocking Technical College, Ohio - 1982
- Numerous Education coursework from Illinois University - Extension and ISA
- MBA, Indiana University 1989

Certifications:
Former member of State of Illinois Arboriculture Society
Former certification from International Society of Arboriculture (ISA)

Relevant Experience:
- United State Forest Service ...Huron Manistee National Forest, Michigan
- Hendricksen Tree Experts ...District Manager 1979-1985 (eventually purchased by Davey Tree)
- The Care of Trees... District Manager 1986
- Avid gardener, landscaper, and wilderness backpacker
- Currently applying for Kansas Extension Master Gardner Program
- Leawood Estates Home Association - Tree Committee
- Volunteer Overland Park Arboretum

Other work Experience
Senior Executive...Hallmark Cards (13 years) and H&R Block (17 years)

Erin (Meckenstock) Chacey

Employment Experience

2009-2011
Green Columbus; Columbus Ohio

- **Director**
  - Earth Day 2011: *Lighten Up* (a two-part, mulit-day, multi-community event)
  - 137 worksites/projects, 3,000+ volunteers, 5,000+ trees planted, plus a festival at Franklin Park Conservatory
  - Green Drinks (monthly networking and socializing)
  - Green Seeds (monthly service projects)
  - Zero Waste Tailgate Challenge (in partnership with The Ohio State University)
- **Earth Day Event Coordinator**, 2010: *It's About Time* (a two-part, mulit-day, multi-community event)
  - 129 worksites/projects, 3,000+ volunteers, 7,000+ trees, 2,000 bags of litter

2009-2011
Simply Living; Columbus, Ohio

- **Annual Fund Event Coordinator**; *Tis a Gift to be Simple* (2010)
- **Agent of Change program facilitator** (Center for Earth Leadership, Portland, OR)

2009
The Ohio Environmental Council

- Gala Coordinator, Silent Auction

2001-2009
Kansas City Repertory Theater (a.k.a. Missouri Repertory Theatre)

- Interim Development Director (ending position)
- Development Manger (fundraising events and drives)
- Grants Manager
- Grant Writer and Prospect Researcher (starting position)

Volunteer Experience

2015 – Present
Church of the Resurrection, Leawood campus
EarthCOR, Founder and Director

- A social and environmental justice ministry with the goal of facilitating the creation of resilient and meaningfully connected communities. Goal #1: helping people remember (or discover) that loving God

and neighbor requires caring for creation (both the human and non-human parts). Goal #2: fostering sustainability practices across diverse groups (i.e. all groups).

- ~ 135 members
- Created and led 20+ environmental education classes, programs, and special events
- ~ 10 service projects
- E-news: *Elements*, a four-week online education and event campaign reaching COR's mailing list (2016)
- GPS guest writer, *Into the Garden*, five Sundays (broad reach beyond "the choir") (2017)
- Guest Speaker, four different groups/times

Spring 2016
Member, **Ash and Street Tree Committee** for Waterford Neighborhood

Spring 2015
Mission Trail Elementary
School-wide **Earth Day** project to create seed balls for pollinators and raise awareness and support. In partnership with Ironwoods Park (the recipient of the seed balls).

2009
Habitat for Humanity, Columbus, Ohio
Gala Event Coordinator (staged in resale shop, combined fundraising with reduce, reuse, recycle education)

Education and Training

April 2016
Kansas Leadership Center
You.Lead.Now. (with Climate + Energy Project)

2013
Heartland Tree Alliance
TreeKeeper Certification Program

2011
Training for Transition (Transition Town Movement)
Columbus, OH

1998-2001
AmeriCorps ProjectSERV (FHSU)

- Red Cross Site Leader
- Elementary Safety & Service Liaison

2011-2012
Compassionate Communication of Central Ohio
Non-Violent Communication (Marshall Rosenberg)

1997
Fort Hays State University
English, Magna Cum Laude

1989
Hoërskool Ben Vorster
Tzaneen, Republic of South Africa
Rotary exchange student (12 months)

1986-1988
Hays High School
Hays, KS

- Diploma
- Started first S.A.D.D. chapter

1984-1986
Derby High School
Derby, KS

- Student Representative
- Kayettes (a service oriented club)

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City of Leawood

4800 Town Center Drive • Leawood, Kansas 66211 • (913) 339-6700
(913) 339-6781 Fax

7.G.

MEMORANDUM

TO : MAYOR AND CITY COUNCILMEMBERS
SCOTT LAMBERS, CITY ADMINISTRATOR

FROM: CINDY JACOBUS, ASSISTANT CITY CLERK cj

RE : RETAIL LIQUOR LICENSE RENEWAL

LANCASTER LIQUOR
3731 W. 133rd STREET

DATE : FEBRUARY 18, 2019

The Retail Liquor License for the above-referenced store is scheduled for renewal. I recommend approval of the license, pending no disqualifying information.

Please feel free to contact the City Clerk's Office, should you have any questions.

K:\Clerks\RETAIL LIQUOR LICENSES\17GBapprove16.doc

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7.H.

Leawood, Kansas
Police Department

Memo

To: Mayor Dunn and City Council Members

CC: Scott Lambers, City Administrator

From: Chief Troy Rettig

Date: February 18th, 2019

Re: Purchase of police mobile (in-car) radios

In March of 2017 the Governing Body approved a purchase of portable radios as well as an initial purchase of 10 mobile radios as part of our department transitioning to a new radio system. Because mobile radios require a substantial amount of time to install, we decided to purchase ten mobile radios a year until they are all changed out by the end of 2021. At that time we will need to be compliant with both the Johnson County and the Metro Area Regional Radio Systems and this radio transition process will put us in compliance. This is a request to purchase the 10 additional mobile radios for 2019.

Ka-Comm is the sole source vendor for Harris radios for the metro area and they are using the Mid America Regional Council co-op pricing, along with trade in discounts for our old radios.

The price of the ten Harris mobile radios is $37,507.40

These funds will come from line item 13220.22110.811000, which is the Public Safety Fund.

Please let me know if you have any questions.

Troy Rettig

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Staff Review

7.I.

Fact Sheet

SUBJECT: **APPROVE PURCHASE OF MAINTENANCE EQUIPMENT FOR IRONHORSE GOLF COURSE**
Commercial Turf & Tractor

February 18, 2019

DISCUSSION

This request is from the Troon Golf staff for purchase of the following:

- DT710 Stec dump trailer from Commercial Turf and Tractor for $13,300 to replace a 1995 dump trailer.

The Dakota 550 dump trailer was priced in comparison to the Stec. The Dakota was $14,965 (higher) with same options.

The funds for the purchase of this equipment have been provided for in the 2019 budget.

It is the recommendation of the Parks & Recreation Department that the City Council approve the purchase of this equipment to be purchased through Commercial Turf & Tractor for $13,300.

Chris Claxton

Chris Claxton, Director
Parks & Recreation Department

SPONSOR

Park & Recreation Department

COUNCIL ACTION TO BE TAKEN

Approve purchase of equipment.

STAFF RECOMMENDATION

- ☑ For
- ☐ Against
- ☐ No position

COMMITTEE RECOMMENDATION

- ☐ For
- ☐ Against
- ☐ No position
- ☑ No Assignment

POLICY OR PROGRAM CHANGE

- ☑ No
- ☐ Yes

OPERATIONAL IMPACT

COSTS

$13,300.00

FUND SOURCES

City Equipment -13010.44610.811000

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Staff Review

7.J.

Fact Sheet

SUBJECT: **APPROVE PURCHASE OF MAINTENANCE EQUIPMENT FOR IRONHORSE GOLF COURSE**
Professional Turf Products

February 18, 2019

DISCUSSION

This request is from the Troon Golf staff for purchase of the following equipment:

- 2 - 2019 Toro 3320 riding greens mower to replace 2 - 2014 Toro 3320 riding greens mowers.
- 1 - 2019 Toro HDX workman truck with edger attachment to replace stolen equipment in 2018.
- 1- 2019 Toro 3100 surrounds mower to be replace 1- 2009 Jacobsen 1900 mower.
- 1- 2019 1750 greens sprayer to replace 1 - 2015 1750 greens sprayer.

The funds for the purchase of this equipment have been provided for in the 2019 budget.

It is the recommendation of the Parks & Recreation Department that the City Council approve the purchase of this equipment to be purchased from Professional Turf Products on the Troon National Account pricing agreement for a total price of $178,953.75 including trade-in of old equipment.

Chris Claxton

Chris Claxton, Director
Parks & Recreation Department

SPONSOR

Park & Recreation Department

COUNCIL ACTION TO BE TAKEN

Approve purchase of equipment.

STAFF RECOMMENDATION

☑ For
☐ Against
☐ No position

COMMITTEE RECOMMENDATION

☐ For
☐ Against
☐ No position ☑ No Assignment

POLICY OR PROGRAM CHANGE

☑ No
☐ Yes

OPERATIONAL IMPACT

COSTS

$178,953.75

FUND SOURCES

City Equipment -13010.44610.811000

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Staff Review

Fact Sheet

7.K.

SUBJECT: **APPROVE PURCHASE ORDER FOR 2019 CONTINUING CONTRACT WITH BLACK & MCDONALD FOR THE CITY'S STREET LIGHT AND TRAFFIC SIGNAL MAINTENANCE FEBRUARY 18, 2019**

DISCUSSION

In 2016, the City contracted with Black & McDonald for the City's street light and traffic signal maintenance. The Contract awarded in 2016 and was renewable for an additional three one-year terms (2017, 2018, 2019). This is the last year on the contract. The contract allows for increases in labor costs each year.

This year the Department is requesting a Purchase Order at an amount of $325,000.00. The PO in 2018, was in the amount of $275,000.

The contract was awarded in 2016, in the amount of $221,448.56 for the annual maintenance of the lights and signals. Black & McDonald has been providing our maintenance since 2002. Over the past 13 years we have bid this out 3 times with Black & McDonald always being the low bidder by a large margin.

Black & McDonald provides the following services through their contract:

1. Annual maintenance of City owned streetlights.
2. Repair and replacement of streetlights damaged or knocked down is included in their monthly fee.
3. Monthly night patrols.
4. Monthly reports on outages and response times for repairs.
5. Annual maintenance the City's traffic signals.
6. By contracting with Black & McDonald, we improve the overall reliance of the City's streetlight system minimizing the number of calls and outages throughout the City. The contract also provides us quicker response on issues with our traffic signals.

It is the recommendation of the Public Works Department that the Governing Body approves the 2019 Purchase Order in the amount of $325,000 with Black & McDonald and authorizes the Mayor to sign.

David Ley, P.E.
Director of Public Works

COUNCIL ACTION TO BE TAKEN

Approve Resolution and Contract Agreement

STAFF RECOMMENDATION

- ☑ For
- ☐ Against
- ☐ No position

COMMITTEE RECOMMENDATION

- ☐ For
- ☐ Against
- ☐ No position
- ☑ No Assignment

POLICY OR PROGRAM CHANGE

- ☑ No
- ☐ Yes

OPERATIONAL IMPACT

COSTS

$325,000.00

FUND SOURCES

General Fund Street Division - 11110.33200.625200
[2019 Budget for light & signal maintenance is $413,000.00]

Return to Agenda

Staff Review

7.L.

Fact Sheet

SUBJECT: **APPROVE COOPERATIVE AGREEMENT FOR FUNDING OPERATIONS OF OPERATION GREEN LIGHT TRAFFIC CONTROL SYSTEM FEBRUARY 18, 2019**

DISCUSSION

Attached is a Cooperative Agreement between the City of Leawood and the Mid-America Regional Council for the funding of Operation Green Light. The Agreement also includes several other cities in the Kansas City Metropolitan Area.

This agreement was approved in previous years. Operation Green Light (OGL) is a regional effort to improve traffic operations for the Kansas City Metropolitan Area. The goal is to reduce delay and travel time on high volume roads. Currently OGL operates 700+ intersections on high-volume road in 25 cities throughout the KC region.

The agreement outlines the responsibilities of MARC and each city involved. The agreement also lists the annual payment based on the number of traffic signals that a city has in the program. Currently Leawood has 11.25 signals on the following streets; 135th Street, Nall Ave., 95th Street, and State Line Road.

The Agreement's program cost for Leawood is $6,750.00 per year for 2019 and 2020, for a total of $13,500.00.

The Public Works Department recommends the City Council approve the Cooperative Agreement with MARC for the Operation of Green Light and authorize the Mayor to sign same.

David Ley, P.E
Director of Public Works

SPONSOR

Public Works Department

COUNCIL ACTION TO BE TAKEN

Approve Cooperative Agreement with Mid-America Regional Council

STAFF RECOMMENDATION

- ☑ For
- ☐ Against
- ☐ No position

COMMITTEE RECOMMENDATION

- ☐ For
- ☐ Against
- ☐ No position
- ☑ No Assignment

POLICY OR PROGRAM CHANGE

- ☑ No
- ☐ Yes

OPERATIONAL IMPACT

COSTS

2019 Cost $6,750.00

2020 Cost $6,750.00

FUND SOURCES

General Fund Budget for 2019/2020
PW Administrative Services
11110.33110.612000

DRAFT

RESOLUTION NO. _____

RESOLUTION APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE A COOPERATIVE AGREEMENT IN THE AMOUNT OF $13,500.00, BETWEEN THE CITY AND MID-AMERICA REGIONAL COUNCIL [MARC] FOR FUNDING OPERATIONS OF OPERATION GREEN LIGHT TRAFFIC CONTROL SYSTEM FOR A 2-YEAR TERM

WHEREAS, the City desires to continue the Operation Green Light Traffic Control System;

WHEREAS, the MARC provides such System; and

WHEREAS, the parties desire to execute a Cooperative Agreement to provide such funding.

NOW THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF LEAWOOD, KANSAS:

SECTION ONE: That the Governing Body hereby authorizes the Mayor to execute a Cooperative Agreement in the amount of $13,500.00 between the City and MARC, attached hereto as Exhibit "A", and incorporated herein by reference as if fully set out.

SECTION TWO: This resolution shall become effective upon passage.

PASSED by the Governing Body this 18th day of February, 2019.

APPROVED by the Mayor this 18th day of February, 2019.

[SEAL]

_____
Peggy J. Dunn, Mayor

ATTEST:

_____
Debra Harper, CMC, City Clerk

APPROVED AS TO FORM:

_____
Patricia A. Bennett, City Attorney

OPERATION GREENLIGHT

TURNING STOP LIGHTS INTO GO LIGHTS

WHAT IS OGL?

Operation Green Light (OGL) is a regional effort to improve traffic flow and reduce vehicle emissions in the Kansas City area. Coordinated through the Mid-America Regional Council (MARC), it is supported by local agencies, driven by their expert staff, and powered by technology

WHAT WE DO

OGL works with federal, state, and local agencies to develop and implement a regional network of signals. This system provides uniform traffic management across jurisdictional boundaries in Kansas City allowing for better collaboration among all agencies.

The system coordinates traffic signal timing plans and communication between traffic signal equipment, improving the flow of traffic in the region.

OGL tracks signal-related malfunctions in the field and provides improved maintenance and infrastructure to partner jurisdictions.

OGL is paving the way in the traffic sector within the Kansas City region through innovation and collaboration.

ANNUAL BENEFITS

220 MILLION
FEWER VEHICLE STOPS

1.9 MILLION
HOURS SAVED

1.8 MILLION
GALLONS SAVED

3,000 TONS
OF POLLUTANTS AVOIDED

$35.2 MILLION
DOLLARS SAVED

FAST FACTS

700+ Traffic Signals

200+ Roadway Miles

1.6 Million Trips/Day

50/50 Local Agency/ Federal Funding

$600 Local Agency Annual Cost Per Signal

MOVING FORWARD

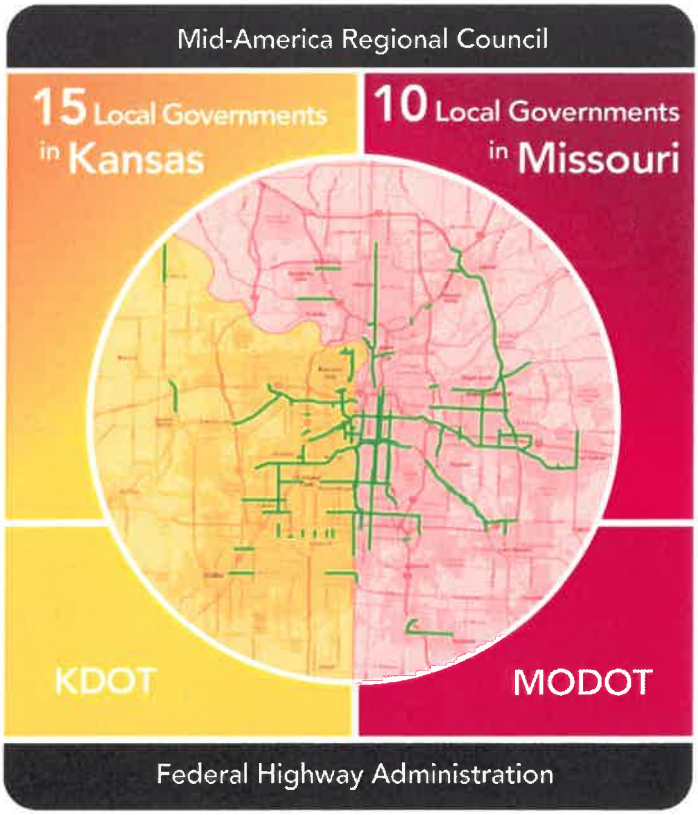
OGL is constantly working with partner agencies to look for new and innovative strategies that can be implemented within the Kansas City region to further improve traffic conditions. Some of the strategies and technologies we are currently investigating and implementing include:

- Arterial diversion routes for incidents occurring on interstates
- Adaptive and responsive signal control
- Use of crowd-sourced data in decision making
- Actively preparing for the integration of connected and automated vehicles

www.marc.org/transportation/commuting

MARC | OPERATION GREENLIGHT

AGENCIES & PARTNERS



BENEFITS OF PARTICIPATION

There are many benefits to partnering in the OGL program. OGL staff coordinate better traffic flow along every corridor by constantly monitoring real-time operations, assisting with timing changes for roadwork projects and incidents, and supporting agency traffic signal maintenance activities. OGL partners often pursue additional funding for traffic signal system improvements together, increasing the chances of being selected. OGL paves the way by providing leadership and coordination in the evaluation of new strategies and technologies to improve the system and benefit every Kansas City area traveler.

Data Sources: Traffic volume data on designated OGL corridors from MoDOT and KDOT published AADT reports. Population estimates from most recent US Census. Timing benefits averaged from all measured initial corridor timings from 2008 through 2015, including calculated values for delays, fuel, pollution, and the value of time.

COOPERATIVE AGREEMENT
FOR FUNDING OPERATIONS OF OPERATION GREEN LIGHT
TRAFFIC CONTROL SYSTEM

THIS COOPERATIVE AGREEMENT FOR FUNDING OPERATIONS OF OPERATION GREEN LIGHT TRAFFIC CONTROLS SYSTEM (this "Agreement") is made and entered into by and between Mid-America Regional Council ("MARC"), a consortium of cities in the nine county Kansas City Metropolitan Area, a Regional Planning Commission and a Missouri not for profit corporation and the City of Bonner Springs, Kansas; the City of Fairway, Kansas; the City of Lansing, Kansas; the City of Leavenworth, Kansas; the City of Leawood, Kansas; the City of Lenexa, Kansas; the City of Merriam, Kansas; the City of Mission, Kansas; the City of Mission Woods, Kansas; the City of Olathe, Kansas; the City of Overland Park, Kansas; the City of Prairie Village, Kansas; the City of Shawnee, Kansas; the City of Westwood, Kansas; and the Unified Government of Wyandotte County, Kansas City, Kansas (collectively, the "Member Agencies" or "Member Agency").

WHEREAS, MARC performed a feasibility study "*Operation Green Light Feasibility Report, June 2000*" (the "Feasibility Report"), which created a regional arterial traffic signal coordination system known as "Operation Green Light" ("OGL"), for the Kansas City Urban Area; and

WHEREAS, the Strategic Plan 2017-2020 established the vision, mission, objectives, and goals of the program; and

WHEREAS, improvement in traffic operational efficiency, air quality, and monetary savings to the Member Agencies and the public can be realized from a consolidated management approach of coordinated traffic signal control along arterial corridors in the roadway systems of each Member Agency; and

WHEREAS, several Missouri agencies and political subdivisions are contracting with MARC to participate in OGL for coordination in the Missouri portions of the Kansas City Urban Area; and

WHEREAS, the Kansas Department of Transportation ("KDOT") is also contracting with MARC to participate in OGL; and

WHEREAS, the Member Agencies which are political subdivisions or agencies of the State of Kansas are authorized pursuant to the provisions of Section 12-2908 of the Kansas Statutes Annotated to enter into cooperative agreements for the purpose of coordinating traffic signals between and within the Jurisdictional Boundaries of the Member Agencies; and

WHEREAS, each Member Agency has agreed to enter into an agreement to fund the cost of operating such a Regional Traffic Control System, and to mutually cooperate regarding the operation of the same; and

NOW, THEREFORE, in consideration of the covenants and conditions herein set forth, MARC and the Member Agencies (collectively, the "Parties") mutually agree as follows:

Sec. 1. STATUTORY AUTHORITY. Pursuant to the authority set forth in K.S.A. 12-2908 the parties enter into this Agreement for the funding of the operations of the Regional Traffic Control System for the purpose of coordinating traffic signals within the Jurisdictional Boundaries of the Member Agencies from a regional perspective.

Sec. 2. DEFINITIONS. As used in this Agreement, and Exhibit 1 through Exhibit 6, attached hereto and incorporated herein by this reference, the following words shall have the meanings set forth herein:

Exhibit 1 – Steering Committee Document
Exhibit 2 – Scope of Services
Exhibit 3 – Compensation
Exhibit 4 – Insurance Requirements
Exhibit 5 – Ownership Matrix
Exhibit 6 – Concept of Operations

Communications Network – all telecommunication infrastructure between Regional Traffic Management Centers and Traffic Signal Controllers which are a part of the Regional Traffic Control System.

Jurisdictional Boundaries – the geographical boundaries of the governmental entities acting as political subdivisions of the States of Kansas.

Jurisdictional Control Center – the site or location designated by the Member Agency containing various equipment, computer hardware, and computer software capable of controlling and coordinating all Traffic Signal Controllers located within the Jurisdictional Boundaries of the Member Agency.

Member Agencies – agencies that have entered into an agreement with MARC to participate in funding the cost of design, construction, and operations of the Regional Traffic Control System.

Private Firms – any private firm or firms engaged by MARC to perform or provide any services, directly or indirectly, related to the operations of the Regional Traffic Control System (including, without limitation, design services provided for on-going operations), as more particularly set forth in Exhibit 2.

Regional Traffic Control System – an array of components including Traffic Signal Controllers, wireless and wireline telecommunications equipment, interface units, computer hardware and software, digital storage media, operator's console, peripherals, and other related devices designed to monitor, control, and coordinate traffic movements at signalized intersections according to a given or developed plan.

Regional Traffic Management Center – the site or location designated by the Steering Committee containing various equipment, computer hardware, and computer software capable of controlling and coordinating the Regional Traffic Control System. The

Regional Traffic Management Center is sometimes referred to herein and in the Exhibits as the Traffic Operations Center ("TOC").

Steering Committee – that committee created for the purpose of assisting and advising MARC with respect to the plans, specifications, construction, installation, and operation of the Regional Traffic Control System and consisting of voting representatives from the Member Agencies, KDOT and participating agencies and political subdivisions of the State of Missouri which have entered into similar agreements with MARC regarding OGL. The membership structure and policy are set forth in Exhibit 1.

Traffic Signal Controller – a complete electrical mechanism responsible for traffic signal control and operation at an individual intersection.

Sec. 3. RESPONSIBILITIES OF PARTIES.

(a) MARC. MARC is hereby designated the administrator and is by virtue of this designation responsible for administering this cooperative undertaking. As administrator, MARC shall perform or cause to be performed the services set forth in Exhibit 2.

(b) Member Agencies. In addition to the obligations set forth in this Agreement, the Member Agencies shall each also perform all the obligations set forth in the document entitled "OGL Concept of Operations: Roles and Responsibilities", attached hereto as Exhibit 6. Furthermore, the Member Agencies each individually agree that they shall not interfere with MARC's exercise of its obligations under this Agreement, including, but not limited to MARC's deployment of the regional signal timing and on-going operations of the Regional Traffic Control System.

Sec. 4. SHARE OF COSTS. Subject to the conditions set forth in this Agreement, the Member Agencies shall each make payment to MARC the sum set forth in Exhibit 3, which is attached hereto and incorporated by reference as if fully set forth herein. The cost associated with Member Agencies represent each individual agency's share of the cost for the maintenance and operation of the Regional Traffic Control System, as set forth in said Exhibit 3. The "Operation Green Light Location/ Ownership Matrix" set forth in Exhibit 5 identifies the location and ownership of the software, hardware, and other components comprising the Regional Traffic Control System.

Sec. 5. SHARING INFORMATION. MARC shall share information related to the maintenance and operation of the Regional Traffic Control System with the Member Agencies, KDOT and participating agencies and political subdivisions of the State of Missouri and the Member Agencies shall cooperate in sharing information among themselves, KDOT, with the participating agencies and political subdivisions of the State of Missouri and with MARC necessary for the on-going maintenance and operation of the Regional Traffic Control System.

Sec. 6. SEVERABILITY. Should any provision hereof for any reason be deemed or ruled illegal, invalid, or unconstitutional by any court of competent jurisdiction, no other provision of this Agreement shall be affected; and this Agreement shall then be construed and enforced as if such illegal or invalid or unconstitutional provision had not been contained herein.

Sec. 7. AUTONOMY. No provision of this Agreement shall be constructed to create any type of joint ownership of any property, any partnership or joint venture, or create any other rights or liabilities except as may be otherwise expressly set forth herein.

Sec. 8. EFFECTIVE DATE. The effective date of this Agreement shall be upon complete execution by the Parties.

Sec. 9. TERMINATION FOR CONVENIENCE. Any party to this Agreement may terminate this Agreement by giving one hundred eighty (180) days' written notice to the other party. Financial obligations will be honored up to the effective date of termination. A Member Agency that terminates this Agreement may no longer be granted access to the Regional Traffic Control System. Costs may be incurred by the Member Agency terminating the Agreement for MARC to uninstall or transfer ownership of network equipment owned by MARC.

Any party or parties' unilateral decision to terminate their participation in this Agreement shall not affect the rights of the other parties to continue cooperation under this Agreement, and this Agreement shall continue to be in effect for all parties not-exercising rights to terminate their participation in this Agreement.

Sec. 10. MERGER. This Agreement constitutes the entire agreement between the parties with respect to this subject matter.

Sec. 11. NO AUTHORITY ON BEHALF OF OTHER PARTIES. This agreement does not give any party hereto authority to take any action or execute any documents on behalf of any other party to this Agreement.

Sec. 12. COMPLIANCE WITH LAWS. All parties to this Agreement shall comply with and shall require any Private Firms contracted pursuant to this Agreement to comply with all federal, state, and local laws, ordinances, and regulations applicable to the work and this Agreement.

Sec. 13. DEFAULT AND REMEDIES. If any party of this Agreement is in Default or breach of any provision of this Agreement, any non-defaulting party may terminate their participation and cooperation in this Agreement, withhold payment, or invoke any other legal or equitable remedy after giving written notice and opportunity to correct such default or breach within thirty (30) days of receipt of such notice; provided, however, if such default or breach cannot be cured within thirty (30) days, then any non-defaulting party shall notify the party in default in writing and commence to cure within thirty (30) days.

Any party or parties' unilateral decision to terminate their participation in this Agreement shall not affect the rights of the other parties to continue cooperation under this Agreement, and this Agreement shall continue to be in effect for all parties not-exercising rights to terminate their participation in this Agreement.

Sec. 14. WAIVER. Waiver by the any party to this Agreement of any term, covenant, or condition hereof shall not operate as a waiver of any subsequent breach of the same or of any other term, covenant, or condition. No term, covenant, or condition of this Agreement can be waived except by written consent of all of the Parties to this Agreement, and forbearance or indulgence by any party to this Agreement in any regard whatsoever shall not constitute a waiver of same to be

performed by said party to which the same may apply and, until complete performance of the term, covenant, or condition, the Parties to this Agreement shall be entitled to invoke any remedy available to it under this Agreement or by law despite any such forbearance or indulgence.

Sec. 15. MODIFICATION. Unless stated otherwise in this Agreement, no provision of this Agreement may be waived, modified, or amended except in writing signed by each party to this Agreement; provided, however, the Exhibits to this Agreement may be modified by agreement of a majority vote of the Steering Committee without each Member Agency approving and executing an amendment to this Agreement.

Sec. 16. HEADINGS; CONSTRUCTION OF AGREEMENT. The headings of each section of this Agreement are for reference only. Unless the context of this Agreement clearly requires otherwise, all terms and words used herein, regardless of the number and gender in which used, shall be construed to include any other number, singular or plural, or any other gender, masculine, feminine, or neuter, the same as if such words had been fully and properly written in that number or gender.

Sec. 17. AUDIT. Each Member Agency shall have the right to audit this Agreement and all books, documents, and records relating thereto upon written request to MARC. MARC shall maintain all its books, documents, and records relating to this Agreement and any contract during the period of this Agreement for three (3) years after the date of final payment of the contract or this Agreement, whichever expires last. The books, documents, and records shall be made available for any and each of the Member Agencies' review within fifteen (15) business days after the written request is made.

Sec. 18. AFFIRMATIVE ACTION; NON-DISCRIMINATION.

(a) MARC shall require Private Firms to establish and maintain for the term of this Agreement an Affirmative Action Program in accordance with the provisions of Title VI of the Civil Rights Act of 1964, as amended. More specifically, any third party firm will comply with the applicable regulations of the U. S. Department of Transportation ("USDOT") relative to non-discrimination in federally assisted programs of the USDOT, as contained in 49 C.F.R. 21 through Appendix H and 23 C.F.R. 710.405, which are herein incorporated by reference and made a part of this Agreement.

(b) During the performance of this Agreement or any subcontract resulting thereof, MARC, Private Firms, and all subcontractors and vendors (the Private Firms, together with all subcontractors and vendors, shall for purposes of this Section 18 be collectively referred to as the "Other Contractor Parties") shall observe the provisions of the Kansas Acts Against Discrimination (K.S.A. 44-1001 et seq.) and Title VII of the Civil Rights Act of 1964 as amended and shall not discriminate against any person in the performance of work under the Agreement because of race, religion, color, sex, national origin, age, disability, ancestry, veteran status, or low income. In all solicitations or advertisements for employees, MARC and the Other Contractor Parties shall include the phrase "equal opportunity employer" or a similar phrase to be approved by the Kansas Human Rights Commission ("Commission"). If MARC fails to comply with the manner in which MARC reports to the Commission in accordance with the provisions of K.S.A. 44-1031 and amendments thereto, or if MARC is found guilty of a violation

of the Kansas Act Against Discrimination under a decision or order of the Commission which has become final, MARC shall be deemed to have breached this Agreement, and this Agreement may be canceled, terminated, or suspended, in whole or in part, by any of the Member Agencies.

(c) MARC shall abide by the Kansas Age Discrimination In Employment Act (K.S.A. 44-1111 et seq.) and the applicable provisions 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 project, and shall furnish any certification required by any federal, state, or local laws, ordinances, and regulations applicable to this project and shall furnish any certification required by any federal, state, or local governmental agency in connection therewith.

(d) MARC shall include the provisions of paragraphs (b) through (c) above in every subcontract so that such provisions will be binding upon such subcontractor or vendor.

Sec. 19. ASSIGNABILITY OR SUBCONTRACTING. MARC shall not subcontract, assign, or transfer any part or all of MARC's obligations or interests without the Member Agencies prior approval which shall not be unreasonably delayed or withheld. If MARC shall subcontract, assign, or transfer any part or all of MARC's interests or obligations under this Agreement without the prior approval of the Member Agencies, it shall constitute a material breach of this Agreement.

Sec. 20. CONFLICTS OF INTEREST. MARC shall require its Private Firms to certify that no officer or employee of any of the Member Agencies, or no spouse of such officer or employee, has or will have a direct or indirect financial or personal interest in this Agreement or any other related agreement, and that no officer or employee of any of the Member Agencies, or member of such officer's or employee's immediate family, either has negotiated, or has or will have an arrangement, concerning employment to perform services on behalf of MARC or its Private Firms in this Agreement or any other related agreement.

Sec. 21. RULES OF CONSTRUCTION. The judicial rule of construction requiring or allowing an instrument to be construed to the detriment of or against the interests of the maker thereof shall not apply to this Agreement.

Sec. 22. NOTICE. Any notice to a party in connection with this Agreement shall be made in writing at the following address or such other address, as the party shall designate in writing:

MARC
Attention: Director, Mid-America Regional Council
600 Broadway, Suite 200
Kansas City, Missouri 64105

For notices to each Member Agency, see the signature page(s) as they relate to each Member Agency.

Sec. 23. GOVERNING LAW. This Agreement shall be construed and governed in accordance with the law of the State of Kansas. Any action in regard to this Agreement or arising out of its terms and conditions must be instituted and litigated in the courts of the State of Kansas, and in

no other. The Parties submit to the jurisdiction of the courts of the State of Kansas and waive venue.

Sec. 24. INDEMNIFICATION BY PRIVATE FIRMS. MARC shall require its Private Firms (including, without limitation, any design professionals) to defend, indemnify, and hold harmless the Member Agencies and any of its agencies, officials, officers, agents or employees from and against all claims, damages, liabilities, losses, costs, and expenses, including reasonable attorney fees, arising out of any negligent acts or omissions in connection with the services preformed pursuant to this Agreement (including, without limitation, professional negligence), caused by a Private Firm, its employees, agents, contractors, or caused by others for whom the Private Firm is liable. Notwithstanding the foregoing, the Private Firm is not required under this section to indemnify the Member Agencies for the negligent acts of a Member Agency or any of its agencies, officials, officers, or employees.

Sec. 25. INSURANCE. MARC and any Private Firms retained by MARC shall maintain the types and amounts of insurance set forth in Exhibit 4; provided, however, the limits set forth in Exhibit 4 are the minimum limits and MARC may carry higher limits as it may deem necessary, in its discretion, or as may be required by other Member Agencies.

Sec. 26. INITIAL TERM; RENEWAL OF TERM. The initial term of this Agreement shall be two (2) years ("Term") unless sooner terminated in accordance with Section 9 of this Agreement. The Term of this Agreement shall automatically renew for one (1) additional two (2) year period (the "Renewal Term") on the same terms and conditions as set forth herein; provided, the Term shall not automatically renew as to each individual member agency if such member agency provides written notice to MARC of its intention not to renew within one hundred eighty (180) days prior to the expiration of the Term.

Sec. 27. CASH BASIS LAW & UNFUNDED OBLIGATIONS. This Agreement is subject to the Kansas Cash Basis Law, K.S.A. 10-1101 et seq. and amendments thereto as it applies to Member Agencies which are agencies or political subdivisions of the State of Kansas. Any automatic renewal of the terms of the Agreement shall create no legal obligation on the part of the Member Agencies. This Agreement shall be construed and interpreted so as to ensure that the Member Agencies shall at all times stay in conformity with such laws and, as a condition of this Agreement, each member agency reserves the right to unilaterally sever, modify, or terminate its participation in this Agreement at any time if, in the opinion of its legal counsel, the Agreement is deemed to violate the terms of the Kansas Cash Basis Law to the extent it prohibits unfunded obligations. The Member Agencies are obligated only to pay periodic payments or monthly installments under the Agreement as may lawfully be made from: (a) funds budgeted and appropriated for that purpose during the Member Agencies' current budget year, or (b) funds made available from any lawfully operated revenue producing source.

Sec. 28. EXECUTION IN MULTIPLE COUNTER PARTS. This Agreement may be executed by the parties in multiple counterparts which shall be taken together as one complete document.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, each party hereto has executed this Agreement on the day and year herein written.

MID-AMERICA REGIONAL COUNCIL

By: _____

Title: _____

Date: _____

ACKNOWLEDGMENT

STATE OF MISSOURI)
) ss
COUNTY OF JACKSON)

On this ____ day of _____, 201__, before me, the undersigned, a Notary Public, appeared _____, to me personally known, or proved to me on the basis of satisfactory evidence, who, being by me duly sworn, did say that he is the Executive Director of Mid-America Regional Council ("MARC") and that this foregoing instrument was signed and sealed on behalf of MARC by authority of its Board, and said officer acknowledged said instrument to be executed for the purposes therein stated and as the free act and deed of MARC.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year last above written.

_____

Printed Name _____
Notary Public - State of Missouri
Commissioned in Jackson County

My commission expires:

_____

Notices: Notices pursuant to this Agreement to BONNER SPRINGS, KS shall be sent to:

City of Bonner Springs
Attention: Rita Hoag
205 E Second Street
P.O. Box 38
Bonner Springs, KS 66012

EXECUTION OF AGREEMENT

BONNER SPRINGS, KS

By: _____
[PRINTED NAME]
[TITLE]

Date: _____

Attest:

_____
Clerk

APPROVED AS TO FORM:

_____

ACKNOWLEDGMENT

STATE OF KANSAS)
) ss.
COUNTY OF _____)

On this _____ day of _____, 201__, before me, the undersigned, a Notary Public, appeared _____, to me personally known, or proved to me on the basis of satisfactory evidence, who, being by me duly sworn, did say that he is the Mayor of the City of _____, Kansas, and that the foregoing officer acknowledged said instrument to be executed for the purposes therein stated and as the free act and deed of said City.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year last above written.

