

Members of the Governing Body will participate by video call-in only due to the COVID19 pandemic. The public will be able to view the meeting at <https://www.facebook.com/CityofPrairieVillage>

**COUNCIL MEETING AGENDA  
CITY OF PRAIRIE VILLAGE  
Council Chambers  
Monday, February 01, 2021  
6:00 PM**

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

If you would like to speak live during the public participation portion of the meeting, please notify City Clerk Adam Geffert at [cityclerk@pvkansas.com](mailto:cityclerk@pvkansas.com), and provide your name, address, and email address prior to 3 p.m. on February 1. The City will provide you with a link to join the meeting and will call on those who signed up to speak for up to 3 minutes once public participation begins.

To submit written comment to Council, please email [cityclerk@pvkansas.com](mailto:cityclerk@pvkansas.com) prior to 3 p.m. on February 1 to be shared with Councilmembers prior to the meeting.

**VI. CONSENT AGENDA**

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

By Staff

- 1. Approval of regular City Council meeting minutes - January 19, 2021
- 2. Approval of expenditure ordinance #2998
- 3. Approval of installation of stop signs at the intersection of 71st Terrace and Eaton
- 4. Approval of revisions to Council Policy 001

**VII. COMMITTEE REPORTS**

**VIII. MAYOR'S REPORT**

**IX. STAFF REPORTS**

**X. OLD BUSINESS**

**XI. NEW BUSINESS**

COU2021-18 Consider Resolution 2021-11 adopting the hazard mitigation plan  
Tim Schwartzkopf

COU2021-19 Consider small cell facility deployment and master right-of-way  
license agreement  
David Waters

COU2021-20 Consider reaffirming expenditures to date and authorize City staff to  
spend any additional Coronavirus Relief Funds for ongoing COVID-  
related expenses  
Tim Schwartzkopf

**XII. COUNCIL COMMITTEE OF THE WHOLE (Council President presiding)**

COU2021-21 Consider 2021 recreational fee schedule  
Meghan Buum

**XIII. ANNOUNCEMENTS**

**XIV. ADJOURNMENT**

**If any individual requires special accommodations - for example, qualified interpreter, large print, reader, etc., please notify the City Clerk at 385-4616, no later than 48 hours prior to the beginning of the meeting. If you are unable to attend this meeting, comments may be received by e-mail at [cityclerk@pvkansas.com](mailto:cityclerk@pvkansas.com).**

**CITY COUNCIL  
CITY OF PRAIRIE VILLAGE  
JANUARY 19, 2021**

The City Council of Prairie Village, Kansas, met in regular session on Monday, January 19, 2021, at 6:00 p.m. Due to the COVID-19 pandemic, Councilmembers attended a virtual meeting via the Zoom software platform. Mayor Mikkelson presided.

**ROLL CALL**

Roll was called by the City Clerk with the following Councilmembers in attendance remotely via Zoom: Chad Herring, Jori Nelson, Inga Selders, Ron Nelson, Tucker Poling, Bonnie Limbird, Sheila Myers, Piper Reimer, Dan Runion, Courtney McFadden, Ian Graves and Terrence Gallagher. Staff present via Zoom: Byron Roberson, Chief of Police; Keith Bredehoeft, Director of Public Works; Melissa Prenger, Public Works; City Attorney David Waters, attorney with Lathrop & Gage; Graham Smith, Gould Evans; Abby Kinney, Gould Evans; Wes Jordan, City Administrator; Jamie Robichaud, Deputy City Administrator; Meghan Boom, Assistant City Administrator; Tim Schwartzkopf, Assistant City Administrator; Lisa Santa Maria, retiring Finance Director; Nickie Lee, Finance Director; Adam Geffert, City Clerk.

**PLEDGE OF ALLEGIANCE**

**APPROVAL OF AGENDA**

Mrs. McFadden made a motion to approve the agenda for January 19, 2021. Ms. Nelson seconded the motion, which passed unanimously.

**PRESENTATIONS**

**Presentation of Council checks**

Mayor Mikkelson presented ceremonial \$1.00 checks given to Councilmembers annually for their service. The voided checks were mailed to Councilmembers later in the week.

**Recognition of Lisa Santa Maria**

The Mayor recognized Mrs. Santa Maria in advance of her retirement at the end of January 2021. He noted her many achievements and presented her with an award.

**PUBLIC PARTICIPATION**

Prairie Village resident Dr. Jameelah Lang spoke about issues of diversity in the City.

The following individuals provided comments related to the proposed "Village Vision 2.0" comprehensive plan:

- Bill Barr, 8600 Delmar Lane



- Whitney Kerr, 4020 W. 86<sup>th</sup> Street
- Todd Bleakley, 8621 Delmar Lane
- Sarah Blick, 4844 Somerset Drive
- Dan Schoepf, 8941 Linden Lane
- Brenda Satterlee, 8600 Mission Road
- George Williams, 7801 Colonial Drive
- Marc Vianello, 5209 W. 83<sup>rd</sup> Terrace
- Dennis Solis, 7339 Mission Road

### **CONSENT AGENDA**

Mayor Mikkelson asked if there were any items to remove from the consent agenda for discussion.

1. Approval of regular City Council meeting minutes - January 4, 2021
2. Approval of interlocal agreement with Johnson County for REIST0001: Reinhardt and 84<sup>th</sup> Terrace drainage improvement project
3. Approval of resolutions designating City officials and staff authorized to act on behalf of the City for investments and financial transactions
4. Approval of short-term special use permit for farm produce sales
5. Consider changes to annual bulk item pickup for 2021
6. Consider approval of 2021 exterior grant program
7. Approval of agreement with the Kansas City Crime Commission for the 2021 TIPS Hotline Crime Stoppers program

Mr. Runion asked for additional information about item #3. Mr. Jordan stated that the banking resolutions were necessary for new Finance Director Nickie Lee to act on behalf of the City.

**Mrs. McFadden made a motion to approve the consent agenda as presented. A roll call vote was taken with the following votes cast: "aye": Herring, J. Nelson, Selders, R. Nelson, Poling, Limbird, Myers, Reimer, Runion, McFadden, Graves, Gallagher. The motion passed unanimously.**

### **COMMITTEE REPORTS**

- **Planning Commission**

**PC2020-101 Consider Ordinance 2433 to adopt Village Vision 2.0, a revised comprehensive plan for the City of Prairie Village**

Ms. Robichaud stated that in the fall of 2018, the City Council authorized staff and the Planning Commission to begin working to update "Village Vision", the City's Comprehensive Plan. The original Village Vision was adopted in 2007, and many of the goals and implementation strategies outlined in that version had since been accomplished.



Mr. Smith and Ms. Kinney presented information about the new plan. They stated that after numerous work sessions with the Planning Commission and three public input meetings throughout 2019 and 2020, the draft of Village Vision 2.0 was presented to the City Council. Council then held three work sessions in the fall of 2020 to continue to work through Village Vision 2.0, and made the following changes to the document:

- Added definitions of housing affordability on pages 64-65 in Chapter 3: Implementation.
- Numbered definitions regarding allowable height and scale in village centers on page 52-59 were removed from the Comprehensive Plan, replaced instead by mentioning “multistory structures.” Text was updated regarding the height in village centers, calling for new development to reinforce existing development patterns (in both scale and height) with the exception that expanded height and scale might be considered if the developer was contributing to the plan’s stated policies in an exceptional way, particularly when providing lower cost housing units.
- The Neighborhood Patterns section on page 68 generally discouraged lot splits, but stated that they could be considered when serving a higher public purpose and the policies outlined within the Comprehensive Plan.
- The Civic Campus section on page 62 was revised to remove specific mention of the YMCA in relation to the civic center project and general wording was revised to reflect that the “city remained committed to considering a community center at the appropriate time.”
- The 75th Street section on page 61 had been clarified to recommend consideration of a future street redesign for 75th Street when the time was appropriate, advancing a more specific process with robust public input.

On January 5, 2021, the Planning Commission held a public hearing at which one resident spoke. The Planning Commission voted unanimously to recommend adoption of Village Vision 2.0, with the stipulation that the Planning Commission, under the requirements of state statute and the City’s municipal code, would commit to reviewing the plan annually and make necessary and relevant recommendations to the Governing Body for amendments. While the Planning Commission did vote unanimously to recommend approval, several members expressed concern that some of the changes made by Council introduced too much vagueness to the plan, and that amendments might be needed in the future to put together specific plans for certain areas, such as each of the village centers.

Mr. Waters stated that to adopt a new Comprehensive Plan, the Planning Commission must hold a public hearing and adopt a resolution recommending adoption to the Governing Body. The Governing Body would then have the following options:



1. Approve the recommendation of the Planning Commission by ordinance through a simple majority vote (including the Mayor) - 7 votes required
2. Override the Planning Commission's recommendation by a 2/3 majority vote (including the Mayor) – 9 votes required
3. Return the plan to the Planning Commission for further consideration, together with a statement specifying the basis for the Governing Body's failure to approve or disapprove

Mr. Waters said that if the Governing Body decided to return the Planning Commission's recommendations, the Planning Commission would have the option of resubmitting its original recommendations or submit new and amended recommendations. Upon receipt of the Planning Commission's recommendations, the Governing Body, by a simple majority of seven votes, could adopt, revise, or amend and adopt recommendations by ordinance, or take no further action.