_____
Printed Name:_____
Notary Public – State of Kansas
Commissioned in _____

My commission expires:

_____

Notices: Notices pursuant to this Agreement to FAIRWAY, KS shall be sent to:

Bill Stogsdill, Public Works Director
4717 Roe Parkway
Roeland Park, KS 66205

EXECUTION OF AGREEMENT

FAIRWAY, KS

By: _____
[PRINTED NAME]
[TITLE]

Date: _____

Attest:

_____
Clerk

APPROVED AS TO FORM:

_____

ACKNOWLEDGMENT

STATE OF KANSAS)
) ss.
COUNTY OF _____)

On this _____ day of _____, 201__, before me, the undersigned, a Notary Public, appeared _____, to me personally known, or proved to me on the basis of satisfactory evidence, who, being by me duly sworn, did say that he is the Mayor of the City of _____, Kansas, and that the foregoing officer acknowledged said instrument to be executed for the purposes therein stated and as the free act and deed of said City.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year last above written.

_____
Printed Name:_____
Notary Public – State of Kansas
Commissioned in _____

My commission expires:

_____

Notices: Notices pursuant to this Agreement to UNIFIED GOVERNMENT, KS shall be sent to:

Lideana Laboy
701 North 7th Street, Suite 712
Kansas City, Kansas 66101

EXECUTION OF AGREEMENT

UNIFIED GOVERNMENT

By: _____
[PRINTED NAME]
[TITLE]

Date: _____

Attest:

_____
Clerk

APPROVED AS TO FORM:

_____

ACKNOWLEDGMENT

STATE OF KANSAS)
) ss.
COUNTY OF _____)

On this _____ day of _____, 201__, before me, the undersigned, a Notary Public, appeared _____, to me personally known, or proved to me on the basis of satisfactory evidence, who, being by me duly sworn, did say that he is the Mayor of the City of _____, Kansas, and that the foregoing officer acknowledged said instrument to be executed for the purposes therein stated and as the free act and deed of said City.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year last above written.

_____
Printed Name:_____
Notary Public – State of Kansas
Commissioned in _____

My commission expires:

_____

Notices: Notices pursuant to this Agreement to City of Lansing, KS shall be sent to:

City of Lansing
Director of Public Works
Attention: Jeff Rupp
730 First Terrace, Suite 3
Lansing, KS 66043

EXECUTION OF AGREEMENT

LANSING, KS

By: _____
[PRINTED NAME]
[TITLE]

Date: _____

Attest:

_____
Clerk

APPROVED AS TO FORM:

_____

ACKNOWLEDGMENT

STATE OF KANSAS)
) ss.
COUNTY OF _____)

On this _____ day of _____, 201__, before me, the undersigned, a Notary Public, appeared _____, to me personally known, or proved to me on the basis of satisfactory evidence, who, being by me duly sworn, did say that he is the Mayor of the City of _____, Kansas, and that the foregoing officer acknowledged said instrument to be executed for the purposes therein stated and as the free act and deed of said City.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year last above written.

_____
Printed Name:_____
Notary Public – State of Kansas
Commissioned in _____

My commission expires:

_____

Notices: Notices pursuant to this Agreement to LEAVENWORTH, KS shall be sent to:

City of Leavenworth
Attention: Public Works Director
Attn: Mike McDonald
100 North 5th Street
Leavenworth, Kansas 66048

EXECUTION OF AGREEMENT

LEAVENWORTH, KS

By: _____
[PRINTED NAME]
[TITLE]

Date: _____

Attest:

_____
Clerk

APPROVED AS TO FORM:

_____

ACKNOWLEDGMENT

STATE OF KANSAS)
) ss.
COUNTY OF _____)

On this _____ day of _____, 201__, before me, the undersigned, a Notary Public, appeared _____, to me personally known, or proved to me on the basis of satisfactory evidence, who, being by me duly sworn, did say that he is the Mayor of the City of _____, Kansas, and that the foregoing officer acknowledged said instrument to be executed for the purposes therein stated and as the free act and deed of said City.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year last above written.

_____
Printed Name:_____
Notary Public – State of Kansas
Commissioned in _____

My commission expires:

_____

Notices: Notices pursuant to this Agreement to LEAWOOD, KS shall be sent to:

City of Leawood
Attention: David Ley, P.E., Public Works Director
4800 Town Center Drive
Leawood, KS 66211

EXECUTION OF AGREEMENT

LEAWOOD, KS

By: _____
Peggy J. Dunn
Mayor

Date: _____

Attest:

_____
Debra Harper, CMC, City Clerk

APPROVED AS TO FORM:

_____
Patricia A. Bennett, City Attorney

ACKNOWLEDGMENT
STATE OF KANSAS)
) ss.
COUNTY OF _____)

On this _____ day of _____, 201__, before me, the undersigned, a Notary Public, appeared _____, to me personally known, or proved to me on the basis of satisfactory evidence, who, being by me duly sworn, did say that he is the Mayor of the City of _____, Kansas, and that the foregoing officer acknowledged said instrument to be executed for the purposes therein stated and as the free act and deed of said City.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year last above written.

_____
Printed Name:_____
Notary Public – State of Kansas
Commissioned in _____

My commission expires:

_____

Notices: Notices pursuant to this Agreement to LENEXA, KS shall be sent to:

City of Lenexa
Attention: Community Development Director
12350 W 87th Street Pkwy
Lenexa, KS 66215-2882

EXECUTION OF AGREEMENT

LENEXA, KS

By: _____
[PRINTED NAME]
[TITLE]

Date: _____

Attest:

_____
Clerk

APPROVED AS TO FORM:

_____

ACKNOWLEDGMENT

STATE OF KANSAS)
) ss.
COUNTY OF _____)

On this _____ day of _____, 201__, before me, the undersigned, a Notary Public, appeared _____, to me personally known, or proved to me on the basis of satisfactory evidence, who, being by me duly sworn, did say that he is the Mayor of the City of _____, Kansas, and that the foregoing officer acknowledged said instrument to be executed for the purposes therein stated and as the free act and deed of said City.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year last above written.

_____
Printed Name:_____
Notary Public – State of Kansas
Commissioned in _____

My commission expires:

_____

Notices: Notices pursuant to this Agreement to MERRIAM, KS shall be sent to:

City of Merriam
Attention: Public Works Director
9000 W 62nd Terr.
Merriam, KS 66202-2815

EXECUTION OF AGREEMENT

MERRIAM, KS

By: _____
[PRINTED NAME]
[TITLE]

Date: _____

Attest:

_____
Clerk

APPROVED AS TO FORM:

_____

ACKNOWLEDGMENT

STATE OF KANSAS)
) ss.
COUNTY OF _____)

On this _____ day of _____, 201__, before me, the undersigned, a Notary Public, appeared _____, to me personally known, or proved to me on the basis of satisfactory evidence, who, being by me duly sworn, did say that he is the Mayor of the City of _____, Kansas, and that the foregoing officer acknowledged said instrument to be executed for the purposes therein stated and as the free act and deed of said City.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year last above written.

_____
Printed Name:_____
Notary Public – State of Kansas
Commissioned in _____

My commission expires:

_____

Notices: Notices pursuant to this Agreement to MISSION, KS shall be sent to:

City of Mission
Attention: Public Works Director
4775 Lamar
Mission, Kansas 66202

EXECUTION OF AGREEMENT

MISSION, KS

By: _____
[PRINTED NAME]
[TITLE]

Date: _____

Attest:

_____
Clerk

APPROVED AS TO FORM:

_____

ACKNOWLEDGMENT

STATE OF KANSAS)
) ss.
COUNTY OF _____)

On this _____ day of _____, 201__, before me, the undersigned, a Notary Public, appeared _____, to me personally known, or proved to me on the basis of satisfactory evidence, who, being by me duly sworn, did say that he is the Mayor of the City of _____, Kansas, and that the foregoing officer acknowledged said instrument to be executed for the purposes therein stated and as the free act and deed of said City.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year last above written.

_____
Printed Name:_____
Notary Public – State of Kansas
Commissioned in _____

My commission expires:

_____

Notices: Notices pursuant to this Agreement to MISSION WOODS, KS shall be sent to:

City of Mission Woods
Attention: Mayor, Robert Tietz
5338 Mission Woods Road
Mission Woods, Kansas 66205

EXECUTION OF AGREEMENT

MISSION WOODS, KS

By: _____
[PRINTED NAME]
[TITLE]

Date: _____

Attest:

_____
Clerk

APPROVED AS TO FORM:

_____

ACKNOWLEDGMENT

STATE OF KANSAS)
) ss.
COUNTY OF _____)

On this _____ day of _____, 201__, before me, the undersigned, a Notary Public, appeared _____, to me personally known, or proved to me on the basis of satisfactory evidence, who, being by me duly sworn, did say that he is the Mayor of the City of _____, Kansas, and that the foregoing officer acknowledged said instrument to be executed for the purposes therein stated and as the free act and deed of said City.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year last above written.

_____
Printed Name:_____
Notary Public – State of Kansas
Commissioned in _____

My commission expires:

_____

Notices: Notices pursuant to this Agreement to OLATHE, KS shall be sent to:

City of Olathe
Attention: Public Works Director
100 E Santa Fe
Olathe, KS 66061

EXECUTION OF AGREEMENT

OLATHE, KS

By: _____
[PRINTED NAME]
[TITLE]

Date: _____

Attest:

_____
Clerk

APPROVED AS TO FORM:

_____

ACKNOWLEDGMENT

STATE OF KANSAS)
) ss.
COUNTY OF _____)

On this _____ day of _____, 201__, before me, the undersigned, a Notary Public, appeared _____, to me personally known, or proved to me on the basis of satisfactory evidence, who, being by me duly sworn, did say that he is the Mayor of the City of _____, Kansas, and that the foregoing officer acknowledged said instrument to be executed for the purposes therein stated and as the free act and deed of said City.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year last above written.

_____
Printed Name:_____
Notary Public – State of Kansas
Commissioned in _____

My commission expires:

_____

Notices: Notices pursuant to this Agreement to OVERLAND PARK, KS shall be sent to:

City of Overland Park
Attention: Director of Public Works
8500 Santa Fe Drive
Overland Park, KS 66212

EXECUTION OF AGREEMENT

OVERLAND PARK, KS

By: _____
[PRINTED NAME]
[TITLE]

Date: _____

Attest:

_____
Clerk

APPROVED AS TO FORM:

_____

ACKNOWLEDGMENT

STATE OF KANSAS)
) ss.
COUNTY OF _____)

On this _____ day of _____, 201__, before me, the undersigned, a Notary Public, appeared _____, to me personally known, or proved to me on the basis of satisfactory evidence, who, being by me duly sworn, did say that he is the Mayor of the City of _____, Kansas, and that the foregoing officer acknowledged said instrument to be executed for the purposes therein stated and as the free act and deed of said City.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year last above written.

_____
Printed Name:_____
Notary Public – State of Kansas
Commissioned in _____

My commission expires:

_____

Notices: Notices pursuant to this Agreement to PRAIRIE VILLAGE, KS shall be sent to:

City of Prairie Village
Attention: Keith Bredehoeft, Public Works Director
7700 Mission Road
Prairie Village, Kansas 66208

EXECUTION OF AGREEMENT

PRAIRIE VILLAGE, KS

By: _____
[PRINTED NAME]
[TITLE]

Date: _____

Attest:

_____
Clerk

APPROVED AS TO FORM:

_____

ACKNOWLEDGMENT

STATE OF KANSAS)
) ss.
COUNTY OF _____)

On this _____ day of _____, 201__, before me, the undersigned, a Notary Public, appeared _____, to me personally known, or proved to me on the basis of satisfactory evidence, who, being by me duly sworn, did say that he is the Mayor of the City of _____, Kansas, and that the foregoing officer acknowledged said instrument to be executed for the purposes therein stated and as the free act and deed of said City.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year last above written.

_____
Printed Name:_____
Notary Public – State of Kansas
Commissioned in _____

My commission expires:

_____

Notices: Notices pursuant to this Agreement to SHAWNEE, KS shall be sent to:

City of Shawnee
Attention: Doug Whitacre
18690 Johnson Drive
Shawnee, KS 66218

EXECUTION OF AGREEMENT

SHAWNEE, KS

By: _____
[PRINTED NAME]
[TITLE]

Date: _____

Attest:

_____
Clerk

APPROVED AS TO FORM:

_____

ACKNOWLEDGMENT

STATE OF KANSAS)
) ss.
COUNTY OF _____)

On this _____ day of _____, 201__, before me, the undersigned, a Notary Public, appeared _____, to me personally known, or proved to me on the basis of satisfactory evidence, who, being by me duly sworn, did say that he is the Mayor of the City of _____, Kansas, and that the foregoing officer acknowledged said instrument to be executed for the purposes therein stated and as the free act and deed of said City.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year last above written.

_____
Printed Name:_____
Notary Public – State of Kansas
Commissioned in _____

My commission expires:

_____

Notices: Notices pursuant to this Agreement to WESTWOOD, KS shall be sent to:

City of Westwood
Attention: John Sullivan, Public Works
2545 W. 47th Street
Westwood, KS 66205

EXECUTION OF AGREEMENT

WESTWOOD, KS

By: _____
[PRINTED NAME]
[TITLE]

Date: _____

Attest:

_____
Clerk

APPROVED AS TO FORM:

_____

ACKNOWLEDGMENT

STATE OF KANSAS)
) ss.
COUNTY OF _____)

On this _____ day of _____, 201__, before me, the undersigned, a Notary Public, appeared _____, to me personally known, or proved to me on the basis of satisfactory evidence, who, being by me duly sworn, did say that he is the Mayor of the City of _____, Kansas, and that the foregoing officer acknowledged said instrument to be executed for the purposes therein stated and as the free act and deed of said City.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year last above written.

_____
Printed Name:_____
Notary Public – State of Kansas
Commissioned in _____

My commission expires:

_____

EXHIBIT 1

OPERATION GREEN LIGHT COMMITTEE

Role, Responsibility, and Organizational Structure

1.1.1 *Responsibilities: The Operation Green Light Steering Committee shall serve to approve budgets, procurement and staffing recommendations to the Mid-America Regional Council Board of Directors and to make other technical and policy decisions concerning the development, deployment and operation of the Operation Green Light regional traffic signal coordination program, including:* approve the program's upcoming annual budget during the final meeting of the calendar year. Purchases and contracts shall follow MARC's established threshold guidelines as well as the following: amounts of $15,000-$25,000 shall be reported to the committee; amounts of $25,001 or more shall be voted on and approved by the Steering Committee before purchase or contract is sent to MARC's Board of Directors for approval.

1.1.2 Participate in program decision-making at key points by reviewing and providing comments on project deliverables and by approving or rejecting technical and policy recommendations;

1.1.3 Participate in the development of inter-jurisdictional agreements for the construction, operation, maintenance and other activities of the regional traffic signal coordination system; and

1.2 Call upon committee members to participate in Task Force work groups as technical issues rise requiring additional effort than time allows during a Steering Committee meeting. The Task Force shall submit to the Steering Committee recommendations based on its discussions.

1.3 Membership and Meetings: The Steering Committee shall be composed of representatives from participating agencies in the following manner:

(The following table is a current list as of September 2018.)

	Participating Agency Non-Funding Agency in Bold	**Membership (voting)**
1	Blue Springs	1
2	Bonner Springs	1
3	Fairway	1
4	FHWA – MO & KS	Ex Officio
5	Gladstone	1
6	Grandview	1
7	Independence	1
8	Kansas City, MO	1
9	KCScout	Ex Officio
10	KDOT	1
11	Lansing	1
12	Leavenworth	1
13	Leawood	1
14	Lee's Summit	1
15	Lenexa	1
16	Liberty	1
17	MARC	1
18	Merriam	1
19	Mission	1
20	Mission Woods	1
21	MoDOT	1

22	North Kansas City	1
23	Olathe	1
24	Overland Park	1
25	Prairie Village	1
26	Raymore	1
27	Shawnee	1
28	Unified Government/KCK	1
29	Westwood	1

Each representative shall have a designated alternate with full authority to act in the absence of the representative. The Steering Committee may be expanded to include other additional members as approved by majority vote of the members of the existing Steering Committee.

The Steering Committee shall meet minimally on a quarterly basis but may meet more frequently if the business of the Steering Committee necessitates. The final meeting of the calendar year shall be designed to report on the State of the Operation Green Light Program including Budget reporting and approval of the future budget and election of the next vice-chairperson.

The chairperson of the Steering Committee shall have the authority to call a meeting of the Committee with a minimum of seven (7) calendar days' notice to all the members. Notice is deemed to have occurred from the date that it is deposited with the United States Postal Service, postage prepaid; distributed via Facsimile; OR distributed vie E-mail addressed to the members of the Steering Committee. The chairperson and vice-chairperson shall help develop meeting agendas prior to meeting notices and shall preside over the meetings.

1.4 Chairperson and Vice-Chairperson: The Steering Committee members shall elect by majority vote of all of the voting members of the Committee, from amongst the members of the Committee, a vice-chairperson who will serve a one-year term. Said election will occur at the final regularly scheduled meeting of the calendar year of the Steering Committee prior to the expiration of the chairperson's one-year term. The vice-chairperson shall assume the responsibilities of the chairperson at the end of the chairperson's term and any time the chairperson is unable to attend committee meetings. Kansas and Missouri shall be represented in these positions in alternating years.

1.5 Quorum and Voting: All members of the Steering Committee shall be entitled to one vote on all matters submitted to the Committee for vote.

Any **six** of the voting members of the Steering Committee, including at least **one** member from Kansas City, Missouri, the Missouri Department of Transportation, Unified Government/Kansas City, Kansas, or Overland Park, Kansas, (based on the four largest agencies by signal count at the beginning of the current Operations contract term) shall constitute the quorum necessary to convene the meeting of the Committee. All official actions by the Steering Committee shall require a majority vote of the members present at the meeting.

All votes shall be taken and recorded in the minutes by roll call. Each member shall have the ability to recall any matter voted upon during his or her absence providing said member notifies in writing the committee chairperson or co-chairperson within 7 calendar days of when the meeting minutes are posted to the MARC website and/or delivered to committee members via email. Within 3 business days of being notified, the chairperson or co-chairperson shall collaborate with OGL staff to present the issue for a reconsideration of the vote via email to all committee members who will be asked to respond within 10 calendar days. If a response is not received by close of business on the 10th day, the member's previously cast vote shall be counted in the same manner.

EXHIBIT 2

SCOPE OF WORK

1. Project Management

The Mid-America Regional Council (MARC) will provide staff time, equipment and materials, and contract services necessary to accomplish the following project management services:

- Arrange and conduct regular Steering Committee meetings to discuss and develop policies and procedures governing the development, implementation and on-going operation of the program;
- Arrange and conduct Technical Committee meetings as needed to discuss and develop recommendations concerning technical issues associated with the development, implementation and on-going operation of the project;
- Arrange and conduct other meetings with project participants as necessary to develop, implement and operate the project;
- Negotiate, execute and administer agreements with state and local governments to provide federal, state and local funding for the development, implementation and ongoing operation of the program;
- Develop and publish requests for proposals, consultant agreements and other procurement documents necessary to select and hire contractors to provide system integration services, telecommunications and traffic engineering design services, computer software, computer hardware, communications network, traffic signal equipment and other items necessary for the development, implementation and ongoing operation of the program;
- Negotiate, execute and administer agreements with private firms to provide system integration services, telecommunications and traffic engineering design services, computer software, computer hardware, communications network, traffic signal equipment and other items necessary for the development, implementation and ongoing operation of the program;
- Develop and maintain project budgets and schedules;
- Develop and maintain project databases;
- Publish and distribute project documents and other deliverables to participating state and local governments; and
- Perform other tasks necessary to manage and administer the program.

2. Traffic Signal Timing

MARC shall coordinate with agency staff or their delegates to develop and implement, with agency approval, the requisite signal timing plans for OGL intersections

3. Operations and Maintenance

3.1. Computer Software and Databases

MARC will procure all required software and may engage a private firm or firms selected by the project Steering Committee to provide technical support and maintain computer software and databases at the Operation Green Light Traffic Operations Center. MARC staff shall be responsible for providing day-to-day maintenance of the computer software and databases including but not limited to data entry, backups, upgrades, etc., at the Operation Green Light Traffic Operations Center.

3.2. Computer Network

MARC will procure all required hardware and software. Any equipment (e.g. switches, routers, hubs, etc.) that is used for the field communication back bone will be considered part of the computer network. MARC may engage a private firm or firms selected by the Steering Committee to provide technical support and maintain the Operation Green Light computer network.

3.3. Field Communications System

All field communications equipment purchased by MARC will be maintained by MARC. The city will maintain any pre-existing, city-owned equipment that is utilized as part of the OGL field communication system. MARC staff will monitor the field communication system through monitoring software which is purchased by MARC. MARC may engage a private firm or firms selected by the project Steering Committee to maintain the regional field communications system. The scope of services for this work will be developed with and approved by the Steering Committee.

3.4. Traffic Signal Controllers

Each member agency shall be responsible for all maintenance to the traffic signal controllers. MARC responsibility will be limited to maintaining the regional field communication system and will terminate at the traffic controller unless otherwise specified. Traffic signal controllers and cabinets that have been purchased and/or installed as part of the OGL controller upgrade project will also be owned and maintained by the local jurisdiction once they have been received and/or accepted, and the local jurisdiction will be responsible for purchasing and installing replacement controllers that are compatible with the OGL system should the MARC-purchased controller fail.

EXHIBIT 3

COMPENSATION

A. The amount each Member Agency will pay MARC under this contract will not exceed the amount listing in the below table. This amount represents the Member Agency share of the total project cost as shown in this Exhibit. The Member Agency shall pay MARC, upon invoice, for the actual costs incurred for MARC on a yearly basis.

REVENUE SOURCES FOR OPERATION GREEN LIGHT FOR OPERATING YEARS 2019-2020 LOCAL GOVERNMENTS				
	Agency	Locations weighted by % ownership	2019 Cost per signal at $600/year	2020 Cost per signal at $600/year
1	BONNER SPRINGS	4	$ 2,400.00	$ 2,400.00
2	FAIRWAY	2	$ 1,200.00	$ 1,200.00
3	LANSING	4	$ 2,400.00	$ 2,400.00
4	LEAVENWORTH	1	$ 600.00	$ 600.00
5	LEAWOOD	11.25	$ 6,750.00	$ 6,750.00
6	LENEXA	35	$ 21,000.00	$ 21,000.00
7	MERRIAM	18	$ 10,800.00	$ 10,800.00
8	MISSION	2.75	$ 1,650.00	$ 1,650.00
9	MISSION WOODS	0.75	$ 450.00	$ 450.00
10	OLATHE	15	$ 9,000.00	$ 9,000.00
11	OVERLAND PARK	44.75	$ 26,850.00	$ 26,850.00
12	PRAIRIE VILLAGE	6.75	$ 4,050.00	$ 4,050.00
13	SHAWNEE	14.5	$ 8,700.00	$ 8,700.00
14	UGOVT/KCK	64	$ 38,400.00	$ 38,400.00
15	WESTWOOD	1.25	$ 750.00	$ 750.00
	TOTALS	225	**$ 135,000.00**	**$ 135,000.00**

B. It shall be a condition precedent to payment of any invoice from MARC that MARC is in compliance with, and not in breach or default of, all terms, covenants and conditions of this Contract. If damages are sustained by a Member Agency as a result of breach or default by MARC, the Member Agency may withhold payment(s) to MARC for the purpose of set off until such time as the exact amount of damages due the Member Agency from MARC may be determined.

C. No request for payment will be processed unless the request is in proper form, correctly computed, and is approved as payable under the terms of this Agreement.

D. A Member Agency is not liable for any obligation incurred by MARC except as approved under the provisions of this Agreement.

Exhibit 4

INSURANCE REQUIREMENTS

A. MARC shall procure and maintain and shall cause any Private Firm it engages to perform services under this Agreement to procure and maintain in effect throughout the duration of this Agreement, and for a period of two (2) years thereafter, insurance coverage not less than the types and amounts specified below. MARC shall not accept insurance policies from any Private Firm containing a Self-Insured Retention.

1. Commercial General Liability Insurance: with limits of $500,000 per occurrence and $2,000,000 aggregate, written on an "occurrence" basis. The policy shall be written or endorsed to include the following provisions:

a. Severability of Interests Coverage applying to Additional Insureds

b. Contractual Liability

c. Per Project Aggregate Liability Limit or, where not available, the aggregate limit shall be $2,000,000

d. No Contractual Liability Limitation Endorsement

e. Additional Insured Endorsement, ISO form CG20 10, current edition, or its equivalent

2. Workers' Compensation Insurance: as required by statute, including Employers Liability with limits of:

Workers Compensation Statutory
Employers Liability
$100,000 accident with limits of:
$500,000 disease-policy limit
$100,000 disease-each employee

3. Commercial Automobile Liability Insurance: with $500,000 per claim up to $2,000,000 per occurrence, covering owned, hired, and non-owned automobiles. Coverage provided shall be on an "any auto" basis and written on an "occurrence" basis. The insurance will be written on a Commercial Business Auto form, or an acceptable equivalent, and will protect against claims arising out of the operation of motor vehicles, as to acts done in connection with the Agreement, by Design Professional.

4. Professional Liability Insurance (only applicable for Private Firms that are design professionals or other types of professionals that can carry professional liability insurance): with limits Per Claim/Annual Aggregate according to the following schedule:

Fee Minimum Limits	Professional Liability Minimum
Less than $25,000	$100,000
$25,000 or more, but less than $50,000	$500,000
$50,000 or more	$1,000,000

B. The policies listed above may not be canceled until after thirty (30) days written notice of cancellation to MARC and the City, ten (10) days in the event of nonpayment of premium. The Commercial General and Automobile Liability Insurance specified above shall provide that MARC and the City and their agencies, officials, officers, and employees, while acting within the scope of their authority, will be named as additional insureds for the services performed under this Agreement. Private Firms engaged by MARC shall provide to MARC and the City at execution of this Agreement a certificate of insurance showing all required endorsements and additional insureds.

C. All insurance coverage must be written by companies that have an A.M. Best's rating of "B+V" or better, and are licensed or approved by the State of Kansas to do business in Kansas and by the State of Missouri to do business in Missouri.

D. Regardless of any approval by MARC or the City, it is the responsibility of the Private Firms to maintain the required insurance coverage in force at all times; its failure to do so will not relieve it of any contractual obligation or responsibility. In the event of a Private Firm's failure to maintain the required insurance in effect, MARC may order the Private Firm to immediately stop work, and upon ten (10) days notice and an opportunity to cure, may pursue its remedies for breach of this Agreement as provided for herein and by law.

EXHIBIT 5

Operation Green Light Location / Ownership Matrix

Component	Location	Purchased By	Owned By	Maintained By	Comments
Software/Firmware					
TransSuite & Associated Software	OGL TOC	MARC	MARC	MARC*	
Genetec Video System	OGL TOC	MARC	MARC	MARC*	Available for use by local agencies
Other software used by MARC staff	OGL TOC	MARC	MARC	MARC*	
Computer Hardware					
OGL TOC Servers	OGL TOC	MARC	MARC	MARC*	
OGL TOC Workstations	OGL TOC	MARC	MARC	MARC*	
Agency TOC Servers	Local Agency	Local Agency	Local Agency	Local Agency	
Agency TOC Workstations	Local Agency	Local Agency	Local Agency	Local Agency	
Field Hardware					
OGL Field Network Equipment	Field	MARC	MARC	MARC*	
Local Agency Field Network Equipment	Field	Local Agency	Local Agency	Local Agency	Extention of City network
Existing Closed-Loop fiber re-tasked to OGL Network	Field	Local Agency	Local Agency	Local Agency	OGL owns switches to manage
Traffic Signal Controllers	Field	MARC/Local Agency	Local Agency	Local Agency	OGL purchased controllers only for original build-out
OGL-purchased Closed Circuit Camera	Field	MARC	Local Agency	Local Agency	
Miscellaneous					
OGL TOC Office	MoDOT KC District	MoDOT	MoDOT	MoDOT	
OGL TOC Phone System	OGL TOC	MoDOT	MoDOT	MoDOT	
OGL TOC Office Furniture & Equipment	OGL TOC	MARC	MARC	MARC*	
OGL Vehicles & Mobile Equipment	OGL TOC	MARC	MARC	MARC*	

* MARC maintained components to be maintained by joint-funded agreement

Exhibit 6
OGL Concept of Operations: Roles and Responsibilities

Introduction

Operation Green Light (OGL) is a regional initiative to improve traffic flow and reduce vehicle emissions by coordinating traffic signals on major roadways in the Kansas City metropolitan area. OGL is a cooperative effort of the Mid-America Regional Council (MARC), state departments of transportation and local agencies working together to coordinate traffic signal timing plans and communication between traffic signal equipment across jurisdictional boundaries.

The concept of operations provides a high-level overview of the roles and responsibilities of the agencies participating in the operation and management of OGL. The concept of operations is intended to balance the need for standardization and uniformity of operations on OGL routes with the need to be responsive to the unique needs and circumstances of the agencies participating in OGL.

Signal Timing

Initial Deployment of Regional Timing Plans

The member agencies will partner with MARC and each other in developing regional traffic signal timing plans. In order to facilitate this work each member agency will provide MARC traffic counts and other relevant, available data for traffic signals that are part of regionally significant traffic corridors that pass through adjacent cities. This information may include;

- Existing timing plans and data in the existing traffic controller (controller data sheets)
- Intersection geometry via aerial mapping
- Signal phasing information (or policy)
- Historical traffic count information available
- Approved yellow and all-red clearance intervals (or policy)
- Pedestrian timing (or policy)
- Signal phasing policy (lead only/lead-lag/vary lead-lag by time-of-day)
- Historical citizen complaints on the intersection operation as needed

After providing data to MARC, each member agency will then work with MARC to cooperatively develop regionally optimized timing plans. The member agency will continue to be responsible for maintenance of timing plans for traffic signals that lie wholly within the member agency's jurisdictional boundaries and are not on OGL corridors unless the member agency decides to contract this work to MARC. The steps involved in the development of regional timing plans are:

- The member agency will either collect traffic counts on the arterials for signals maintained by the member agency and provide this information to MARC <u>OR</u> will contract with MARC to collect traffic counts as needed.
- In conjunction with member agency staff, MARC will conduct travel-time studies and speed profile studies on the arterial prior to implementation of the timing plans
- MARC may hold design meetings with representatives from the member agencies and other impacted agencies. At the first of these meetings the following items will be established
    - Number of timing plans and time of use (i.e., am, noon, pm, off-peaks, etc.)
    - Critical intersections of a corridor
    - An initial common corridor cycle length for each of the plans identified (i.e. am,

pm, etc.) [Note: this cycle length may need to be revisited after developing the regional timing plan.]

- The member agency will then develop the following initial parameters for individual signals maintained by the member agency for each of the timing plans to be developed, and submit them to MARC for review and incorporation into regional plans for the OGL corridor;
    - phase sequencing
    - splits
    - offsets
- MARC will develop initial splits and offsets for any remaining signals and incorporate member agency developed timing plans into regional plans for the OGL corridor.
- MARC may then incorporate the regional plans into mutually agreed upon software as needed for review by the member agencies.
- At the second meeting, MARC and the member agencies will;
    - Review the regional timing plans developed
    - Review any software models developed
    - Determine if any changes to initial timings need to be made to optimize the operation of the corridor
- Once the member agencies have agreed on the different timing plans developed, they will download the timing plans into signal controllers maintained by each member agency OR will request MARC to provide signal timing plans and download to local controllers.
- In conjunction with member agency staff, MARC will field-monitor each arterial after a timing plan has been downloaded and will work with the member agency to make any additional changes to further optimize the flow of traffic if necessary.
- In conjunction with member agency staff, MARC will conduct travel-time and speed profile studies on arterials after implementation of the optimized signal timing plans

Providing Maintenance Timing Plans

As part of a regional effort, MARC will on a regular basis, or as requested, examine the operations of signals that are part of regionally significant traffic corridors that pass through the member agency and adjacent cities and determine if optimization is necessary. If minor changes to splits and offsets are to be made to individual signals along an OGL corridor the following steps will be followed:

- In conjunction with MARC, member agency staff will field-monitor the affected corridor or intersection(s)
- MARC will meet with affected member agencies if needed
- MARC will collect traffic counts as necessary <u>OR</u> the member agency will collect traffic counts at member agency maintained traffic signals
- The member agency will develop timing plans for member agency maintained signals and download them to controllers as necessary in coordination with MARC <u>OR</u> MARC will develop and provide revised arterial timing plans as needed
- In conjunction with member agency staff, MARC will field-monitor each arterial after timing plan download and provide further optimization if necessary by submitting updated timing plans for agency consideration and download

If major changes, such as changes to cycle lengths, phase sequencing and major changes to splits, are to be made along an OGL corridor, the process described above for initial deployment of regional timing plans may be used.

Incident Management

The member agency will work with MARC and other member agencies to identify locations along the regionally significant arterials and interstate highways where incidents are prone to happen and have major impact on traffic flow. These locations may be manually forced to run special plans when an incident is observed at the TOC. The following steps shall be followed for planned, recurring, and anticipated incident response:

- MARC and member agencies will identify incident-prone locations
- MARC will meet with affected member agencies to discuss solutions
- MARC will develop signal timing plans for the incident
- MARC will submit such plans for review by member agencies
- MARC and member agencies will jointly determine the parameters required for invoking such a plan by the TOC
- Once the plan has been invoked (when the required parameters are met) MARC will inform the affected agencies immediately
- After the incident has been cleared, MARC will put signals back on their regular plans and inform member agencies

The member agency will inform MARC about construction and roadway closures and may request signal timing plan adjustments. MARC will provide special timing plans when requested to optimize traffic flow for agency consideration and download.

Citizen Complaints

Member agencies will route/report citizen complaints/requests on OGL signals to the TOC and MARC, in cooperation with the member agency, will respond to the complaint/request in a timely manner. MARC will also route/report received citizen complaints to the member agencies and maintain a response log.

Dispute Resolution

In the event that satisfactory agreement cannot be reached between member agencies on timing plans or incident plans developed for OGL, the dispute will be referred to the OGL Steering Committee, which will provide recommendations for resolution. Unless the responsible engineer for a member agency determines that such plans will create an unsafe condition within their jurisdiction, the member agency will implement the plans recommended by the Committee

Emergency Provisions

In the event of an emergency not already covered under a pre-arranged incident-management plan, the member agency will take any steps it considers necessary to manage traffic signals within its jurisdiction to ensure the safety of the traveling public. The member agency will notify MARC of any emergency changes made to OGL traffic signal timing plans in a timely manner and will work expeditiously with MARC to restore all OGL corridors within its jurisdiction to normal operation when the emergency subsides.

Field Communication Operation and Maintenance

MARC will be responsible for maintenance and replacement of all wireless communication infrastructure that is installed as a result of OGL initiated construction projects. Member agencies that have the capability to maintain their own communication infrastructure may do by separate agreement with MARC.

Controller Upgrades and Work inside the Traffic Controller Cabinet

MARC will, with the applicable member agencies, upgrade traffic controllers that are incapable of communicating with the central system software. When work is performed that involves the opening of a traffic controller cabinet, the member agency will coordinate with the contractor and have a representative in the field. The member agency will test and approve/disapprove the work performed by the contractor and inform MARC of the fact. MARC will be responsible for administration and final approval of all OGL initiated construction projects. Member agencies are responsible for notifying and coordinating with OGL when undertaking traffic signal system construction projects on OGL corridors.

Technical Support for OGL Computer Network

MARC will provide technical support for the central system software and the laptop version of the central system software. MARC will also maintain the computer network hardware along with all network components such as network switches, routers, licensed and unlicensed radios, modems etc.

The Traffic Operations Center

MARC will staff OGL operations at the Traffic Operations Center (TOC). The TOC is currently co-located with the KC Scout program and offices in the MoDOT KC District offices.

The TOC will be staffed as determined by MARC. MARC expects to coordinate with Kansas City Scout and use the video monitoring capabilities available at the KC Scout TOC to alleviate congestion along arterials. It is recommended that member agencies with traffic management centers, at a minimum, staff their centers to operate on a schedule concurrent with OGL.

The staff will interact with citizens and the media and provide answers to traffic signal timing questions on OGL signals.

Return to Agenda

Staff Review

7.M.

Fact Sheet

SUBJECT: **RESOLUTION TO ACCEPT PERMANENT STORM SEWER EASEMENT PATRICIAN WOODS STORMWATER IMPROVEMENT PROJECT**

February 18, 2019

DISCUSSION

The Public Works Department is requesting a Resolution for acceptance of a Permanent Storm Sewer Easement for the property at 12603 Delmar in the Patrician Woods Subdivision, Third Plat.

Property Owners Brian C. and Sarah B. Nelson, have signed the Permanent Storm Sewer Easement in consideration of the sum of $4,044.00.

This easement is required with stormwater improvements planned for the area. The City's desire as expressed in past meetings is to continue the project so that flooding issues can be addressed for the neighborhood.

The Department of Public Works requests the Governing Body acceptance of the Permanent Storm Sewer Easement with payment and easement be recorded at Johnson County's Clerk office.

David Ley, P.E.
Director of Public Works

SPONSOR

Public Works Department

COUNCIL ACTION TO BE TAKEN

Accept Easement and Approve Resolution

STAFF RECOMMENDATION

- ☑ For
- ☐ Against
- ☐ No position

COMMITTEE RECOMMENDATION

- ☐ For
- ☐ Against
- ☐ No position
- ☑ No Assignment

POLICY OR PROGRAM CHANGE

- ☑ No
- ☐ Yes

OPERATIONAL IMPACT

COSTS

$4,044.00 plus Recording fees

FUND SOURCES

Project 77018

DRAFT

RESOLUTION NO. _____

RESOLUTION ACCEPTING A PERMANENT STORM SEWER EASEMENT FROM GRANTORS BRIAN C. NELSON AND SARAH B. NELSON, FOR PROPERTY LOCATED AT 12603 DELMAR, PERTAINING TO THE PATRICIAN WOODS STORMWATER PROJECT LOCATED AT APPROXIMATELY 127TH STREET AND CATALINA IN LEAWOOD, JOHNSON COUNTY, KANSAS [SMAC PROJECT TM-04-006] [LEAWOOD PROJECT # 77018]

WHEREAS, the Grantors Brian C. Nelson and Sarah B. Nelson have executed a Permanent Storm Sewer Easement, necessary to meet improvement needs; and

WHEREAS, the City desires to accept such Permanent Storm Sewer Easement.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF LEAWOOD, KANSAS:

SECTION ONE: That the Governing Body hereby accepts the Permanent Storm Sewer Easement, a copy of which is attached hereto as Exhibit "A," and incorporated herein by reference as if fully set out.

SECTION TWO: This resolution shall become effective upon passage.

PASSED by the Governing Body this 18th day of February, 2019.

APPROVED by the Mayor this 18th day of February, 2019.

[SEAL]

_____
Peggy J. Dunn, Mayor

ATTEST:

_____
Debra Harper, CMC, City Clerk

APPROVED AS TO FORM:

_____
Patricia A. Bennett, City Attorney

STORM SEWER EASEMENT

KNOW ALL MEN BY THESE PRESENTS: That Brian C. Nelson and Sarah B. Nelson, Grantors herein, in consideration of the sum of Four Thousand Forty-Four Dollars ($4,044.00) cash in-hand paid by the City of Leawood, Kansas, and other valuable considerations, the sufficiency of which is hereby acknowledged, does hereby GRANT to the CITY OF LEAWOOD, KANSAS, Grantee, a Municipal Corporation of the State of Kansas, its successors and assigns forever a perpetual easement over, under, and through the following described real estate for the purpose of providing for drainage; including constructing, using, replacing, and maintaining a storm sewer (either an underground enclosed system, or an open channel, in accordance with Leawood's Construction Standards), tributary connections and appurtenant work in any part of said easement, including the right to clean, repair, replace and care for said sewer facilities, together with the right of access to said easement and over said easement for said purposes, in the following described premises:

SEE EXHIBIT "A"

THIS EASEMENT is executed and delivered and said easement is granted upon the following conditions, to wit:

1. The Grantor, heirs, executors, administrators, successors and assigns, hereby release the CITY OF LEAWOOD, KANSAS, its agents and employees, assigns and successors from any and all liability for damage to the remaining lands resulting from this conveyance, and construction and maintenance of this easement.

2. It is understood by the Grantor that any sewer or other drainage area constructed or created hereunder shall, in every respect be a public sewer as if laid in one of the dedicated streets of the CITY OF LEAWOOD, KANSAS, and all the property abutting thereon shall have the right to connect therewith under the same conditions as if the sewer were in a public street; and the CITY OF LEAWOOD, KANSAS, or any abutting property owners, upon permit from the Grantee herein, shall have the right at all times to enter upon the described

premises for the purpose of making any necessary repairs to or renewals for replacements of said sewer or drainage improvement.

3. The rights granted herein shall not be construed to interfere with or restrict the Grantor, heirs, executors, administrators, successors and assigns from the use of the premises with respect to the construction and maintenance of property improvements along and over the premises herein described so long as the same are so constructed as not to impair the strength or interfere with the use and maintenance of drainage, said sewer or other drainage improvements.

THIS EASEMENT shall run with the land and shall apply to all interests now owned or hereafter acquired to the above described property. This easement shall be filed of record with the Register of Deeds, Johnson County, Kansas.

DATED this 16th day of January, 2019.

Brian C. Nelson

Brian C. Nelson

Sarah B. Nelson

Sarah B. Nelson

STATE OF Kansas)
) SS.
COUNTY OF Johnson)

BE IT REMEMBERED, that on this 16 day of January, 2019, before me, the undersigned, a Notary Public in and for the said County and State, came Brian C. Nelson and Sarah B. Nelson who are personally known to me to be the same person(s) who executed the foregoing instrument in writing, and duly acknowledged the execution of same.

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

NOTARY PUBLIC STATE OF KANSAS MICHELLE R. SHERRY My Appt. Exp. 4/25/22

My Commission Expires:

4/25/22

Notary Public

Exhibit "A"

Project No. A14-2027
Patrician Woods Stormwater Improvements
July 7, 2017

12603 Delmar St.

Owner:
Brian C. & Sarah B. Nelson
12603 Delmar St.
Leawood, Kansas 66209
Situs Address:
12603 Delmar St.
Leawood, Kansas 66209

Warranty Deed
Bk. 200607, Pg. 001816
Parcel ID: HP91000002 0009

Permanent Drainage Easement:

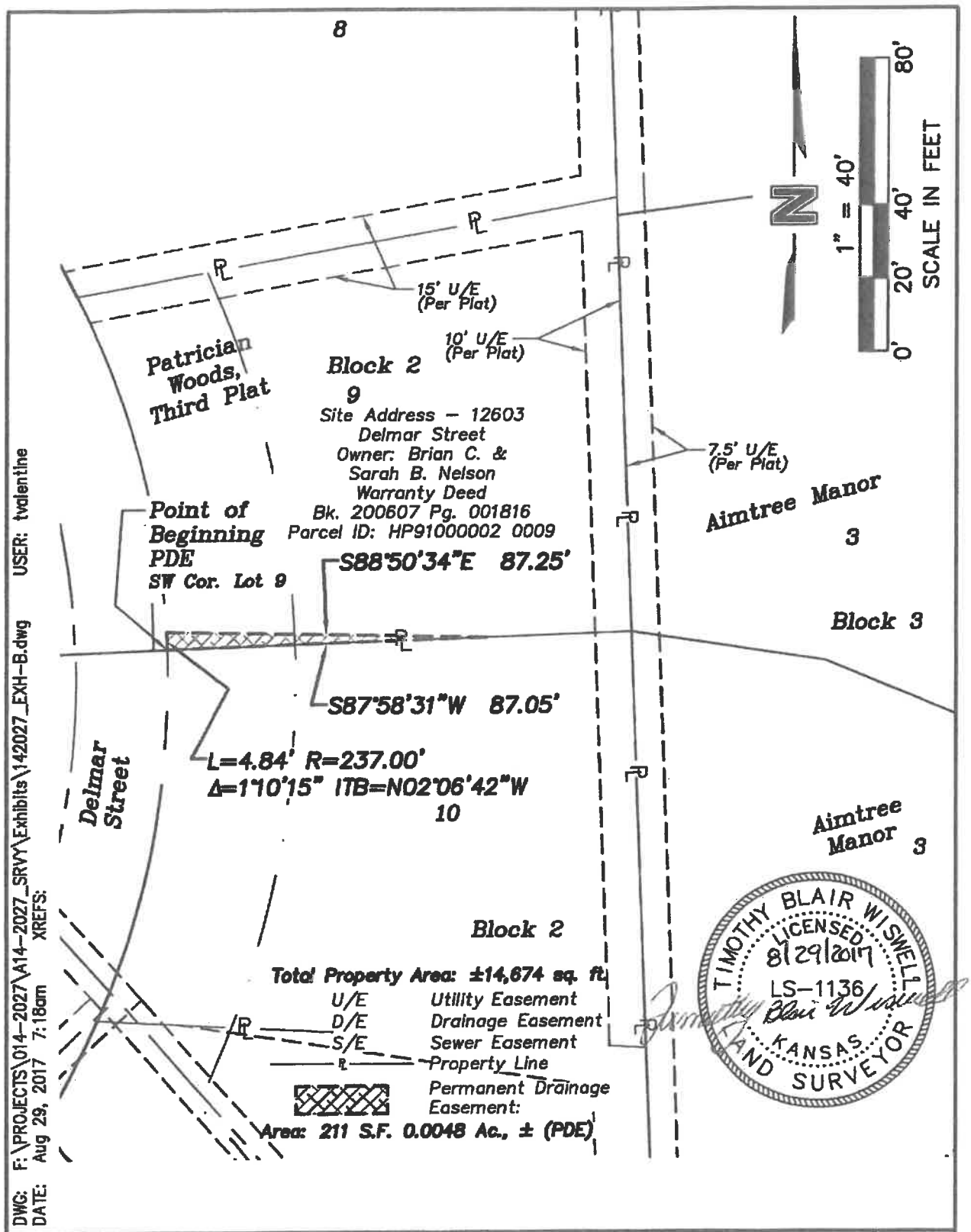
A Permanent Drainage Easement over part of Lot 9, Block 2, Patrician Woods Third Plat, a subdivision in the City of Leawood, Johnson County, Kansas, as described in the Kansas Warranty Deed, recorded in Book 200607 at Page 001816, and being more particularly described as follows:

BEGINNING at the Southwesterly corner of said Lot 9, said point being on the Easterly right-of-way line of Delmar Street, as now established, said point also being a point on a non-tangent curve; thence in a Northerly direction along a curve to the left and said Easterly right-of-way line, whose initial tangent bears North 02 degrees 06 minutes 42 seconds West, having a radius of 237.00 feet, through a central angle of 01 degrees 10 minutes 15 seconds, an arc length of 4.84 feet, thence South 88 degrees 50 minutes 33 seconds East, departing said Easterly right-of-way line, a distance of 87.25 feet, to a point on the South line of said Lot 9; thence South 87 degrees 58 minutes 31 seconds West, along said South line, a distance of 87.05 feet, to the POINT OF BEGINNING, containing 211 square feet or 0.0048 acres, more or less.

(As depicted on Exhibit "B", attached and incorporated herein)

TIMOTHY BLAIR WISWELL
LICENSED
8/29/2017
LS-1136
KANSAS
LAND SURVEYOR

Olsson Associates
7301 West 133rd Street
Suite 200
Overland Park, KS 66213
(913) 381-1170



DWG: F:\PROJECTS\014-2027\A14-2027_SRVY\Exhibits\142027_EXH-B.dwg USER: tvalentine
DATE: Aug 29, 2017 7:18am XREFS:

PROJECT NO: A14-2027	PDE - Part of Lot 9, Block 2, Patrician Woods Third Plat	OLSSON ASSOCIATES	7301 West 133rd Street Suite 200 Overland Park, KS 66213-4760 TEL 913.381.1170 FAX 913.381.1174	EXHIBIT
DRAWN BY: TMV				B
DATE: 08/25/17				

Return to Agenda

Staff Review

7.N.

Fact Sheet

SUBJECT: **RESOLUTION TO ACCEPT TEMPORARY CONSTRUCTION EASEMENT PATRICIAN WOODS STORMWATER IMPROVEMENT PROJECT**

February 18, 2019

DISCUSSION

The Public Works Department is requesting a Resolution for acceptance of a Temporary Construction Easement for the property at 12603 Delmar in the Patrician Woods Subdivision, Third Plat.

Property Owners Brian C. and Sarah B. Nelson, have signed the Permanent Storm Sewer Easement in consideration of the sum of $1,272.00.

This easement is required with stormwater improvements planned for the area. The City's desire as expressed in past meetings is to continue the project so that flooding issues can be addressed for the neighborhood.

The Department of Public Works requests the Governing Body acceptance of the Temporary Construction Easement with payment and easement be recorded at Johnson County's Clerk office.

David Ley, P.E.
Director of Public Works

SPONSOR

Public Works Department

COUNCIL ACTION TO BE TAKEN

Accept Easement and Approve Resolution

STAFF RECOMMENDATION

- ☑ For
- ☐ Against
- ☐ No position

COMMITTEE RECOMMENDATION

- ☐ For
- ☐ Against
- ☐ No position
- ☑ No Assignment

POLICY OR PROGRAM CHANGE

- ☑ No
- ☐ Yes

OPERATIONAL IMPACT

COSTS

$1,272.00 plus Recording fees

FUND SOURCES

Project 77018

DRAFT

RESOLUTION NO. _____

RESOLUTION ACCEPTING A TEMPORARY CONSTRUCTION EASEMENT FROM GRANTORS BRIAN C. NELSON AND SARAH B. NELSON, FOR PROPERTY LOCATED AT 12603 DELMAR, PERTAINING TO THE PATRICIAN WOODS STORMWATER PROJECT LOCATED AT APPROXIMATELY 127TH STREET AND CATALINA IN LEAWOOD, JOHNSON COUNTY, KANSAS [SMAC PROJECT TM-04-006] [LEAWOOD PROJECT # 77018]

WHEREAS, the Grantors Brian C. Nelson and Sarah B. Nelson have executed a Temporary Construction Easement, necessary to meet improvement needs; and

WHEREAS, the City desires to accept such Temporary Construction Easement.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF LEAWOOD, KANSAS:

SECTION ONE: That the Governing Body hereby accepts the Temporary Construction Easement, a copy of which is attached hereto as Exhibit "A," and incorporated herein by reference as if fully set out.

SECTION TWO: This resolution shall become effective upon passage.

PASSED by the Governing Body this 18th day of February, 2019.

APPROVED by the Mayor this 18th day of February, 2019.

[SEAL]

_____
Peggy J. Dunn, Mayor

ATTEST:

_____
Debra Harper, CMC, City Clerk

APPROVED AS TO FORM:

_____
Patricia A. Bennett, City Attorney

TEMPORARY CONSTRUCTION EASEMENT

THIS AGREEMENT, made and entered into this 14 day of January, 2019, between Brian C. Nelson and Sarah B. Nelson, its heirs, successors and assigns, owners of property herein described, hereinafter known as Grantors, and the CITY OF LEAWOOD, KANSAS, a municipal corporation organized and existing pursuant to the laws of the State of Kansas, hereinafter known as Grantee:

WITNESSETH:

In consideration of the sum of One Thousand Two Hundred and Seventy-Two (1,272) Dollars and other valuable considerations, receipt of which is hereby acknowledged, the undersigned Grantors do hereby convey and release to the Grantee a temporary construction easement hereinafter more particularly designated and described, to wit:

SEE EXHIBIT "A"

For the purposes of constructing, improving, and reconstructing the SMAC TM-04-006 Improvements as shown by the plans of said improvement, a true copy of which is on file in the office of the City Clerk, City of Leawood, Kansas. Said right of entrance, occupation, construction, and use shall continue during construction and for one (1) year after completion and acceptance of the project. In no event shall this grant exceed a period of three (3) years from date of its execution.

Grantee, by acceptance of this temporary construction easement agrees to and shall restore, replace, and repair the ground, grasses, fences, and all permitted improvements thereon, if any, to the condition existing immediately prior to Grantee's construction, repair, maintenance, inspection, or other entry thereon, all in accordance with Grantee's design or construction project plans.

TO THESE COVENANTS, the Grantors do hereby consent and agree.

IN WITNESS WHEREOF the parties above name have hereunto set hands the day and year first above written.

GRANTORS

Brian C. Nelson

Sarah B. Nelson

STATE OF KANSAS)
) SS.
COUNTY OF JOHNSON)

BE IT REMEMBERED that on this 10 day of January, 2019, before me, the undersigned, a Notary Public in and for the County and State, came Brian C. Nelson and Sarah B. Nelson who person ally known to me to be the same person are who executed the within instrument of writing, and duly acknowledged the execution of the same.

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

NOTARY PUBLIC STATE OF KANSAS
MICHELLE R. SHERRY
My Appt. Exp. 4/25/22

NOTARY PUBLIC

My Term Expires:

4/25/22

Exhibit "A"

Project No. A14-2027
Patrician Woods Stormwater Improvements
July 7, 2017

12603 Delmar St.

Owner:
Brian C. & Sarah B.Nelson
12603 Delmar St.
Leawood, Kansas 66209
Situs Address:
12603 Delmar St.
Leawood, Kansas 66209

Warranty Deed
Bk. 200607, Pg. 001816
Parcel ID: HP91000002 0009

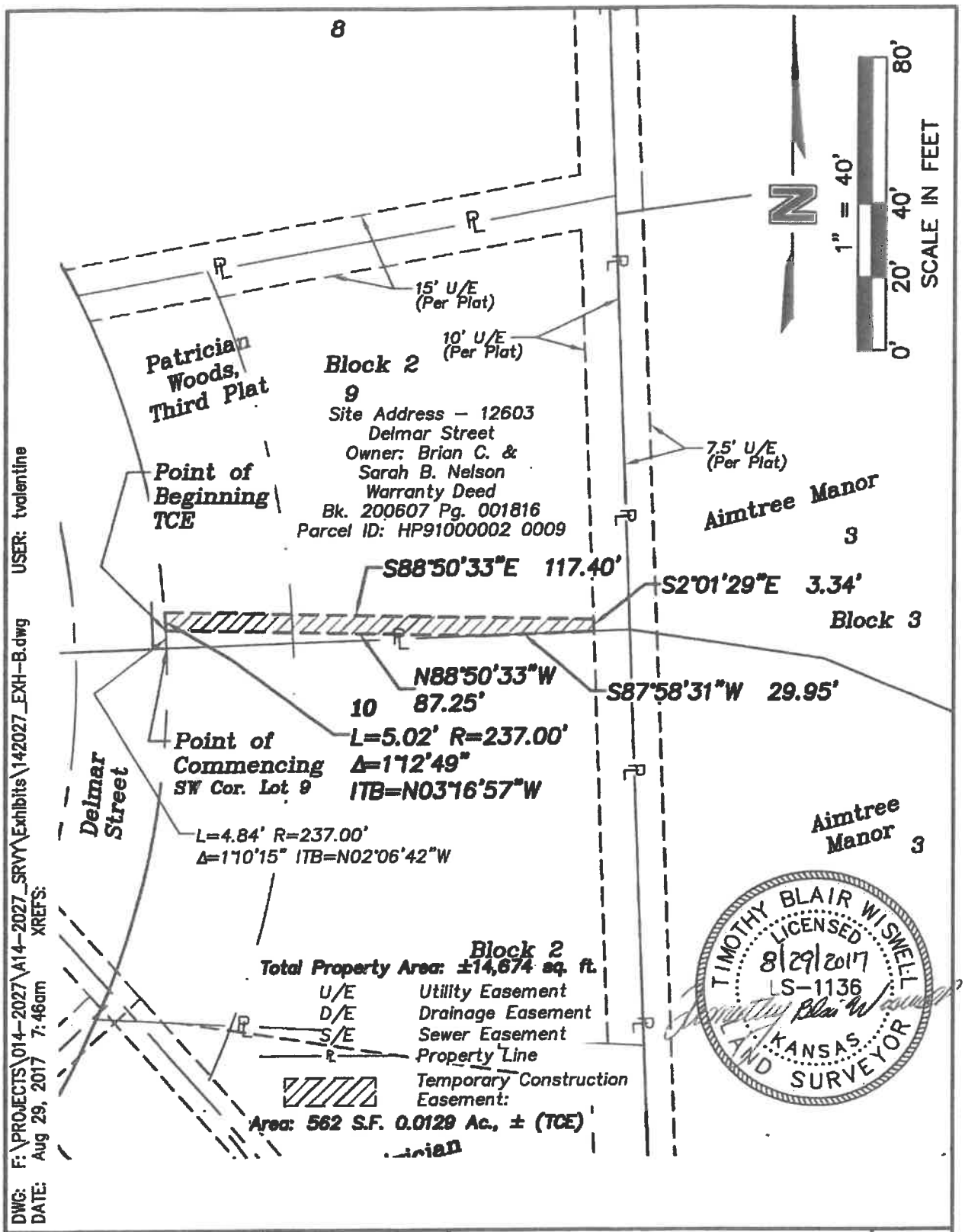
Temporary Construction Easement:

A Temporary Construction Easement over part of Lot 9, Block 2, Patrician Woods Third Plat, a subdivision in the City of Leawood, Johnson County, Kansas, as described in the Kansas Warranty Deed, recorded in Book 200607 at Page 001816, and being more particularly described as follows:

COMMENCING at the Southwesterly corner of said Lot 9, said point being on the Easterly right-of-way line of Delmar Street, as now established, said point also being a point on a non-tangent curve; thence in a Northerly direction along a curve to the left and said Easterly right-of-way line, whose initial tangent bears North 02 degrees 06 minutes 42 seconds West, having a radius of 237.00 feet, through a central angle of 01 degrees 10 minutes 15 seconds, an arc length of 4.84 feet, to the POINT OF BEGINNING; thence continuing in a Northerly direction along said curve to the left and said Easterly right-of-way line, whose initial tangent bears North 03 degrees 16 minutes 57 seconds West, having a radius of 237.00 feet, through a central angle of 01 degrees 12 minutes 49 seconds, an arc length of 5.02 feet; thence South 88 degrees 50 minutes 33 seconds East, departing said Easterly right-of-way line, a distance of 117.40 feet, to a point being on the West line of an existing 10.00 foot wide Utility Easement, as established with said Patrician Woods Third Plat; thence South 02 degrees 01 minutes 29 seconds East, along said West line, a distance of 3.34 feet, to a point on the South line of said Lot 9; thence South 87 degrees 58 minutes 31 seconds West, departing said West line and along said South line, a distance of 29.95 feet; thence North 88 degrees 50 minutes 33 seconds West, along said South line, a distance of 87.25 feet, to the POINT OF BEGINNING, containing 562 square feet or 0.0129 acres, more or less.

(As depicted on Exhibit "B", attached and incorporated herein)

Olsson Associates
7301 West 133rd Street
Suite 200
Overland Park, KS 66213
(913) 381-1170



DWG: F:\PROJECTS\014-2027\A14-2027_SRVY\Exhibits\142027_EXH-B.dwg USER: tvalentine
DATE: Aug 29, 2017 7:46am XREFS:

PROJECT NO: A14-2027	TCE - Part of Lot 9, Block 2, Patrician Woods Third Plat	OLSSON ASSOCIATES	7301 West 133rd Street Suite 200 Overland Park, KS 66213-4750 TEL 913.381.1170 FAX 913.381.1174	EXHIBIT
DRAWN BY: TMV				B
DATE: 08/25/17				

Return to Agenda

City of Leawood Governing Body Staff Report

MEETING DATE: February 18, 2019
REPORT WRITTEN: February 6, 2019

MARKET SQUARE – REVISED LANDSCAPE PLAN - Located south of 133rd Street and east of Mission Road – Case 88-18

PLANNING COMMISSION RECOMMENDATION:

The Planning Commission recommends approval unanimously (7-0) of Case 88-18, Market Square – Revised Landscape Plan – Request for approval of a Revised Landscape Plan, with the following stipulations:

1. This application is limited to revised landscaping at the south-east corner of 133rd Street and Mission, and the southeast corner of the intersection of the most western entrance off of 133rd Street.
2. The proposed landscaping shall not be located within the public right of way.
3. All landscaped areas shall be irrigated.
4. All landscaping shall meet the requirements of the Leawood Development Ordinance.
5. A letter, signed and sealed by a Kansas registered Landscape Architect, shall be submitted prior to final occupancy that states that all landscaping has been installed per the approved landscape plan and all plant material used is to the highest standards of the nursery industry.
6. Development rights under this approval shall vest in accordance with K.S.A. 12-764.
7. In addition to the stipulations listed in this report, the developer/property owner agrees to abide by all ordinances of the City of Leawood including the Leawood Development Ordinance, unless a deviation has been granted, and to execute a statement acknowledging in writing that they agree to stipulations one through seven.

PLANNING COMMISSION CHANGES TO STIPULATIONS:

- None

APPLICANT:

- The applicant is Calvin McDonnell with Copaken Brooks
- The property owner is BP Market Square, LLC
- The Landscape Architect is Brett Spangler with Vireo

REQUEST:

- The applicant is requesting approval of a Revised Landscape Plan for the Market Square Development to update landscaping at the corner of 133rd Street and Mission Road, and the western entrance off of 133rd Street. No other changes are proposed with this application.
- The Revised Landscape Plan will increase the amount of plant material currently existing at these locations, while maintaining the same number of trees.

ZONING:

- The property is currently zoned SD-CR (Planned General Retail).

COMPREHENSIVE PLAN:

- The Comprehensive Plan designates this property as Mixed Use

LOCATION:

SURROUNDING ZONING:

- North — To the north of the property, across 133rd Street, is Gezer Park, zoned REC (Planned Recreation).
- South — Directly south of the property is additional retail located within the Market Square development, zoned SD-CR (Planned General Retail). South of 135th Street is vacant property zoned MXD (Mixed Use District).
- East — East of the property is undeveloped land, zoned AG (Agricultural).
- West — To the west of Market Square is an undeveloped property, zoned SD-O (Planned Office District).

SITE PLAN COMMENTS:

- The applicant is proposing to update the existing landscaping at the corners of 133rd Street and Mission Road (South-East Corner), and the westernmost entrance (on the East side) to the development from 133rd Street.
- The applicant is proposing to remove all existing plantings from both locations and will be replacing them with proposed trees, shrubs and other seasonal plantings.
- An existing seating area is located at the corner of 133rd Street and Mission Road and is proposed to remain.

SIGNAGE:

- No additional signage is proposed with this application.

LANDSCAPING:

- The applicant is proposing to remove all existing landscaping at the two corner locations, and replant the landscape areas with a tree, shrubs, perennials and annuals. The revised landscape plan will increase the amount of plant material currently existing at these locations, while maintaining the same number of trees.
- Within the planting area located on the eastern corner of 133rd Street and the western access road, the applicant is proposing to remove an ornamental tree, and replace with another ornamental tree to the east of the existing location to improve the visibility of the existing monument sign.
- On the south-east corner of 133rd Street and Mission Road, the applicant is proposing 34 shrubs, 24 ornamental grasses and 54 perennials. Seasonal annuals will be planted to provide color.

- On the eastern corner of 133rd Street and the western access road, the applicant is proposing 3 evergreen trees, 1 ornamental tree, 16 shrubs, 9 ornamental grasses and 54 perennials. Seasonal annuals will be planted to provide color.

LIGHTING:

- No additional lighting is proposed with this application.

RESOLUTION NO. _____

RESOLUTION APPROVING A REVISED LANDSCAPE PLAN FOR MARKET SQUARE, LOCATED SOUTH OF 133RD STREET AND EAST OF MISSION ROAD. (PC CASE 88-18)

WHEREAS, the applicant submitted a request for approval of a Revised Landscape Plan;

WHEREAS such request for approval was presented to the Planning Commission on January 29, 2019; and

WHEREAS the Planning Commission reviewed the application and recommended approval with certain stipulations.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF LEAWOOD, KANSAS:

SECTION ONE: The Governing Body hereby approves the applicant's request and the Planning Commission's recommendation of approval for said Revised Landscape Plan subject to the following stipulations:

1. This application is limited to revised landscaping at the south-east corner of 133rd Street and Mission, and the southeast corner of the intersection of the most western entrance off of 133rd Street.
2. The proposed landscaping shall not be located within the public right of way.
3. All landscaped areas shall be irrigated.
4. All landscaping shall meet the requirements of the Leawood Development Ordinance.
5. A letter, signed and sealed by a Kansas registered Landscape Architect, shall be submitted prior to final occupancy that states that all landscaping has been installed per the approved landscape plan and all plant material used is to the highest standards of the nursery industry.
6. Development rights under this approval shall vest in accordance with K.S.A. 12-764.
7. In addition to the stipulations listed in this report, the developer/property owner agrees to abide by all ordinances of the City of Leawood including the Leawood Development Ordinance, unless a deviation has been granted, and to execute a statement acknowledging in writing that they agree to stipulations one through seven.

SECTION TWO: This resolution shall become effective upon passage.

PASSED by the Governing Body this 18th day of February, 2019.

APPROVED by the Mayor this 18th day of February, 2019.

[SEAL]

_____
Peggy J. Dunn, Mayor

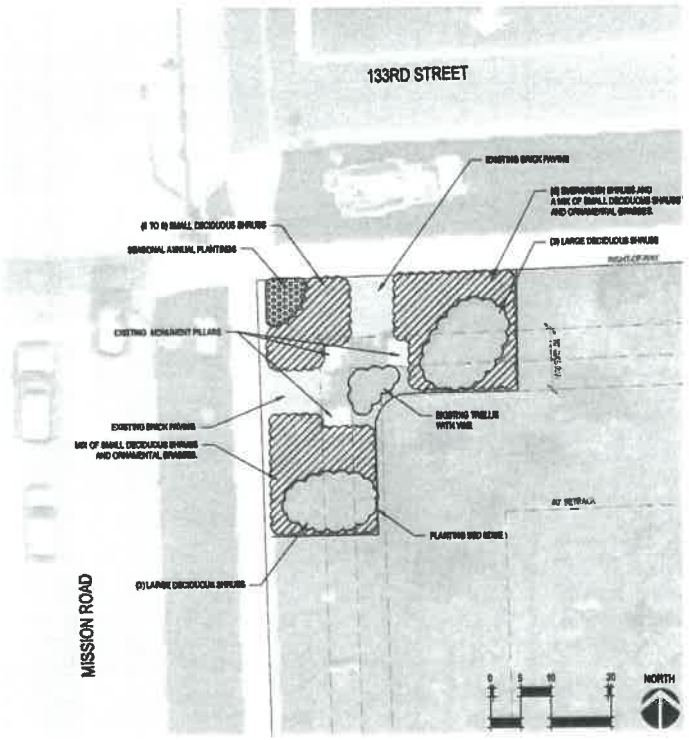
ATTEST:

_____
Debra Harper, CMC, City Clerk

APPROVED AS TO FORM:

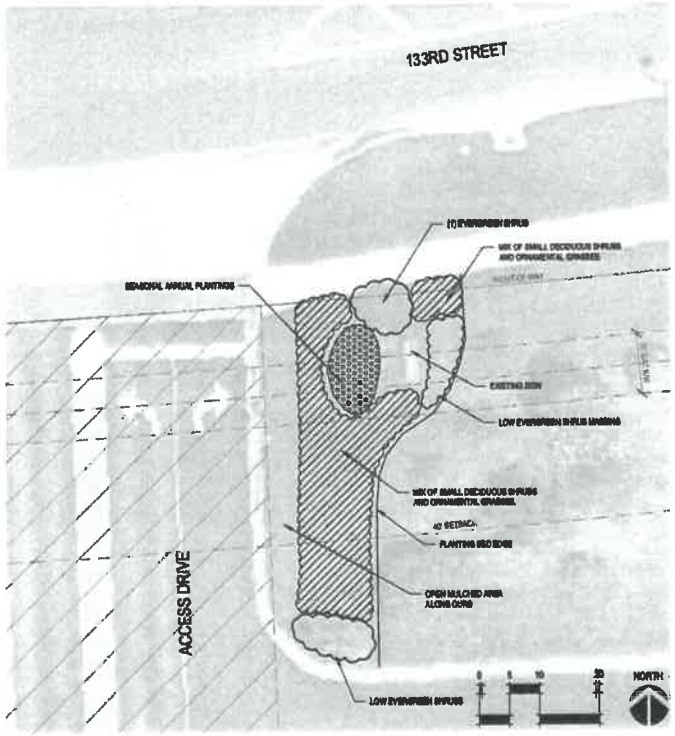
_____

Andrew K. Hall, Assistant City Attorney



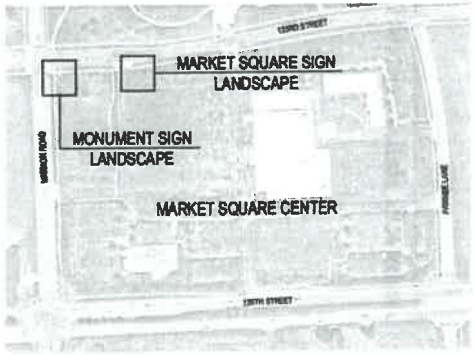
MONUMENT SIGN - EXISTING LANDSCAPE PLAN

SCALE: 1" = 10'-0"



MARKET SQUARE SIGN - EXISTING LANDSCAPE PLAN

SCALE: 1" = 10'-0"



LOCATION MAP

MARKET SQUARE CENTER

133rd Street and Mission Road
Leawood, KS

vireo

Revision Number	Description	Date

EXISTING LANDSCAPE PLAN

L01

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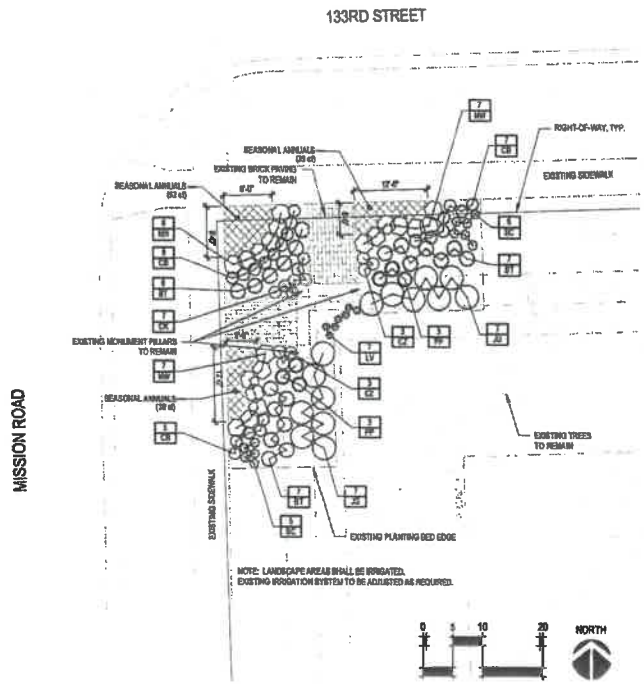
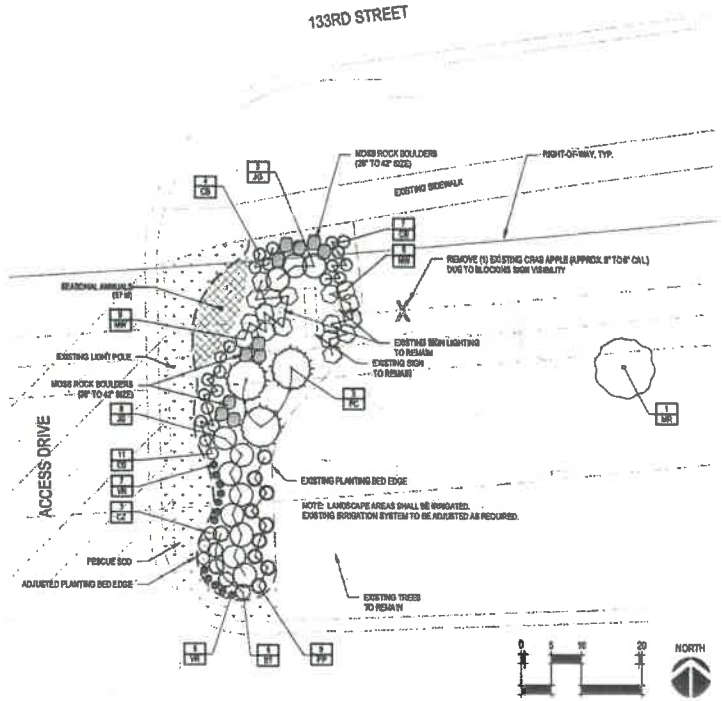
LANDSCAPE NOTES

1. ALL TREES SHALL BE CALLIPERED AND UNDERSIZED TREES SHALL BE REJECTED.
2. ALL PARKING LOT ISLANDS SHALL BE BERMED TO DISCOURAGE FOOT TRAFFIC.
3. ALL HEDGES SHALL BE TRIMMED TO MAINTAIN A SOLID HEDGE APPEARANCE.
4. ALL PLANT IDENTIFICATION TAGS SHALL REMAIN UNTIL ISSUANCE OF A FINAL CERTIFICATE OF OCCUPANCY.
5. ANY DEVIATION TO THE APPROVED FINAL LANDSCAPE PLAN SHALL REQUIRE WRITTEN APPROVAL OF THE LANDSCAPE ARCHITECT AND THE CITY OF LEAWOOD, PRIOR TO INSTALLATION.
6. ALL LANDSCAPED OPEN SPACE SHALL CONSIST OF A MINIMUM OF 80% LIVING MATERIALS.