Mr. Waters added that a motion to postpone a vote on the plan could also be made.

**Ms. Selders made a motion to override the Planning Commission's recommendation and remove all language in Village Vision 2.0 referencing the building of residential structures within the "footprints" of established village centers. The footprints would include locations where structures currently stood as well as parking lots.**

After some discussion, Ms. Selders clarified that she was specifically referring to the Village and Corinth shopping centers.

**Ms. Nelson initially seconded the motion, then rescinded her second after determining she would prefer to amend the motion. Mr. Runion then seconded Ms. Selders' motion.**

**Ms. Nelson made a motion to amend the motion to pause the document from moving forward so that it could be taken up after the global pandemic had ended and residents had an opportunity to be meaningfully engaged. After further discussion, the motion was seconded by Mrs. Myers. A roll call vote was taken with the following votes cast: "aye": J. Nelson, Myers, Runion, McFadden, Gallagher; "nay": Herring, Selders, R. Nelson, Poling, Limbird, Reimer, Graves, Mikkelson. The motion failed 8-5.**

**A roll call vote was taken on Ms. Selders' original motion, with the following votes cast: "aye": J. Nelson, Selders, Runion; "nay": Herring, R. Nelson, Poling, Limbird, Myers, Reimer, McFadden, Graves, Gallagher, Mikkelson. The motion failed 10-3.**

**Mr. Poling moved to accept the Planning Commission's unanimous recommendation and approve Ordinance #2433 adopting Village Vision 2.0 as the comprehensive plan for the City of Prairie Village. The motion was seconded by Mr. Graves.**



Mr. Runion moved to amend the motion to append all feedback received from residents to the final comprehensive plan publication. The motion was seconded by Mrs. McFadden.

Mr. Nelson made a motion to amend Mr. Runion's motion to include resident feedback in the meeting minutes rather than appending them to the comprehensive plan. Mr. Graves initially seconded the motion, but then rescinded his second. No other Councilmembers seconded the motion.

After further discussion, A roll call vote was taken on Mr. Runion's motion to amend with the following votes cast: "aye": J. Nelson, Myers, Runion, McFadden, Gallagher, Mikkelson; "nay": Herring, Selders, R. Nelson, Poling, Limbird, Reimer, Graves. The motion failed 7-6.

A roll call vote was taken on Mr. Poling's original motion. With the following votes cast: "aye": Herring, Selders, R. Nelson, Poling, Limbird, Reimer, Graves, Gallagher, Mikkelson; "nay": J. Nelson, Myers, Runion, McFadden. The motion passed 9-4.

- Mr. Poling stated that he had recently chaired his first Parks and Recreation Committee meeting, at which the group spoke about the proposed all-inclusive playground at Harmon Park, as well as an altered pool season in an effort to open the pool in 2021. The committee will also be reviewing its existing five-year plan and considering the development of a new plan.
- Ms. Limbird said that the Arts Council livestreamed a performance by Jim "Mr. Stinky Feet" Cosgrove on January 18. Approximately 100 spectators logged in to watch the 35-minute program, which featured songs about Martin Luther King, Jr.

### **MAYOR'S REPORT**

- Mayor Mikkelson reported that a record \$22,915 was donated to the Prairie Village Foundation in December, 2020. He added that Steve and Marianne Noll were the anonymous donors that matched nearly \$10,000 in donations that were received.
- The Mayor, Mr. Jordan, Mr. Schwartzkopf and Chief Roberson attended a virtual Martin Luther King, Jr. dinner hosted by the NAACP of Johnson County, at which the City was given a diversity award.
- The Mayor provided an update on the COVID-19 pandemic, noting that phase one vaccination rollouts continued, and phase two would begin in the near future. He stated that both new hospitalizations and deaths were down slightly.
- The Mayor shared the passing of the mayor of Dolyna, Ukraine, the sister city of Prairie Village, from the COVID-19 virus.
- The Mayor, Mr. Jordan, Ms. Robichaud and lobbyist Stuart Little met virtually with Kansas Representative Sharice Davids the prior week.



- The Mayor co-chaired a Mid-America Regional Council First Suburbs Collation meeting. Guest speakers from other cities discussed their experiences addressing affordable housing issues.
- The Mayor stated that the Kansas Legislature had recently begun its 2021 session, and was fast tracking a bill to eliminate the tax lid. The tax lid was expected to be replaced by a “tax transparency” bill.
- The Mayor said that the Northeast Johnson County Chamber of Commerce would host a virtual State of the Cities luncheon on January 21.

### **STAFF REPORTS**

- Mr. Gallagher asked Mr. Jordan if City staff could work with the county to help expedite the vaccine rollout to Prairie Village residents. Mr. Jordan said that he had been in communication with the county health department and emergency management, and that a clearer picture of the process would be available soon.
- Mrs. Myers asked when the Santa Fe Trail signage would be installed around the City. Mr. Jordan stated that staff had been in contact with Mark Morgan, the leader of the project, and that he would present information at an upcoming Council meeting.

### **OLD BUSINESS**

There was no old business to come before the Council.

### **NEW BUSINESS**

**COU2021-13**

**Consider project DEN0001 - Delmar and Fontana low water crossing removal and drainage project - construction contact final change order with VF Anderson Builders, LLC**

Mr. Bredehoeft stated that the project began in April 2019 and continued through the summer of 2020. Two dangerous low water street crossings were removed, and the 100-year flood risk for seven properties was mitigated. Changes in the project costs were driven mostly from site conditions encountered during construction, sanitary sewer relocation construction items, site grading and stone wall construction, and site restoration items. The large scale of the channel improvements and close proximity to existing residential properties led to more disturbance than anticipated for items such as roadway, driveways, yards, and landscape restoration.

The final contract amount with VF Anderson Builders LLC totaled \$5,076,792.90. Johnson County agreed to include the additional costs in their Stormwater Management Advisory Council (SMAC) reimbursement funding, constituting 75% of the total construction costs. The county's reimbursement share for the change order totaled \$180,709. The City's share of \$60,236 would be funded out of the CIP under Project DELN0001.

**Mrs. McFadden made a motion to approve the construction final contract change order with VF Anderson Builders, LLC in the amount of \$240,945 for Project DELN0001 for the Delmar and Fontana low water crossing removal and drainage project. Mr. Poling seconded the motion, which passed unanimously.**

**COU2021-14          Updates to Alcohol and Cereal Malt Beverage Ordinances**

Mr. Waters stated that Johnson County voters approved a measure to eliminate the requirement that drinking establishments make 30% of their earnings from food sales in November 2020. The proposed Ordinance would update City Code to reflect the change, and would also remove residency requirements for obtaining a liquor license based on a recent opinion of the Kansas Attorney General.

**Mr. Poling made a motion to approve Ordinance #2432, amending the City Code regarding alcoholic liquor and cereal malt beverages. Ms. Limbird seconded the motion. A roll call vote was taken with the following votes cast: “aye”: Herring, J. Nelson, Selders, R. Nelson, Poling, Limbird, Myers, Reimer, Runion, McFadden, Graves, Gallagher. The motion passed unanimously.**

**Mr. Nelson made a motion that the City Council move to the Council Committee of the Whole portion of the meeting. The motion was seconded by Mrs. Myers and passed unanimously.**

**COUNCIL COMMITTEE OF THE WHOLE**

**COU2021-15          Discussion of Harmon Park playground**

Ms. Prenger gave a presentation showing the proposed location of the new playground. She stated that the Governing Body initially approved the construction of the Harmon Park inclusive playground in the 2018 CIP in the amount of \$575,000. The project cost included both design and construction. Since being approved, the location of the playground had been tied to two discussions involving Harmon Park: Village Square and the Civic Center. It was determined during each of those discussions to delay the building of the playground to avoid any construction conflicts.

Village Square discussions were completed in late 2018, with the Governing Body determining to move forward with the skate park, performance pad and inclusive playground. Additionally, the discussion of a partnership with other local entities for a Civic Center was paused due to the COVID-19 pandemic. Recognizing that the Civic Center discussion was not complete but also that the City wished to move forward with this project, staff reviewed potential locations for the playground and recommended a site in keeping with the 2009 Master Plan.

The project would also incorporate the relocation of the practice tennis courts, relocated parking, and new sidewalk connectivity when removing the old playground. The additional project scope would be funded in the CIP in 2022.

**Mr. Poling made a motion to proceed with the Harmon Park Inclusive Playground at the recommended location with additional improvements to parking and internal connectivity. Mrs. Myers seconded the motion.**

Mr. Gallagher shared concern that the proposed relocation of handicapped parking spaces would be too far from the pavilions. Ms. Prenger noted that handicapped spaces would be relocated closer to the new playground. Additionally, the playground would be much closer to the two park shelters than its previous location.

Ms. Reimer asked if the existing bathroom facilities attached to the pavilion would be replaced. Mrs. McFadden stated that the Parks and Recreation Committee was considering updates to the restroom facilities in the future as part of a separate project.