MONUMENT SIGN LANDSCAPE PLAN

SCALE: 1" = 10'-0"



MARKET SQUARE SIGN LANDSCAPE PLAN

SCALE: 1" = 10'-0"

PLANT SCHEDULE MONUMENT SIGN

SHRUBS	QTY	BOTANICAL NAME	COMMON NAME	CONT	SPACING
BT	39	Buddleja davidii 'Tutti Frutti'	Butterfly Bush	#5 Cont. (Min. 24" ht.)	42" o.c.
JG	14	Juniperus x pfitzeriana 'Gold Coast'	Gold Coast Juniper	#5 Cont. (Min. 24" ht.)	48" o.c.
ORNAMENTAL GRASSES	QTY	BOTANICAL NAME	COMMON NAME	CONT	SPACING
BC	11	Bouteloua curtipendula	Side Oats Grama	#1 Cont.	18" o.c.
CK	7	Calamagrostis x acutiflora 'Karl Foerster'	Feather Reed Grass	#1 Cont.	24" o.c.
PP	6	Panicum virgatum 'Prairie Fire'	Red Switch Grass	#1 Cont.	30" o.c.
PERENNIALS	QTY	BOTANICAL NAME	COMMON NAME	CONT	SPACING
CS	21	Chrysanthemum x superbum 'Becky'	Shasta Daisy	#1 Cont.	24" o.c.
CZ	6	Coreopsis verticillata 'Zagreb'	Zagreb Thread Leaf Coreopsis	#1 Cont.	24" o.c.
LV	7	Liriope muscari 'Variegata'	Variegated Lily Turf	#1 Cont.	18" o.c.
NW	20	Nepeta x faassenii 'Walkers Low'	Walkers Low Catmint	#1 Cont.	30" o.c.

PLANT SCHEDULE MONUMENT SIGN

SEASONAL ANNUALS — 129 sf
TO BE DETERMINED BY PROPERTY OWNER

PLANT SCHEDULE MARKET SQUARE SIGN

EVERGREEN TREES	QTY	BOTANICAL NAME	COMMON NAME	CONT	CAL
PC	3	Picea abies 'Cupressina'	Columnar Norway Spruce	B & B	6'-7' Ht.
ORNAMENTAL TREES	QTY	BOTANICAL NAME	COMMON NAME	CONT	CAL
MR	1	Malus x 'Royal Raindrops'	Royal Raindrops Crabapple	B & B	1.5" Cal.
SHRUBS	QTY	BOTANICAL NAME	COMMON NAME	CONT	SPACING
BT	3	Buddleja davidii 'Tutti Frutti'	Butterfly Bush	#5 Cont. (Min. 24" ht.)	42" o.c.
JG	11	Juniperus x pfitzeriana 'Gold Coast'	Gold Coast Juniper	#5 Cont. (Min. 24" ht.)	48" o.c.
ORNAMENTAL GRASSES	QTY	BOTANICAL NAME	COMMON NAME	CONT	SPACING
PP	9	Panicum virgatum 'Prairie Fire'	Red Switch Grass	#1 Cont.	30" o.c.
PERENNIALS	QTY	BOTANICAL NAME	COMMON NAME	CONT	SPACING
CS	22	Chrysanthemum x superbum 'Becky'	Shasta Daisy	#1 Cont.	24" o.c.
CZ	3	Coreopsis verticillata 'Zagreb'	Zagreb Thread Leaf Coreopsis	#1 Cont.	24" o.c.
NW	17	Nepeta x faassenii 'Walkers Low'	Walkers Low Catmint	#1 Cont.	30" o.c.
VR	12	Veronica spicata 'Royal Candles'	Spike Speedwell	#1 Cont.	18" o.c.

PLANT SCHEDULE MARKET SQUARE SIGN

SEASONAL ANNUALS — 57 sf
TO BE DETERMINED BY PROPERTY OWNER

FESCUE SOD — 440 sf

LOCATION MAP

CHAD DARRIN POTTER
LA-676
KANSAS
LANDSCAPE ARCHITECT

MARKET SQUARE CENTER

133rd Street and Mission Road
Leawood, KS

vireo

LACF MD-2020020020 133-00

Revision Number	Description	Date

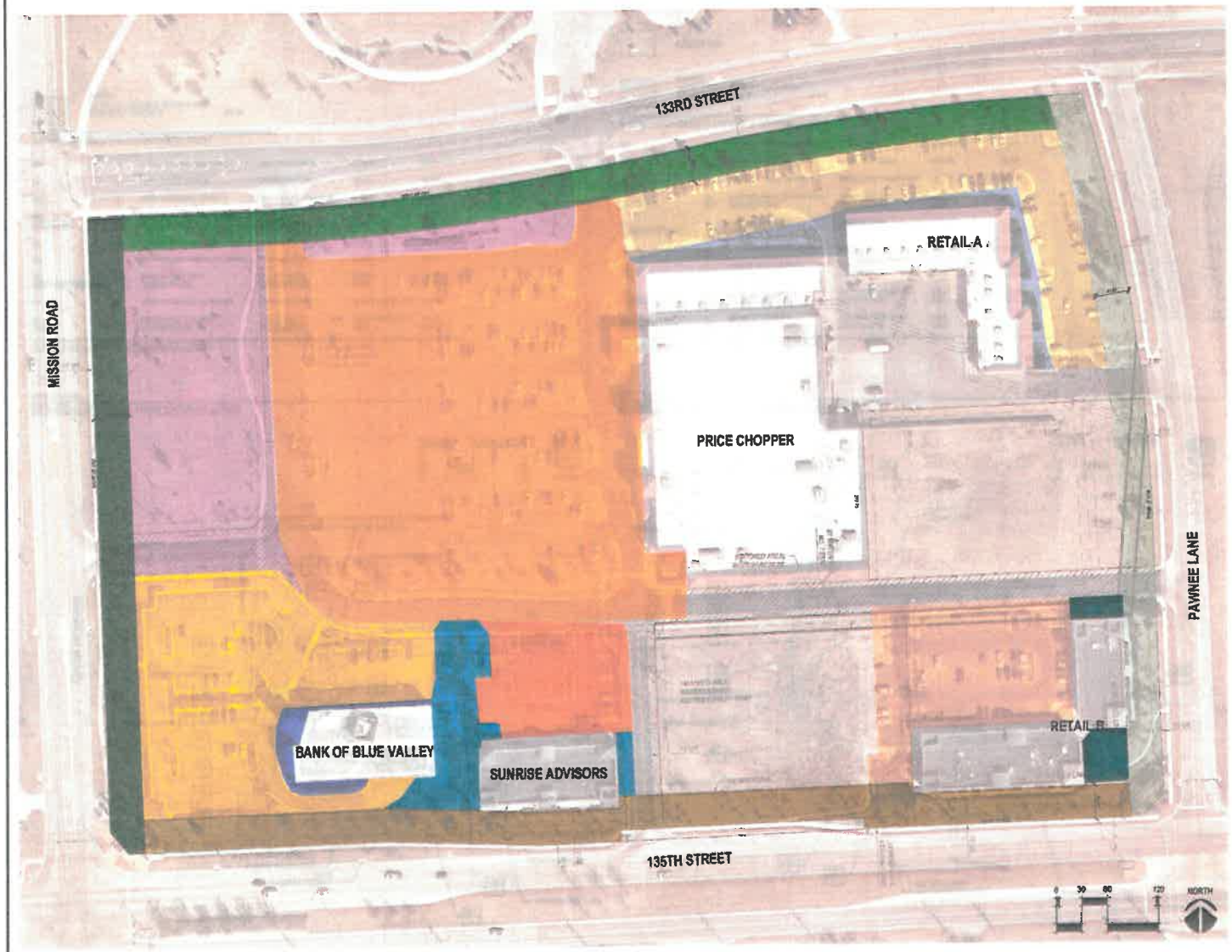
04-09-2019 — 19176 Project Number

RB Drawn by — CP Checked by

131 Landscape Plan
133 Notes

LANDSCAPE PLAN

L02



LANDSCAPE INVENTORY SUMMARY

MISSION ROAD FRONTAGE:
- (16) SHADE TREES
- (14) ORNAMENTAL TREES
- (2) EVERGREEN TREES

136TH STREET FRONTAGE:
- (32) SHADE TREES
- (46) ORNAMENTAL TREES
- (13) EVERGREEN TREES
- An additional (8) EVERGREEN TREES provide screening of site utilities.
- Continuous planting bed along Sunrise Advisor building perimeter.

133RD STREET FRONTAGE:
- (20) SHADE TREES
- (24) ORNAMENTAL TREES
- (6) EVERGREEN TREES

PAWNEE LANE FRONTAGE:
- (17) SHADE TREES
- (14) ORNAMENTAL TREES
- (11) EVERGREEN TREES
- An additional (19) EVERGREEN TREES provide screening of site utilities.
- (16) DECIDUOUS SHRUBS & (12) EVERGREEN SHRUBS at Retail A parking lot perimeter.
- Continuous shrub plantings along Retail B building perimeter.

PRICE CHOPPER PARKING LOT:
- (25) SHADE TREES
- (3) ORNAMENTAL TREES
- (4) EVERGREEN TREES
- Planting bed with (32) SHRUBS along north parking perimeter
- Ten (10) parking islands planted with SHRUBS
- Five (5) paved parking islands with seasonal planters

BANK PARKING LOT:
- (18) SHADE TREES
- (27) ORNAMENTAL TREES
- Parking islands planted with SHRUBS.
- Continuous SHRUB PLANTINGS along west and south perimeter of parking lot.

FINANCIAL ADVISOR PARKING LOT:
- (6) SHADE TREES
- Parking islands planted with SHRUBS

RETAIL PARKING LOT A
- (11) SHADE TREES
- Parking islands planted with TURF GRASS

RETAIL PARKING LOT B:
- (8) SHADE TREES
- Parking islands planted with SHRUBS

OPEN SPACE PRICE CHOPPER:
- (10) SHADE TREES
- (3) ORNAMENTAL TREES
- (14) EVERGREEN TREES
- (33) SHRUBS

OPEN SPACE ADVISOR:
- (6) SHADE TREES
- (3) ORNAMENTAL TREES
- (13) EVERGREEN TREES
- An additional (13) EVERGREEN TREES provide screening of site utilities.

BANK PERIMETER LANDSCAPE:
- (16) SHADE TREES in planting beds

RETAIL A PERIMETER LANDSCAPE:
- (13) ORNAMENTAL TREES
- Mixed SHRUB, PERENNIAL, and ORNAMENTAL GRASS plantings along building perimeter.

RETAIL B PERIMETER LANDSCAPE :
- (2) SHADE TREES
- (4) ORNAMENTAL TREES
- Mixed SHRUB, PERENNIAL, and ORNAMENTAL GRASS plantings along building perimeter.

LANDSCAPE REQUIREMENTS SUMMARY (LEAWOOD, KANSAS)

ONE (1) STREET TREE PER
35 LINEAR FEET OF STREET FRONTAGE

ONE (1) ORNAMENTAL PER
12 LINEAR FEET OF STREET FRONTAGE

ONE (1) SHRUB PER
5 LINEAR FEET OF STREET FRONTAGE

MISSION ROAD FRONTAGE (746 L.F.)
- 746 / 35 = 21 SHADE TREES
- 746 / 12 = 62 ORNAMENTAL TREES
- 746 / 5 = 150 SHRUBS

133RD STREET FRONTAGE (1,099 L.F.)
- 1,099 / 35 = 31 SHADE TREES
- 1,099 / 12 = 92 ORNAMENTAL TREES
- 1,099 / 5 = 220 SHRUBS

PAWNEE LANE FRONTAGE (867 L.F.)
- 867 / 35 = 25 SHADE TREES
- 867 / 12 = 72 ORNAMENTAL TREES
- 867 / 5 = 173 SHRUBS

135TH STREET FRONTAGE (1,159 L.F.)
- 1,159 / 35 = 33 SHADE TREES
- 1,159 / 12 = 97 ORNAMENTAL TREES
- 1,159 / 5 = 232 SHRUBS

ONE (1) TREE
PER EVERY
TEN (10) PARKING SPACES

PRICE CHOPPER PARKING (361 SPACES)
- 361 / 10 = 36 TREES

BANK OF BLUE VALLEY PARKING (111 SPACES)
- 111 / 10 = 11 TREES

SUNRISE ADVISORS PARKING (41 SPACES)
- 41 / 10 = 4 TREES

RETAIL A PARKING (127 SPACES)
- 127 / 10 = 13 TREES

RETAIL B PARKING (83 SPACES)
- 83 / 10 = 8 SHADE TREES

TREES REQUIRED
AT RATIO OF ONE (1) TREE
FOR EVERY 3,000 SQ. FT.
OF LANDSCAPED OPEN SPACE

PRICE CHOPPER OPEN SPACE (69,053 SQ. FT.)
- 69,053 / 3,000 = 23 TREES

SUNRISE ADVISORS OPEN SPACE (14,679 SQ. FT.)
- 14,679 / 3,000 = 5 TREES

RETAIL B OPEN SPACE (4,725 SQ. FT.)
- 4,725 / 3,000 = 2 TREES

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MARKET SQUARE CENTER

133rd Street and Mission Road
Leawood, KS

vireo

LACP MO-[illegible] KS-[illegible]

[illegible] Walnut Street, Suite 700
Kansas City, Missouri 64105
P 816-[illegible]

1111 N. 13th Street, Suite 110
Omaha, Nebraska 68102
P 402-[illegible]

www.[illegible].com

Revision Number	Description	Date

01-08-2019
Date

19170
Project Number

CP
Drawn By

RB
Checked By

L001 Landscape Inventory
File Name

EXISTING LANDSCAPE INVENTORY

L00

MEMO

To:	Mayor Peggy Dunn and City Council
From:	Mark A. Klein, Planning Official
cc:	Scott Lambers, City Administrator Richard Coleman, Director of Community Development
Date of Meeting:	February 18, 2019
Date of Memo:	February 8, 2019
Re:	Planning Commission Minutes

Due to this item being on the Planning Commission Consent Agenda, there is no Planning Commission minutes available for this case.

Return to Agenda

Staff Review

Fact Sheet

7.P.

SUBJECT: **DECLARE SURPLUS PROPERTY**
February 18, 2019

DISCUSSION

The Public Works Department requests the equipment listed below be declared as surplus property.

The vehicle listed has had transmission issues. The vehicle was taken to Ford for review and it has been suggested a new transmission is in order. Staff would suggest the vehicle be surplussed due to it's age and sold at public auction/with condition noted.

PUBLIC WORKS DEPARTMENT
One (1) 2010 Ford Explorer SUV
City Asset No. 1483
VIN # 1FMEU7DE6AUA55681
Fair condition

The equipment will be sent through a future public auction process with Purple Wave Auctions.

It is the recommendation of the Public Works Department that the Council approve the above item as surplus and authorize the Mayor to approve same.

David Ley, P.E.
Director of Public Works

COUNCIL ACTION TO BE TAKEN

Declare Equipment as Surplus Property

STAFF RECOMMENDATION

- ☑ For
- ☐ Against
- ☐ No position

COMMITTEE RECOMMENDATION

- ☐ For
- ☐ Against
- ☐ No position
- ☑ No Assignment

POLICY OR PROGRAM CHANGE

- ☑ No
- ☐ Yes

OPERATIONAL IMPACT

COSTS

n/a

FUND SOURCES

n/a

Date:	001-31-2019	Ready to be Auctioned:	
City ID:	Unit 406	License Plate #:	n/a
VIN#:	1FMEU7DE6AUA55681	Asset # 01483	
Department:	Public Works		
Description:	2010 Ford Explorer	BLUE in color	
Current Mileage:			
Decals to be removed?			
Equipment to be removed:			

Declared Surplus:	18-Feb-19
Sale Date:	tbd
	PURPLE WAVE 3rd sale
Sold For:	

take photo of item and paste here

take photo of VIN and paste here

Return to Agenda

7.Q.

Jan. 2019 Monthly Report

AREA	CALLS	CODE 1	NON-EMERGENCY
North Zone	914	4:34	5:50
Center Zone	728	2:44	4:45
South Zone	777	3:12	5:50

CALLS FOR SERVICE	
Traffic Stops	1265
Traffic Complaint Areas investigated	28
Medical Calls	156
Alarms	146
Arrests (Adult/Juvenile)	91/7
Accidents (Total/Injury)	56/9
Open Doors	49
Suspicious Activity calls	39
Check the Welfare	37
9-1-1 Calls Received	(wireless)
Administrative Calls Received	

CRIME REPORT	This month	Last month	A year ago
Burglaries	5	5	3
Thefts from buildings	4	3	8
Drug possession violations (municipal)	7	13	9
Thefts from vehicles	16	14	5
Agg. assault/batteries	1	3	2
Crim. Damage to Property/Vandalism	9	2	4
DUI	4	4	6
Shoplifting	3	5	1
Stolen Autos	4	3	1

HIGHLIGHTS

Leawood named Safest

The National Council for Home Safety and Security (Alarms.com) recently ranked the safest cities in each state and Leawood came out on top in Kansas. This marks the third year in a row that the city has received accolades for its safe environment.

Leawood was judged the safest city with an overall crime rate of 0.013 per 1,000 people (average of 0.885 violent crimes per 1,000 people and 12.532 per 1,000 people for property crimes). The city was followed by Liberal, Lenexa, Lansing and Andover to round out the top 5. Overall, the State of Kansas was ranked 29th nationally (with #1 being the safest state). The state's violent crime rate of 3.79 per 1,000 people was over the national average of 3.47, but the property crime rate of 30.28 fell below the national average of 40.43.

Frequent crash locations

INTERSECTION	Jan.	2018
I-435 & State Line Road	10	48
College & Tomahawk Creek Pkwy	2	1
103rd Street & State Line	2	20
119th Street & Mission Road	1	5
Cambridge Cir & Overbrook	1	0
99th & State Line	1	0
Town Center Dr. & Roe Avenue	1	9

Last 5 Month's Statistics for Leawood Police

Part I Crimes specified by the KBI:	Sep-18	Oct-18	Nov-18	Dec-18	Jan-19
Agg. Assault/Battery:	3	2	1	3	1
Arson:	0	0	0	0	0
Burglary:	5	6	10	5	5
Homicide:	0	0	0	0	0
Rape:	0	0	0	0	0
Robbery:	1	1	0	0	0
Stolen Auto:	1	1	5	3	4
Theft:	29	26	42	27	32
All Other Larceny:	4	3	5	5	6
Pocket Picking:	0	1	0	0	0
Purse Snatching:	0	0	0	0	0
Shoplifting:	7	13	9	5	3
Theft from Building:	5	3	4	3	4
Theft from CoinOperated Machine:	0	0	0	0	0
Theft from Motor Vehicle:	13	2	24	14	16
Theft of Motor Vehicle Parts/Accessories:	0	4	0	0	3

	Sep-18	Oct-18	Nov-18	Dec-18	Jan-19
Adult Arrests	96	86	78	94	91
Juvenile Arrests	8	3	3	2	7
Citations/Citation Charges	683/905	807/1034	487/639	530/695	650/825
Warnings/Warning Charges	369/595	444/697	374/524	394/591	467/708
Damage over $1,000 Accident	54	38	53	47	44
Damage under $1,000 Accident	5	4	5	5	3
Injury Accident	11	8	8	7	9
Field Interview Contacts	16	16	11	15	12

Return to Agenda

7.R.

LEAWOOD FIRE DEPARTMENT

January 2019 Report

Monthly Calls for Service	
Fire Responses	7
EMS Responses	190
HazMat Responses	19
Tech Rescue Responses	0
Other Calls for Service	123
Total Calls This Month	339
YTD Total Calls	339

Fire Loss

Fire related incidents for the month in Leawood: 4

Fire Loss: $225,000

Monthly Activity Hours

(Non-training - can include response, public education, public services, maintenance, etc)

Staff Activity Hours: 1,528

Monthly Training Hours

Training Hours: 1,399

Monthly Highlights

- 8 Car Seat Installations
- 6 Public Relations / Education Events
- 44 CPR / First Aid students
- 2 HOA Meetings hosted
- Provided CPR/1st Aid Training for Parks Dept
- Department Ice Rescue training
- Annual All-Hands meeting

Incident Response Times

Emergency service performance standards are measured by 90-percentile performance to demonstrate credibility and reliability in service delivery. Percentile metrics demonstrate a better representation of response times than averages. Instead of displaying what the Department does half of the time, the Department observes what it does the majority of the time. Travel and total response times only include emergency responses within the City of Leawood.

Summary of Monthly LFD Baseline Performance at the 90th Percentile

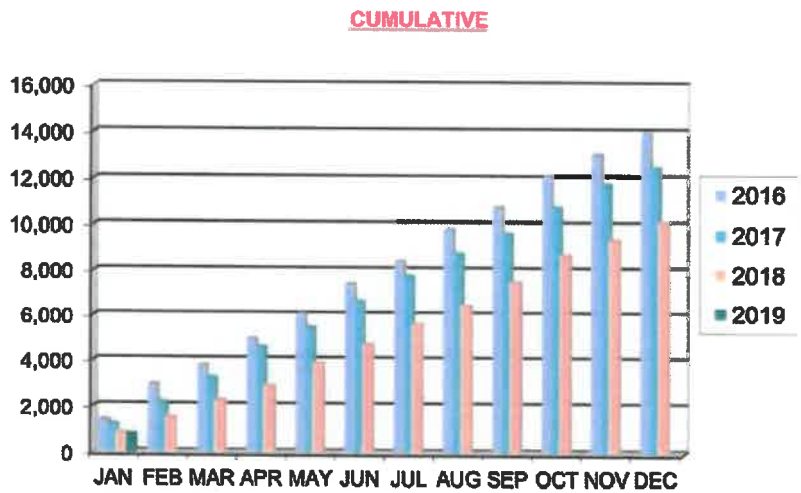
LFD - Baseline Performance 90th Percentile		All Calls	Fire	EMS	Tech Rescue	HazMat
Alarm Handling	Call Pick-Up to Dispatch	1:07	1:04	:57	N/A	1:22
Turnout Time	Dispatch to 1st Unit Enroute	1:19	1:15	1:13	N/A	1:34
Travel Time 1st Unit	Enroute to Arrival 1st Unit on Scene Emergency Responses Only	5:32	3:37	5:32	N/A	N/A
Total Response Time - 1st Unit	Enroute to Arrival 1st Unit on Scene Emergency Responses Only	7:07	5:56	7:06	N/A	N/A
Total Response Time - ERF	Enroute to Arrival Effective Response Force Emergency Responses Only	11:00	13:09	9:33	N/A	N/A

Return to Agenda

LEAWOOD MUNICIPAL COURT CASELOAD

7.S.

	CUMULATIVE				MONTHLY			
	2016	2017	2018	2019	2016	2017	2018	2019
JAN	1,430	1,246	890	820	1,430	1,246	890	820
FEB	2,959	2,201	1,537		1,529	955	647	
MAR	3,813	3,253	2,280		854	1052	743	
APR	4,964	4,615	2,907		1,151	912	627	
MAY	6,111	5,483	3,900		1,147	1,318	993	
JUN	7,449	6,652	4,713		1,338	1,169	813	
JUL	8,446	7,783	5,607		997	1,131	894	
AUG	9,845	8,778	6,470		1,399	995	863	
SEP	10,821	9,677	7,527		976	899	1,057	
OCT	12,167	10,792	8,728		1,346	1,115	1,201	
NOV	13,094	11,812	9,420		927	1,020	692	
DEC	14,009	12,523	10,161		915	711	741	
					14,009	12,523	10,161	820



LEAWOOD MUNICIPAL COURT

RECEIPTS PROCESSED

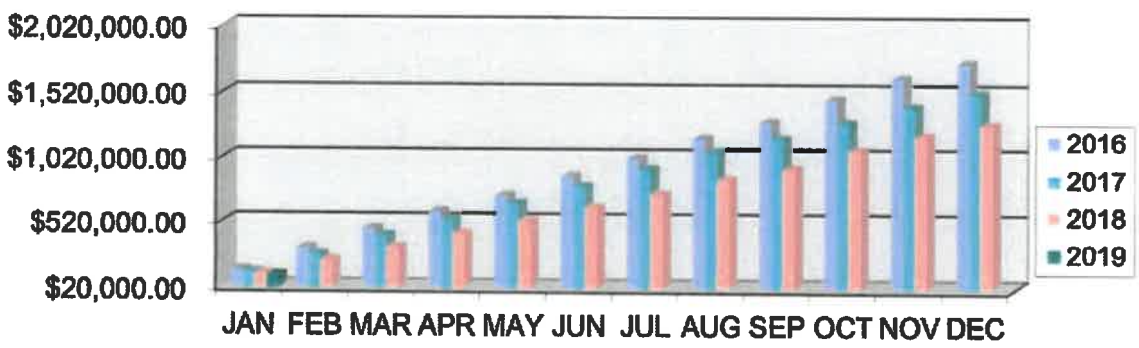
CUMULATIVE

	2016	2017	2018	2019
JAN	$ 152,402.00	$ 135,897.50	$ 124,209.00	$ 112,615.50
FEB	$ 319,887.25	$ 271,140.75	$ 226,773.06	
MAR	$ 469,496.20	$ 417,435.75	$ 328,422.81	
APR	$ 602,688.20	$ 539,966.25	$ 430,749.06	
MAY	$ 727,709.75	$ 667,316.25	$ 532,916.01	
JUN	$ 881,876.05	$ 803,020.75	$ 632,601.01	
JUL	$ 1,016,515.55	$ 937,496.25	$ 740,497.51	
AUG	$ 1,172,883.80	$ 1,065,718.25	$ 853,735.81	
SEP	$ 1,298,998.30	$ 1,171,682.50	$ 939,594.81	
OCT	$ 1,473,387.55	$ 1,293,663.50	$ 1,078,242.81	
NOV	$ 1,630,461.55	$ 1,413,905.25	$ 1,193,133.81	
DEC	$ 1,744,850.80	$ 1,518,103.44	$ 1,281,212.81	

MONTHLY

	2016	2017	2018	2019
JAN	$ 152,402.00	$ 135,897.50	$ 124,209.00	$ 112,615.50
FEB	$ 167,485.25	$ 135,243.25	$ 102,564.06	
MAR	$ 149,608.95	$ 146,295.00	$ 101,649.75	
APR	$ 133,192.00	$ 122,530.50	$ 102,326.25	
MAY	$ 125,021.55	$ 127,350.00	$ 102,166.95	
JUN	$ 154,166.30	$ 135,704.50	$ 99,685.00	
JUL	$ 134,639.50	$ 134,475.50	$ 107,896.50	
AUG	$ 156,368.25	$ 128,222.00	$ 113,238.30	
SEP	$ 126,114.50	$ 105,964.25	$ 85,859.00	
OCT	$ 174,389.25	$ 121,981.00	$ 138,648.00	
NOV	$ 157,074.00	$ 120,241.75	$ 114,891.00	
DEC	$ 114,389.25	$ 104,198.19	$ 88,079.00	
	$ 1,744,850.80	$ 1,518,103.44	$ 1,281,212.81	$ 112,615.50
	$ 1,500,000.00	$ 1,500,000.00	1,500,000.00	1,500,000.00

CUMULATIVE



Return to Agenda

Staff Review

12.

Fact Sheet

SUBJECT: **RESPONSE FROM THE STORMWATER MANAGEMENT COMMITTEE CONSULTANT SELECTION FOR DESIGN OF 2019 PROJECTS**

February 18, 2019

DISCUSSION

The Stormwater Management Committee met on January 30, 2019, to review proposal packages submitted by five (5) Design firms for the design of the second phase of our Stormwater Project in the Waterford Subdivision. The City sent a request for qualifications to five consultants and all consultants submitted a proposal.

In addition to the Second Phase of the Stormwater Project in the Waterford Subdivision, staff proposed the second ranked firm be recommended to design to design the 2020 Corrugated Metal Pipe Replacement Program. The Stormwater Committee follows this procedure if there are several upcoming storm sewer design projects. Once selected, staff will work with the firms to enter into an Engineering Design Contract for the Waterford SMAC Project TM-04-007 near 3504 W 129th and the 2020 CMP Project.

The Stormwater Management Committee recommends their number one choice of GBA (George Butler Associates) for the Design of the 2nd Phase Waterford Stormwater Project, SMAC Project TM-04-007 near 3504 W 129th Street and their second place choice of Lamp Rynearson for the 2020 CMP Replacement Project Design.

The Public Works Department requests Council approve the recommendation of the Stormwater Management Committee.

David Ley, P.E.
Director of Public Works

SPONSOR

Public Works Department

COUNCIL ACTION TO BE TAKEN

Approve Committee Recommendation

STAFF RECOMMENDATION

- ☑ For
- ☐ Against
- ☐ No position

COMMITTEE RECOMMENDATION

- ☑ For
- ☐ Against
- ☐ No position
- ☐ No Assignment

POLICY OR PROGRAM CHANGE

- ☑ No
- ☐ Yes

OPERATIONAL IMPACT

COSTS

FUND SOURCES

Return to Agenda

Leawood Arts Council

Parks & Recreation 13.A.

Memo

To: Mayor Peggy Dunn and City Council

From: Parks & Recreation Department, Arts Council

CC: Scott Lambers, City Administrator

Date: 02/18/2019

RE: Accept Gift of Public Art - "Women of the World" Sculpture by Kwan Wu

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The Leawood Arts Council and Art in Public Places Initiative recommend accepting a sculpture by local artist, Kwan Wu, with the acceptance to be effective immediately. The recommendation was made at the January 22, 2019 meeting.

The sculpture titled "Women of the World" is being offered as a gift to the City from 11350 Property, LLC. On Wu's website, this piece is referred to as "World on Hands". The piece is 70" X 45"; a steel armature of the earth held by two bronze hands. The continents and the female faces, encompassing the armature, are made of bronze

Professional appraisers have valued the piece, in its current condition, at $15,000. The original owner purchased the piece for approximately $22,000.00 in 1998. The condition is good to fair with rust on the steel armature. The continents and female profile have some cracking. We anticipate the repair to be $3,000.00.

If accepted, a new location will be considered. It appears it is currently located in the ROW where it could remain, but the site limits the visibility of the piece. The piece is relatively small so the cost of installation will be significantly less that recent installations.

Kwan Wu is a local artist originally from China. For years, we have attempted to get this piece donated in order to give it the maintenance it deserves. Wu has another piece "Patience & Persistence" in Leawood on Bell Drive at Ironhorse, as well as installations across the metropolitan area.

According to the terms of APPI policy:

- All donated works of art are considered outright and unconditional gifts to be used at the City's discretion. Acceptance by City Council legally transfers ownership of artworks to the City of Leawood.

- The City of Leawood will make every effort to recognize the donor's intent in making this gift. Further, it is the right of the City of Leawood, as sole owner of the donated artwork, to sell or dispose of the artworks.

- Donations to the City of Leawood may be tax deductible. Donors are encouraged to contact their accountant or tax advisor to determine whether the donation is deductible.

The Leawood Arts Council and Art in Public Places Initiative hope that the Governing Body will accept this generous donation of "Woman of the World" by Kwan Wu.

Funding Source: Public Art Impact Fee
13060.44440.936000

Return to Agenda

Staff Review

13.B.

Fact Sheet

SUBJECT: **REFABRICATION OF SCULPTURE "THE SENTINEL"**
By Artist Tex Jernigan

February 18, 2019

DISCUSSION

The Leawood Arts Council and Art in Public Places Initiative is recommending the refabrication of the sculpture by Tex Jernigan, which has been standing in the lawn directly in front of Leawood City Hall for the past 12 years. The piece began as an Art-on-Loan work and was purchased by the City at the end of the loan period for a total price of $7,500.

The abstract sculpture is constructed of Mild Steel, Copper and EMT Conduit. When viewed from the side it appears to be a chaotic twist of metal; but when viewed from the perfect perspective all of the rods align in an organized starburst.

The piece is rapidly deteriorating, rusting at the joints. Vandals further damaged the piece in recent years and since that time, the prefect starburst has been impossible to achieve.

Jernigan created The Sentinel while he was a student at KCAI. Since graduation, he works in a variety mediums. He has left the area, making it impossible for him to execute the refabrication.

He did communicate with each of the bidding companies. His only concern is that the rods align in a perspective, consistent with the original design.

Five companies were contacted to bid on the project to not only refabricate, but to do so with improved materials (300 series stainless steel) for longer life. The lowest bid was Cox Air Systems.

Both APPI and the Leawood Arts Council approved the proposed restoration on January 22, 2019 by Cox Air Systems, Inc at a not to exceed price of $17,500.00.

While under refabrication, the piece would be removed from the site, and then reassembled on site four weeks later.

The staff, on behalf of the Arts Council, is requesting approval to move forward with refabrication.

April Bishop, Cultural Arts Coordinator

SPONSOR

Parks & Recreation Department on behalf of the Leawood Arts Council

COUNCIL ACTION TO BE TAKEN

Approve refabrication cost for sculpture "The Sentinel"

STAFF RECOMMENDATION

☑ For

☐ Against

☐ No position

COMMITTEE RECOMMENDATION

☑ For

☐ Against

☐ No position ☐ No Assignment

POLICY OR PROGRAM CHANGE

☑ No

☐ Yes

OPERATIONAL IMPACT

COSTS

$17,500.00

FUND SOURCES

City Capital Art - Maintenance
13050.44440.625500

Return to Agenda

Leawood Arts Council

Parks & Recreation Department

13.C.

Memo

To: Mayor Peggy Dunn and City Council

From: Parks & Recreation Department, Arts Council

CC: Scott Lambers, City Administrator

Date: February 18, 2019

Re: Request to Accept Gift of Public Art - "Inspiration", Rita Blitt

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The Leawood Arts Council and Art in Public Places Initiative recommend accepting the donation of a sculpture by Leawood resident, Rita Blitt. The sculpture titled "Inspiration" is being offered as a gift to the City from Leawood resident William Walker. A selection panel of the Art in Public Places Initiative recommended that the City accept the large sculpture with a placement at the north end of the sculpture garden on the southeast corner of College Boulevard and Tomahawk Creek Parkway.

The selected site was chosen because it is large, located at a busy intersection but set back from traffic, and has a natural backdrop. The piece is open and organic and would work best with a natural backdrop without signs and buildings to detract from the art.

Blitt created the sculpture in 1987. The piece stands 28' X 26' X 1.5' and weighs approximately 4,000 pounds. The dancing abstract figure is made of stainless steel. It has won multiple international awards and is currently installed at Bannister Road and Hillcrest in Kansas City, Missouri in front of what was originally the Hillcrest Bank.

Professional appraisers have valued the piece, in its current condition, at $30,000 - $35,000. Following restoration, one appraiser opined that the piece could be double its current value at as much as $70,000.00.

The piece is in need of restoration. There is rusting at the weep holes and welds. It needs to be sandblasted, repaired and repainted. The artist is agreeable to repainting the piece a bright color, particularly yellow, which is her favored choice. An estimate for the restoration of the piece was requested from Cox Air Systems, Inc., the original fabricators of this piece and many of Blitt's other sculptures. Their estimate for moving the piece from the current site, refurbishing the piece and delivering it to the site is $42,150.00. This donation will be effective on the date the City moves the piece to be restored.

An estimate for the installation would be similar to the cost to install *Dancers,* which was just under $42,000.00.

Blitt is a regionally significant artist who has lived in Leawood for 60 years. Women artists are under-represented in the Leawood Public Art collection. Blitt was instrumental in bringing public art to the places where people in the Kansas City area lived and worked, creating a new way to think about public art. Her monumental sculptures can be found in Australia, Israel, Japan, Singapore and the United States. Her works appear across the local area including the Avila College campus, JCCC campus, Oak Park Mall, the Lewis and Shirley White Theatre, the Plaza Library, Truman Medical Center, and the University of Missouri Kansas City campus. This will most likely be Leawood's only opportunity to acquire a large- scale sculpture by Ms. Blitt.

LAC voted to make a recommendation to accept the gift for installation on November 27, 2018 and the Parks and Recreation Advisory Board voted in support of the location on December 9, 2018. If the donation is approved by City Council, the next steps will be to acquire engineering documents for installation and approval by Planning Commission.

According to the terms of APPI policy:

- All donated works of art are considered outright and unconditional gifts to be used at the City's discretion. Acceptance by City Council legally transfers ownership of artworks to the City of Leawood.

- The City of Leawood will make every effort to recognize the donor's intent in making this gift. Further, it is the right of the City of Leawood, as sole owner of the donated artwork, to sell or dispose of the artworks.

- Donations to the City of Leawood may be tax deductible. Donors are encouraged to contact their accountant or tax advisor to determine whether the donation is deductible.

The Leawood Arts Council and Art in Public Places Initiative hope that the Governing Body will accept this generous donation and bring "Inspiration" by Rita Blitt to Leawood.

Funding source: Public Art Impact Fee
13060.44440.936000

Inspiration Ground Level

Inspiration, 1987, painted steel, 26 x 18 feet x 18 inches,
Hillcrest Bank, Kansas City, Missouri

Return to Agenda

17.A.

Meeting date: February 18, 2019

City of Leawood

Memo

To:	Mayor Dunn and City Council Members
From:	Andrew Hall, Assistant City Attorney
Cc:	Scott Lambers; Patty Bennett; Dawn Long
Date of Meeting:	February 18, 2019
Date of Memo:	January 9, 2019
Re:	MCImetro Contract Franchise

This Ordinance repeals ordinance 2897C and authorizes the Mayor to enter into a contract franchise ("Franchise") with MCIMetro Access Transmission Services Corp., d/b/a Verizon Access Transmission Services ("MCIMetro"). MCIMetro was formerly known as MCIMetro Access Transmisison Services LLC. Under the terms of this Franchise MCIMetro will continue to pay the City a franchise fee of 5% of gross receipts. MCIMetro has no plans to install its infrastructure across the City's parkland, and does not require a Public Land Use Agreement.

In this proposed Franchise, MCImetro has agreed to a two (2) year term, which renews for two additional one (1) year terms, which staff believes is appropriate as it will allow both sides to evaluate how effective the franchise has been before renewal.

MCIMetro has requested that the Franchise be modified to remove "(7) Revenue received by Grantee from resellers or other which use Grantee's Facilities" from the definition of "Gross Receipts" in Section 1 of the agreement. This change comports with state law which defines "Gross Receipts" without item (7).

Please feel free to contact me at 913-663-9182 or ahall@leawood.org with any questions.

DRAFT

RED-LINE

ORDINANCE NO. _____

AN ORDINANCE GRANTING TO MCIMETRO ACCESS TRANSMISSION SERVICES CORP. D/B/A VERIZON ACCESS TRANSMISSION SERVICES, A CONTRACT FRANCHISE TO CONSTRUCT, OPERATE AND MAINTAIN A TELECOMMUNICATIONS SYSTEM IN THE CITY OF LEAWOOD, KANSAS AND PRESCRIBING THE TERMS OF SAID CONTRACT FRANCHISE AND REPEALING ORDINANCE NO. ~~2489C~~2879C

NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LEAWOOD:

SECTION 1. DEFINITIONS.

For the purposes of this Ordinance the following words and phrases shall have the meaning given herein. When not inconsistent within the context, words used in the present tense include the future tense and words in the single number include the plural number. The word "shall" is always mandatory, and not merely directory.

a. "Access line" - shall mean and be limited to retail billed and collected residential lines; business lines; ISDN lines; PBX trunks and simulated exchange access lines provided by a central office based switching arrangement where all stations served by such simulated exchange access lines are used by a single customer of the provider of such arrangement. Access line may not be construed to include interoffice transport or other transmission media that do not terminate at an end user customer's premises, or to permit duplicate or multiple assessment of access line rates on the provision of a single service or on the multiple communications paths derived from a billed and collected access line. Access line shall not include the following: Wireless telecommunications services, the sale or lease of unbundled loop facilities, special access services, lines providing only data services without voice services processed by a telecommunications local exchange service provider or private line service arrangements.

b. "Access line count" - means the number of access lines serving consumers within the corporate boundaries of the City on the last day of each month.

c. "Access line fee" - means a fee determined by the City, up to a maximum as set out in K.S.A. 12-2001(c)(2), and amendments thereto, to be used by Grantee in calculating the amount of Access line remittance.

d. "Access line remittance" - means the amount to be paid by Grantee to City, the total of which is calculated by multiplying the Access line fee, as determined in the City, by the number of Access lines served by Grantee within the City for each month in that calendar quarter.

e. "City" - means the City of Leawood.

f. "Contract franchise" - means this Ordinance granting the right, privilege and franchise to Grantee to provide telecommunications services within the City.

g. "Facilities" - means telephone and telecommunication lines, conduits, manholes, ducts, wires, cables, pipes, poles, towers, vaults, appliances, optic fiber, and all equipment used to provide telecommunication services.

h. "Grantee" – means MCImetro Access Transmission Services Corp. d/b/a Verizon Access Transmission Services, a telecommunications provider providing service within the City. References to Grantee shall also include as appropriate any and all successors and assigns.

i. "Gross Receipts" - shall mean only those receipts collected from within the corporate boundaries of the City enacting the contract franchise and which are derived from the following: (1) Recurring local exchange service for business and residence which includes basic exchange service, touch tone, optional calling features and measured local calls; (2) Recurring local exchange access line services for pay phone lines provided by Grantee to all pay phone service providers; (3) Local directory assistance revenue; (4) Line status verification/ busy interrupt revenue; (5) Local operator assistance revenue; (6) Nonrecurring local exchange service revenue which shall include customer service for installation of lines, reconnection of service and charge for duplicate bills~~; and (7) Revenue received by Grantee from resellers or others which use Grantee's Facilities~~. All other revenues, including, but not limited to, revenues from extended area service, the sale or lease of unbundled network elements, nonregulated services, carrier and end user access, long distance, wireless telecommunications services, lines providing only data service without voice services processed by a telecommunications local exchange service provider, private line service arrangements, internet, broadband and all other services not wholly local in nature are excluded from gross receipts. Gross receipts shall be reduced by bad debt expenses. Uncollectible and late charges shall not be included within gross receipts. If Grantee offers additional services of a wholly local nature which if in existence on or before July 1, 2002 would have been included with the definition of Gross Receipts, such services shall be included from the date of the offering of such services within the City.

j. "Local exchange service" - means local switched telecommunications service within any local exchange service area approved by the state Corporation Commission, regardless of the medium by which the local telecommunications service is provided. The term local exchange service shall not include wireless communication services.

k. "Public right-of-way" - means only the area of real property in which the City has a dedicated or acquired right-of-way interest in the real property. It shall include the area on, below or above the present and future streets, alleys, avenues, roads, highways, parkways or boulevards dedicated or acquired as right-of-way. The term does not include the airwaves above a right-of-way with regard to wireless telecommunications or other non-wire telecommunications or broadcast service, easements obtained by utilities or private easements in platted subdivisions or tracts.

l. "Telecommunication services" - means providing the means of transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received.

SECTION 2. GRANT OF CONTRACT FRANCHISE.

a. There is hereby granted to Grantee this nonexclusive Contract franchise to construct,

maintain, extend, and operate its Facilities along, across, upon or under any Public right-of-way for the purpose of supplying Telecommunication services to the consumers or recipients of such service located within the corporate boundaries of the City, for the term of this Contract franchise, subject to the terms and conditions of this Contract franchise. Further, Grantee is hereby granted the right to lease its Facilities in whole or in part to affiliates or third parties, provided that the Grantee maintains ownership of such Facilities. This contract Franchise shall not be construed, in any manner, as relieving lessees of their obligation to obtain a Contract franchise.

b. The grant of this Contract franchise by the City shall not convey title, equitable or legal, in the Public right-of-way, and shall give only the right to occupy the Public right-of-way, for the purposes and for the period stated in this Contract franchise. This Contract franchise does not:

(1) Grant the right to use Facilities or any other property, telecommunications related or otherwise, owned or controlled by the City or a third-party, without the consent of such party;

(2) Grant the authority to construct, maintain or operate any Facility or related appurtenance on property owned by the City outside of the Public right-of-way, specifically including, but not limited to, parkland property, City Hall property or public works facility property; or

(3) Excuse Grantee from obtaining appropriate access or attachment agreements before locating its Facilities on the Facilities owned or controlled by the City or a third-party.

c. As a condition of this grant, Grantee is required to obtain and is responsible for any necessary permit, license, certification, grant, registration or any other authorization required by any appropriate governmental entity, including, but not limited to, the City, the FCC or the Kansas Corporation Commission (KCC). Grantee shall also comply with all applicable laws, statutes and/or city regulations (including, but not limited to those relating to the construction and use of the Public right-of-way or other public property).

d. Grantee shall not provide any additional services for which a franchise is required by the City without first obtaining a separate franchise from the City or amending this Contract franchise, and Grantee shall not knowingly allow the use of its Facilities by any third party in violation of any federal, state or local law. In particular, this Contract franchise does not provide Grantee the right to provide cable service as a cable operator (as defined by 47 U.S.C. § 522 (5)) within the City. Grantee agrees that this franchise does not permit it to operate an open video system without payment of fees permitted by 47 U.S.C. § 573(c)(2)(B) and without complying with FCC regulations promulgated pursuant to 47 U.S.C. § 573.

e. This authority to occupy the Public right-of-way shall be granted in a competitively neutral and nondiscriminatory basis and not in conflict with state or federal law.

SECTION 3. USE OF PUBLIC RIGHT-OF-WAY.

a. Pursuant to K.S.A. 17-1902, and amendments thereto, and subject to the provisions of this Contract franchise, Grantee shall have the right to construct, maintain and operate its

Facilities along, across, upon and under the Public right-of-way. Such Facilities shall be so constructed and maintained as not to obstruct or hinder the usual travel or public safety on such public ways or obstruct the legal use by other utilities.

b. Grantee's use of the Public right-of-way shall always be subject and subordinate to the reasonable public health, safety and welfare requirements and regulations of the City. The City may exercise its home rule powers in its administration and regulation related to the management of the Public right-of-way; provided that any such exercise must be competitively neutral and may not be unreasonable or discriminatory. Grantee shall be subject to all applicable laws and statutes, and/or rules, regulations, policies, resolutions and ordinances adopted by the City, relating to the construction and use of the Public right-of-way, including, but not limited to, the City's Ordinance for Managing the Use and Occupancy of Public Right-of-way, adopted as Ordinance No.1834C, and amendments thereto.

c. Grantee shall participate in the Kansas One Call utility location program.

SECTION 4. COMPENSATION TO THE CITY.

a. In consideration of this Contract franchise, Grantee agrees to remit to the City a franchise fee of 5% of Gross Receipts. To determine the franchise fee, Grantee shall calculate the Gross Receipts and multiply such receipts by 5%. Thereafter, subject to subsection (b) hereafter, compensation for each calendar year of the remaining term of this Contract franchise shall continue to be based on a sum equal to 5% of Gross Receipts, unless the City notifies Grantee prior to ninety days (90) before the end of the calendar year that it intends to switch to an Access line fee in the following calendar year; provided, such Access line fee shall not exceed $2.00 per Access line per month. In the event the City elects to change its basis of compensation, nothing herein precludes the City from switching its basis of compensation back provided the City notifies Grantee prior to ninety days (90) before the end of the calendar year.

b. Beginning January 1, 2004, and every 36 months thereafter, the City, subject to the public notification procedures set forth in K.S.A. 12-2001 (m), and amendments thereto, may elect to adopt an increased Access line fee or gross receipts fee subject to the provisions and maximum fee limitations contained in K.S.A. 12-2001, and amendments thereto, or may choose to decline all or any portion of any increase in the Access line fee.

c. Grantee shall pay on a quarterly basis without requirement for invoice or reminder from the City, and within 45 days of the last day of the quarter for which the payment applies franchise fees due and payable to the City. If any franchise fee, or any portion thereof, is not postmarked or delivered on or before the due date, interest thereon shall accrue from the due date until received, at the applicable statutory interest rate.

d. Upon written request by the City, but no more than once per quarter, Grantee shall submit to the City either a 9K2 (gross receipts) or 9KN (access lines) statement, or comparable documents showing the manner in which the franchise fee was calculated.

e. No acceptance by the City of any franchise fee shall be construed as an accord that the amount paid is in fact the correct amount, nor shall acceptance of any franchise fee payment be construed as a release of any claim of the City. Any dispute concerning the

amount due under this Section shall be resolved in the manner set forth in K.S.A. 12-2001, and amendments thereto.

f. The City shall have the right to examine, upon written notice to Grantee no more often than once per calendar year, those records necessary to verify the correctness of the franchise fees paid by Grantee.

g. Unless previously paid, within sixty (60) days of the effective date of this Contract franchise, Grantee shall pay to the City a one-time application fee of One Thousand Dollars ($1000.00). The parties agree that such fee reimburses the City for its reasonable, actual and verifiable costs of reviewing and approving this Contract franchise.

h. The franchise fee required herein shall be in addition to, not in lieu of, all taxes, charges, assessments, licenses, fees and impositions otherwise applicable that are or may be imposed by the City under K.S.A. 12-2001 and 17-1902, and amendments thereto. The franchise fee is compensation for use of the Public right-of-way and shall in no way be deemed a tax of any kind.

i. Grantee shall remit an access line (franchise) fee or gross receipts (franchise) fee to the City on those access lines that have been resold to another telecommunications local exchange service provider, but in such case the City shall not collect a franchise fee from the reseller service provider and shall not require the reseller service provider to enter a contract franchise ordinance.

SECTION 5. INDEMNITY AND HOLD HARMLESS.

It shall be the responsibility of Grantee to take adequate measures to protect and defend its Facilities in the Public right-of-way from harm or damage. If Grantee fails to accurately or timely locate Facilities when requested, in accordance with the Kansas Underground Utility Damage Prevention Act, K.S.A. 66-1801 et seq., it has no claim for costs or damages against the City and its authorized contractors unless such parties are responsible for the harm or damage caused by their negligence or intentional conduct. The City and its authorized contractors shall be responsible to take reasonable precautionary measures including calling for utility locations and observing marker posts when working near Grantee's Facilities.

Grantee shall indemnify and hold the City and its officers and employees harmless against any and all claims, lawsuits, judgments, costs, liens, losses, expenses, fees (including reasonable attorney fees and costs of defense), proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including personal or bodily injury (including death), property damage or other harm for which recovery of damages is sought, to the extent that it is found by a court of competent jurisdiction to be caused by the negligence of Grantee, any agent, officer, director, representative, employee, affiliate or subcontractor of Grantee, or its respective officers, agents, employees, directors or representatives, while installing, repairing or maintaining Facilities in the Public right-of-way.

The indemnity provided by this subsection does not apply to any liability resulting from the negligence of the City, its officers, employees, contractors or subcontractors. If Grantee and the City are found jointly liable by a court of competent jurisdiction, liability shall be apportioned comparatively in accordance with the laws of this state without, however, waiving any governmental immunity available to the City under state law and without waiving any defenses of

the parties under state or federal law. This section is solely for the benefit of the City and Grantee and does not create or grant any rights, contractual or otherwise, to any other person or entity.

Grantee or City shall promptly advise the other in writing of any known claim or demand against Grantee or the City related to or arising out of Grantee's activities in the Public right-of-way.

SECTION 6. INSURANCE REQUIREMENT AND PERFORMANCE BOND

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

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

   (2) Commercial general liability, including coverage for contractual liability and products completed operations liability on an occurrence basis and not a claims made basis, with a limit of not less than Two Million Dollars ($2,000,000) combined single limit per occurrence for bodily injury, personal injury, and property damage liability. The City shall be included as an additional insured with respect to liability arising from Grantee's operations under this Contract franchise.

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

c. Grantee shall, as a material condition of this Contract franchise, prior to the commencement of any work and prior to any renewal thereof, deliver to the City a certificate of insurance or evidence of self-insurance, satisfactory in form and content to the City, evidencing that the above insurance is in force. Grantee shall provide thirty (30) days' prior written notice of cancellation or material change to its insurance. Grantee shall make available to the City on request and at Grantee's office the policy declarations page and a certified copy of the policy in effect, so that limitations and exclusions can be evaluated for appropriateness of overall coverage.

d. Grantee shall, as a material condition of this Contract franchise, prior to the commencement of any work and prior to any renewal thereof, deliver to the City a performance bond in the amount of $50,000, payable to the City to ensure the appropriate and timely performance in the construction and maintenance of Facilities located in the Public right-of-way. The required performance bond must be with good and sufficient sureties, issued by a surety company authorized to transact business in the State of Kansas, and satisfactory to the City Attorney in form and substance.

SECTION 7. REVOCATION AND TERMINATION.

In case of failure on the part of Grantee to comply with any of the provisions of this Contract franchise, or if Grantee should do or cause to be done any act or thing prohibited by or in violation of the terms of this Contract franchise, Grantee shall forfeit all rights, privileges and franchise granted herein, and all such rights, privileges and franchise hereunder shall cease, terminate and become null and void, and this Contract franchise shall be deemed revoked or terminated, provided that said revocation or termination, shall not take effect until the City has completed the following procedures: Before the City proceeds to revoke and terminate this Contract franchise, it shall first serve a written notice upon Grantee, setting forth in detail the neglect or failure complained of, and Grantee shall have sixty (60) days thereafter in which to comply with the conditions and requirements of this Contract franchise. If at the end of such sixty (60) day period the City deems that the conditions have not been complied with, the City shall take action to revoke and terminate this Contract franchise by an affirmative vote of the City Council present at the meeting and voting, setting out the grounds upon which this Contract franchise is to be revoked and terminated; provided, to afford Grantee due process, Grantee shall first be provided reasonable notice of the date, time and location of the City Council's consideration, and shall have the right to address the City Council regarding such matter. Nothing herein shall prevent the City from invoking any other remedy that may otherwise exist at law. Upon any determination by the City Council to revoke and terminate this Contract franchise, Grantee shall have thirty (30) days to appeal such decision to the District Court of Johnson County, Kansas. This Contract franchise shall be deemed revoked and terminated at the end of this thirty (30) day period, unless Grantee has instituted such an appeal. If Grantee does timely institute such an appeal, such revocation and termination shall remain pending and subject to the court's final judgment. Provided, however, that the failure of Grantee to comply with any of the provisions of this Contract franchise or the doing or causing to be done by Grantee of anything prohibited by or in violation of the terms of this Contract franchise shall not be a ground for the revocation or termination thereof when such act or omission on the part of Grantee is due to any cause or delay beyond the control of Grantee or to bona fide legal proceedings.

SECTION 8. RESERVATION OF RIGHTS.

a. The City specifically reserves its right and authority as a customer of Grantee and as a public entity with responsibilities towards its citizens, to participate to the full extent allowed by law in proceedings concerning Grantee's rates and services to ensure the rendering of efficient Telecommunications service and any other services at reasonable rates, and the maintenance of Grantee's property in good repair.

b. In granting its consent hereunder, the City does not in any manner waive its regulatory or other rights and powers under and by virtue of the laws of the State of Kansas as the same may be amended, its Home Rule powers under the Constitution of the State of Kansas, nor any of its rights and powers under or by virtue of present or future ordinances of the City.

c. In granting its consent hereunder, Grantee does not in any manner waive its regulatory or other rights and powers under and by virtue of the laws of the State of Kansas as the same may be amended, or under the Constitution of the State of Kansas, nor any of its rights and powers under or by virtue of present or future ordinances of the City.

d. In entering into this Contract franchise, neither the City's nor Grantee's present or future legal rights, positions, claims, assertions or arguments before any administrative agency or court of law are in any way prejudiced or waived. By entering into the Contract franchise, neither the City nor Grantee waive any rights, but instead expressly reserve any and all rights, remedies, and arguments the City or Grantee may have at law or equity, without limitation, to argue, assert, and/or take any position as to the legality or appropriateness of any present or future laws, non-franchise ordinances, (e.g. the City's right-of-way ordinance referenced in Section 3b of this Contract franchise) and/or rulings.

SECTION 9. FAILURE TO ENFORCE.

The failure of either the City or the Grantee to insist in any one or more instances upon the strict performance of any one or more of the terms or provisions of this Contract franchise shall not be construed as a waiver or relinquishment for the future of any such term or provision, and the same shall continue in full force and effect. No waiver or relinquishment shall be deemed to have been made by the City or the Grantee unless said waiver or relinquishment is in writing and signed by both the City and the Grantee.

SECTION 10. TERM AND TERMINATION DATE.

a. This Contract franchise shall be effective for a term of two (2) years from the effective date of this Contract franchise. Thereafter, this Contract franchise will renew for two (2) additional one (1) year terms, unless either party notifies the other party of its intent to terminate the Contract franchise at least one hundred eighty days (180) days before the termination of the then current term. The additional term shall be deemed a continuation of this Contract franchise and not as a new franchise or amendment.

b. Upon written request of either the City or Grantee, this Contract franchise shall be renegotiated at any time in accordance with the requirements of state law upon any of the following events: changes in federal, state, or local laws, regulations, or orders that materially affect any rights or obligations of either the City or Grantee, including but not limited to the scope of the Contract franchise granted to Grantee or the compensation to be received by the City hereunder.

c. If any clause, sentence, section, or provision of K.S.A. 12-2001, and amendments thereto, shall be held to be invalid by a court or administrative agency of competent jurisdiction, provided such order is not stayed, either the City or Grantee may elect to terminate the entire Contract franchise. In the event of such invalidity, if Grantee is required by law to enter into a Contract franchise with the City, the parties agree to act in good faith in promptly negotiating a new Contract franchise.

d. Amendments under this Section, if any, shall be made by contract franchise ordinance as prescribed by statute. This Contract franchise shall remain in effect according to its terms, pending completion of any review or renegotiation provided by this section.

e. In the event the parties are actively negotiating in good faith a new contract franchise ordinance or an amendment to this Contract franchise upon the termination date of this Contract franchise, the parties by written mutual agreement may extend the termination date of this Contract franchise to allow for further negotiations. Such extension period

shall be deemed a continuation of this Contract franchise and not as a new contract franchise ordinance or amendment.

SECTION 11. POINT OF CONTACT AND NOTICES

Grantee shall at all times maintain with the City a local point of contact who shall be available at all times to act on behalf of Grantee in the event of an emergency. Grantee shall provide the City with said local contact's name, address, telephone number, fax number and e-mail address. Emergency notice by Grantee to the City may be made by telephone to the City Clerk or the Public Works Director. All other notices between the parties shall be in writing and shall be made by personal delivery, depositing such notice in the U.S. Mail, Certified Mail, return receipt requested, or by facsimile. Any notice served by U.S. Mail or Certified Mail, return receipt requested, shall be deemed delivered five (5) calendar days after the date of such deposit in the U.S. Mail unless otherwise provided. Any notice given by facsimile is deemed received by the next business day. "Business day" for purposes of this section shall mean Monday through Friday, City and/or Grantee observed holidays excepted.

The City:

The City of Leawood
4800 Town Center Drive
Leawood, Kansas 66211
Attn: City Clerk
(913) 339-9325 fax

Grantee:

MCImetro Access Transmission
Services d/b/a Verizon Access
Transmission Services
600 Hidden Ridge
Irving, TX 75038
Attn: Franchise Manager

With a copy to (except for invoices):
Verizon Business Services
1320 N. Court House Road, Suite 900
Arlington, VA 22201
Attn: General Counsel, Network &
Technology

or to replacement addresses that may be later designed in writing.

SECTION 12. TRANSFER AND ASSIGNMENT.

This Contract franchise is granted solely to the Grantee and shall not be transferred or assigned without the prior written approval of the City; provided that such transfer or assignment may occur without written consent of the City to a wholly owned parent or subsidiary, or between wholly owned subsidiaries, upon notice to the City.

SECTION 13. CONFIDENTIALITY.

Information provided to the City under K.S.A. 12-2001 shall be governed by confidentiality procedures in compliance with K.S.A. 45-215 and 66-1220a, et seq., and amendments thereto. Grantee agrees to indemnify and hold the City harmless from any and all penalties or costs, including attorney's fees, arising from the actions of Grantee, or of the City at the written request of Grantee, in seeking to safeguard the confidentiality of information provided by Grantee to the City under this Contract franchise.

SECTION 14. ACCEPTANCE OF TERMS.

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

SECTION 15. PAYMENT OF COSTS.

In accordance with statute, Grantee shall be responsible for payment of all costs and expense of publishing this Contract franchise, and any amendments thereof.

SECTION 16. SEVERABILITY.

If any clause, sentence, or section of this Contract franchise, or any portion thereof, shall be held to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remainder, as a whole or any part thereof, other than the part declared invalid; provided, however, the City or Grantee may elect to declare the entire Contract franchise is invalidated if the portion declared invalid is, in the judgment of the City or Grantee, an essential part of the Contract franchise.

SECTION 17. FORCE MAJEURE.

Each and every provision hereof shall be reasonably subject to acts of God, fires, strikes, riots, floods, war and other disasters beyond Grantee's or the City's control.

SECTION 18. REPEAL.

Grantee's prior contract franchise ordinance, as adopted by City Ordinance No. 2897C~~2489C~~ is hereby repealed.

PASSED by the Governing Body this ~~5~~18th day of ~~March~~ February, 201~~98~~.

APPROVED by the Mayor this ~~5~~18th day of ~~March~~ February, 201~~98~~.

Peggy J. Dunn, Mayor

ATTEST:

Debra Harper, CMC, City Clerk

APPROVED AS TO FORM:

~~Patricia A. Bennett~~Andrew K. Hall, Assistant City Attorney

DRAFT CLEAN

ORDINANCE NO. _____

AN ORDINANCE GRANTING TO MCIMETRO ACCESS TRANSMISSION SERVICES CORP. D/B/A VERIZON ACCESS TRANSMISSION SERVICES, A CONTRACT FRANCHISE TO CONSTRUCT, OPERATE AND MAINTAIN A TELECOMMUNICATIONS SYSTEM IN THE CITY OF LEAWOOD, KANSAS AND PRESCRIBING THE TERMS OF SAID CONTRACT FRANCHISE AND REPEALING ORDINANCE NO. 2879C

NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LEAWOOD:

SECTION 1. DEFINITIONS.

For the purposes of this Ordinance the following words and phrases shall have the meaning given herein. When not inconsistent within the context, words used in the present tense include the future tense and words in the single number include the plural number. The word "shall" is always mandatory, and not merely directory.

a. "Access line" - shall mean and be limited to retail billed and collected residential lines; business lines; ISDN lines; PBX trunks and simulated exchange access lines provided by a central office based switching arrangement where all stations served by such simulated exchange access lines are used by a single customer of the provider of such arrangement. Access line may not be construed to include interoffice transport or other transmission media that do not terminate at an end user customer's premises, or to permit duplicate or multiple assessment of access line rates on the provision of a single service or on the multiple communications paths derived from a billed and collected access line. Access line shall not include the following: Wireless telecommunications services, the sale or lease of unbundled loop facilities, special access services, lines providing only data services without voice services processed by a telecommunications local exchange service provider or private line service arrangements.

b. "Access line count" - means the number of access lines serving consumers within the corporate boundaries of the City on the last day of each month.

c. "Access line fee" - means a fee determined by the City, up to a maximum as set out in K.S.A. 12-2001(c)(2), and amendments thereto, to be used by Grantee in calculating the amount of Access line remittance.

d. "Access line remittance" - means the amount to be paid by Grantee to City, the total of which is calculated by multiplying the Access line fee, as determined in the City, by the number of Access lines served by Grantee within the City for each month in that calendar quarter.

e. "City" - means the City of Leawood.

f. "Contract franchise" - means this Ordinance granting the right, privilege and franchise to Grantee to provide telecommunications services within the City.

g. "Facilities" - means telephone and telecommunication lines, conduits, manholes, ducts, wires, cables, pipes, poles, towers, vaults, appliances, optic fiber, and all equipment used to provide telecommunication services.

h. "Grantee" – means MCImetro Access Transmission Services Corp. d/b/a Verizon Access Transmission Services, a telecommunications provider providing service within the City. References to Grantee shall also include as appropriate any and all successors and assigns.

i. "Gross Receipts" - shall mean only those receipts collected from within the corporate boundaries of the City enacting the contract franchise and which are derived from the following: (1) Recurring local exchange service for business and residence which includes basic exchange service, touch tone, optional calling features and measured local calls; (2) Recurring local exchange access line services for pay phone lines provided by Grantee to all pay phone service providers; (3) Local directory assistance revenue; (4) Line status verification/ busy interrupt revenue; (5) Local operator assistance revenue; (6) Nonrecurring local exchange service revenue which shall include customer service for installation of lines, reconnection of service and charge for duplicate bills. All other revenues, including, but not limited to, revenues from extended area service, the sale or lease of unbundled network elements, nonregulated services, carrier and end user access, long distance, wireless telecommunications services, lines providing only data service without voice services processed by a telecommunications local exchange service provider, private line service arrangements, internet, broadband and all other services not wholly local in nature are excluded from gross receipts. Gross receipts shall be reduced by bad debt expenses. Uncollectible and late charges shall not be included within gross receipts. If Grantee offers additional services of a wholly local nature which if in existence on or before July 1, 2002 would have been included with the definition of Gross Receipts, such services shall be included from the date of the offering of such services within the City.

j. "Local exchange service" - means local switched telecommunications service within any local exchange service area approved by the state Corporation Commission, regardless of the medium by which the local telecommunications service is provided. The term local exchange service shall not include wireless communication services.

k. "Public right-of-way" - means only the area of real property in which the City has a dedicated or acquired right-of-way interest in the real property. It shall include the area on, below or above the present and future streets, alleys, avenues, roads, highways, parkways or boulevards dedicated or acquired as right-of-way. The term does not include the airwaves above a right-of-way with regard to wireless telecommunications or other non-wire telecommunications or broadcast service, easements obtained by utilities or private easements in platted subdivisions or tracts.

l. "Telecommunication services" - means providing the means of transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received.

SECTION 2. GRANT OF CONTRACT FRANCHISE.

a. There is hereby granted to Grantee this nonexclusive Contract franchise to construct, maintain, extend, and operate its Facilities along, across, upon or under any Public right-

of-way for the purpose of supplying Telecommunication services to the consumers or recipients of such service located within the corporate boundaries of the City, for the term of this Contract franchise, subject to the terms and conditions of this Contract franchise. Further, Grantee is hereby granted the right to lease its Facilities in whole or in part to affiliates or third parties, provided that the Grantee maintains ownership of such Facilities. This contract Franchise shall not be construed, in any manner, as relieving lessees of their obligation to obtain a Contract franchise.

b. The grant of this Contract franchise by the City shall not convey title, equitable or legal, in the Public right-of-way, and shall give only the right to occupy the Public right-of-way, for the purposes and for the period stated in this Contract franchise. This Contract franchise does not:

(1) Grant the right to use Facilities or any other property, telecommunications related or otherwise, owned or controlled by the City or a third-party, without the consent of such party;

(2) Grant the authority to construct, maintain or operate any Facility or related appurtenance on property owned by the City outside of the Public right-of-way, specifically including, but not limited to, parkland property, City Hall property or public works facility property; or

(3) Excuse Grantee from obtaining appropriate access or attachment agreements before locating its Facilities on the Facilities owned or controlled by the City or a third-party.

c. As a condition of this grant, Grantee is required to obtain and is responsible for any necessary permit, license, certification, grant, registration or any other authorization required by any appropriate governmental entity, including, but not limited to, the City, the FCC or the Kansas Corporation Commission (KCC). Grantee shall also comply with all applicable laws, statutes and/or city regulations (including, but not limited to those relating to the construction and use of the Public right-of-way or other public property).

d. Grantee shall not provide any additional services for which a franchise is required by the City without first obtaining a separate franchise from the City or amending this Contract franchise, and Grantee shall not knowingly allow the use of its Facilities by any third party in violation of any federal, state or local law. In particular, this Contract franchise does not provide Grantee the right to provide cable service as a cable operator (as defined by 47 U.S.C. § 522 (5)) within the City. Grantee agrees that this franchise does not permit it to operate an open video system without payment of fees permitted by 47 U.S.C. § 573(c)(2)(B) and without complying with FCC regulations promulgated pursuant to 47 U.S.C. § 573.

e. This authority to occupy the Public right-of-way shall be granted in a competitively neutral and nondiscriminatory basis and not in conflict with state or federal law.

SECTION 3. USE OF PUBLIC RIGHT-OF-WAY.

a. Pursuant to K.S.A. 17-1902, and amendments thereto, and subject to the provisions of this Contract franchise, Grantee shall have the right to construct, maintain and operate its Facilities along, across, upon and under the Public right-of-way. Such Facilities shall be

so constructed and maintained as not to obstruct or hinder the usual travel or public safety on such public ways or obstruct the legal use by other utilities.

b. Grantee's use of the Public right-of-way shall always be subject and subordinate to the reasonable public health, safety and welfare requirements and regulations of the City. The City may exercise its home rule powers in its administration and regulation related to the management of the Public right-of-way; provided that any such exercise must be competitively neutral and may not be unreasonable or discriminatory. Grantee shall be subject to all applicable laws and statutes, and/or rules, regulations, policies, resolutions and ordinances adopted by the City, relating to the construction and use of the Public right-of-way, including, but not limited to, the City's Ordinance for Managing the Use and Occupancy of Public Right-of-way, adopted as Ordinance No.1834C, and amendments thereto.

c. Grantee shall participate in the Kansas One Call utility location program.

SECTION 4. COMPENSATION TO THE CITY.

a. In consideration of this Contract franchise, Grantee agrees to remit to the City a franchise fee of 5% of Gross Receipts. To determine the franchise fee, Grantee shall calculate the Gross Receipts and multiply such receipts by 5%. Thereafter, subject to subsection (b) hereafter, compensation for each calendar year of the remaining term of this Contract franchise shall continue to be based on a sum equal to 5% of Gross Receipts, unless the City notifies Grantee prior to ninety days (90) before the end of the calendar year that it intends to switch to an Access line fee in the following calendar year; provided, such Access line fee shall not exceed $2.00 per Access line per month. In the event the City elects to change its basis of compensation, nothing herein precludes the City from switching its basis of compensation back provided the City notifies Grantee prior to ninety days (90) before the end of the calendar year.

b. Beginning January 1, 2004, and every 36 months thereafter, the City, subject to the public notification procedures set forth in K.S.A. 12-2001 (m), and amendments thereto, may elect to adopt an increased Access line fee or gross receipts fee subject to the provisions and maximum fee limitations contained in K.S.A. 12-2001, and amendments thereto, or may choose to decline all or any portion of any increase in the Access line fee.

c. Grantee shall pay on a quarterly basis without requirement for invoice or reminder from the City, and within 45 days of the last day of the quarter for which the payment applies franchise fees due and payable to the City. If any franchise fee, or any portion thereof, is not postmarked or delivered on or before the due date, interest thereon shall accrue from the due date until received, at the applicable statutory interest rate.

d. Upon written request by the City, but no more than once per quarter, Grantee shall submit to the City either a 9K2 (gross receipts) or 9KN (access lines) statement, or comparable documents showing the manner in which the franchise fee was calculated.

e. No acceptance by the City of any franchise fee shall be construed as an accord that the amount paid is in fact the correct amount, nor shall acceptance of any franchise fee payment be construed as a release of any claim of the City. Any dispute concerning the amount due under this Section shall be resolved in the manner set forth in K.S.A. 12-2001, and amendments thereto.

f. The City shall have the right to examine, upon written notice to Grantee no more often than once per calendar year, those records necessary to verify the correctness of the franchise fees paid by Grantee.

g. Unless previously paid, within sixty (60) days of the effective date of this Contract franchise, Grantee shall pay to the City a one-time application fee of One Thousand Dollars ($1000.00). The parties agree that such fee reimburses the City for its reasonable, actual and verifiable costs of reviewing and approving this Contract franchise.

h. The franchise fee required herein shall be in addition to, not in lieu of, all taxes, charges, assessments, licenses, fees and impositions otherwise applicable that are or may be imposed by the City under K.S.A. 12-2001 and 17-1902, and amendments thereto. The franchise fee is compensation for use of the Public right-of-way and shall in no way be deemed a tax of any kind.

i. Grantee shall remit an access line (franchise) fee or gross receipts (franchise) fee to the City on those access lines that have been resold to another telecommunications local exchange service provider, but in such case the City shall not collect a franchise fee from the reseller service provider and shall not require the reseller service provider to enter a contract franchise ordinance.

SECTION 5. INDEMNITY AND HOLD HARMLESS.

It shall be the responsibility of Grantee to take adequate measures to protect and defend its Facilities in the Public right-of-way from harm or damage. If Grantee fails to accurately or timely locate Facilities when requested, in accordance with the Kansas Underground Utility Damage Prevention Act, K.S.A. 66-1801 et seq., it has no claim for costs or damages against the City and its authorized contractors unless such parties are responsible for the harm or damage caused by their negligence or intentional conduct. The City and its authorized contractors shall be responsible to take reasonable precautionary measures including calling for utility locations and observing marker posts when working near Grantee's Facilities.

Grantee shall indemnify and hold the City and its officers and employees harmless against any and all claims, lawsuits, judgments, costs, liens, losses, expenses, fees (including reasonable attorney fees and costs of defense), proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including personal or bodily injury (including death), property damage or other harm for which recovery of damages is sought, to the extent that it is found by a court of competent jurisdiction to be caused by the negligence of Grantee, any agent, officer, director, representative, employee, affiliate or subcontractor of Grantee, or its respective officers, agents, employees, directors or representatives, while installing, repairing or maintaining Facilities in the Public right-of-way.

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

Grantee or City shall promptly advise the other in writing of any known claim or demand against Grantee or the City related to or arising out of Grantee's activities in the Public right-of-way.

SECTION 6. INSURANCE REQUIREMENT AND PERFORMANCE BOND

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

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

   (2) Commercial general liability, including coverage for contractual liability and products completed operations liability on an occurrence basis and not a claims made basis, with a limit of not less than Two Million Dollars ($2,000,000) combined single limit per occurrence for bodily injury, personal injury, and property damage liability. The City shall be included as an additional insured with respect to liability arising from Grantee's operations under this Contract franchise.

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

c. Grantee shall, as a material condition of this Contract franchise, prior to the commencement of any work and prior to any renewal thereof, deliver to the City a certificate of insurance or evidence of self-insurance, satisfactory in form and content to the City, evidencing that the above insurance is in force. Grantee shall provide thirty (30) days' prior written notice of cancellation or material change to its insurance. Grantee shall make available to the City on request and at Grantee's office the policy declarations page and a certified copy of the policy in effect, so that limitations and exclusions can be evaluated for appropriateness of overall coverage.

d. Grantee shall, as a material condition of this Contract franchise, prior to the commencement of any work and prior to any renewal thereof, deliver to the City a performance bond in the amount of $50,000, payable to the City to ensure the appropriate and timely performance in the construction and maintenance of Facilities located in the Public right-of-way. The required performance bond must be with good and sufficient sureties, issued by a surety company authorized to transact business in the State of Kansas, and satisfactory to the City Attorney in form and substance.

SECTION 7. REVOCATION AND TERMINATION.