**After further discussion, the motion passed unanimously.**

#### **Discussion on marijuana ordinance changes**

Ms. Selders and Mr. Graves gave a presentation in an effort to generate discussion with the Governing Body about marijuana laws in Kansas and surrounding states. They noted that Douglas County, Kansas, Wichita, Kansas and Kansas City, Missouri had all amended their marijuana ordinances to reduce fines associated with possession.

They offered the following options for staff to investigate and share with the Council Committee of the Whole:

1. Striking marijuana-related language from municipal enforcement code and the City's use of the Uniform Public Offense Code
2. Reducing municipal penalties related to cannabis infractions, including transitioning to citations in lieu of municipal court.
3. Similar solutions that present themselves during investigation of (1) or (2).

**Ms. Selders made a motion to direct staff to investigate the feasibility and legality of the options presented and return to the Council Committee of the Whole after such an appropriate investigation is complete. Mr. Graves seconded the motion.**

Mr. Runion stated that City staff should have additional leeway to research both the positive and negative consequences that other cities who have legalized or decriminalized marijuana have experienced.

**After further discussion, the motion passed unanimously**

**COU2021-16          Consider installation of stop signs at the intersection of 71<sup>st</sup> Terrace and Eaton Street**

Mr. Bredehoeft stated that the intersection of 71<sup>st</sup> and Eaton Street had two stop signs located in the northbound and southbound approaches to the intersection. A request was received to consider making the intersection a four-way stop. TranSystems, the city's traffic engineering consultant, evaluated the area and intersection and determined it would be acceptable to install two additional stop signs. Mr. Bredehoeft added that the Police Department had reviewed the TranSystems study and agreed with the installation of the stop signs.

**Ms. Limbird made a motion to approve the installation of stop signs at the intersection of 71<sup>st</sup> Terrace and Eaton Street. Mr. Herring seconded the motion, which passed unanimously.**

**COU2021-17          Consider approval to revision of Council Policy 001**

Ms. Buum said that at the January 4 City Council meeting, the Council voted to establish the Diversity Task Force as a permanent committee. Council Policy 001 was revised to include the addition of the Diversity Committee. Also, several minor administrative changes were made to the policy, including adjustments to appointment practices, meeting times, and committee title names.

Further, the revised policy outlined a "Code of Conduct" for committee members. Previously, the policy referenced the code of ethics found in Chapter 1, Article 2 of the Municipal Code. However, that portion of the code specifically stated that the code of ethics "shall not apply to persons who serve only as members of boards, committees, or commissions", and many components did not specifically apply to volunteer committee members.

**Mr. Herring made a motion to approve revisions to Council Policy 001 to include the establishment of the Diversity Task Force as a permanent committee, minor administrative changes, and the volunteer code of conduct. Mr. Graves seconded the motion, which passed unanimously.**

**Mr. Herring moved that the City Council end the Council Committee of the Whole portion of the meeting. The motion was seconded by Mr. Nelson and passed unanimously.**

**ANNOUNCEMENTS**

Announcements were included in the Council meeting packet.

**ADJOURNMENT**

**Mr. Nelson made a motion to adjourn the meeting. The motion was seconded by Ms. Nelson, and passed unanimously.**

**Mayor Mikkelsen declared the meeting adjourned at 10:46 p.m.**

Adam Geffert  
City Clerk

# CITY TREASURER'S WARRANT REGISTER

DATE WARRANTS ISSUED:

Warrant Register Page No. 1

January 19, 2021

Copy of Ordinance  
2998

Ordinance Page No. \_\_\_\_\_

An Ordinance Making Appropriate for the Payment of Certain Claims.

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

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

| NAME                                | DATE       | AMOUNT         | TOTAL          |
|-------------------------------------|------------|----------------|----------------|
| <b>EXPENDITURES:</b>                |            |                |                |
| Accounts Payable                    |            |                |                |
| 23078-23088                         | 12/2/2020  | 59,061.60 ✓    |                |
| 23089                               | 12/3/2020  | 12,833.03 ✓    |                |
| 23090                               | 12/4/2020  | 876.80 ✓       |                |
| 23091-23108                         | 12/9/2020  | 1,508.46 ✓     |                |
| 23109-23175                         | 12/11/2020 | 1,124,937.16 ✓ |                |
| 23176-23221                         | 12/18/2020 | 111,225.41 ✓   |                |
| 23222-23245                         | 12/31/2020 | 20,643.30 ✓    |                |
| Payroll Expenditures                |            |                |                |
| 12/4/2020                           |            | 313,566.09 ✓   |                |
| 12/18/2020                          |            | 316,294.82 ✓   |                |
| 12/31/2020                          |            | 435,667.34 ✓   |                |
| Electronic Payments                 |            |                |                |
| Electronic Pmnts                    |            |                |                |
|                                     | 12/1/2020  | 224.82 ✓       |                |
|                                     | 12/3/2020  | 4,627.48 ✓     |                |
|                                     | 12/10/2020 | \$ 1,829.20 ✓  |                |
|                                     | 12/14/2020 | 15,643.06 ✓    |                |
|                                     | 12/30/2020 | 172.92 ✓       |                |
|                                     | 12/31/2020 | 4,394.57 ✓     |                |
| <b>TOTAL EXPENDITURES:</b>          |            |                | 2,423,506.06   |
| VOIDED CHECKS                       |            |                |                |
| Voided Checks                       | Check #    | ( Amount )     |                |
| <b>TOTAL VOIDED CHECKS:</b>         |            |                | -              |
| <b>GRAND TOTAL CLAIMS ORDINANCE</b> |            |                | 2,423,506.06 ✓ |

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

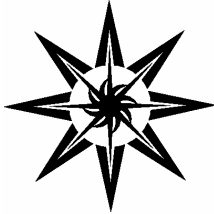
Passed this 19th day of January 2021.

Signed or Approved this 19th day of January 2021.

(SEAL)

ATTEST: Courtney Kramer 01/14/2021  
City Treasurer

ATTEST: David Rye 1-13-2021  
Finance Director



## **PUBLIC WORKS DEPARTMENT**

**Council Committee of the Whole: January 19, 2021  
City Council: February 1, 2021**

### **COU2021-16: CONSIDER INSTALLATION OF STOP SIGNS AT THE INTERSECTION OF 71<sup>ST</sup> TERRACE AND EATON STREET**

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#### **RECOMMENDATION**

Move to approve the installation of stop signs at the intersection of 71<sup>st</sup> Terrace and Eaton Street.

#### **BACKGROUND**

Currently the intersection of 71<sup>st</sup> Terrace and Eaton Street has two stop signs located in the northbound and southbound approaches to the intersection. It was requested to consider making this intersection a 4 way stop. TranSystems, the city's traffic engineering consultant, evaluated the area and intersection and determined it would be acceptable to install the additional 2 stop signs. The TranSystems study is attached. City Council approval is necessary to install stop signs which are regulatory signs. The Police Department has reviewed the TranSystems study and agrees with the installation of the stop signs.

#### **FUNDING SOURCE**

Costs for the signs will come from the Public Works Operations Budget.

#### **ATTACHMENTS**

TranSystems Study

#### **PREPARED BY**

Keith Bredehoeft, Public Works Director

January 13, 2021

## Memorandum

2400 Pershing Road  
Suite 400  
Kansas City, MO 64108  
Tel 816 329 8600  
Fax 816 329 8601

[www.transystems.com](http://www.transystems.com)

**To:** Keith Bredehoeft, PE  
Public Works Director  
7700 Mission Road  
Prairie Village, Kansas 66208

**From:** Jeff Wilke, PE, PTOE

**Date:** November 12, 2020

**TranSystems Project No.:** P101190240

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**Subject: 71st Terrace and Eaton Street Intersection Review**

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In accordance with your request, TranSystems has completed the following review of the intersection of 71st Terrace and Eaton Street in the City of Prairie Village. In general, the purpose of this study is to review the existing intersection control signage at the study intersection and determine whether changes might be appropriate. Our assessment has been based on field observations and the procedures described in the Manual on Uniform Traffic Control Devices (MUTCD). Our findings are summarized in this memorandum.

The intersection of 71st Terrace and Eaton Street has four-legs, and operates with two-way stop sign control. Stop signs are posted for Eaton Street on the north and south legs of the intersection, while 71st Terrace is allowed uninterrupted flow. Both stop signs are mounted properly according to MUTCD standards, and are clearly visible to approaching vehicles. There are no marked crosswalks at the intersection.

Eaton Street is a through street between 71st and 75th Street. Eaton Street is stop controlled at four intersections along this roadway segment, two of which are multi-way stops at 73rd Street and at 74th Street. There are no stop signs along 71st Terrace between State Line Road and Belinder Avenue.

There are several features that limit sight lines at the study intersection. There is vegetation in the northwest, northeast, and southeast corners that restricts sight lines. The southeast corner has tall ornamental grass and landscaping close to the street. There are trees and other brush very close to the street along the north side of 71st Terrace in the northeast corner and along the west side of Eaton Street in the northwest corner. The trees and brush are within a drainage ditch that generally follows along the north side of 71st Terrace. The ditch flows under the north leg of the intersection in a box culvert. There is fencing installed on the headwalls of the culvert in the northeast and northwest corners. The fencing and vegetation restrict sight lines from each intersection approach. Parked cars in nearby driveways can also limit sight lines. In general, there is little to no horizontal curvature near the intersection, and the segments surrounding have flat vertical alignment, so the alignments do not limit sight lines.