In case of failure on the part of Grantee to comply with any of the provisions of this Contract franchise, or if Grantee should do or cause to be done any act or thing prohibited by or in violation of the terms of this Contract franchise, Grantee shall forfeit all rights, privileges and franchise granted herein, and all such rights, privileges and franchise hereunder shall cease, terminate and become null and void, and this Contract franchise shall be deemed revoked or terminated, provided that said revocation or termination, shall not take effect until the City has completed the following procedures: Before the City proceeds to revoke and terminate this Contract franchise, it shall first serve a written notice upon Grantee, setting forth in detail the neglect or failure complained of, and Grantee shall have sixty (60) days thereafter in which to comply with the conditions and requirements of this Contract franchise. If at the end of such sixty (60) day period the City deems that the conditions have not been complied with, the City shall take action to revoke and terminate this Contract franchise by an affirmative vote of the City Council present at the meeting and voting, setting out the grounds upon which this Contract franchise is to be revoked and terminated; provided, to afford Grantee due process, Grantee shall first be provided reasonable notice of the date, time and location of the City Council's consideration, and shall have the right to address the City Council regarding such matter. Nothing herein shall prevent the City from invoking any other remedy that may otherwise exist at law. Upon any determination by the City Council to revoke and terminate this Contract franchise, Grantee shall have thirty (30) days to appeal such decision to the District Court of Johnson County, Kansas. This Contract franchise shall be deemed revoked and terminated at the end of this thirty (30) day period, unless Grantee has instituted such an appeal. If Grantee does timely institute such an appeal, such revocation and termination shall remain pending and subject to the court's final judgment. Provided, however, that the failure of Grantee to comply with any of the provisions of this Contract franchise or the doing or causing to be done by Grantee of anything prohibited by or in violation of the terms of this Contract franchise shall not be a ground for the revocation or termination thereof when such act or omission on the part of Grantee is due to any cause or delay beyond the control of Grantee or to bona fide legal proceedings.

SECTION 8. RESERVATION OF RIGHTS.

a. The City specifically reserves its right and authority as a customer of Grantee and as a public entity with responsibilities towards its citizens, to participate to the full extent allowed by law in proceedings concerning Grantee's rates and services to ensure the rendering of efficient Telecommunications service and any other services at reasonable rates, and the maintenance of Grantee's property in good repair.

b. In granting its consent hereunder, the City does not in any manner waive its regulatory or other rights and powers under and by virtue of the laws of the State of Kansas as the same may be amended, its Home Rule powers under the Constitution of the State of Kansas, nor any of its rights and powers under or by virtue of present or future ordinances of the City.

c. In granting its consent hereunder, Grantee does not in any manner waive its regulatory or other rights and powers under and by virtue of the laws of the State of Kansas as the same may be amended, or under the Constitution of the State of Kansas, nor any of its rights and powers under or by virtue of present or future ordinances of the City.

d. In entering into this Contract franchise, neither the City's nor Grantee's present or future legal rights, positions, claims, assertions or arguments before any administrative agency

or court of law are in any way prejudiced or waived. By entering into the Contract franchise, neither the City nor Grantee waive any rights, but instead expressly reserve any and all rights, remedies, and arguments the City or Grantee may have at law or equity, without limitation, to argue, assert, and/or take any position as to the legality or appropriateness of any present or future laws, non-franchise ordinances, (e.g. the City's right-of-way ordinance referenced in Section 3b of this Contract franchise) and/or rulings.

SECTION 9. FAILURE TO ENFORCE.

The failure of either the City or the Grantee to insist in any one or more instances upon the strict performance of any one or more of the terms or provisions of this Contract franchise shall not be construed as a waiver or relinquishment for the future of any such term or provision, and the same shall continue in full force and effect. No waiver or relinquishment shall be deemed to have been made by the City or the Grantee unless said waiver or relinquishment is in writing and signed by both the City and the Grantee.

SECTION 10. TERM AND TERMINATION DATE.

a. This Contract franchise shall be effective for a term of two (2) years from the effective date of this Contract franchise. Thereafter, this Contract franchise will renew for two (2) additional one (1) year terms, unless either party notifies the other party of its intent to terminate the Contract franchise at least one hundred eighty days (180) days before the termination of the then current term. The additional term shall be deemed a continuation of this Contract franchise and not as a new franchise or amendment.

b. Upon written request of either the City or Grantee, this Contract franchise shall be renegotiated at any time in accordance with the requirements of state law upon any of the following events: changes in federal, state, or local laws, regulations, or orders that materially affect any rights or obligations of either the City or Grantee, including but not limited to the scope of the Contract franchise granted to Grantee or the compensation to be received by the City hereunder.

c. If any clause, sentence, section, or provision of K.S.A. 12-2001, and amendments thereto, shall be held to be invalid by a court or administrative agency of competent jurisdiction, provided such order is not stayed, either the City or Grantee may elect to terminate the entire Contract franchise. In the event of such invalidity, if Grantee is required by law to enter into a Contract franchise with the City, the parties agree to act in good faith in promptly negotiating a new Contract franchise.

d. Amendments under this Section, if any, shall be made by contract franchise ordinance as prescribed by statute. This Contract franchise shall remain in effect according to its terms, pending completion of any review or renegotiation provided by this section.

e. In the event the parties are actively negotiating in good faith a new contract franchise ordinance or an amendment to this Contract franchise upon the termination date of this Contract franchise, the parties by written mutual agreement may extend the termination date of this Contract franchise to allow for further negotiations. Such extension period shall be deemed a continuation of this Contract franchise and not as a new contract franchise ordinance or amendment.

SECTION 11. POINT OF CONTACT AND NOTICES

Grantee shall at all times maintain with the City a local point of contact who shall be available at all times to act on behalf of Grantee in the event of an emergency. Grantee shall provide the City with said local contact's name, address, telephone number, fax number and e-mail address. Emergency notice by Grantee to the City may be made by telephone to the City Clerk or the Public Works Director. All other notices between the parties shall be in writing and shall be made by personal delivery, depositing such notice in the U.S. Mail, Certified Mail, return receipt requested, or by facsimile. Any notice served by U.S. Mail or Certified Mail, return receipt requested, shall be deemed delivered five (5) calendar days after the date of such deposit in the U.S. Mail unless otherwise provided. Any notice given by facsimile is deemed received by the next business day. "Business day" for purposes of this section shall mean Monday through Friday, City and/or Grantee observed holidays excepted.

The City:

The City of Leawood
4800 Town Center Drive
Leawood, Kansas 66211
Attn: City Clerk
(913) 339-9325 fax

Grantee:

MCImetro Access Transmission
Services d/b/a Verizon Access
Transmission Services
600 Hidden Ridge
Irving, TX 75038
Attn: Franchise Manager

With a copy to (except for invoices):
Verizon Business Services
1320 N. Court House Road, Suite 900
Arlington, VA 22201
Attn: General Counsel, Network &
Technology

or to replacement addresses that may be later designed in writing.

SECTION 12. TRANSFER AND ASSIGNMENT.

This Contract franchise is granted solely to the Grantee and shall not be transferred or assigned without the prior written approval of the City; provided that such transfer or assignment may occur without written consent of the City to a wholly owned parent or subsidiary, or between wholly owned subsidiaries, upon notice to the City.

SECTION 13. CONFIDENTIALITY.

Information provided to the City under K.S.A. 12-2001 shall be governed by confidentiality procedures in compliance with K.S.A. 45-215 and 66-1220a, et seq., and amendments thereto. Grantee agrees to indemnify and hold the City harmless from any and all penalties or costs, including attorney's fees, arising from the actions of Grantee, or of the City at the written request of Grantee, in seeking to safeguard the confidentiality of information provided by Grantee to the City under this Contract franchise.

SECTION 14. ACCEPTANCE OF TERMS.

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

SECTION 15. PAYMENT OF COSTS.

In accordance with statute, Grantee shall be responsible for payment of all costs and expense of publishing this Contract franchise, and any amendments thereof.

SECTION 16. SEVERABILITY.

If any clause, sentence, or section of this Contract franchise, or any portion thereof, shall be held to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remainder, as a whole or any part thereof, other than the part declared invalid; provided, however, the City or Grantee may elect to declare the entire Contract franchise is invalidated if the portion declared invalid is, in the judgment of the City or Grantee, an essential part of the Contract franchise.

SECTION 17. FORCE MAJEURE.

Each and every provision hereof shall be reasonably subject to acts of God, fires, strikes, riots, floods, war and other disasters beyond Grantee's or the City's control.

SECTION 18. REPEAL.

Grantee's prior contract franchise ordinance, as adopted by City Ordinance No. 2897C is hereby repealed.

PASSED by the Governing Body this 18th day of February, 2019.

APPROVED by the Mayor this 18th day of February, 2019.

_____
Peggy J. Dunn, Mayor

ATTEST:

_____
Debra Harper, CMC, City Clerk

APPROVED AS TO FORM:

_____
Andrew K. Hall, Assistant City Attorney

Return to Agenda

Meeting Date: February 18, 2019

City of Leawood 17.B.

Memo

To: Mayor Dunn and City Council Members

From: Andrew Hall, Assistant City Attorney

Cc: Scott Lambers, Patty Bennett, Dawn Long

Date: February 12, 2019

Re: Verizon Wireless, LLC ("Verizon") Franchise Ordinance

This Ordinance authorizes the Mayor to enter into a Contract Franchise Agreement ("Franchise") with Verizon. Verizon plans to deploy small cell facilities throughout the City. This Ordinance pertains to the Franchise only. Verizon also seeks to install antennas on certain equipment owned by the City via a separate agreement; which is the next agenda item. Verizon will comply with any and all applicable provisions of the Leawood Development Ordinance and the planning process pertaining to the installation of any equipment.

Verizon has agreed to pay $25 per year per small cell facility installation for a franchise fee to compensate the City. Verizon has estimated approximately 25 installations in the next 1 to 3 years. As a direct provider of cellular service, it is impossible to calculate gross receipts from the use of each individual cell phone on any specific site. The term of this Franchise is for an initial six years and renews automatically for two additional terms of two years each, for a total of ten years.

There are no changes from the documents you had in your packed for the January 22, 2019 meeting. After further reflection, Verizon decided it did not need to renegotiate any of the provisions.

Please contact me at 913-663-9182 or ahall@leawood.org if you have any questions.

DRAFT

ORDINANCE NO. _____

ORDINANCE GRANTING TO VERIZON WIRELESS (VAW) LLC, A DELAWARE LIMITED LIABILITY COMPANY D/B/A VERIZON WIRELESS, A CONTRACT FRANCHISE TO CONSTRUCT, OPERATE AND MAINTAIN WIRELESS FACILITIES AS A WIRELESS SERVICE PROVIDER IN THE PUBLIC RIGHT-OF-WAY OF THE CITY OF LEAWOOD, KANSAS.

NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LEAWOOD, KANSAS:

SECTION 1. DEFINITIONS.

For the purposes of this Ordinance the following words and phrases shall have the meaning given herein. When not inconsistent within the context, words used in the present tense include the future tense and words in the single number include the plural number. The word "shall" is always mandatory, and not merely directory.

a. "Affiliate"- when used in relation to Grantee, means another entity that owns or controls, is owned or controlled by, or is under common ownership or control with Grantee.

b. "City" - means the City of Leawood, Kansas.

c. "Communications Service" - means the transmission or receipt of voice, video, data, broadband Internet or other forms of digital or analog signals over Communications Equipment. To the extent Licensee's services are wireless, it shall mean "personal wireless services" and "personal wireless service facilities" as defined in 47 U.S.C. § 332(c)(7)(C), including commercial mobile services as defined in 47 U.S.C. § 332(d), provided to personal mobile communication devices through wireless facilities or any fixed or mobile wireless services provided using wireless facilities, as described in K.S.A. 66-2019(b)(19)

d. "Contract franchise" - means this Ordinance granting the right, privilege and franchise to Grantee to use the City's Public right-of-way to provide Wireless Services as a Wireless Service Provider.

e. "Facilities" - means Grantee's "antennas," "accessory equipment," "wireless facilities," "small cell facilities," "transmission equipment," "distributed antenna system," and any "wireless support structure" (all as such terms are defined or described in K.S.A. 66-2019, as amended) comprising Grantee's system located within the Public right-of-way, and to the extent permitted under any applicable Laws (defined in Section 3b), that are designed and constructed for the purpose of producing, receiving, amplifying or distributing Wireless Services.

f. "Grantee" - means VERIZON WIRELESS (VAW) LLC, a Delaware limited liability company d/b/a Verizon Wireless authorized to do business in Kansas, a Wireless Services Provider providing Wireless Services within the City. References to Grantee shall also include as appropriate any and all successors and assigns.

g. "Public right-of-way" - means only the area of real property in which the City has a dedicated or acquired right-of-way interest in the real property. It shall include the area on, below or above the present and future streets, alleys, avenues, roads, highways, parkways or boulevards dedicated or acquired as right-of-way. The term does not include the airwaves above a right-of-way with regard to Wireless Services or other non-wire communications or broadcast service, easements obtained by utilities or private easements in platted subdivisions or tracts. The term does not include infrastructure located within the Public right-of-way owned by the City or other third-parties, such as poles, ducts or conduits, use of which shall require a separate license agreement for attachment to city facilities.

h. "Wireless Infrastructure Provider" - means any person that builds or installs transmission equipment, wireless facilities or wireless support structures, but that is not a wireless service provider. (See K.S.A. 66-2019(b)(20))

i. "Wireless Services" - means "personal wireless services" and "personal wireless service facilities" as defined in 47 U.S.C. § 332(c)(7)(C), including commercial mobile services as defined in 47 U.S.C. § 332(d), provided to personal mobile communication devices through wireless facilities or any fixed or mobile wireless services provided using wireless facilities. (See K.S.A. 66-2019(b)(19))

j. "Wireless Services Provider" – means a provider of Wireless Services. (See K.S.A. 66-2019(b)(24))

SECTION 2. GRANT OF CONTRACT FRANCHISE.

a. There is hereby granted to Grantee this nonexclusive Contract franchise to construct, maintain, extend and operate its Facilities along, across, upon or under any Public right-of-way for the purpose of supplying Wireless Services as a Wireless Services Provider within the corporate boundaries of the City, for the term of this Contract franchise, subject to the terms and conditions of this Contract franchise.

b. The grant of this Contract franchise by the City shall not convey title, equitable or legal, in the Public right-of-way, and shall give only the right to occupy the Public right-of-way, for the purposes and for the period stated in this Contract franchise. This Contract franchise does not:

(1) Grant the right to use Facilities or any other property, telecommunications related or otherwise, owned or controlled by the City or a third-party, without the consent of such party;

(2) Grant the authority to construct, maintain or operate any Facility or related appurtenance on property owned by the City outside of the Public right-of-way, specifically including, but not limited to, parkland property, City Hall property or public works facility property; or

(3) Excuse Grantee from obtaining appropriate access or attachment agreements before locating its Facilities on the facilities owned or controlled by the City or a third-party.

c. As a condition of this grant, Grantee is required to obtain and is responsible for any necessary

permit, license, certification, grant, registration or any other authorization required by any appropriate governmental entity, including, but not limited to, the City, the Federal Communications Commission (FCC) or the Kansas Corporation Commission (KCC). Grantee shall also comply with all applicable laws, statutes and/or City regulations (including, but not limited to those relating to the construction and use of the Public right-of-way or other public or private property).

d. Grantee shall not provide any additional services for which a franchise is required by the City, including but not limited to services as a Wireless Infrastructure Provider, without first obtaining a separate franchise from the City or amending this Contract franchise, and Grantee shall not knowingly allow the use of its Facilities by any third party in violation of any federal, state or local law. In particular, this Contract franchise does not provide Grantee the right to provide cable service as a cable operator (as defined by 47 U.S.C. § 522 (5)) within the City. Grantee agrees that this franchise does not permit it to operate an open video system without payment of fees permitted by 47 U.S.C. § 573(c)(2)(B) and without complying with FCC regulations promulgated pursuant to 47 U.S.C. § 573.

e. This authority to occupy the Public right-of-way shall be granted in a competitively neutral and nondiscriminatory basis and not in conflict with state or federal law.

SECTION 3. USE OF PUBLIC RIGHT-OF-WAY.

a. Pursuant to K.S.A. 66-2019, and amendments thereto, and subject to the provisions of this Contract franchise, Grantee shall have the right to construct, maintain and operate its Facilities along, across, upon and under the Public right-of-way. Such Facilities shall be so constructed and maintained as not to obstruct or hinder the usual travel or public safety on such public ways or obstruct the legal use by other utilities.

b. Grantee's use of the Public right-of-way shall always be subject and subordinate to the reasonable public health, safety and welfare requirements and regulations of the City. The City may exercise its home rule powers in its administration and regulation related to the management of the Public right-of-way; provided that any such exercise must be competitively neutral and may not be unreasonable or discriminatory. Grantee shall be subject to all applicable laws and statutes, and/or rules, regulations, policies, resolutions and ordinances (hereinafter "Laws") adopted by the City, relating to the construction and use of the Public right-of-way, including, but not limited to the City's ordinance for managing the use and occupancy of the Public right-of-way, codified in the Code of the City of Leawood, 2000, Chapter 13, Article 3, and amendments thereto and the City's zoning and land-use laws to specifically include the Leawood Development Ordinance and related rules and regulations and amendments thereto, to the extent such laws do not conflict with or are preempted by any Federal law or regulation.

c. Grantee shall participate in the Kansas One Call utility location program.

SECTION 4. COMPENSATION TO THE CITY.

a. In consideration of this Contract franchise, Grantee agrees to remit to the City an annual franchise fee of $25 per site in the Public right-of-way upon which Grantee has attached its

Facilities. The franchise fee shall commence upon the Effective Date of the applicable Supplement to the Master License Agreement between the City and Grantee. As to any new Facility installed at a site during any calendar year, such fee shall be prorated based on the number of days in the calendar year remaining from the Effective Date of the applicable Supplement to the Master License Agreement.

It is understood that Grantee's Facilities are primarily wireless communications antennae and their necessary transmission and accessory equipment, and that the Facilities might be attached to a wireless support structure, utility pole, street light or similar structure.

b. Grantee shall pay the franchise fee in advance on an annual basis without requirement for invoice or reminder from the City, and within 15 days of the first day of the calendar year for which the payment applies; provided, that as to any new Facility installed during any calendar year, such fee shall be prorated and paid as to that partial year within 30 days after the Effective Date of the applicable Supplement to the Master License Agreement between the City and Grantee. If any franchise fee, or any portion thereof, is not postmarked or delivered on or before the due date, interest thereon shall accrue from the due date until received, at the applicable statutory interest rate.

c. Upon written request by the City, but no more than once per year, Grantee shall submit to the City a statement, executed by an authorized officer of Grantee or his or her designee, showing the manner in which the franchise fee was calculated for the period covered by the payment.

d. No acceptance by the City of any franchise fee shall be construed as an accord that the amount paid is in fact the correct amount, nor shall acceptance of any franchise fee payment be construed as a release of any claim of the City.

e. The City shall have the right to examine, upon written notice to Grantee no more often than once per calendar year, those records necessary to verify the correctness of the franchise fees paid by Grantee.

f. Unless previously paid, within sixty (60) days of the effective date of this Contract franchise, Grantee shall pay to the City a one-time application fee of One Thousand Dollars ($1,000.00). The parties agree that such fee reimburses the City for its reasonable, actual and verifiable costs of reviewing and approving this Contract franchise.

g. The franchise fee required herein shall be in addition to, not in lieu of, all taxes, charges, assessments, licenses, fees and impositions otherwise applicable that are or may be imposed by the City under K.S.A. 12-2001 and 66-2019, and amendments thereto. The franchise fee is compensation for use of the Public right-of-way and shall in no way be deemed a tax of any kind.

SECTION 5. INDEMNITY AND HOLD HARMLESS.

It shall be the responsibility of Grantee to take adequate measures to protect and defend its Facilities in the Public right-of-way from harm or damage. If Grantee fails to accurately or timely locate Facilities when requested, in accordance with the Kansas Underground Utility Damage Prevention Act, K.S.A. 66-1801 et seq., it has no claim for costs or damages against the City and its authorized contractors

unless such parties are responsible for the harm or damage caused by their gross negligence or intentional conduct. The City and its authorized contractors shall be responsible to take reasonable precautionary measures including observing marker posts when working near Grantee's Facilities.

Grantee shall indemnify and hold the City and its officers and employees harmless against any and all claims, lawsuits, judgments, costs, liens, losses, expenses, fees (including reasonable attorney fees and costs of defense), proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including personal or bodily injury (including death), property damage or other harm for which recovery of damages is sought, to the degree that it is found by a court of competent jurisdiction to be caused by the negligence, gross negligence or wrongful act of Grantee, any agent, officer, director, representative, employee, affiliate or subcontractor of Grantee, or its respective officers, agents, employees, directors or representatives, while installing, repairing or maintaining Facilities in the Public right-of-way.

If Grantee and the City are found jointly liable by a court of competent jurisdiction, liability shall be apportioned comparatively in accordance with the laws of this state without, however, waiving any governmental immunity available to the City under state law and without waiving any defenses of the parties under state or federal law. This section is solely for the benefit of the City and Grantee and does not create or grant any rights, contractual or otherwise, to any other person or entity.

Grantee or City shall promptly advise the other in writing of any known claim or demand against Grantee or the City related to or arising out of Grantee's activities in the Public right-of-way.

SECTION 6. INSURANCE REQUIREMENT AND PERFORMANCE BOND.

a. During the term of this Contract franchise, Grantee shall obtain and maintain insurance coverage at its sole expense, with financially reputable insurers that are licensed, authorized or permitted to do business in the State of Kansas. Grantee shall provide the following insurance:

   (1) Statutory Workers' compensation as provided for under any worker's compensation or similar law in the jurisdiction where any work is performed and employers' liability with a limit of $1,000,000 each accident/disease/policy limit.

   (2) Commercial general liability, including coverage for contractual liability and products completed operations liability on an occurrence basis and not a claims made basis, with a limit of Five Million Dollars ($5,000,000) combined single limit per occurrence for bodily injury, (including death) and property damage. The City shall be included as an additional insured as their interest may appear under this Agreement with respect to liability arising from Grantee's operations under this Contract franchise.

b. Grantee shall, as a material condition of this Contract franchise, prior to the commencement of any work and within fifteen (15) days of any renewal thereof, deliver to the City a certificate of insurance reasonably satisfactory in form and content to the City, evidencing that the above insurance is in force.

c. Grantee shall, as a material condition of this Contract franchise, prior to the commencement of any work and prior to any renewal thereof, deliver to the City a performance bond in the amount of $50,000, payable to the City to ensure the appropriate and timely performance in the

construction and maintenance of Facilities located in the Public right-of-way, provided the aforementioned performance bond shall not be required if Grantee has currently posted and in place a comparable $50,000 bond pursuant to the City's Ordinance for Managing The Use and Occupancy of the Public Right-of-Way. The required performance bond must be with good and sufficient sureties, issued by a surety company authorized to transact business in the State of Kansas, and reasonably satisfactory to the City Attorney in form and substance.

SECTION 7. REVOCATION AND TERMINATION.

In case of failure on the part of Grantee to comply with any of the provisions of this Contract franchise, or if Grantee should do or cause to be done any act or thing prohibited by or in violation of the terms of this Contract franchise, Grantee shall forfeit all rights, privileges and franchise granted herein, and all such rights, privileges and franchise hereunder shall cease, terminate and become null and void, and this Contract franchise shall be deemed revoked or terminated, provided that said revocation or termination, shall not take effect until the City has completed the following procedures: Before the City proceeds to revoke and terminate this Contract franchise, it shall first serve a written notice upon Grantee, setting forth in detail the neglect or failure complained of, and Grantee shall have sixty (60) days thereafter in which to comply with the conditions and requirements of this Contract franchise. If at the end of such sixty (60) day period the City deems that the conditions have not been complied with, the City shall take action to revoke and terminate this Contract franchise by an affirmative vote of the City Council present at the meeting and voting, setting out the grounds upon which this Contract franchise is to be revoked and terminated; provided, to afford Grantee due process, Grantee shall first be provided reasonable notice of the date, time and location of the City Council's consideration, and shall have the right to address the City Council regarding such matter. Nothing herein shall prevent the City from invoking any other remedy that may otherwise exist at law. Upon any determination by the City Council to revoke and terminate this Contract franchise, Grantee shall have thirty (30) days to appeal such decision to the District Court of Johnson County, Kansas. This Contract franchise shall be deemed revoked and terminated at the end of this thirty (30) day period, unless Grantee has instituted such an appeal. If Grantee does timely institute such an appeal, such revocation and termination shall remain pending and subject to the court's final judgment. Provided, however, that the failure of Grantee to comply with any of the provisions of this Contract franchise or the doing or causing to be done by Grantee of anything prohibited by or in violation of the terms of this Contract franchise shall not be a ground for the revocation or termination thereof when such act or omission on the part of Grantee is due to any cause or delay beyond the control of Grantee or to bona fide legal proceedings.

SECTION 8. RESERVATION OF RIGHTS.

a. The City specifically reserves its right and authority as a customer of Grantee and as a public entity with responsibilities towards its citizens, to participate to the full extent allowed by law in proceedings concerning Grantee's rates and services to ensure the rendering of efficient Wireless Services and any other services at reasonable rates, and the maintenance of Grantee's property in good repair.

b. In granting its consent hereunder, the City does not in any manner waive its regulatory or other rights and powers under and by virtue of the laws of the State of Kansas as the same may be amended, its Home Rule powers under the Constitution of the State of Kansas, nor any of its rights and powers under or by virtue of present or future ordinances of the City.

c. In granting its consent hereunder, Grantee does not in any manner waive its regulatory or other rights and powers under and by virtue of the laws of the State of Kansas as the same may be amended, or under the Constitution of the State of Kansas, nor any of its rights and powers under or by virtue of present or future ordinances of the City.

d. In entering into this Contract franchise, neither the City's nor Grantee's present or future legal rights, positions, claims, assertions or arguments before any administrative agency or court of law are in any way prejudiced or waived. By entering into the Contract franchise, neither the City nor Grantee waive any rights, but instead expressly reserve any and all rights, remedies, and arguments the City or Grantee may have at law or equity, without limitation, to argue, assert, and/or take any position as to the legality or appropriateness of any present or future laws, non-franchise ordinances and/or rulings.

SECTION 9. FAILURE TO ENFORCE.

The failure of either the City or the Grantee to insist in any one or more instances upon the strict performance of any one or more of the terms or provisions of this Contract franchise shall not be construed as a waiver or relinquishment for the future of any such term or provision, and the same shall continue in full force and effect. No waiver or relinquishment shall be deemed to have been made by the City or the Grantee unless said waiver or relinquishment is in writing and signed by both the City and the Grantee.

SECTION 10. TERM AND TERMINATION DATE.

a. This Contract franchise shall be effective for a term of six (6) beginning on the Effective Date of this Contract franchise. Thereafter, this Contract franchise will automatically renew for two additional two (2) year terms, unless either party notifies the other party of its intent to terminate the Contract franchise at least ninety (90) days before the termination of the then current term. The additional terms shall be deemed a continuation of this Contract franchise and not as a new franchise or amendment.

b. Upon written request of either the City or Grantee, this Contract franchise shall be renegotiated at any time in accordance with the requirements of state law upon any of the following events: changes in federal, state, or local laws, regulations, or orders that materially affect any rights or obligations of either the City or Grantee, including but not limited to the scope of the Contract franchise granted to Grantee or the compensation to be received by the City hereunder. In the event a renegotiation is initiated pursuant to this Section, then compensation paid to the City shall also be updated as to reflect the current market rate paid for wireless infrastructure providers within the City.

c. Amendments under this Section, if any, shall be made by contract franchise ordinance as prescribed by statute. This Contract franchise shall remain in effect according to its terms, pending completion of any review or renegotiation provided by this section.

d. In the event the parties are actively negotiating in good faith a new contract franchise ordinance or an amendment to this Contract franchise upon the termination date of this Contract franchise, the parties by written mutual agreement may extend the termination date of this Contract franchise to allow for further negotiations. Such extension period shall be deemed a

continuation of this Contract franchise and not as a new contract franchise ordinance or amendment.

SECTION 11. POINT OF CONTACT AND NOTICES

Grantee shall at all times maintain with the City a local point of contact who shall be available at all times to act on behalf of Grantee in the event of an emergency. Grantee shall provide the City with said local contact's name, address, telephone number, fax number and e-mail address. Emergency notice by Grantee to the City may be made by telephone to the City Clerk or the Public Works Director. All other notices between the parties shall be in writing and shall be made by personal delivery, depositing such notice in the U.S. Mail, Certified Mail, return receipt requested, or by facsimile. Any notice served by U.S. Mail or Certified Mail, return receipt requested, shall be deemed delivered five (5) calendar days after the date of such deposit in the U.S. Mail unless otherwise provided. Any notice given by facsimile is deemed received by the next business day. "Business day" for purposes of this section shall mean Monday through Friday, City and/or Grantee observed holidays excepted.

The City:

City of Leawood
Attn: City Clerk
4800 Town Center Drive
Leawood, Kansas 66211
(913)-663-9100

Grantee:

Verizon Wireless (VAW) LLC
d/b/a Verizon Wireless
180 Washington Valley Road
Bedminster, New Jersey 07921
Attn: Network Real Estate

With a copy to:

City of Leawood
Attn: City Attorney
4205 Town Center Drive
Leawood, Kansas 66212

or to replacement addresses that may be later designated in writing.

SECTION 12. TRANSFER AND ASSIGNMENT.

This Contract franchise is granted solely to the Grantee and shall not be transferred or assigned without the prior written approval of the City; provided that such transfer or assignment may occur without written consent of the City to (i) any Affiliate of Grantee; (ii) any successor in interest to Grantee in connection with any merger, acquisition, or similar transaction; or (iii) any purchaser of all or substantially all of Grantee's assets used to provide Communications Services to residents and businesses located in the City of Leawood, Kansas. Following any transfer or assignment of either this Contract franchise or Grantee's business or assets, Grantee shall timely notify the City of the successor entity; provide a point of contact for the successor entity; and advise the City of the effective date of the transfer or assignment. Additionally, Grantee's obligations under this Contract franchise with regard to indemnity, bonding and insurance shall continue until the transferee or assignee has taken the appropriate measures necessary to assume and replace the same, the intent being that there shall be no lapse in any coverage as a result of the transfer or assignment.

SECTION 13. CONFIDENTIALITY.

Information provided to the City under this Contract franchise shall be governed by confidentiality procedures in compliance with K.S.A. 45-215 and 66-1220a, et seq., and amendments thereto. Grantee agrees to indemnify and hold the City harmless from any and all penalties or costs, including attorney's fees, arising from the actions of Grantee, or of the City, at the written request of Grantee, in seeking to safeguard the confidentiality of information provided by Grantee to the City under this Contract franchise.

SECTION 14. ACCEPTANCE OF TERMS.

Grantee shall have sixty (60) days after the final passage and approval of this Contract franchise to file with the City Clerk its acceptance in writing of the provisions, terms and conditions of this Contract franchise, which acceptance shall be duly acknowledged before some officer authorized by law to administer oaths; and when so accepted, this Contract franchise and acceptance shall constitute a contract between the City and Grantee subject to the provisions of the laws of the state of Kansas, and such contract shall be deemed effective on the later of the date Grantee files acceptance with the City or publication of this Contract franchise in accordance with Statute (the "Effective Date").

SECTION 15. PUBLICATION OF ORDINANCE

The City Clerk is hereby directed to publish a copy of this Contract franchise once in the official City newspaper.

SECTION 16. PAYMENT OF PUBLICATION COSTS.

In accordance with Kansas Statute, Grantee shall be responsible for payment of all costs and expense of publishing this Contract franchise, and any amendments thereof.

SECTION 17. SEVERABILITY.

If any clause, sentence, or section of this Contract franchise, or any portion thereof, shall be held to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remainder, as a whole or any part thereof, other than the part declared invalid; provided, however, the City or Grantee may elect to declare the entire Contract franchise invalidated if the portion declared invalid is, in the judgment of the City or Grantee, an essential part of the Contract franchise.

SECTION 18. FORCE MAJEURE.

Each and every provision hereof shall be reasonably subject to acts of God, fires, strikes, riots, floods, war and other disasters beyond Grantee's or the City's control.

PASSED by the City Council this 18th day of February, 2019.

APPROVED by the Mayor this 18th day of February, 2019.

(SEAL)

Peggy J. Dunn, Mayor

ATTEST:

Debra Harper, CMC, City Clerk

APPROVED AS TO FORM:

Andrew K. Hall, Assistant City Attorney

Return to Agenda

Meeting Date: February 18, 2019

City of Leawood 17.C.

Memo

To: Mayor Dunn and City Council Members

From: Andrew Hall, Assistant City Attorney

Cc: Scott Lambers, Patty Bennett, Dawn Long

Date: February 12, 2019

Re: Verizon Wireless, LLC ("Verizon") Master License Agreement

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This resolution authorizes the Mayor to execute an agreement with Verizon. Verizon plans to attach its equipment to City-owned light poles. It will be required to pay attachment fees, fees for building permits, and otherwise maintain the equipment in accordance with the City Code and the Leawood Development Ordinance.

Effective January 14, 2019, the Federal Communications Commission has restricted attachment fees to $270.00 per attachment per year. As such, under this agreement, Verizon shall pay $270.00 per attachment per year. Verizon has estimated approximately 25 installations in the next 1 to 3 years. The agreement begins with an initial ten year term and automatically renews for two terms of one year each, for a total of twelve years.

There are no changes from the documents you had in your packed for the January 22, 2019 meeting. After further reflection, Verizon decided it did not need to renegotiate any of the provisions.

Please contact me at 913-663-9182 or ahall@leawood.org if you have any questions.

DRAFT

RESOLUTION NO. _____

RESOLUTION APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE A MASTER LICENSE AGREEMENT BETWEEN THE CITY AND VERIZON WIRELESS, LLC [VAW] FOR ATTACHMENTS TO CITY FACILITIES

WHEREAS, VAW desires to attach certain equipment to City-owned street lights;

WHEREAS, each such attachment must comply with the provisions of the Code of the City of Leawood, 2000 and the Leawood Development Ordinance; and

WHEREAS, the parties desire to enter into a Master Licensing Agreement regarding the terms of the attachment to City-owned street lights.

NOW THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF LEAWOOD, KANSAS:

SECTION ONE: That the Governing Body hereby authorizes the Mayor to execute a Master License Agreement for Attachments to City Facilities between the City and VAW, attached hereto as Exhibit "A," and incorporated herein by reference as if fully set out.

SECTION TWO: This resolution shall become effective upon passage.

PASSED by the Governing Body this 18th day of February, 2019.

APPROVED by the Mayor this 18th day of February, 2019.

[SEAL]

_____
Peggy J. Dunn, Mayor

ATTEST:

_____
Debra Harper, CMC, City Clerk

APPROVED AS TO FORM:

_____
Andrew K. Hall, Assistant City Attorney

MASTER LICENSE AGREEMENT
FOR ATTACHMENTS TO CITY FACILITIES
VERIZON WIRELESS

This Master License Agreement for Attachments to City Facilities ("Agreement") dated _____, 2019 (the "Effective Date") is made by and between the CITY OF LEAWOOD, KANSAS (the "City"), and VERIZON WIRELESS (VAW) LLC, a Delaware limited liability company authorized to do business in Kansas d/b/a Verizon Wireless ("Licensee") (collectively referred to as the "Parties").

RECITALS

WHEREAS, Licensee obtained a contract franchise by the City's adoption and Licensee's acceptance of City Ordinance No. _____, which permits Licensee to install, maintain and operate certain facilities within the City's right-of-way and to pay franchise fees for such privilege; and

WHEREAS, the City owns, operates and maintains certain Facilities located in the City; and

WHEREAS, Licensee proposes to install and maintain Licensee's Attachments on or within City Facilities to provide Communications Services; and

WHEREAS, the City is willing to grant Licensee a non-exclusive, revocable license under which the Parties will enter into a license supplement ("Supplement"), in substantially the form attached hereto as Exhibit A, authorizing the placement or installation of Licensee's Attachments on or within specified City Facilities, provided that the City may in its sole discretion, for reasons relating to insufficient capacity, safety, reliability, generally applicable engineering purposes or other governmental needs, uses, obligations and reasons, refuse to enter into a Supplement for any particular City Facility so long as Licensee is treated in a competitively neutral and non-discriminatory manner as compared with other similarly situated third-parties; and

WHEREAS, the City's license of Facilities is a commercial transaction involving the licensing of City property and the City's intention to act in a non-discriminatory manner notwithstanding, such commitment shall only apply to this Agreement when viewed as a whole and nothing herein shall be construed as a requirement that any other license agreements be identical. Nor shall it be construed as an obligation to proactively ensure competitive neutrality or prevent the City from obtaining in-kind consideration in instances where it is mutually agreeable to the parties.

NOW, THEREFORE, in consideration of the above recitals and the following mutual covenants, agreements, and obligations of the Parties, which constitute good and valuable consideration, the sufficiency of which is acknowledged, and with the intention to be legally bound hereby, the City and Licensee agree as follows:

1. DEFINITIONS

For the purposes of this Agreement, the following terms, phrases, words, and their derivations, shall have the meaning given herein, unless more specifically defined within a specific Article or Paragraph of this Agreement. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number. The words "shall" and "will" are mandatory and "may" is permissive. Words not defined shall be given their common and ordinary meaning.

1.1 **Affiliate:** when used in relation to Licensee, means another entity that owns or controls, is owned or controlled by, or is under common ownership or control with Licensee.

1.2 **Applicable Standards:** means all applicable engineering and safety standards governing the installation, maintenance and operation of equipment and the performance of all work in or around City Facilities and includes the most current versions of National Electric Safety Code ("NESC"), the National Electrical Code ("NEC"), and the regulations of the Occupational Safety and Health Administration ("OSHA"), each of which is incorporated by reference in this Agreement, and/or other reasonable safety and engineering requirements of the City or other federal, State or local authority with jurisdiction over City Facilities.

1.3 **Attaching Entity:** means any public or private entity, including Licensee, who, pursuant to a valid authorization with the City, places an Attachment on or within City Facilities to provide Communications Service.

1.4 **Attachment(s):** means Licensee's Communications Equipment that is placed directly on or within City Facilities. For billing purposes an Attachment is counted for Licensee's antenna(s) on or within each City Facility together with the associated cables and small-cell equipment.

1.5 **Capacity:** means the ability of a City Facility to accommodate an additional Attachment based on Applicable Standards, including space and loading considerations.

1.6 **City Facilities** or **Facilities:** means City-owned Street Lights, and associated property, that are capable of accommodating Communications Equipment in accordance with Applicable Standards. Provided, however, no Attachments will be allowed on any traffic control signal (as defined in the Manual on Uniform Traffic Devices).

1.7 **Communications Equipment:** means wireline or wireless equipment including but not limited to fiber optic, copper and/or coaxial cables, wireless antennas, receivers or transceivers, mounting hardware, power supplies, grounding or bonding wires, and other equipment utilized to provide Communications Service including any and all associated equipment.

1.8 **Communications Service:** means the transmission or receipt of voice, video, data, broadband Internet or other forms of digital or analog signals over Communications Equipment. To the extent Licensee's services are wireless, it shall mean "personal wireless services" and "personal wireless service facilities" as defined in 47 U.S.C. § 332(c)(7)(C), including commercial mobile services as defined in 47 U.S.C. § 332(d), provided to personal mobile communication devices through wireless facilities or any fixed or mobile wireless services provided using wireless facilities, as described in K.S.A. 66-2019(b)(19).

1.9 **Licensee:** means VERIZON WIRELESS (VAW) LLC, a Delaware limited liability company authorized to do business in Kansas d/b/a Verizon Wireless, its authorized agents, successors, designees and assigns.

1.10 **Make-Ready Work:** means all work, as reasonably determined by the City, required to accommodate Licensee's Attachment and/or to comply with all Applicable Standards. Such work includes, but is not limited to, rearrangement of City Facilities or existing attachments, inspections, engineering work, permitting work, design, planning, construction, materials, cost of removal (less any salvage value), cost of a (City-approved) substitution of light poles, tree trimming (other than tree trimming performed for normal maintenance purposes), or Facility construction, but does not include routine maintenance.

1.11 **Permit:** means written or electronic authorization of the City to make or maintain Attachments to specific City Facilities pursuant to this agreement and any applicable city code or regulation.

1.12 **Permit Application**: means the application for a Permit pursuant to the applicable requirements of this Agreement and any applicable city code or regulation.

1.13 **Post-Construction Inspection:** means the inspection by the City to determine and verify that the Attachments have been made in accordance with Applicable Standards and the Supplement.

1.14 **Pre-Construction Survey:** means all work or operations required by Applicable Standards and/or the City to determine the potential Make-Ready Work necessary to accommodate Licensee's Communications Facilities on or within a City Facility. Such work includes, but is not limited to, field inspection and administrative processing.

1.15 **Reserved Capacity:** means capacity or space on or within a Facility that the City has identified and reserved for City or other governmental requirements, including, but not limited to, Johnson County, other municipalities and any local school districts.

1.16 **Site**: means each place where City Facilities for the parties enter into a Supplement pursuant to this Agreement for purposes of installing Licensee's Attachment.

1.17 **Street Light**: means each City-owned street light fixture and attached photocell, together with the lateral arm on which the street light fixture is mounted.

1.18 **Supplement:** means the written sublicense, substantially in the form attached hereto as Exhibit A, which will be executed by the Parties and shall document Licensee's authorization to make and maintain specific Attachments to specific City Facilities pursuant to the requirements of this Agreement and any applicable city code or regulation.

1.19 **Supplement Application:** means the application for a Supplement pursuant to the applicable requirements of this Agreement and any applicable city code or regulation, substantially in the form attached hereto as Exhibit A.

1.20 **Tag:** means to place distinct markers on wires and cables, coded by color or other means specified by the City and/or applicable federal, State or local regulations, that will readily identify the type of Attachment and its owner.

2. SCOPE OF AGREEMENT

2.1 **Grant of License.** Subject to the provisions of this Agreement, the City hereby grants Licensee a revocable, nonexclusive license authorizing Licensee to install and maintain permitted Attachments on or within specified City Facilities, as further detailed and authorized through individual Supplements to this Agreement. Placement of Licensee's Attachments on or within any specific City Facility shall be at the sole discretion of the City so long as Licensee is treated in a competitively neutral and non-discriminatory manner as compared with other similarly situated third-parties. Nothing in this Agreement shall obligate the City to allow the use of any specific Street Light pole by any entity. Each Street Light pole attachment must be approved in writing by the City's Public Works Director (or designee), and must meet all design, installation and maintenance criteria established by the Public Works Director (or designee). Payment of the fees and charges referenced in this Agreement shall not exempt any entity from any applicable federal, state or local franchise, zoning, building code, permit or other requirements, ordinances or regulations, including, but not limited to, the City's applicable permit application and construction requirements for attachments to City Facilities, the City's adopted building and electrical codes, and the Leawood Development Ordinance.

2.2 **Conflicting Provisions**. In the event of any conflict between this Agreement and any Supplement hereto, the terms and conditions of this Agreement, as amended from time to time, shall control.

2.3 **Supplement Issuance and Attachment Conditions.** The City will enter into a Supplement with Licensee for an Attachment on or within a specific City Facility only when the City determines, in its sole judgment, exercised reasonably, that (i) it has sufficient Capacity to accommodate the requested Attachment(s), (ii) Licensee meets all requirements set forth in this Agreement, and (iii) such Attachment(s) comply with all Applicable Standards. Notwithstanding, the City reserves the right to deny or modify Licensee access to any City Facilities, on a competitively-

neutral and non-discriminatory basis, where City determines that Licensee's proposed attachment will (a) jeopardize the public health, safety or welfare, or (b) unreasonably limit or harm the capacity, functionality, reliability, governmental interests or aesthetics of City's Facilities, or (c) violate applicable zoning restrictions or other laws and regulations, or (d) exceed the capacity of the Facilities to include taking into consideration the reserved capacity of the Facilities, or (e) interfere with the City's intended use of the Facilities, and (f) interfere with any other reasonable governmental interest.

2.4 **In-Kind Compensation.** The Parties may by mutual agreement adjust the fees and charges specified in Article 3 to account for in-kind contributions from Licensee in the form of service to the City as is reasonably determined by the City to be valued as at least roughly comparable to the Attachment fees and charges.

2.5 **Reserved Capacity.** Access to space on City Facilities will be made available to Licensee with the understanding that City Facilities may be subject to Reserved Capacity for future governmental use. In such case the City may refuse to permit attachments on such Facilities or may within its discretion permit Attachments, subject to reclaiming its Reserved Capacity in the future. On giving Licensee at least ninety (90) calendar days prior notice, the City may reclaim such Reserved Capacity if required for future governmental use. The City may within its discretion give Licensee the option to remove its Attachment(s) from the affected Facilities or to pay for the cost of any Make-Ready Work needed to expand Capacity to accommodate the governmental needs while at the same time maintaining Licensee's Attachments on the affected Facilities. If Licensee is required to remove its Attachments, the City agrees to reasonably cooperate with Licensee to locate a replacement City Facility on which to transfer Licensee's Attachment.

2.6 **No Interest in Property.** No use, however lengthy, of any City Facilities, and no payment of any fees or charges required under this Agreement, shall create or vest in Licensee any easement or other ownership or property right of any nature in any portion of such Facilities. Neither this Agreement, nor any Supplement under this Agreement, shall constitute an assignment of any of the City's rights to City Facilities. Notwithstanding anything in this Agreement to the contrary, Licensee shall, at all times, be and remain a licensee only.

2.7 **Licensee's Right to Attach.** Nothing in this Agreement, other than a Supplement executed by the Parties, shall be construed as granting Licensee any right to attach Licensee's Attachment(s) to or within any specific City Facility or portion of Facilities.

2.8 **City's Rights over Facilities.** The Parties agree that this Agreement does not in any way limit the City's right to locate, operate, maintain or remove its Facilities in the manner that will best enable it to fulfill any governmental requirements.

2.9 **Expansion of Capacity.** The City may take steps as reasonably appropriate, in a competitively neutral manner, to expand Facilities to accommodate Licensee's request for Attachment. Notwithstanding the foregoing, nothing in this Agreement shall be construed to require the City to install, retain, extend or maintain any Facility or portion of City Facilities for use when such Facilities are not needed for the City's or any other governmental service requirements. Likewise, the City may agree – but is not required – to allow Licensee to provide a substitute for the City's Facility that can accommodate Licensee's Attachment; provided, the Parties agree that City will have ownership of the substitute Facility. (For example, Licensee might provide a replacement Street Light pole that is aesthetically comparable to the City's Street Light pole but has more structural capacity so that it can support Licensee's Attachment.)

2.10 **Other Agreements.** Nothing in this Agreement shall limit, restrict, or prohibit the City from fulfilling any agreement or arrangement regarding Facilities into which the City has previously

entered, or may enter in the future, with others not party to this Agreement, provided that any such future attachments shall not interfere with Licensee's Attachments.

2.11 **No Use After Termination.** Nothing in this Agreement shall be construed to require the City to allow Licensee to use Facilities after the termination of this Agreement.

2.12 **Enclosures.** Nothing in this Agreement shall authorize Licensee to place above-ground pedestals, enclosures or cabinets at the base of any City Facilities upon which Licensee has made authorized Attachments, except as may be permitted under applicable City codes, the Leawood Development Ordinance, other ordinances, or similar regulations, and Licensee's contract franchise with the City.

3. FEES AND CHARGES

3.1 **Payment of Fees and Charges.** For authorized Attachments covered under this Agreement, Licensee shall pay to the City the fees and charges specified herein which are applicable for all similarly-situated providers who have Communications Equipment on or within City Facilities. Licensee's payments shall comply with the terms and conditions specified herein. The above notwithstanding, the Parties may by mutual written agreement adjust the fees and charges specified to account for in-kind contributions from Licensee in the form of service to the City as is reasonably determined by the City to be valued as at least roughly comparable to the fees and charges.

3.1.1 Fees and charges will consist of the following:

1. Annual Attachment Fee – $270.00 per Attachment per year.
2. Supplement Application Fee – an amount equal to the fee(s) for a Right-of-Way Permit, included in the City of Leawood Fee Schedule as set forth by resolution of the Governing Body. This Supplement Application Fee is intended to reimburse the City for costs incurred for project management services, review of the Supplement Application, and Site design approval.
3. Make-Ready Work Costs – to reimburse the City for costs incurred by the City for any Make-Ready Work done to accommodate the Attachment on or within the City's Facilities.
4. Inspection Fees – to reimburse the City for costs incurred with inspections of Licensee's Attachments.
5. Unauthorized Attachment Fee – 200% of the Annual Attachment Fee, per occurrence, for Attachments made without City approval. Payment of this fee does not guarantee the Attachment may remain on the City Facility and will be in addition other required fees listed herein.
6. Failure to Timely Transfer, Abandon or Removal Facilities Penalty Fee – the City shall be entitled to remove Licensee's equipment if it is abandoned or not timely removed in accordance with the terms of this Agreement, and Licensee shall reimburse the City for the actual costs incurred by the City for such removal.

3.2 **Payment Period.** Unless otherwise expressly provided, Licensee shall pay any invoice it receives from the City pursuant to this Agreement within thirty (30) calendar days after the City issues the invoice.

3.3 **Payment of Annual Attachment Fees.**

3.3.1 The current Annual Attachment Fee shall be memorialized in each individual Supplement.

3.3.2 Licensee shall pay all applicable Annual Attachment Fees without requirement for invoice or reminder from the City by January 1 of each year. The initial annual license period shall

commence upon the execution of the applicable Supplement and conclude on December 31 of the same year, and each subsequent annual license period shall commence on the following January 1 and conclude on December 31 of the subsequent year. When remitting the Annual Attachment Fees, Licensee shall identify each applicable Supplement Number for which payment is being made. As to any Attachments installed during any calendar year, such license fee may be prorated based on the number of days in the calendar year in which such Attachment(s) was installed; provided in such event, Licensee shall clearly identify the same and the proration amount when Licensee's payment is made.

3.4 **Refunds.** No fees and charges shall be refunded on account of any termination of a Supplement granted hereunder. Notwithstanding the forgoing, the City shall not continue to charge any license fee going forward for any Supplement terminated in the previous calendar year, and Licensee shall be entitled to a refund upon discovery of such a billing error. Any attachment remaining after 60 days following the date a Supplement has been terminated shall be subject to the Unauthorized Attachment Fee pursuant to Section 3.1.1(5), which fee shall accrue from the date of termination until the date the Attachment is removed.

3.5 **Inventory.** Upon request from the City, but not more than once per year, Licensee shall provide an inventory listing each Facility upon which Licensee has installed an Attachment.

3.6 **Late Charge and Billing Dispute Resolution.** If the City does not receive payment for any fee, charges or other amount owed within thirty (30) calendar days after it becomes due, Licensee shall pay interest to the City, at the rate of ten percent (10%) per annum, on the amount due; provided, however, under no circumstance shall interest under this Agreement exceed the maximum interest allowable under applicable Kansas law. Billing disputes will be resolved in accordance with Section 22.1.

3.7 **Payment for Work.** Licensee will be responsible for payment to the City for all of the actual costs of all work the City or the City's contractors perform pursuant to this Agreement to accommodate Licensee's Attachments. When requested by Licensee, City agrees to provide Licensee with reasonable documentation to determine actual and estimated costs.

3.8 **Advance Payment.** The Supplement Application Fee shall be due upon submission of the Supplement Application. At the discretion of the City, Licensee may be required to pay in advance all reasonable costs, including but not limited to administrative, construction, inspections and Make-Ready Work Estimates, in connection with the initial installation or rearrangement of Licensee's Attachment pursuant to the procedures set forth in Articles 6 and 7 below. If the City does not exercise this option, the Make-Ready Work Estimate will be paid as set forth in Paragraph 7.2.

3.9 **True Up.** Wherever the City, at its discretion, requires advance payment of estimated expenses prior to undertaking an activity on behalf of Licensee and the actual cost of activity exceeds the advance payment of estimated expenses, Licensee shall pay the City for the difference in cost. To the extent that the actual cost of the activity is less than the estimated cost, the City shall refund to Licensee the difference in cost.

3.10 **Determination of Fees and Charges.** Wherever this Agreement requires Licensee to pay for work done or contracted by the City, the charge for such work shall include all reasonable material, labor, engineering and administrative costs and applicable overhead costs. The City shall bill its services based upon actual costs, and such costs will be determined in accordance with the City's cost accounting systems used for recording capital and expense activities. All such invoices shall include an itemization of dates of work, location of work, labor costs per hour, persons employed and materials used and cost of materials. If Licensee was required to perform work and fails to perform such work necessitating its completion by the City, the City may charge an additional ten percent (10%) to its costs. When requested by Licensee, the City agrees to provide Licensee with

reasonable documentation to determine actual and estimated costs. Payment of any fees and charges in accordance with this Agreement or any Supplement shall not exempt Licensee from any applicable federal, state or local franchise, zoning, building code, permit or other requirements, ordinances or regulations, including but not limited to the City's applicable permit application and construction requirements for attachments to City Facilities, the City's adopted building and electrical codes, and the Leawood Development Ordinance.

3.11 **Work Performed by City.** Wherever this Agreement requires the City to perform any work, Licensee acknowledges and agrees that the City, at its sole discretion, may utilize its employees or contractors, or any combination of the two to perform such work, or to permit Licensee to perform the work. When requested by Licensee, the City agrees to provide Licensee with reasonable documentation to determine actual and estimated costs.

3.12 **Default for Nonpayment.** Nonpayment of any amount due under this Agreement beyond ninety (90) days following receipt of written notice of nonpayment shall constitute a material default of this Agreement.

3.13 **Incremental Property Taxes.** If the personal property, real property or ad valorem taxes payable by the City with respect to City Facilities or lands at a Site(s) are located, or the basis on which such taxes are calculated, increase(s) following installation of the Attachment, Licensee shall reimburse the City for the portion of such increase or change attributable to any construction, installation or improvements provided pursuant to this Agreement. Licensee shall be solely responsible for, and shall pay in a timely manner, any personal property, real property or ad valorem taxes or other taxes or fees levied upon or with respect to the Attachment and other Licensee property located on the Site(s) that are billed directly to Licensee by the taxing authorities.

4. SPECIFICATIONS

4.1 **Installation/Maintenance of Attachment.** Upon execution of a Supplement pursuant to this Agreement, Licensee's Attachment(s) shall be installed and maintained in accordance with the City's applicable requirements and specifications and all applicable federal, State and local laws, rules and regulations. All of Licensee's Attachments must comply with all Applicable Standards. Licensee shall be responsible for the installation and maintenance of its Attachments. Licensee shall, at its own expense, make and maintain its Attachments in safe condition and good repair, in accordance with all Applicable Standards; and Licensee shall replace, remove, reinforce or repair any defective Attachments (unless otherwise agreed to by the City in writing).

4.2 Authorized Attachment(s) and Installation Methods.

4.2.1 The City must approve the Attachment(s) that Licensee is authorized to place on City Facilities. Except as authorized by the City in writing, only the Attachments depicted and described in the approved Supplement Application may be attached to any City Facility; provided, however, that different internal components may be substituted as part of an upgrade of the Communications Equipment (assuming the external appearance remains the same); and further provided, that different Attachments of similar or smaller size may be substituted upon the filing of a description and design of the new devices at least fifteen (15) days in advance of such change and upon approval by the City. Provided, any said upgrade or substitution must maintain the structural integrity of the City's Facility, and Licensee will provide all necessary supporting documentation.

4.2.2 Licensee shall ensure the design, color, and aesthetics of the Attachment(s) blend with and do not contrast with the City Facility to which it is to be attached.

4.2.3 In no event may Licensee or any of its subcontractors install or construct new City Facilities or modify or repair existing City Facilities except as may be expressly authorized by this Agreement or by a Supplement, or as is otherwise authorized in writing by the City.

4.2.4 Nothing in this Agreement shall be construed as a guaranty of the condition of any City Facility in connection with Licensee's Attachments or impose any obligation upon the City to repair or replace an existing City Facility in order to accommodate a request by Licensee to install an Attachment.

4.3 **Tagging.** Licensee shall Tag all of its Communications Equipment in accordance with any applicable federal, State and City regulations upon installation of such Attachment(s).

4.4 **Interference.** Licensee shall not allow its Attachment(s) to impair the ability of the City or any third party to use City Facilities, nor shall Licensee allow its Attachment(s) to interfere with the operation of any City or other governmental Facilities.

4.4.1 Licensee shall comply with all Federal Communications Commission ("FCC") and other federal, state and local laws, rules, orders and regulations and all directives of the relevant regulatory agencies that are applicable in connection with the installation and operation of Licensee's Attachments.

4.4.2 In the event that the installation, operation or maintenance of the Attachment(s), whether or not such operation is in compliance with the terms of Licensee's applicable FCC licenses, creates any interference with the operation of the City's or any other governmental entity's communication or other equipment, Licensee shall immediately, at Licensee's sole cost and expense, take such reasonable steps as may be necessary or recommended by the City or regulatory agencies to eliminate such interference. In the event that the installation, operation or maintenance of the Attachment(s) creates any interference with the operation of the pre-existing equipment of third parties using the Site pursuant to an agreement with the City or any other pre-existing uses of electronic equipment, Licensee shall immediately, at Licensee's sole cost and expense, take such reasonable steps as may be necessary to eliminate such interference in accordance with FCC or other applicable regulatory requirements. If Licensee is unable or refuses to eliminate such interference, the City may require Licensee to power down its equipment to eliminate the interference. In the event Licensee is thereafter unable to take necessary action to eliminate such interference within a period of ninety (90) days or such period as the Parties otherwise agree to in writing, the City may terminate Licensee's use of or right to use the Facility upon which such interfering Attachment is located, and Licensee shall promptly remove the Attachment from the Facility.

4.4.3 The rights of any third-parties to whom City confers Facilities access after the Licensee shall be subject to the rights of the Licensee as set forth herein. The City shall not license any Facilities occupied by Licensee, or for which an application for occupancy or attachment from Licensee has been received by City and is pending, for use by any other person or entity where it is determined that such third-party use would unreasonably interfere with Licensee's Communication Equipment pursuant to the Applicable Standards, unless access for such other person or entity is otherwise required by applicable state or federal law. If access is granted to a third party pursuant to state or federal law, and it is determined that such third-party use would unreasonably interfere with Licensee's Communications Equipment, then City shall give Licensee prior written notice of any such grant of third-party access and give Licensee reasonable time to remove and relocate its equipment. If equipment installed on a Facility, upon which Licensee has installed an Attachment, by any third party using the Facility pursuant to an agreement with the City subsequent to the installation of the Licensee's Attachment on the Site causes interference, either electronically or physically, with Licensee's previously installed Attachments, the Licensee shall immediately notify the City, who will notify such third party and ensure that the third party takes such reasonable steps as may be necessary to eliminate such interference. Alternatively, Licensee may upon thirty (30) days written notice to the City terminate the affected Supplement. This Section 4.4.3 shall not be deemed to otherwise limit the City from using any Facilities in connection with providing its own services or from licensing any Facilities to another person or entity if no application from Licensee is pending or such Facilities is not occupied by Licensee.

4.5 **Protective Equipment.** Licensee, and its employees and contractors, shall utilize and install adequate protective equipment to ensure the safety of people and facilities.

4.6 **Violation of Specifications.** If Licensee's Attachment(s), or any part thereof, are installed, used or maintained in violation of this Agreement, and Licensee has not corrected the violation(s) within thirty (30) calendar days from receipt of written notice of the violation(s) from the City, the City at its option, may unilaterally correct such conditions. The City will attempt to notify Licensee in writing prior to performing such work whenever practicable. When the City reasonably believes, however, that such violation(s) pose an immediate threat to the safety of any person, interfere with the performance of the City's service obligations or pose an immediate threat to the physical integrity of City Facilities or equipment of another Attaching Entity, the City may perform such work and/or take such action as it deems necessary without first giving written notice to Licensee. As soon as practicable thereafter, the City will advise Licensee of the work performed or the action taken. Licensee shall be responsible for all actual and reasonable costs incurred by the City in taking action pursuant to this Paragraph, and shall indemnify the City from liability for all such work, except to the extent of the City's gross negligence or willful misconduct in connection with such liability.

4.7 **Restoration of City Service.** The City's service restoration requirements shall take precedence over any and all work operations of Licensee on City Facilities.

4.8 **Effect of Failure to Exercise Access Rights.** If Licensee does not exercise any access right granted pursuant to this Agreement by the applicable Supplement(s) within ninety (90) calendar days of the effective date of the Supplement(s), the City may use the space scheduled for Licensee's Attachment(s) for its own needs or other Attaching Entities. In such instances, the City shall endeavor to make other space available to Licensee, upon written Supplement Application per Article 6, as soon as reasonably possible and subject to all requirements of this Agreement, including the Make-Ready Work provisions, but only to the extent such a Supplement Application for the alternative site is made by Licensee

4.9 **Facilities Owned or Maintained by City.** For any Facility located outside the boundaries for the City of Leawood, and owned or maintained by the City, Licensee shall locate any utility meter required for the Licensee's Communications Equipment within the boundaries of the City of Leawood.

4.10 **Facilities Owned or Maintained by other Municipalities.** For facilities located within the City of Leawood but owned or maintained by another municipality, any utility meters shall be located within the boundaries of the other municipality and not within the boundaries of the City of Leawood.

5. PRIVATE AND REGULATORY COMPLIANCE

5.1 **Necessary Authorizations.** Licensee shall be responsible for obtaining from the appropriate public and/or private authority or other appropriate persons any required authorization to construct, operate and/or maintain its Communications Equipment on public and/or private property before it occupies any portion of City Facilities. The City retains the right to require evidence that appropriate authorization has been obtained before any Supplement is finalized. Licensee's obligations under this Article 5 include, but are not limited to, its obligation to obtain all necessary approvals to occupy public/private rights-of-way, including, but not limited to, a franchise, any applicable FCC or KCC authorization, any ROW Permit, or any applicable zoning or land use approval, and to pay all costs associated therewith. Licensee shall defend, indemnify and reimburse the City for all loss and expense, including reasonable attorney's fees, that the City may incur as a result of claims by owners of private property, or other persons, that Licensee does not have sufficient rights or authority to attach Licensee's Communications Equipment on or within City Facilities or to provide particular Communications Services.

5.2 **Lawful Purpose and Use.** Licensee's Attachments must at all times serve a lawful purpose, and the use of such Facilities must comply with all applicable federal, State and local laws, rules and regulations, including but not limited to the City's Use and Occupancy of the Public Right-of-Way Ordinance and amendments thereto, Codified in the Code of the City of Leawood, Kansas, 2000, Chapter 13, Article 3, and the Leawood Development Ordinance. This Agreement is not a waiver of any City regulatory power or Licensee's obligation to meet any applicable City Code, law, rule or regulation. This Agreement does not limit any rights Licensee may have in accordance with applicable law to install its own poles in the right of way or to attach Licensee's equipment to third party poles located in the right of way. This Agreement shall in no way limit or waive either party's present or future rights under applicable law. If, after the date of this Agreement, the rights or obligations of either Party are materially preempted or superseded by changes in applicable law, which changes purportedly apply to existing agreements, the parties agree to amend the Agreement to reflect such change. If the Parties are unable to agree to an Amendment under this Section, the agreement shall terminate in accordance with Section 23 herein.

5.3 **No Forfeiture of City's Rights.** No Supplement entered into pursuant to this Agreement shall extend to any Facilities or portions thereof on/in which the attachment of Licensee's Attachment(s) would result in a forfeiture of the City's rights. Any Supplement, which on its face would cover Attachments that would result in forfeiture of the City's rights, is invalid. Further, if any of Licensee's existing Attachments, whether installed pursuant to a valid Supplement or not, would cause such forfeiture, Licensee shall, at its expense, promptly remove its Attachments upon receipt of written notice from the City. If the Attachments in question are not removed within thirty (30) days receipt of the City's written notice, the City may at its option perform such removal at Licensee's expense. Notwithstanding the forgoing, Licensee shall have the right to contest any such forfeiture before any of its rights are terminated under the Agreement provided that Licensee shall indemnify the City for any actual damages that may result during Licensee's challenge. Licensee

shall notify the City, in writing, within thirty (30) days of receipt of such notice, of Licensee's intent to contest such termination.

5.4 **Effect of Consent to Construction/Maintenance.** Consent by the City to the construction or maintenance of any Attachments by Licensee shall not be deemed consent, authorization or an acknowledgment that Licensee has the authority to construct or maintain any other such Attachments. It is Licensee's responsibility to obtain all necessary approvals for each Attachment from all appropriate parties or agencies.

6. SUPPLEMENT APPLICATION PROCEDURES

6.1 **Supplement Required.** Licensee shall not install any Attachments on or within any City Facilities without first completing a Supplement Application pursuant to all applicable City requirements and entering into a Supplement for such Attachment(s) with the City pursuant to this Agreement. Attachments to or rights to occupy or utilize City property not covered by this Agreement, such as the lease and use of City-owned fiber optic capacity or any other City property (including, but not limited to, City offices, parks, swimming pools, recreational centers, or the like, as these properties are generally not available for attaching entity use) must be separately negotiated.

6.1.1 Unless otherwise agreed to in writing, Licensee shall submit a Supplement Application for every proposed above-ground Site of Attachment that shall be accompanied by: (i) photos of the subject Facility and surrounding location; (ii) equipment specifications; (iii) a site sketch that depicts the proposed installation specifications such as attachment height, and attachment methods on the subject City Facility(ies); (iv) structural calculations; (v) traffic control plan for any work that includes temporary lane reduction or closure; and (vi) additional information which may be required by City as necessary.

6.2 **Professional Certification.** Unless otherwise waived in writing by the City, as part of the Supplement Application process and at Licensee's sole expense, a qualified and experienced professional engineer, or an employee or contractor of Licensee who has been approved by the City, must participate in the Pre-Construction Survey, conduct the Post-Construction Inspection and certify that Licensee's Attachments can be and were installed on or within the identified Facilities in compliance with the standards in Paragraph 4.1 and in accordance with the Supplement. The professional engineer's qualifications must include experience performing such work, or substantially similar work.

6.3 **City Review of Supplement Application.** Upon receipt of a properly executed Supplement Application, which shall include the Pre-Construction Survey, certified per Paragraph 6.2 above, and detailed plans for the proposed Attachments in a form acceptable to City staff, the City will review the Supplement Application and discuss any issues with Licensee, including engineering or Make-Ready Work requirements associated with the Supplement Application. The City acceptance of the submitted design documents does not relieve Licensee of full responsibility for any errors and/or omissions in the engineering analysis. Unless otherwise agreed the Supplement Application process shall be consistent with the following timeline.

6.3.1 **Review Period**. The City shall use its best efforts to review and respond to properly executed and complete Supplement Applications within thirty (30) days of receipt; provided (a) a Supplement Application is subject to the City's planning process, and therefore the review period may be extended for an additional thirty (30) days; and (b) the grant or denial of Licensee's request may take longer than 30 days if the Parties are communicating and mutually proceeding diligently with the Supplement Application in good faith. The City's response will either provide a written explanation as to why the Supplement Application is being denied, either in whole or in part, or provide an approval and estimate of the costs of all necessary Make-Ready Work.

6.3.2 Make-Ready Work shall be provided on a mutually agreeable, reasonable, and timely basis.

6.3.3 City may toll the time period for completion of Make-Ready Work by written notice in order to respond to severe storms, natural disasters or other emergency situations.

6.4 **Supplement as Authorization to Attach.** The parties shall document the Make-Ready Work required in the applicable Supplement. Upon completion of any necessary Make-Ready Work and receipt of payment for such work, and the granting of any appropriate permit(s), Licensee shall be authorized to make its Attachment(s).

7. MAKE-READY WORK/INSTALLATION

7.1 **Make-Ready Survey.** When the City receives an attachment or placement request from Licensee, a make-ready survey (the "Make-Ready Survey") may be necessary, at Licensee's cost, to determine the adequacy or the capacity of the City Facilities to accommodate Licensee's Communications Equipment without jeopardizing the safety of the City Facilities or placing the City in violation of generally applicable zoning or other restrictions. Licensee shall be responsible for performing and/or paying all actual costs associated with the Make-Ready Survey. The City may perform a field inspection and structural analysis as part of the Make-Ready Survey. The City shall provide reasonable advance notice of such a field inspection and a representative of Licensee has the right to be present for the inspection.

7.2 **Make-Ready Work.**

7.2.1 Except where the City denies the application, whenever any City Facility to which Licensee seeks attachment or occupancy requires modification or replacement to accommodate both Licensee's Attachment and the existing attachments or equipment of the City and other Attaching Entities, the City, at Licensee's cost, will provide Licensee with a detailed, good faith estimate of Make-Ready Work (the "Make-Ready Estimate") the City believes to be necessary to prepare the City Facilities for Licensee's Attachment. All actual costs for Make-Ready Work will be performed at the sole cost and expense of Licensee. The City will use its best efforts to provide Licensee with the Make-Ready Estimate within thirty (30) days of Licensee's application. The Make-Ready Estimate shall include itemized estimates of the cost of each component of the Make-Ready Work. (See Paragraph 1.12 for defined components of Make-Ready Work.) Any reference to costs or expenses borne by Licensee within Paragraphs 7.1 and 7.2 shall include all third-party out of pocket expenses incurred by the City and may also include administrative time incurred by the City or expenses that third-party Attaching Entities are obligated to bear under pre-existing agreements.

7.2.2 After receiving the Make-Ready Estimate, if Licensee still desires to make the Attachment, Licensee may within ninety (90) days of receiving the Make-Ready Estimate elect by written notice to the City any of the following alternatives:

(i) Offer the City the option to perform such Make-Ready Work as called for in the Make-Ready Estimate (the "Option"), and if the City, in its sole and absolute discretion, agrees to perform such Make-Ready Work pursuant to the Option, Licensee will pay to the City fifty percent (50%) of the fees for Make-Ready Work specified by the Make-Ready Estimate (the "Down Payment"). Licensee shall pay an additional twenty-five percent (25%) of the Make-Ready Estimate when the City has completed one-half of the Make-Ready Work (the "Progress Payment"). Licensee shall pay the remaining twenty-five percent (25%) of the Make-Ready Estimate upon the City's completion of the Make-Ready Work. Notwithstanding this Subparagraph, the City,

at its option, may require advanced payment of the entire Make-Ready Estimate per Paragraph 3.8.

(ii) Licensee or Licensee's contractors may perform all the Make-Ready Work. The contractors shall be approved by the City to work on or in City Facilities. Approval shall be based upon reasonable and customary criteria employed by the City in the selection of its own contract labor.

(iii) Licensee may retain its own contractors to perform part of the Make-Ready Work and utilize the City to perform part of the Make-Ready Work, but only where the City has, in its sole and absolute discretion, agreed to such Option described in Subparagraph 7.2.2 (i). The parties shall reasonably agree what portion of the Make-Ready Work each party will perform through this joint-build option. In the event Licensee retains contractors to perform part of the Make-Ready Work and utilizes the City to perform part of the Make-Ready Work, Licensee shall adjust the payments described in Subparagraph 7.2.2 (i) to include only the costs of the itemized components of the Make-Ready Estimate to be performed by the City.

7.2.3 If the City, in its sole and absolute discretion, exercises its Option to perform any Make-Ready Work as described in Subparagraph 7.2.2 (i), the City shall use its best efforts to make sure that necessary Make-Ready Work, including the work necessary to rearrange the Attachments and equipment of other Attaching Entities, is completed within sixty (60) days from Licensee's remittal of the Down Payment. If Make-Ready Work is not completed by the City within the sixty (60) day period, any fees payable by Licensee for Make-Ready Work shall be waived and any Down Payment or Progress Payment in connection with such Make-Ready Work shall be refunded promptly to Licensee, and Licensee may retain its own contractors perform the Make-Ready Work.

If Licensee submits an application that affects existing Attaching Entities, the City will use commercially reasonable efforts to notify the existing Attaching Entities and coordinate the rearrangements of their Attachments. To the extent third-party equipment is affected by Licensee's application, the City will follow the procedure as described in Paragraphs 7.2.1, 7.2.2 and 7.2.3, but only to the extent such existing Attaching Entities do not elect to perform the rearrangement or are not already obligated to rearrange Attachments and bear the expense of such rearrangement and coordination under a pre-existing separate agreement.

7.3 **Scheduling of Make-Ready Work.** In performing all Make-Ready Work to accommodate Licensee's Attachment, the City will endeavor to include such work in its normal work schedule. In the event Licensee requests that the Make-Ready Work be performed on a priority basis or outside of the City's normal work hours, Licensee agrees to pay any resulting increased costs. Nothing herein shall be construed to require performance of Licensee's work before other scheduled work or City service restoration.

7.4 **Licensee's Installation/Removal/Maintenance Work.**

7.4.1 All of Licensee's installation, removal and maintenance work shall be performed at Licensee's sole cost and expense, in a good and workmanlike manner, and must not adversely affect the structural integrity of City Facilities or other property or equipment, or other Attaching Entity's facilities or equipment attached thereto. All such work is subject to the insurance requirements of Article 18.

7.4.2 All of Licensee's installation, removal and maintenance work performed on or within City Facilities or in the vicinity of other City property, either by its employees or contractors, shall be in compliance with all applicable regulations specified in Paragraph 4.1. Licensee

shall assure that any person installing, maintaining, or removing its Attachment(s) is fully qualified and familiar with all Applicable Standards, the provisions of Article 17, and the Specifications required by Article 4.

8. TRANSFERS

8.1 **Required Transfers of Licensee's Attachments.** If the City reasonably determines that a transfer of Licensee's Attachments is necessary, Licensee agrees to allow such transfer or remove the affected Attachment pursuant to Paragraph 12.2, and the City agrees to reasonably cooperate with Licensee to locate a replacement City Facility on which to transfer Licensee's Attachment. In such instances, the City shall require Licensee to perform such transfer or removal at its own expense within sixty (60) calendar days after receipt of notice from the City. If Licensee fails to transfer its Equipment within said 60-day period, the City shall have the right to transfer Licensee's Equipment using its personnel and/or contractors. The costs of such transfers shall be apportioned as specified under Article 9. The City shall not be liable for damage to Licensee's Equipment except to the extent provided in Paragraph 16.1. The written advance notification requirement of this Paragraph shall not apply to emergency situations, in which case the City shall provide such advance notice as is practical given the urgency of the particular emergency situation. The City shall then provide written notice of any such actions taken within five (5) business days of the occurrence.