Sight lines may be improved at the intersection by coordinating with the property owners to trim and remove foliage, especially within the right-of-way. This may be difficult along the north side of 71st Terrace though, as a good portion of the trees and brush are within the drainage ditch. The removal of foliage may not be enough to provide adequate sight lines. The fencing on the box culvert in the northwest corner of the intersection is close to the roadway and will still be within driver's line of sight.

Counts were not conducted at this intersection, as it is generally a low volume intersection of two local streets. However, at the time of the review, the east leg of 71st Terrace and other surrounding streets were under construction. This resulted in heavier volumes of traffic on Eaton Street than usual.

Five crash reports were obtained from the City of Prairie Village Police Department for the study intersection between 2011 and 2020. Three of the crashes that occurred were angle crashes that involved northbound vehicles that failed to yield the right-of-way at the stop sign for eastbound vehicles. One crash involved a northbound vehicle failing to yield the right-of-way for a westbound vehicle. The other crash involved a westbound driver turning left who did not see an eastbound vehicle.

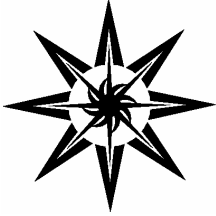
While there have been several angle crashes, most do not appear to be related to sight distance restrictions at the intersection. The northbound angle crashes with eastbound vehicles are in the one direction that has clear sight lines at the intersection. No other information was provided to indicate any crash patterns or tendencies. It is important to note that of the five crashes reported at this intersection, only three were reported since 2015. This is a relatively low crash frequency.

In general, the intersection appears to be operating acceptably under normal conditions with two-way stop sign control. However, there are some sight line restrictions in three corners of the intersection. Trimming or removal of foliage in these corners would improve sight lines, but will not completely address sight distance concerns. Since the sight line restrictions cannot be fully eliminated, other options should be considered to address this situation.

One option to consider would be switching stop sign locations from the north and south legs to the east and west legs. However, because sight distance is restricted in most corners, switching stop sign locations would not improve the driver's sight lines. Therefore, switching stop controlled approaches is not recommended.

As local streets, it is unlikely that the traffic volume criteria for multi-way stop control is satisfied under typical conditions. However, the MUTCD states that multi-way stop control may be considered at the intersection of two residential neighborhood collector (through) streets of similar design and operating characteristics where multi-way stop control would improve traffic operational characteristics of the intersection. The MUTCD also states a multi-way stop may be considered at locations where a road user cannot see conflicting traffic after stopping. Multi-way stop control could enhance safety and operations at the intersection due to restricted sight lines. Therefore, multi-way stop sign control would be appropriate at the 71st Terrace and Eaton Street intersection to address sight distance restrictions.

To implement multi-way stop sign control, new Stop signs (MUTCD No. R1-1, size 30" x 30") should be installed for eastbound and westbound traffic on 71st Terrace in advance of the intersection. The new stop signs should have orange warning flags temporarily installed above the stop sign for at least 90 days to allow drivers to adjust to the change in traffic controls. Additionally, the All Way plaque (MUTCD No. R1-3p, size 18" x 6") should be installed below each new and existing stop sign at the intersection.



## ADMINISTRATION

Council Committee of the Whole: January 19, 2021  
City Council: February 1, 2021

**COU2021-17:                      Approval of revisions to Council Policy 001**

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### **SUGGESTED MOTIONS**

Approve revisions to Council Policy 001 to include the establishment of the Diversity Task Force as a permanent committee, minor administrative changes, and the addition of a volunteer code of conduct.

### **BACKGROUND**

At the January 4 City Council meeting, the Council voted to establish the Diversity Task Force as a permanent committee. The attached revised policy includes the addition of the Diversity Committee.

Several minor administrative changes have been made to the policy, for example, adjustments to appointment practices, meeting times, and committee title names.

More substantially, the revised policy outlines a “Code of Conduct” for committee members. Previously, the policy referenced the code of ethics found in Chapter 1, Article 2 of the Municipal Code. However, that portion of the code specifically states “This code of ethics shall not apply to persons who serve only as members of boards, committees, or commissions” and many tenants do not specifically apply to volunteer committee members.

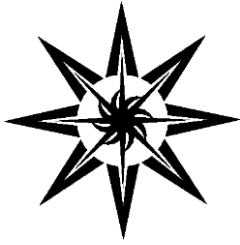
### **ATTACHMENTS**

Council Policy 001 - redline version  
Council Policy 001 - draft final version

### **PREPARED BY**

Meghan Buum  
Assistant City Administrator

Date: January 11, 2021



City Council Policy: CP001 - City Committees

Effective Date: ~~July 1, 2019~~February 1, 2021

Amends: CP001 - dated ~~November 5, 2018~~July 1, 2019

Approved By: Governing Body

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## I. PURPOSE

To establish public committees which will allow citizen involvement and provide recommendations to the Governing Body.

## II. RESPONSIBILITY

- a. Except as otherwise provided herein, the Mayor, with the consent of the City Council, will be responsible for appointing members to serve on the committees established by this policy.
- b. The Mayor will appoint a City Council Member to serve as Committee Chair and a City Council Member to serve as Vice-Chair for the Parks and Recreation Committee, Environmental Committee, Prairie Village Arts Council, Insurance Committee, ~~and~~ Finance Committee, and Diversity Committee. Both Council Members will be voting members.
- c. The Mayor will appoint a City Council Member to serve as a voting member of the ~~Police~~ Pension Board of Trustees without the consent of the City Council, and will appoint one additional voting member to the ~~Police~~-Pension Board of Trustees, with the consent of the City Council.
- d. The Mayor will appoint a City Council Member to serve as a voting member of the Tree Board without the consent of the City Council.
- e. The Mayor will appoint a City Council Member as a nonvoting "Council Liaison" to the VillageFest Committee and JazzFest Committee.
- f. The Mayor will appoint a City Council Member as a "Council Liaison" nonmember observer to the Planning Commission/Board of Zoning Appeals.
- g. Vacancies will be filled for the unexpired term by appointment by the Mayor with the consent of the City Council, where applicable.
- h. Each Council Member, Committee Chair, and Council Liaison (except Council Liaison to the Planning Commission/Board of Zoning Appeals) will set direction, attend meetings, communicate the Governing Body's direction, priorities, and policies, prepare committee budget, in consultation with City staff, manage city resource requests, including the budget and staff time, and report back any necessary information and recommendations to and from the City Council.
- i. City staff will be responsible for publicizing meeting notices, providing budget and policy oversight, and assisting with committee objectives, as needed. They will attend meetings at their discretion. Committees will normally be responsible for taking their own minutes and submitting them to the Staff Liaison, once approved by the Committee.
- j. Committee members will have responsibility for a majority of administrative tasks and cannot delegate to City staff without prior approval from the Committee Chair, Vice-Chair, or City Administration.
- k. All committee meetings, including subcommittee meetings and special meetings, are considered open meetings if a quorum is present, as defined by Kansas Open Meetings Act.
- l. Committee meetings will be held on public property unless permission is granted from

the Mayor and Committee Chair. The Committee Chair and/or Vice-Chair must be present at the business meetings.

### III APPOINTMENT PROCESS

- a. The following process is outlined as a guide for committee appointments. Minor adjustments may be made by the Mayor and City Administrator.
- b. Advertise opportunities in October ~~and~~, November, and December in the Village Voice, City website, news release, etc.
- c. Applications are due by December-January 1; online applications preferred. All materials will be sent to the City Council once the application period has closed.
- d. Committee Chair Council Liaison and City staff representative discuss incumbents, attendance and contributions to the committee along with applications and vacancies, and may interview candidates. The Committee Chair and Council Liaison for each committee, except the Planning Commission/Board of Zoning Appeals, will recommend appointments to the Mayor.
- e. For Planning Commission/Board of Zoning Appeals, the selection committee will consist of the Mayor, Planning Commission Council Liaison, Deputy City Administrator, Planning Consultant, and Council President. The selection committee will recommend appointments to the Mayor.
- f. Mayor will make the final determination of recommended appointees for all committees.
- g. Recommended appointments will be included in the agenda packet prior to the Council meetings.
- h. Mayoral appointment of Council members to serve on committees, as directed by this policy, will typically become effective in March-January.
- i. Applicants who are not selected or approved will be notified by City administration.
- j. Appointments will typically be presented and voted on at a City Council meeting in March-February.
- k. In the event of vacancies after the regular annual appointments, the applicants who submitted applications in October and November during the prior application process will be first considered, and vacant positions will be re-advertised, if needed.
- l. All appointed Committee Members and non-appointed Volunteers must sign a liability and -/photo waiver and a Code of Conduct acknowledgement prior to serving on a Committee or volunteering for the City.

### V. REMOVAL PROCESS

The following process is outlined as a guide for the removal of a committee member. This does not apply to the members of the Planning Commission, whose removal is governed by Ord. 1901; PVMC 16, Article 1 and the adopted bylaws of the Planning Commission.