9. MODIFICATIONS AND/OR REPLACEMENTS

9.1 **Licensee's Action Requiring Modification/Replacement.** In the event that any City Facility to which Licensee desires to make Attachment(s) is unable to support or accommodate the additional Equipment in accordance with all Applicable Standards, the City will notify Licensee. If the City is willing to allow a modification or replacement of the City Facility to accommodate Licensee's Attachment, the City will notify Licensee of the necessary Make-Ready Work, and associated costs, to provide an adequate Facility, including but not limited to replacement of the Facility and rearrangement or transfer of the City's equipment, as well as the equipment of other Attaching Entities. Licensee shall be responsible for separately entering into an agreement with other Attaching Entities concerning the allocation of costs for the relocation or rearrangement of such entities' existing Attachments. If Licensee elects to go forward with the necessary changes, Licensee shall pay to the City the actual cost of any Make-Ready Work, performed by the City, per Paragraphs 3.9 and 7.2; provided, the City, at its discretion, may require advance payment of the entire cost. Licensee shall also be responsible for obtaining, and furnishing to the City before the commencement of any Make-Ready Work, agreements between Licensee and the other Attaching Entities concerning the relocation or rearrangement of their Attachments and the costs involved.

9.2 **Treatment of Multiple Requests for Same Facility.** If the City receives Supplement Applications for the same Facility from two or more prospective licensees within sixty (60) calendar days of the initial request, and accommodation of both requests is not possible, the City will authorize the earliest complete Supplement Application received. A "complete application" shall be considered to be an application with all required information, conformance with the Code of the City of Leawood – including the Leawood Development Ordinance – and payment of all application fees . If it is possible to accommodate more than one Attachment request through a modification the City will allocate among such licensees the applicable costs associated with such modification or replacement. This Section 9.2 shall not be deemed to otherwise limit the City from using any Facilities in connection with providing its own services or from licensing any Facilities to another person or entity if no application from Licensee is pending or such Facilities are not occupied by Licensee.

9.3 **Allocation of Costs.** The costs for any rearrangement or transfer of Licensee's Attachment or the replacement of a City Facility (including any related costs for tree cutting or trimming) shall be allocated to the City and/or Licensee and/or other Attaching Entity on the following basis:

9.3.1 If the City intends to modify or replace a City Facility solely for its own requirements, it shall be responsible for the costs related to the modification/ replacement of the City Facility. Licensee shall be responsible for all costs associated with any necessary modification or relocation of Licensee's Attachment. Prior to making any such modification or replacement of the City Facility the City shall provide Licensee written notification of its intent in order to allow Licensee a reasonable opportunity to elect to modify, relocate or add to its existing Attachment. Should Licensee so elect, it must seek the City's written permission per this Agreement. The notification requirement of this Paragraph shall not apply to routine maintenance or emergency situations. If Licensee elects to add to or modify its Attachment, Licensee shall bear the total incremental costs incurred by the City in making the space on or within the Facilities accessible to Licensee.

9.3.2 If the modification or replacement of a Facility is necessitated by the requirements of Licensee, Licensee shall be responsible for the costs related to the modification or replacement of the Facilities and for the costs associated with the transfer or rearrangement of any other Attaching Entity's Communications Equipment as well as those of the City. Licensee shall submit to the City evidence, in writing, that it has made arrangements to reimburse all affected Attaching Entities for the cost to transfer or rearrange such Entities' Equipment prior to the commencement of any Make-Ready Work. The City shall not be obligated in any way to enforce or administer Licensee's responsibility for the costs associated with the transfer or rearrangement of another Attaching Entity's Equipment pursuant to this Paragraph. In all events, modification of a City Facility and the manner of such modification shall be first approved in writing by the City.

9.3.3 If the modification or the replacement of a Facility is the result of an additional Attachment or the modification of an existing Attachment sought by an Attaching Entity other than the City or Licensee, the Attaching Entity requesting the additional or modified Attachment shall bear the entire cost of the modification or Pole replacement, as well as the costs for rearranging or transferring Licensee's Attachment. Licensee shall cooperate with such third-party Attaching Entity to determine the costs of moving Licensee's Equipment.

9.3.4 If a City Facility must be modified or replaced for other reasons unrelated to the use of the Facility by Attaching Entities (*e.g.*, storm, accident, deterioration), the City shall pay the costs of the modification or replacement of the Facility; provided, however, that Licensee shall be responsible for any additional costs or expenses occasioned by or resulting from the use of a substitute pole or other City Facility previously installed by Licensee in order to accommodate its Communications Equipment or meet structural standards attendant thereto. In the alternative, Licensee may replace the City's Facility at Licensee's cost or the City may replace its Facility with a similar Facility which existed prior to the provision of a substitute by Licensee. Under all such circumstances, Licensee shall be responsible for the costs of rearranging or transferring or repairing or replacing its Attachment.

9.4 **City Not Required to Relocate.** No provision of this Agreement shall be construed to require City to relocate its Attachments or modify/replace its Facilities for the benefit of Licensee, provided, however, any denial by the City for modification of the Facility is based on nondiscriminatory standards of general applicability.

10. ABANDONMENT OR REMOVAL OF CITY FACILITIES

10.1 **Notice of Abandonment or Removal of City Facilities.** If the City desires at any time to abandon, remove or underground any City Facilities to which Licensee's Attachments are attached, it shall give Licensee notice in writing to that effect at least sixty (60) calendar days prior to the date on which it intends to abandon or remove such City Facilities. Notice may be limited to thirty (30) calendar days if the City is required to remove or abandon its City Facilities as the result of the action of a third party and the greater notice period is not practical. Such notice shall indicate whether the City is offering Licensee an option to purchase the Facilities. If, following the expiration of the applicable notice period, Licensee has not yet removed and/or transferred all of its Attachments therefrom and has not entered into an agreement to purchase City Facilities pursuant to Paragraph 10.2, the City shall have the right, subject to any applicable laws and regulations, to have Licensee's Attachment removed and/or transferred from the Facility at Licensee's expense. The City shall give Licensee fifteen (15) days prior written notice of any such removal or transfer of Licensee's Equipment.

10.2 **Option to Purchase Abandoned Facilities.** Should the City desire to abandon any Facility, the City, in its sole discretion, may grant Licensee the option of purchasing such Facility at a rate negotiated with the City. Licensee must notify the City in writing within thirty (30) calendar days of the date of the City's notice of abandonment that Licensee desires to purchase the abandoned Facility. Thereafter, Licensee must also secure and deliver proof of all necessary governmental approvals and easements allowing Licensee to independently own and access the Facility within forty-five (45) calendar days. Should Licensee fail to secure the necessary governmental approvals, or should the City and Licensee fail to enter into an agreement for Licensee to purchase the Facility prior to the end of the forty-five (45) calendar days, Licensee must remove its Attachments as required under Paragraph 10.1. The City is under no obligation to sell Licensee the City Facilities that it intends to remove or abandon.

11. REMOVAL OF LICENSEE'S ATTACHMENTS

11.1 **Removal on Expiration/Termination.** At the expiration or other termination of this License Agreement or individual Supplement(s), Licensee shall remove its Attachment(s) from the affected Facilities at its own expense. After removal, Licensee shall restore the City Facilities to their condition immediately prior to the date such Attachments were made, excepting normal wear and tear including replacing the pole with a pole that meets the current City standard pole specifications. If Licensee fails to remove such Equipment within one hundred twenty (120) calendar days of expiration or termination or some greater period as allowed in writing by the City, the City shall have the right to have such Equipment removed at Licensee's expense, provided that the time period for removal will be extended in the event Licensee encounters delays in obtaining a pole that meets current City standard pole specifications and notifies City in writing of such a delay.

11.2 **Licensee Removal.** Licensee may, at any time, remove its Attachment(s) from any City Facility, provided it gives the City at least fourteen (14) days prior written notice. After removal, Licensee shall restore the City Facilities to their condition immediately prior to the date such Attachments were made, excepting normal wear and tear.

11.3 **Emergency Removal.** In the event of any emergency that threatens person or property, the City may, in its sole discretion, without prior notice, remove any of Licensee's Attachments. In such event, the City will contact Licensee as soon as practicable to provide notice of such removal. Such removal shall be at Licensee's sole cost and expense, unless the removal was the result of gross negligence or willful misconduct by the City.

12. TERMINATION OF SUPPLEMENT

12.1 **Automatic Termination of Supplement.** Any Supplement issued pursuant to this Agreement shall automatically terminate when Licensee ceases to have authority to construct and operate its Attachment on public or private property at the Site of the particular Facility covered by the Supplement.

12.1.1 **Surrender of Supplement**. Licensee may terminate a Supplement at any time upon written notice to the City, and remove its Communications Equipment from the affected Facilities, provided, however, that before commencing any such removal Licensee must obtain the City's written approval of Licensee's plans for removal, including the name of the party performing such work and the date(s) and time(s) during which such work will be completed. All such work is subject to the insurance requirements of Article 18. No refund of any fees or charges will be made upon removal. However, license fees shall cease for the Attachment at the time Licensee's Communications Equipment is removed and the City Facilities are properly restored (subject to Paragraph 11.2). If Licensee terminates such Supplement pursuant to the provisions of this Article, but fails to remove its Attachments from City Facilities within one hundred twenty (120) calendar days thereafter, the City shall have the right to remove Licensee's Attachments at Licensee's expense.

13. INSPECTION OF LICENSEE'S ATTACHMENTS

13.1 **Inspections.** The City may conduct an inventory and inspection of Attachments at any time. Licensee shall correct all Attachments that are not found to be in compliance with Applicable Standards within thirty (30) calendar days of notification. If it is found that Licensee has made an Attachment without a Supplement, Licensee shall pay an Unauthorized Access Penalty Fee as specified in Article 3 in addition to applicable Supplement and Make-Ready Costs. If it is found that five percent (5%) or more of Licensee's Attachments are either in non-compliance or not permitted, Licensee shall pay its *pro-rata* share of the costs of the inspection.

13.2 **Notice.** The City will give Licensee reasonable advance written notice of such inspections, except in those instances where safety considerations justify the need for such inspection without the delay of waiting until written notice has been received.

13.3 **No Liability.** Inspections performed under this Article 13, or the failure to do so, shall not operate to impose upon the City any liability of any kind whatsoever or relieve Licensee of any responsibility, obligations or liability whether assumed under this Agreement or otherwise existing.

13.4 **Attachment Records.** Notwithstanding the above inspection provisions, upon the written request from City, Licensee is obligated to furnish the City on an annual basis an up-to-date map depicting the locations of its Attachments in an electronic format specified by the City.

14. UNAUTHORIZED OCCUPANCY OR ACCESS

14.1 **Penalty Fee.** If any of Licensee's Attachments are found occupying any Facility for which no Supplement has been executed, the City, without prejudice to its other rights or remedies under this Agreement, may assess an Unauthorized Access Penalty Fee as specified in Article 3. In the event Licensee fails to pay such Fee within thirty (30) calendar days of receiving notification thereof, the City has the right to remove such Attachment at Licensee's expense and without liability, subject to the alternative dispute provisions of Paragraph 22.1.

14.2 **No Ratification of Unlicensed Use.** No act or failure to act by the City with regard to any unlicensed use shall be deemed as ratification of the unlicensed use and if any Supplement should be subsequently executed, such Supplement shall not operate retroactively or constitute a waiver

by the City of any of its rights or privileges under this Agreement or otherwise; provided, however, that Licensee shall be subject to all liabilities, obligations and responsibilities of this Agreement in regards to the unauthorized use from its inception.

15. REPORTING REQUIREMENTS

Concurrently with Licensee's Annual Attachment Fee payment, Licensee shall report any Attachment Licensee has removed from City Facilities during the relevant reporting period. The report shall identify the Facility from which the Attachment was removed, describe the removed equipment, and indicate the approximate date of removal. This requirement does not apply where Licensee is terminating a Supplement pursuant to Paragraph 12.2.

16. LIABILITY AND INDEMNIFICATION

16.1 **Liability.** The City reserves to itself the right to maintain and operate its Facilities in such manner as will best enable it to fulfill its governmental service requirements. Licensee agrees to use City's Facilities at Licensee's sole risk. Notwithstanding the foregoing, the City shall exercise reasonable precaution to avoid damaging Licensee's Attachment(s) and shall report to Licensee the occurrence of any such damage caused by its employees, agents or contractors.

16.2 **Indemnification.** Licensee shall defend, indemnify and hold harmless the City and its officials, officers, council members, commissioners, representatives, employees, agents, and contractors (collectively, the "City Indemnitees") against any and all claims, losses, liability, costs, damages, fines, taxes, special charges by others, penalties, payments (including payments made by the City under any Workers' Compensation Laws or under any plan for employees' disability and death benefits), and expenses (including reasonable attorney's fees of the City and all other costs and expenses of litigation) arising from any act, omission, failure, negligence or willful misconduct of Licensee, its employees, contractors, subcontractors or agents, in connection with the construction, maintenance, repair, relocation, transfer, removal or operation by Licensee, or by Licensee's officers, directors, employees, agents or contractors, of Licensee's Attachments ("Covered Claims"), except to the extent the Covered Claims were caused by the sole gross negligence, recklessness, or willful misconduct of any City Indemnitee.

16.3 **Procedure for Indemnification.**

16.3.1 The City shall give prompt notice to Licensee of any claim or threatened claim, specifying the factual basis for such claim and the amount of the claim. If the claim relates to an action, suit or proceeding filed by a third party against the City, the City shall give the notice to Licensee no later than thirty (30) calendar days after the City receives written notice of the action, suit or proceeding.

16.3.2 The City's failure to give the required notice will not relieve Licensee from its obligation to indemnify the City unless and only to the extent Licensee is materially prejudiced by such failure.

16.4 **Environmental Hazards.** Licensee represents and warrants that its use of City Facilities will not generate any Hazardous Substances, that it will not store or dispose on or about City Facilities or transport to City Facilities any hazardous substances and that Licensee's Attachment(s) will not constitute or contain and will not generate any hazardous substance in violation of federal, state or local law now or hereafter in effect including any amendments. Notwithstanding the foregoing, Licensee shall be permitted to bring and keep on City Facilities equipment commonly used in the telecommunications industry, including without limitation, electrical components and batteries. "Hazardous Substance" shall be interpreted broadly to mean any substance or material designated or defined as hazardous or toxic waste, hazardous or toxic material, hazardous or toxic or

radioactive substance, or other similar terms by any federal, state, or local laws, regulations or rules now or hereafter in effect including any amendments. Licensee and its agents, contractors and subcontractors shall defend, indemnify and hold harmless the City and its respective officials, officers, board members, council members, commissioners, representatives, employees, agents and contractors against any and all liability, costs, damages, fines, taxes, special charges by others, penalties, punitive damages, expenses (including reasonable attorney's fees and all other costs and expenses of litigation) arising from or due to the release, threatened release, or storage of any Hazardous Substances on, under or adjacent to City Facilities attributable to Licensee's use of City Facilities, except to the extent of the City's gross negligence or willful misconduct in connection with such liability. Licensor acknowledges that Licensee shall not be responsible for any contamination at City Facilities to the extent caused in whole or in part by Licensor or a third party.

16.5 **Municipal Liability Limits.** No provision of this Agreement is intended, or shall be construed, to be a waiver for any purpose by the City of any applicable State limits on municipal liability or governmental immunity. No indemnification provision contained in this Agreement under which Licensee indemnifies the City shall be construed in any way to limit any other indemnification provision contained in this Agreement. Nothing herein shall be construed to waive or limit Licensor's immunities, limitation of liability, or defenses under the Kansas Tort Claim Act or other law.

16.6 **Liens.** Licensee shall pay all taxes and assessments lawfully levied on Licensee's Attachments and any personal, real property or other taxes, assessments, fees or charges levied on City Structures solely because of their use by Licensee. In no event shall Licensee permit any lien to be filed or to exist upon any City Facilities or other City property as a result of any claim against Licensee. In the event any lien is filed upon any City Facility as a result of any claim against Licensee, Licensee agrees, within 120 days of the filing of such lien, to cause the same to be released of record by payment or posting of a bond in a form and issued by a surety acceptable to the City; provided, however, that Licensee shall have the right to contest in good faith said mechanics' liens, and in such event, may permit the items so contested to remain undischarged and unsatisfied during the period of such contest and any appeal therefrom as long as such lien is bonded over and/or released of record as set forth herein.

17. DUTIES, RESPONSIBILITIES, AND EXCULPATION

17.1 **Duty to Inspect.** Licensee acknowledges and agrees that the City does not warrant the condition or safety of City Facilities, or the premises surrounding the Facilities, and Licensee further acknowledges and agrees that it has an obligation to inspect City Facilities and/or premises surrounding the Facilities, prior to commencing any work on City Facilities or entering the premises surrounding such Facilities.

17.2 **Knowledge of Work Conditions.** By executing this Agreement, Licensee warrants that it has acquainted, or will fully acquaint, itself and its employees and/or contractors and agents with the conditions relating to the work that Licensee will undertake under this Agreement and that it fully understands or will acquaint itself with the Facilities, difficulties and restrictions attending the execution of such work.

17.3 **DISCLAIMER. THE CITY MAKES NO EXPRESS OR IMPLIED WARRANTIES WITH REGARD TO THE CITY'S FACILITIES, ALL OF WHICH ARE HEREBY DISCLAIMED, AND THE CITY MAKES NO OTHER EXPRESS OR IMPLIED WARRANTIES, EXCEPT TO THE EXTENT EXPRESSLY AND UNAMBIGUOUSLY SET FORTH IN THIS AGREEMENT. THE CITY EXPRESSLY DISCLAIMS ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.**

17.4 **Duty of Competent Supervision and Performance.** Licensee shall ensure that its employees, agents, contractors and subcontractors have the necessary qualifications, skill, knowledge, training and experience to protect themselves, their fellow employees, employees of the City and the general public, from harm or injury while performing work permitted pursuant to this Agreement. In addition, Licensee shall furnish its employees, agents, contractors and subcontractors competent supervision and sufficient and adequate tools and equipment for their work to be performed in a safe manner.

18. INSURANCE

18.1 **Policies Required.** At all times during the term of this Agreement, Licensee shall keep in force and effect all insurance policies as described below:

18.1.1 **Workers' Compensation and Employers' Liability Insurance.** Statutory workers' compensation benefits in compliance with the statutory requirements of the State of Kansas and employers' liability insurance with a limit of $1,000,000 each accident/disease/policy limit. This policy shall include a waiver of subrogation in favor of the City. Licensee shall require subcontractors and others not protected under its insurance to obtain and maintain such insurance.

18.1.2 **Commercial General Liability Insurance.** Policy will be written to provide coverage for, but not limited to, the following: premises and operations, products and completed operations, personal and advertising injury, blanket contractual coverage and independent contractor's coverage with Limits of liability of $5,000,000 per occurrence for bodily injury and property damage and $5,000,000 general aggregate, and $5,000,000 products/completed operations aggregate.

18.1.3 **Commercial Automobile Liability Insurance.** Commercial automobile liability covering all owned, hired and non-owned vehicles in the amount of $5,000,000 combined single limit each accident for bodily injury and property damage.

18.1.4 **Umbrella Liability Insurance.** Coverage is to be in excess of the employers' liability, commercial general liability, and automobile liability insurance required above with limits of $1,000,000 each occurrence, $1,000,000 aggregate.

18.1.5 **Property Insurance.** Each party will be responsible for maintaining property insurance on its own facilities, buildings and other improvements, including all equipment, fixtures, and City structures, fencing or support systems that may be placed on, within or around City Facilities to fully protect against hazards of fire, vandalism and malicious mischief, and such other perils as are covered by policies of insurance commonly referred to and known as "extended coverage" insurance or self-insure such exposures.

18.2 **Qualification; Priority; Contractors' Coverage.** The insurer must be authorized to do business under the laws of the State of Kansas and have an "A" or better rating in Best's Guide. Such insurance will be primary. All contractors and all of their subcontractors who perform work on behalf of Licensee shall carry substantially the same coverage with substantially the same limits as required of Licensee.

18.3 **Certificate of Insurance; Other Requirements.** Upon the execution of this Agreement and within ten (10) days of each insurance policy expiration date during the term of this Agreement, Licensee will furnish the City with a certificate of insurance ("Certificate"). The Certificate shall reference this Agreement and workers' compensation and property insurance waivers of subrogation required by this Agreement. Upon receipt of notice from its insurer, the Licensee shall provide the City thirty (30) calendar days advance written notice of cancellation of insurance during the term of this Agreement. The City, its council members, board members, commissioners, agencies, officers, officials, employees and representatives (collectively, "Additional Insureds") shall be

included as an Additional Insured as their respective interests may appear under this Agreement under all of the policies, except workers' compensation and employer's liability, which shall be so stated on the Certificate of Insurance. All policies, other than workers' compensation, shall be written on an occurrence and not on a claims-made basis. All policies may be written with deductibles, not to exceed $100,000 or other greater amount as allowed by the City in writing. Licensee shall defend, indemnify and hold harmless the City and Additional Insureds from and against payment of any deductible and payment of any premium on any policy required under this Article. Licensee shall obtain Certificates from its agents, contractors and their subcontractors and provide a copy of such Certificates to the City upon request.

18.4 **Limits.** The limits of liability set out in this Article 18 may be increased or decreased by mutual written consent of the parties, which consent will not be unreasonably withheld by either party, in the event of any factors or occurrences, including substantial increases in the level of jury verdicts or judgments or the passage of state, federal or other governmental compensation plans, or laws which would materially increase or decrease Licensee's exposure to risk.

18.5 **Prohibited Exclusions.** No policies of insurance required to be obtained by Licensee or its contractors or subcontractors shall contain provisions (1) that exclude coverage of liability assumed by this Agreement with the City except as to infringement of patents or copyrights or for libel and slander in program material, (2) that exclude coverage of liability arising from excavating, collapse, or underground work, (3) that exclude coverage for injuries to the City's employees or agents, or (4) that exclude coverage of liability for injuries or damages caused by Licensee's contractors or the contractors' employees, or agents. This list of prohibited provisions shall not be interpreted as exclusive.

18.6 **Deductible/Self-insurance Retention Amounts.** Licensee shall be fully responsible for any deductible or self-insured retention amounts contained in its insurance program or for any deficiencies in the amounts of insurance maintained.

19. AUTHORIZATION NOT EXCLUSIVE

The City shall have the right to grant, renew and extend rights and privileges to others not party to this Agreement by contract or otherwise, to use City Facilities covered by this Agreement. Such rights shall not interfere with the rights granted to Licensee by the specific Supplements issued pursuant to this Agreement.

20. ASSIGNMENT

20.1 **Limitations on Assignment.** Licensee shall not assign its rights or obligations under this Agreement without the prior written consent of the City, which consent shall not be unreasonably withheld, conditioned or delayed. It shall be unreasonable for the City to withhold consent without cause to an assignment of all of Licensee's interests in this Agreement to its Affiliate. Notwithstanding, Licensee may, upon written notice to the City, assign its rights and obligations under this Agreement to (i) any affiliate of Licensee; (ii) any successor in interest to Licensee in connection with any merger, acquisition, or similar transaction; or (iii) any purchaser of all or substantially all of Licensee's assets used to provide Communications Services to residents and businesses located in the City of Leawood, Kansas. An "affiliate" means any entity that now or in the future, directly or indirectly controls, is controlled with or by, or is under common control with Licensee; and "control" shall mean, with respect to: (a) a U.S. corporation, the ownership, directly or indirectly, of fifty percent (50%) or more of the voting power to elect directors thereof; (b) a non-U.S. corporation, if the voting power to elect directors thereof is less than fifty percent (50%), the maximum amount allowed by applicable law; and (c) any other entity, fifty percent (50%) or more ownership interest in said entity, or the power to direct the management of such entity.

20.2 **Obligations of Assignee/Transferee and Licensee.** No assignment or transfer under this Article 20 shall be allowed until the assignee or transferee becomes a signatory to this Agreement and assumes all obligations of Licensee arising under this Agreement. Licensee shall furnish the City with prior written notice of the transfer or assignment, together with the name and address of the transferee or assignee. Notwithstanding any assignment or transfer, Licensee shall remain fully liable under this Agreement and shall not be released from performing any of the terms, covenants or conditions of this Agreement without the express written consent to the release of Licensee by the City.

20.3 **Sub-licensing.** Without the City's prior written consent, Licensee shall not sub-license or lease to any third party, including but not limited to allowing third parties to place Attachments on or within City Facilities. Any such action shall constitute a material breach of this Agreement. Notwithstanding the foregoing, and subject to the reasonable approval of the City, the installation and use of internal space within Licensee's Attachments for third party wireless providers utilizing Licensee's Communications Services is not subject to this Paragraph 20.3. Furthermore, the use of Licensee's Attachments by third parties (including but not limited to leases of dark fiber) that involves no additional Attachment or overlashing is not subject to this Paragraph 20.3.

21. FAILURE TO ENFORCE

Failure of the City or Licensee to take action to enforce compliance with any of the terms or conditions of this Agreement or to give notice or declare this Agreement or any authorization granted hereunder terminated shall not constitute a waiver or relinquishment of any term or condition of this Agreement, but the same shall be and remain at all times in full force and effect until terminated, in accordance with this Agreement.

22. ISSUE RESOLUTION PROCESS

22.1 Dispute Resolution. Except as otherwise precluded by law, a resolution of any dispute arising out of, or related to, this Agreement shall first be pursued through good-faith negotiations in order to reach a mutually acceptable resolution. If, after negotiating in good faith for a period of at least thirty (30) days, the parties are unable to resolve the dispute, then all disputes relating to this Agreement, or the breach thereof, the parties shall be entitled to pursue all available remedies at law or equity. Each party will bear its own costs for dispute resolution activity.

22.2 Confidential Settlement. Unless the parties otherwise agree in writing, and to the extent permitted under applicable law, communication between the parties under this Article will be treated as confidential information developed for settlement purposes, exempt from discovery, and inadmissible in litigation.

22.3 Business As Usual. Unless an emergency condition exists, during any dispute resolution procedure or lawsuit, the parties will continue providing services to each other and performing their obligations under this Agreement.

23. TERMINATION OF AGREEMENT

23.1 Notwithstanding the City's rights under Article 12, the City shall have the right, pursuant to the procedure set out in Paragraph 23, to terminate this entire Agreement, or any Supplement executed hereunder, whenever Licensee is in default of any material term or condition of this Agreement beyond applicable cure periods, including but not limited to the following circumstances:

23.1.1 Construction, operation or maintenance of Licensee's Attachment(s) in violation of law or in aid of any unlawful act or undertaking; or

23.1.2 Construction, operation or maintenance of Licensee's Attachment(s) after any authorization required of Licensee has lawfully been denied or revoked by any governmental or private authority or violation of any other agreement with the City; or

23.1.3 Construction, operation or maintenance of Licensee's Attachment(s) without the insurance coverage required under Article 18.

23.1.4 The expiration, termination or revocation of Licensee's franchise or any other required regulatory authorization (as required by Article 5); provided, Licensee shall have a reasonable period of time to obtain the reinstatement of any such authorization.

23.2 The City will notify Licensee in writing within fifteen (15) calendar days, or as soon as reasonably practicable, of any condition(s) applicable to Paragraph 23.1 above. Licensee shall take immediate corrective action to eliminate any such condition(s) within thirty (30) calendar days, or such longer period mutually agreed to by the parties, and shall confirm in writing to the City that the cited condition(s) has (have) ceased or been corrected, or are in the process of being corrected.

23.3 If the parties are unable to resolve the dispute and Licensee fails to discontinue or correct such condition(s) and/or fails to give the required confirmation, the City may immediately terminate this Agreement or any Supplement(s) granted hereunder. In the event of termination of this Agreement or any of Licensee's rights, privileges or authorizations hereunder, the City may seek removal of Licensee's Attachments pursuant to the terms of Article 11, with respect to specific Facilities or from the City's entire system. In such instance, Licensee shall remain liable for and pay all fees and charges accrued pursuant to the terms of this Agreement to the City until Licensee's Attachments are actually removed.

23.4 Licensee will have the right terminate this Agreement if the City is in default of any material term or condition of this Agreement. In such event, Licensee will notify the City in writing within fifteen (15) calendar days, or as soon as reasonably practicable, of any such default. The City shall take immediate corrective action to eliminate any such condition(s) within thirty (30) calendar days, or such longer period mutually agreed to by the parties, and shall confirm in writing to Licensee that the cited condition(s) has (have) ceased or been corrected, or are in the process of being corrected. If the parties are unable to resolve the dispute and the City fails to discontinue or correct such condition(s) and/or fails to give the required confirmation, Licensee may immediately terminate this Agreement or any Supplement(s) granted hereunder. In the event of termination of this Agreement or any Supplement(s), Licensee may remove its Attachments pursuant to the terms of Article 11. In such instance, Licensee shall remain liable for and pay all fees and charges accrued pursuant to the terms of this Agreement to the City until Licensee's Attachments are actually removed.

24. TERM OF AGREEMENT

24.1 This Agreement shall be effective for an initial term of ten (10) years term beginning on the Effective Date of this Agreement. Thereafter, this Agreement will automatically renew for up to two (2) additional one (1) year terms unless either party notifies the other party of its intent to terminate the Agreement at least ninety (90) days before the termination of the then current term. The additional term(s) shall be deemed a continuation of this Agreement and not as a new agreement. Notwithstanding the above-stated term of Agreement, this Agreement is conditioned upon Licensee maintaining a Contract Franchise with the City, and this Agreement shall terminate upon the termination of Licensee's Contract Franchise. Upon expiration or termination of said Contract Franchise, Licensee shall have a reasonable time to apply for and/or reinstate its Contract Franchise with the City.

24.2 Upon written request of either party, this Agreement shall be renegotiated at any time in accordance with the requirements of state law upon any of the following events: changes in federal, state, or local laws, regulations, or orders that materially affect any rights or obligations of either party, including but not limited to the scope of the Agreement granted to Licensee or the compensation to be received by the City hereunder.

24.3 In the event the parties are actively negotiating in good faith a new Agreement or an amendment to this Agreement upon the termination date of this Agreement, the parties by written mutual agreement may extend the termination date of this Agreement to allow for further negotiations. Such extension period shall be deemed a continuation of this Agreement and not as a new Agreement.

24.4 Even after the termination of this Agreement, Licensee's responsibility and indemnity obligations shall continue with respect to any claims or demands related to Licensee's Attachments as provided for in Article 16.

25. AMENDING AGREEMENT

Notwithstanding other provisions of this Agreement, the terms and conditions of this Agreement shall not be amended, changed or altered except in writing and with approval by authorized representatives of both parties.

26. NOTICES

26.1 Wherever in this Agreement notice is required to be given by either party to the other, such notice shall be in writing and shall be effective when personally delivered to, or when mailed by certified mail, return receipt requested, with postage prepaid and, except where specifically provided for elsewhere, properly addressed as follows:

The City:

City of Leawood
Attn: City Clerk
4800 Town Center Drive
Leawood, Kansas 66211
(913) 663-9100

Grantee:

Verizon Wireless (VAW) LLC
d/b/a Verizon Wireless
180 Washington Valley Road
Bedminster, New Jersey 07921
Attn: Network Real Estate

With a copy to:

City of Leawood
Attn: City Attorney
4205 Town Center Drive
Leawood, Kansas 66211

or to such other address as either party, from time to time, may give the other party in writing.

26.2 The above notwithstanding the parties may agree to utilize electronic communications such as email for notifications related to the Supplement Application and approval process and necessary transfer or Facility modifications.

26.3 Licensee shall maintain a staffed 24-hour emergency telephone number, not available to the general public, where the City can contact Licensee to report damage to Licensee's facilities or other situations requiring immediate communications between the parties. Such contact person shall be qualified and able to respond to the City's concerns and requests. Failure to maintain an emergency

contact shall eliminate the City's liability to Licensee for any actions that the City deems reasonably necessary given the specific circumstances.

27. ENTIRE AGREEMENT

This Agreement supersedes all previous agreements, whether written or oral, between the City and Licensee for placement and maintenance of Licensee's Attachments on or within City Facilities within the geographical service area covered by this Agreement; and there are no other provisions, terms or conditions to this Agreement except as expressed herein.

28. SEVERABILITY

If any provision or portion thereof of this Agreement is or becomes invalid under any applicable statute or rule of law, and such invalidity does not materially alter the essence of this Agreement to either party, such provision shall not render unenforceable this entire Agreement but rather it is the intent of the parties that this Agreement be administered as if not containing the invalid provision.

29. GOVERNING LAW

The validity, performance and all matters relating to the effect of this Agreement and any amendment hereto shall be governed by the laws (without reference to choice of law) of the State of Kansas.

30. INCORPORATION OF RECITALS

The recitals stated above are incorporated into and constitute part of this Agreement.

31. PERFORMANCE BOND

On execution of this Agreement, Licensee shall provide to the City a performance bond or letter of credit in an amount of Fifty Thousand Dollars ($50,000.00). The bond shall be with an entity and in a form acceptable to the City. The purpose of the bond is to ensure Licensee's performance of all of its obligations under this Agreement and for the payment by Licensee of any claims, liens, taxes, liquidated damages, penalties, fees and charges due to the City which arise by reason of the construction, operation, maintenance or removal of Licensee's Attachments on or about City Facilities.

32. FORCE MAJEURE

32.1 In the event that either the City or Licensee is prevented or delayed from fulfilling any term or provision of this Agreement by reason of fire, flood, earthquake or like acts of nature, wars, revolution, civil commotion, explosion, acts of terrorism, embargo, acts of the government in its sovereign capacity, material changes of laws or regulations, labor difficulties, including without limitation, strikes, slowdowns, picketing or boycotts, unavailability of equipment of vendor, or any other such cause not attributable to the negligence or fault of the party delayed in performing the acts required by the Agreement, then performance of such acts shall be excused for the period of the unavoidable delay, and any such party shall endeavor to remove or overcome such inability as soon as reasonably possible.

32.2 The City shall not impose any charges on Licensee stemming solely from Licensee's inability to perform required acts during a period of unavoidable delay as described in Paragraph 32.1, provided that Licensee present the City with a written description of such *force majeure* within a reasonable time after occurrence of the event or cause relied on.

33. RELATIONSHIP OF PARTIES

Nothing in this Agreement shall be construed to create an association, joint venture, trust, or partnership, or impose a trust or partnership covenant, obligation, or liability on or with regard to either Party. Each Party shall be individually responsible for its own covenants, obligations, and liabilities under this Agreement and otherwise.

34. NO THIRD-PARTY BENEFICIARIES

Nothing in this Agreement is intended to confer rights on any third-party, as a third-party beneficiary or otherwise.

35. SURVIVAL

Any termination of this Agreement shall not release Licensee from any liability or obligations hereunder, whether of indemnity or otherwise, which may have accrued or may be accruing at the time of termination.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the day and year first above written.

CITY OF LEAWOOD, KANSAS

By: _____
Peggy J. Dunn, Mayor

ATTEST:

_____
Debra Harper, CMC, City Clerk

APPROVED AS TO FORM:

_____
Andrew K. Hall, Assistant City Attorney

VERIZON WIRELESS (VAW) LLC,
d/b/a Verizon Wireless

By: _____

Name: _____

Title: _____

Exhibit A

(Form of Supplement)

Supplement No. ____
To Master License Agreement

THIS SUPPLEMENT TO MASTER LICENSE AGREEMENT FOR ATTACHMENT TO CITY FACILITIES ("Supplement"), is made this ____ day of _____, 20__ (the "Effective Date") by and between the CITY OF LEAWOOD, KANSAS (the "City"), and VERIZON WIRELESS (VAW) LLC, a Delaware limited liability company authorized to do business in Kansas d/b/a Verizon Wireless ("Licensee") (collectively referred to as the "Parties").

1. **Master License Agreement.** This Supplement is a Supplement as referenced in that certain Master License Agreement for Attachments to City Facilities between City and Licensee dated _____ ____, 201__, (the "Master License Agreement"). All of the terms and conditions of the Master License Agreement are incorporated herein by reference and made a part hereof without the necessity of repeating or attaching the Master License Agreement. In the event of a contradiction, modification or inconsistency between the terms of the Master License Agreement and this Supplement, the terms of the Master License Agreement shall govern. Capitalized terms used in this Supplement shall have the same meaning described for them in the Master License Agreement unless otherwise indicated herein.

2. **Legal Description and Site Plan for Attachment.** City hereby licenses to Licensee certain spaces on and within City's Facilities located at the Site described below:

   Verizon Site Number: _____

   Property Address: _____

   City Pole Address: _____

   Electric Service Address: _____

   Site Plan: The Attachments of Licensee's Facilities are as shown on Attachment 1, attached hereto and made a part hereof.

3. **Term**. The Effective Date of this Supplement is set forth above; and the Term of this Supplement shall coincide with the Term set forth in Article 24 of the Master License Agreement.

4. **Consideration.** As prescribed by Article 3 of the Master License Agreement, the Annual Attachment Fee for use of the City's Facilities shall commence on the Effective Date of this Supplement in the amount of $270.

5. **Franchise Fee.** Pursuant to Licensee's contract Franchise with the City, commencing on the Effective Date of this Supplement, Licensee shall pay to Licensor an annual Franchise Fee in the amount of $25.

6. **Site Specific Terms.** [if applicable]

IN WITNESS WHEREOF, the City and Licensee have executed this Supplement effective the day and year first above written.

CITY OF LEAWOOD, KANSAS

By:_____
Brian Scovill, City Engineer

VERIZON WIRELESS (VAW) LLC
D/B/A VERIZON WIRELESS

By: _____
Name: _____
Title: _____

Attachment 1

(Site Plan of Facilities and Attachments)