Appointees serve at the pleasure of the Governing Body. A committee member may be removed prior to the expiration of his or her term by the recommendation of the Council Liaison and City Administrator, with final approval by the Mayor. All committee members are expected to attend meetings and are subject to the ~~City's ethics~~ code of conduct as outlined in this policy. This removal process applies to appointed committee members and non-appointed committee volunteers.

### VI. COMMITTEE GUIDELINES

- a. Length of Terms - All committee terms will be approximately two years depending on the appointment schedule set forth above, except for Planning Commission, Civil Service Commission, and Tree Board, who, by code, serve for three years, and Committee Chairs, Council Liaisons, and youth representatives, who serve for an approximate one-year term. All committee members and youth representatives will serve without compensation.
- b. Attendance - All committee members must attend 75% of meetings held in a calendar

year. A member who does not meet attendance requirements may be subject to removal prior to the end of the appointed term. Members who are unable to attend a meeting must notify the Committee Chair or Staff Liaison in advance to ensure a quorum will be present.

- c. City Operation Committees include the Insurance Committee, ~~Police~~ Pension Board/Employee Retirement Committee, Finance Committee, Tree Board, Parks and Recreation Committee, and the Civil Service Commission.
- d. Event Committees include the JazzFest Committee and the VillageFest Committee, which are responsible for specific city-sponsored events.
- e. Lifestyle Committees include the Environmental Committee, ~~and the~~ Arts Council, and the Diversity Committee.
- f. Statutory Committees include the Planning Commission, Board of Zoning Appeals, and the Board of Code Appeals as required by Kansas Statutes.
- g. Committee Resources - City Council reviews and approves the committee budget each year. No committee is allowed to lend or transfer given funds to another committee or another organization without staff approval except The Prairie Village Foundation. The committee budget is for specific items or events, which are the responsibility of that committee. If additional funds are needed, committee representatives must make a request to the City Council. No committee may use its funds to contribute funding support to another organization outside of required membership dues without specific City Council approval.
- h. If a committee desires additional staff time for an event, initiative, or program, that request will be communicated to the City Administrator through the Committee Chair or Council Liaison. Any significant new program or proposal that requires staff time or additional funding will need to come before the City Council to ~~determine if and where it fits on the priority list and~~ obtain City Council approval before the committee may proceed.
- i. Special meetings may be called by the Committee Chair, with approval of the Mayor, along with required public notification.
- j. A quorum for each committee is a majority of the then sitting, voting members of each committee.
- k. Notice of all meetings must be posted on the City's website.

### CODE OF CONDUCT

Committee members are subject to the following ethical standards of conduct, which will be reviewed annually with committee members following new committee appointments.

- a. Members are bound to observe the highest standards of professionalism and to discharge faithfully the duties of their committee, regardless of personal consideration, recognizing that public interest must be their primary concern.
- b. The conduct in official affairs must be beyond reproach. Members are expected to promote positive interactions with fellow committee members, City staff, and the community. A member's actions or statements should not discredit, embarrass, or reflect poorly on the City.
- c. No committee member shall engage in any business or transaction or shall have a financial or other personal interest which is incompatible with the proper discharge of duties.
- d. Members are encouraged to vote in any and all elections for which they are eligible; however, committees and members thereof should not use such committees or their individual memberships thereof to raise money, influence elections, or otherwise act as organized political organizations in their capacities as committees or committee members.
- e. As volunteers, members do not have enforcement authority and shall not get involved in enforcement actions that would otherwise be handled by a City department.
- f. Committees and members thereof shall not set up accounts, financial or otherwise,

without prior committee or City approval and without coordination with City staff.

## **POLICY**

There are established public committees with the following requirements for membership, meetings and duties:

### **1. Insurance Committee**

- a. The Insurance Committee will consist of a voting Chair and Vice-Chair, each a City Council Member appointed by the Mayor without the consent of the City Council. The Mayor, with the consent of the City Council, appoints three other voting members who have an insurance background.
- b. The Insurance Committee will meet during the day as needed and adjourn no later than 6:00 p.m.
- c. The Insurance Committee will monitor and discuss insurance issues relating to the City and recommend insurance bid award, when applicable.

### **2. ~~Police~~ Pension Board of Trustees/Employee Retirement Board**

- a. The ~~Police~~ Pension Board of Trustees/Employee Retirement Board will consist of three voting members. One member will be a council member who is appointed by the Mayor, without the consent of the City Council. One member will be appointed by the Mayor, with the consent of the City Council. One voting member will be designated by the Police Department employees, with a term of service until the appointment of successor.
- b. The ~~Police~~ Pension Board of Trustees/Employee Retirement Board will meet as needed during the day and adjourn no later than 6:00 p.m.
- c. The Board has the powers and duties as designated in the Prairie Village, Kansas Police Department Revised Retirement Plan.

### **3. Finance Committee**

- a. The Finance Committee will consist of six voting members, including a Chair and Vice-Chair, who are City Council Members, appointed by the Mayor without the consent of the City Council.
- b. The Finance Committee will meet as needed during the day and adjourn no later than 6:00 p.m.
- c. The Finance Committee will counsel and recommend policies and activities to the Governing Body and as directed by the Governing Body, including but not limited to, management of financial resources, financial/investment policies and provide direction and guidance to staff on financial issues.

### **4. Tree Board**

- a. The Tree Board will consist of eight voting members appointed by the Mayor with the consent of the City Council. A City Council Member will be appointed by the Mayor, without the consent of the City Council, to serve as a voting member. All voting members are appointed by the Mayor with the consent of the City Council.
- b. The Tree Board will normally meet at 6:00 p.m. six times per year.
- c. The Tree Board will study, investigate, assess, counsel and recommend to the Governing Body, and as directed by the Governing Body, a policy relating to trees, shrubs and other plantings upon city-owned property; to promote and preserve the beautification of the City; to provide the protection of the public health and safety; and to protect and encourage the preservation of trees, shrubs and plantings. (Ord. 1911, & 2075)

### **5. Parks and Recreation Committee**

- a. The Parks & Recreation Committee will consist of voting members who serve as Chair and Vice-Chair, each a City Council Member appointed by the Mayor without the consent of the City Council. Ten other voting members who include one from each ward, two at-large, a tennis representative, and a swim representative are appointed by the Mayor with the consent of the City Council. There may be two non-voting youth representatives.
- b. The Parks & Recreation Committee will normally meet at ~~6:30~~5:30 p.m. six times per year.
- c. The Park & Recreation Committee will counsel and recommend policies and activities to the Governing Body, and as directed by the Governing Body, including, but not limited to, recreational activities in the parks, intergovernmental agreements pertaining to park and recreation facilities, use of park system facilities, development of park system facilities, short and long-range plans for city parks, operations and activities related to the park system. (Ord. 1541 & 1875)

**6. Police Civil Service Commission**

- a. The Police Civil Service Commission will consist of five voting members appointed by the Mayor with the consent of the City Council. A Chair will be designated by the Mayor, without the consent of the City Council. Members will not hold any other public office of the City.
- b. The Civil Service Commission will meet as needed and adjourn no later than 6:00 p.m.
- c. The Civil Service Commission responsibilities, as established in PVMC 1-807 & 1-808, including, but not limited to, assisting in determining qualifications and fitness of applicants for the position of commissioned police officer, for promotion of officers; and further will serve as an appeals board for commissioned officers. (Ord. 1468 & 1614)

## **7. JazzFest**

- a. The JazzFest Committee is an open committee and the volunteer committee members are not appointed by the Mayor. A City Council Member will be appointed by the Mayor, without the consent of the City Council, to serve as the non-voting Council Liaison. A Chair will be appointed by the Mayor without the consent of the City Council.
- b. The JazzFest Committee will meet at 5:30 p.m. as needed.
- c. The JazzFest Committee will coordinate and host the annual JazzFest event.

## **8. VillageFest**

- a. The VillageFest Committee is an open committee and the volunteer committee members are not appointed by the Mayor. A City Council Member will be appointed by the Mayor, without the consent of the City Council, to serve as the non-voting Council Liaison. A Chair will be appointed by the Mayor without the consent of the City Council.
- b. The VillageFest Committee will meet at 5:30 p.m. as needed.
- c. The VillageFest Committee will coordinate and host the annual VillageFest event.

## **9. Prairie Village Arts Council**

- a. The Prairie Village Arts Council will consist of a voting Chair and Vice-Chair, each a City Council Member appointed by the Mayor without the consent of the City Council. Twelve additional voting members appointed by the Mayor, with consent of the City Council, will also serve on the Committee. There may be two non-voting youth representatives.
- b. The Prairie Village Arts Council will meet at 5:30 p.m. each month, as needed.
- c. The Prairie Village Arts Council will counsel and implement policies and activities to the Governing Body and as directed by the Governing Body, including, but not limited to, promotion and development of the arts in Prairie Village and development of cultural activities for the city.

## **10. Environmental Committee**

- a. The Environmental Committee will consist of a voting Chair and Vice-Chair, each a City Council Member appointed by the Mayor without the consent of the City Council. Twelve additional voting members shall be appointed by the Mayor, with the consent of the City Council. There may be two non-voting youth representatives.
- b. The Environmental Committee will normally meet at 5:30 p.m. every other month.
- c. The Environmental Committee will implement policies and activities as directed by the Governing Body, including, but not limited to, maintaining and enhancing air quality, reducing waste disposal in landfills, increasing awareness of the need to conserve natural resources and generally educating the public on methods to protect the environment.

## **11. Diversity Committee**

- a. The Diversity Committee will consist of a voting Chair and Vice-Chair, each a City Council Member appointed by the Mayor without the consent of the City Council. Nine additional voting members shall be appointed by the Mayor, including a representative from the Planning Commission, with the consent of the City Council. A non-voting representative from the Police Department shall serve on the committee. There may be two non-voting youth representatives.
- b. The Diversity Committee will normally meet at 5:30 p.m. on the # day of every other month.
- c. The Diversity Committee will implement policies and activities as directed by,

and make recommendations to, the Governing Body, including, but not limited to, attracting and retaining diverse residents through housing and development policy, the arts, sustainability, affordability, events, policing, infrastructure, recruiting and hiring, funding, and communication. The mission includes diversity of race, religion, color, sexual orientation, gender identity, national origin, disability and more.

**11.12. Planning Commission/Board of Code & Zoning Appeals**

- a. The Planning Commission/Board of Code & Zoning Appeals will consist of seven voting members including a Chair, Vice-Chair and five other voting members all residing in or within three (3) miles of Prairie Village. Preference will be given to Prairie Village residents. All voting members are appointed by the Mayor with the consent of the City Council. The Chair and Vice-Chair will be elected once per year by the Commission, with different leadership elected for the Board of Code & Zoning Appeals. The term of appointment on the committee will be three years. A Council Liaison appointed by the Mayor, without the consent of the City Council, will attend meetings as a nonmember observer.
- b. The Planning Commission will meet on the First Tuesday of the month at 7 p.m. The Board of Code & Zoning Appeals will meet as needed at 6:30 p.m. on the First Tuesday of the month.
- c. The duties of the Planning Commission are described in PVMC Chapter XVI covering such responsibilities as Comprehensive Plan, subdivision & zoning regulations, approval of plats. (Ord. 1901; PVMC 16, Article 1 and their adopted bylaws). The duties of the Board of Zoning Appeals are described in PVMC 19.54 covering the hearing of requests for variances to the zoning regulations and appeals of an interpretation of the zoning regulations (Ord. 1409; PVMC 19.54).

**12.13. Ad Hoc Committee**

- a. The Mayor will appoint a voting Chair and voting members to serve on Ad Hoc Committees, as needed, and without the consent of the City Council. Meetings of the committee will be held as designated by the Mayor, the Governing Body and/or the Chair of the committee. These committees will continue to meet as long as necessary, but will not be considered permanent committees.
- b. The Committee will discuss issues as requested by the Mayor and/or the Governing Body. Ad Hoc Committees will be established by the Mayor to discuss a particular subject and make recommendations related to the subject matter to the Mayor and Council.



**City Council Policy: CP001 - City Committees**

**Effective Date: February 1, 2021**

**Amends: July 1, 2019**

**Approved By: Governing Body**

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**I. PURPOSE**

To establish public committees which will allow citizen involvement and provide recommendations to the Governing Body.

**II. RESPONSIBILITY**

- a. Except as otherwise provided herein, the Mayor, with the consent of the City Council, will be responsible for appointing members to serve on the committees established by this policy.
- b. The Mayor will appoint a City Council Member to serve as Committee Chair and a City Council Member to serve as Vice-Chair for the Parks and Recreation Committee, Environmental Committee, Prairie Village Arts Council, Insurance Committee, Finance Committee, and Diversity Committee. Both Council Members will be voting members.
- c. The Mayor will appoint a City Council Member to serve as a voting member of the Pension Board of Trustees without the consent of the City Council, and will appoint one additional voting member to the Pension Board of Trustees, with the consent of the City Council.
- d. The Mayor will appoint a City Council Member to serve as a voting member of the Tree Board without the consent of the City Council.
- e. The Mayor will appoint a City Council Member as a nonvoting "Council Liaison" to the VillageFest Committee and JazzFest Committee.
- f. The Mayor will appoint a City Council Member as a "Council Liaison" nonmember observer to the Planning Commission/Board of Zoning Appeals.
- g. Vacancies will be filled for the unexpired term by appointment by the Mayor with the consent of the City Council, where applicable.
- h. Each Council Member, Committee Chair, and Council Liaison (except Council Liaison to the Planning Commission/Board of Zoning Appeals) will set direction, attend meetings, communicate the Governing Body's direction, priorities, and policies, prepare committee budget, in consultation with City staff, manage city resource requests, including the budget and staff time, and report back any necessary information and recommendations to and from the City Council.
- i. City staff will be responsible for publicizing meeting notices, providing budget and policy oversight, and assisting with committee objectives, as needed. They will attend meetings at their discretion. Committees will normally be responsible for taking their own minutes and submitting them to the Staff Liaison, once approved by the Committee.
- j. Committee members will have responsibility for a majority of administrative tasks and cannot delegate to City staff without prior approval from the Committee Chair, Vice-Chair, or City Administration.

- k. All committee meetings, including subcommittee meetings and special meetings, are considered open meetings if a quorum is present, as defined by Kansas Open Meetings Act.
- l. Committee meetings will be held on public property unless permission is granted from the Mayor and Committee Chair. The Committee Chair and/or Vice-Chair must be present at the business meetings.

### III. APPOINTMENT PROCESS

- a. The following process is outlined as a guide for committee appointments. Minor adjustments may be made by the Mayor and City Administrator.
- b. Advertise opportunities in October, November, and December in the Village Voice, City website, news release, etc.
- c. Applications are due by January 1; online applications preferred. All materials will be sent to the City Council once the application period has closed.
- d. Committee Chair Council Liaison and City staff representative discuss incumbents, attendance and contributions to the committee along with applications and vacancies, and may interview candidates. The Committee Chair and Council Liaison for each committee, except the Planning Commission/Board of Zoning Appeals, will recommend appointments to the Mayor.
- e. For Planning Commission/Board of Zoning Appeals, the selection committee will consist of the Mayor, Planning Commission Council Liaison, Deputy City Administrator, Planning Consultant, and Council President. The selection committee will recommend appointments to the Mayor.
- f. Mayor will make the final determination of recommended appointees for all committees.
- g. Recommended appointments will be included in the agenda packet prior to the Council meetings.
- h. Mayoral appointment of Council members to serve on committees, as directed by this policy, will typically become effective in January.
- i. Applicants who are not selected or approved will be notified by City administration.
- j. Appointments will typically be presented and voted on at a City Council meeting in February.
- k. In the event of vacancies after the regular annual appointments, the applicants who submitted applications during the prior application process will be first considered, and vacant positions will be re-advertised, if needed.
- l. All appointed Committee Members and non-appointed Volunteers must sign a liability/photo waiver and a Code of Conduct acknowledgement prior to serving on a Committee or volunteering for the City.

### IV. REMOVAL PROCESS

The following process is outlined as a guide for the removal of a committee member. This does not apply to the members of the Planning Commission, whose removal is governed by Ord. 1901; PVMC 16, Article 1 and the adopted bylaws of the Planning Commission. Appointees serve at the pleasure of the Governing Body. A committee member may be removed prior to the expiration of his or her term by the recommendation of the Council Liaison and City Administrator, with

final approval by the Mayor. All committee members are expected to attend meetings and are subject to the code of conduct as outlined in this policy. This removal process applies to appointed committee members and non-appointed committee volunteers.

V. **COMMITTEE GUIDELINES**

- a. Length of Terms - All committee terms will be approximately two years depending on the appointment schedule set forth above, except for Planning Commission, Civil Service Commission, and Tree Board, who, by code, serve for three years, and Committee Chairs, Council Liaisons, and youth representatives, who serve for an approximate one-year term. All committee members and youth representatives will serve without compensation.
- b. Attendance - All committee members must attend 75% of meetings held in a calendar year. A member who does not meet attendance requirements may be subject to removal prior to the end of the appointed term. Members who are unable to attend a meeting must notify the Committee Chair or Staff Liaison in advance to ensure a quorum will be present.
- c. City Operation Committees include the Insurance Committee, Pension Board/Employee Retirement Committee, Finance Committee, Tree Board, Parks and Recreation Committee, and the Civil Service Commission.
- d. Event Committees include the JazzFest Committee and the VillageFest Committee, which are responsible for specific city-sponsored events.
- e. Lifestyle Committees include the Environmental Committee, Arts Council, and the Diversity Committee.
- f. Statutory Committees include the Planning Commission, Board of Zoning Appeals, and the Board of Code Appeals as required by Kansas Statutes.
- g. Committee Resources - City Council reviews and approves the committee budget each year. No committee is allowed to lend or transfer given funds to another committee or another organization without staff approval except The Prairie Village Foundation. The committee budget is for specific items or events, which are the responsibility of that committee. If additional funds are needed, committee representatives must make a request to the City Council. No committee may use its funds to contribute funding support to another organization outside of required membership dues without specific City Council approval.
- h. If a committee desires additional staff time for an event, initiative, or program, that request will be communicated to the City Administrator through the Committee Chair or Council Liaison. Any significant new program or proposal that requires staff time or additional funding will need to come before the City Council to obtain City Council approval before the committee may proceed.
- i. Special meetings may be called by the Committee Chair, with approval of the Mayor, along with required public notification.
- j. A quorum for each committee is a majority of the then sitting, voting members of each committee.
- k. Notice of all meetings must be posted on the City's website.

## **VI. CODE OF CONDUCT**

Committee members are subject to the following ethical standards of conduct, which will be reviewed annually with committee members following new committee appointments.

- a. Members are bound to observe the highest standards of professionalism and to discharge faithfully the duties of their committee, regardless of personal consideration, recognizing that public interest must be their primary concern.
- b. The conduct in official affairs must be beyond reproach. Members are expected to promote positive interactions with fellow committee members, City staff, and the community. A member's actions or statements should not discredit, embarrass, or reflect poorly on the City.
- c. No committee member shall engage in any business or transaction or shall have a financial or other personal interest which is incompatible with the proper discharge of duties.
- d. Members are encouraged to vote in any and all elections for which they are eligible; however, committees and members thereof should not use such committees or their individual memberships thereof to raise money, influence elections, or otherwise act as organized political organizations in their capacities as committees or committee members.
- e. As volunteers, members do not have enforcement authority and shall not get involved in enforcement actions that would otherwise be handled by a City department.
- f. Committees and members thereof shall not set up accounts, financial or otherwise, without prior committee or City approval and without coordination with City staff.

## **I. POLICY**

There are established public committees with the following requirements for membership, meetings and duties:

### **1. Insurance Committee**

- a. The Insurance Committee will consist of a voting Chair and Vice-Chair, each a City Council Member appointed by the Mayor without the consent of the City Council. The Mayor, with the consent of the City Council, appoints three other voting members who have an insurance background.
- b. The Insurance Committee will meet during the day as needed and adjourn no later than 6:00 p.m.
- c. The Insurance Committee will monitor and discuss insurance issues relating to the City and recommend insurance bid award, when applicable.

### **2. Pension Board of Trustees/Employee Retirement Board**

- a. The Pension Board of Trustees/Employee Retirement Board will consist of three voting members. One member will be a council member who is appointed by the Mayor, without the consent of the City Council. One member will be appointed by the Mayor, with the consent of the City Council. One voting member will be designated by the Police Department employees, with a term of service until the appointment of successor.

- b. The Pension Board of Trustees/Employee Retirement Board will meet as needed during the day and adjourn no later than 6:00 p.m.
- c. The Board has the powers and duties as designated in the Prairie Village, Kansas Police Department Revised Retirement Plan.

### **3. Finance Committee**

- a. The Finance Committee will consist of six voting members, including a Chair and Vice-Chair, who are City Council Members, appointed by the Mayor without the consent of the City Council.
- b. The Finance Committee will meet as needed during the day and adjourn no later than 6:00 p.m.
- c. The Finance Committee will counsel and recommend policies and activities to the Governing Body and as directed by the Governing Body, including but not limited to, management of financial resources, financial/investment policies and provide direction and guidance to staff on financial issues.

### **4. Tree Board**

- a. The Tree Board will consist of eight voting members appointed by the Mayor with the consent of the City Council. A City Council Member will be appointed by the Mayor, without the consent of the City Council, to serve as a voting member. All voting members are appointed by the Mayor with the consent of the City Council.
- b. The Tree Board will normally meet at 6:00 p.m. six times per year.
- c. The Tree Board will study, investigate, assess, counsel and recommend to the Governing Body, and as directed by the Governing Body, a policy relating to trees, shrubs and other plantings upon city-owned property; to promote and preserve the beautification of the City; to provide the protection of the public health and safety; and to protect and encourage the preservation of trees, shrubs and plantings. (Ord. 1911, & 2075)

### **5. Parks and Recreation Committee**

- a. The Parks & Recreation Committee will consist of voting members who serve as Chair and Vice-Chair, each a City Council Member appointed by the Mayor without the consent of the City Council. Ten other voting members who include one from each ward, two at-large, a tennis representative, and a swim representative are appointed by the Mayor with the consent of the City Council. There may be two non-voting youth representatives.
- b. The Parks & Recreation Committee will normally meet at 5:30 p.m. six times per year.
- c. The Park & Recreation Committee will counsel and recommend policies and activities to the Governing Body, and as directed by the Governing Body, including, but not limited to, recreational activities in the parks, intergovernmental agreements pertaining to park and recreation facilities, use of park system facilities, development of park system facilities, short

and long-range plans for city parks, operations and activities related to the park system. (Ord. 1541 & 1875)

#### **6. Police Civil Service Commission**

- a. The Police Civil Service Commission will consist of five voting members appointed by the Mayor with the consent of the City Council. A Chair will be designated by the Mayor, without the consent of the City Council. Members will not hold any other public office of the City.
- b. The Civil Service Commission will meet as needed and adjourn no later than 6:00 p.m.
- c. The Civil Service Commission responsibilities, as established in PVMC 1-807 & 1-808, including, but not limited to, assisting in determining qualifications and fitness of applicants for the position of commissioned police officer, for promotion of officers; and further will serve as an appeals board for commissioned officers. (Ord. 1468 & 1614)

#### **7. JazzFest**

- a. The JazzFest Committee is an open committee and the volunteer committee members are not appointed by the Mayor. A City Council Member will be appointed by the Mayor, without the consent of the City Council, to serve as the non-voting Council Liaison. A Chair will be appointed by the Mayor without the consent of the City Council.
- b. The JazzFest Committee will meet at 5:30 p.m. as needed.
- c. The JazzFest Committee will coordinate and host the annual JazzFest event.

#### **8. VillageFest**

- a. The VillageFest Committee is an open committee and the volunteer committee members are not appointed by the Mayor. A City Council Member will be appointed by the Mayor, without the consent of the City Council, to serve as the non-voting Council Liaison. A Chair will be appointed by the Mayor without the consent of the City Council.
- b. The VillageFest Committee will meet at 5:30 p.m. as needed.
- c. The VillageFest Committee will coordinate and host the annual VillageFest event.

#### **9. Prairie Village Arts Council**

- a. The Prairie Village Arts Council will consist of a voting Chair and Vice-Chair, each a City Council Member appointed by the Mayor without the consent of the City Council. Twelve additional voting members appointed by the Mayor, with consent of the City Council, will also serve on the Committee. There may be two non-voting youth representatives.
- b. The Prairie Village Arts Council will meet at 5:30 p.m. each month, as needed.
- c. The Prairie Village Arts Council will counsel and implement policies and activities to the Governing Body and as directed by the Governing Body,

including, but not limited to, promotion and development of the arts in Prairie Village and development of cultural activities for the city.

#### **10. Environmental Committee**

- a. The Environmental Committee will consist of a voting Chair and Vice-Chair, each a City Council Member appointed by the Mayor without the consent of the City Council. Twelve additional voting members shall be appointed by the Mayor, with the consent of the City Council. There may be two non-voting youth representatives.
- b. The Environmental Committee will normally meet at 5:30 p.m. every other month.
- c. The Environmental Committee will implement policies and activities as directed by the Governing Body, including, but not limited to, maintaining and enhancing air quality, reducing waste disposal in landfills, increasing awareness of the need to conserve natural resources and generally educating the public on methods to protect the environment.

#### **11. Diversity Committee**

- a. The Diversity Committee will consist of a voting Chair and Vice-Chair, each a City Council Member appointed by the Mayor without the consent of the City Council. Nine additional voting members shall be appointed by the Mayor, including a representative from the Planning Commission, with the consent of the City Council. A non-voting representative from the Police Department shall serve on the committee. There may be two non-voting youth representatives.
- b. The Diversity Committee will normally meet at 5:30 p.m. every other month.
- c. The Diversity Committee will implement policies and activities as directed by, and make recommendations to, the Governing Body, including, but not limited to, attracting and retaining diverse residents through housing and development policy, the arts, sustainability, affordability, events, policing, infrastructure, recruiting and hiring, funding, and communication. The mission includes diversity of race, religion, color, sexual orientation, gender identity, national origin, disability and more.

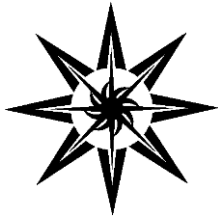
#### **12. Planning Commission/Board of Code & Zoning Appeals**

- a. The Planning Commission/Board of Code & Zoning Appeals will consist of seven voting members including a Chair, Vice-Chair and five other voting members all residing in or within three (3) miles of Prairie Village. Preference will be given to Prairie Village residents. All voting members are appointed by the Mayor with the consent of the City Council. The Chair and Vice-Chair will be elected once per year by the Commission, with different leadership elected for the Board of Code & Zoning Appeals. The term of appointment on the committee will be three years. A Council Liaison appointed by the Mayor, without the consent of the City Council, will attend meetings as a nonmember observer.

- b. The Planning Commission will meet on the First Tuesday of the month at 7 p.m. The Board of Code & Zoning Appeals will meet as needed at 6:30 p.m. on the First Tuesday of the month.
- c. The duties of the Planning Commission are described in PVMC Chapter XVI covering such responsibilities as Comprehensive Plan, subdivision & zoning regulations, approval of plats. (Ord. 1901; PVMC 16, Article 1 and their adopted bylaws). The duties of the Board of Zoning Appeals are described in PVMC 19.54 covering the hearing of requests for variances to the zoning regulations and appeals of an interpretation of the zoning regulations (Ord. 1409; PVMC 19.54).

### **13. Ad Hoc Committee**

- a. The Mayor will appoint a voting Chair and voting members to serve on Ad Hoc Committees, as needed, and without the consent of the City Council. Meetings of the committee will be held as designated by the Mayor, the Governing Body and/or the Chair of the committee. These committees will continue to meet as long as necessary, but will not be considered permanent committees.
- b. The Committee will discuss issues as requested by the Mayor and/or the Governing Body. Ad Hoc Committees will be established by the Mayor to discuss a particular subject and make recommendations related to the subject matter to the Mayor and Council.



## ADMINISTRATION

Council Meeting Date: February 1, 2021

**COU2021-18: Consider Resolution 2021-11 adopting the hazard mitigation plan**

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### RECOMMENDATION

Staff recommends the Governing Body approve the Resolution adopting the Region L Multi-Jurisdictional Hazard Mitigation Plan.

### BACKGROUND

The Disaster Mitigation Act of 2000 requires all political entities in the United States to have an approved Hazard Mitigation Plan. City government is responsible for having a plan and being part of this regional plan allows the City to address its hazards and develop mitigation actions and incorporate those with the mitigation actions of jurisdictions and entities in the plan. Region L in the State of Kansas consists of three counties; Johnson, Leavenworth, and Wyandotte.

This plan was completed and approved by the Federal Emergency Management Agency (FEMA) pending approval by the governing bodies of all participating entities. As a participating jurisdiction in the plan, FEMA requires the adoption of the plan by the Governing Body to meet the requirements of the Disaster Mitigation Act of 2000. Due to the size of the document (369 pages), it was not included in the packet. It can be found at the following link on Johnson County's website. [Region L Hazard Mitigation Plan](#)

The plan's adoption is a stated requirement and is required for the City's eligibility for potential FEMA funds that become available for hazard mitigation activities. If the plan is not approved, the City would not be able to apply for any future hazard mitigation funds that might become available through the state and the federal governments

### ATTACHMENTS

Hazard Mitigation Resolution

### PREPARED BY

Tim Schwartzkopf  
Assistant City Administrator  
Date: January 13, 2021

## **RESOLUTION NO. 2021-11**

### **A RESOLUTION ADOPTING THE REGION L MULTI-HAZARD MITIGATION PLAN**

**Whereas**, the City of Prairie Village, Kansas recognizes the threat that natural hazards pose to people and property within our community; and

**Whereas**, undertaking hazard mitigation actions will reduce the potential for harm to people and property from future hazard occurrences; and

**Whereas**, the U.S. Congress passed the Disaster Mitigation Act of 2000 (“Disaster Mitigation Act”) emphasizing the need for pre-disaster mitigation of potential hazards;

**Whereas**, the Disaster Mitigation Act made available hazard mitigation grants to state and local governments; and

**Whereas**, an adopted Multi-Hazard Mitigation Plan is required as a condition of future funding for mitigation projects under multiple FEMA pre- and post-disaster mitigation grant programs; and

**Whereas**, the City of Prairie Village, Kansas fully participated in the FEMA prescribed mitigation planning process to prepare this Multi-Hazard Mitigation Plan; and

**Whereas**, the Kansas Division of Emergency Management and the Federal Emergency Management Agency Region VII officials have reviewed the “Region L Multi-Hazard Mitigation Plan,” and approved it contingent upon this official adoption of the participating governing body; and

**Whereas**, the City of Prairie Village, Kansas desires to comply with the requirements of the Disaster Mitigation Act and to augment its emergency planning efforts by formally adopting the Region L Multi-Hazard Mitigation Plan; and

**Whereas**, adoption by the governing body for the City of Prairie Village, Kansas demonstrates the jurisdictions’ commitment to fulfilling the mitigation goals and objectives outlined in this Multi-Hazard Mitigation Plan.

**Whereas**, adoption of this legitimizes the plan and authorizes responsible agencies to carry out their responsibilities under the plan;

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

the City of Prairie Village adopts the “Region L-Hazard Mitigation Plan” as an official plan; and the City of Prairie Village, Kansas will submit this Adoption Resolution to the Kansas Division of Emergency Management and Federal Emergency Management Agency Region VII officials to enable the plan’s final approval.

**ADOPTED** by the Governing Body this 1<sup>st</sup> day of February, 2021.

City of Prairie Village, Kansas:

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Mayor Eric Mikkelsen

Attest:

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Adam Geffert, City Clerk



COU2021-19: Small Cell Facility Deployment and Master Right-of-Way License Agreement

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**RECOMMENDATION:**

**RECOMMEND THE CITY COUNCIL APPROVE COU2021-19, A SMALL CELL FACILITY DEPLOYMENT AND MASTER RIGHT-OF-WAY LICENSE AGREEMENT WITH NEW CINGULAR WIRELESS PCS (D/B/A AT&T MOBILITY)**

**BACKGROUND:**

In 2016, the Kansas Legislature passed, and Governor Brownback signed into law, the Kansas New Wireless Deployment Act, codified at K.S.A. 66-2019 (the "Act"). The Act provided that both "wireless service providers" (such as Verizon, AT&T, and Sprint—typical "carriers" of wireless services) and "wireless infrastructure providers" (companies that build out networks and then lease the facilities to the wireless service providers themselves, such as Mobilitie) with expanded rights to use the City's public rights-of-way for the installation of wireless and "small cell" facilities, including poles and antenna.

Accordingly, the City had previously entered into "franchise" ordinance agreements and "master license/pole attachment" agreements with Verizon and Mobilitie. The forms approved as to these providers were developed with city attorneys from Overland Park, Leawood, Shawnee, Lenexa, Olathe, and others.

However, in an additional effort to limit municipal authority in this area, in 2019 the wireless industry (lead by AT&T) pushed the Kansas Legislature to pass legislation that prohibits cities from requiring franchise agreements (of the kind entered into by the City with Verizon and Mobilitie) or requiring franchise fees from wireless services providers. Kansas Senate Bill No. 68 (2019) amended K.S.A. 12-2001 by adding the following:

[Except as otherwise provided in the statute, a city] [s]hall not require a wireless services provider or a wireless infrastructure provider to enter into a franchise, franchise agreement, franchise ordinance, contract franchise or contract franchise ordinance for the provision of wireless services  
...

K.S.A. 12-2001(t)(1)(A). However, a city may still:

govern the use of the public right-of-way by a wireless services provider or a wireless infrastructure provider by requiring a small cell facility deployment agreement or a master license agreement, through permitting requirements or municipal ordinances or codes, or any combination thereof, in a manner consistent with federal and state law;

K.S.A. 12-2001(t)(1)(B). In a sense, then, this is somewhat a matter of semantics: Where the City previously entered into "franchise" and "master license/pole attachment" agreement with providers, the City would instead now enter into "small cell facility deployment agreements" with providers. Indeed, the term "small cell facility deployment agreement" is defined as follows:

[A]n agreement between a wireless services provider or wireless infrastructure provider and an authority for the deployment of small cell facilities on or adjacent to existing, modified, replacement or new utility poles within the public right-of-way pursuant to K.S.A. 66-2019 [the Kansas Wireless Siting Act], and amendments thereto, and federal law. A "small cell facility deployment

agreement" is **not** a franchise, franchise agreement, franchise ordinance, contract franchise or contract franchise ordinance.

The City has been approached by AT&T for a new small cell facility deployment agreement. As with previous franchise agreements with wireless providers, this form was developed cooperatively among several local city attorneys. Substantively, the small cell facility deployment agreement is similar to the combined provisions of the "franchise" and the "master license/pole attachment" agreements which the City has previously approved:

- The agreement grants AT&T the right to construct and maintain its facilities in the public right-of-way, subject to the terms of the agreement and subject to other requirements of applicable law (including but not limited to the City's right-of-way regulations and the City's updated zoning regulations applicable to wireless facilities). As required by law, the authority to occupy the public right-of-way must be granted in a competitively neutral and nondiscriminatory basis.
- AT&T is required to pay all applicable fees in accordance with the City's updated fee resolution (approved in November 2020) for wireless services.
- The agreement operates as a "master" agreement, applicable to any attachments that AT&T might make to City-owned poles (and to any replacement poles that AT&T might install). Specific attachments would be documented by numbered "Supplements" to the Agreement. There are no current applications from AT&T for installation of any facilities.
- The agreement contains standard and appropriate indemnity and insurance provisions. As with previous franchises, the agreement also requires that AT&T maintain a performance bond to better ensure the appropriate and timely performance of AT&T's work in the right-of-way.
- The agreement would be effective for an initial term of ten (10) years, as required by the Act. *See* K.S.A. 66-2019(f)(10). The agreement would automatically renew for two additional five (5) year terms. This is consistent with previous franchises.

## **ATTACHMENTS**

AT&T Small Cell Deployment Agreement and Master License Agreement

### **PREPARED BY**

David E. Waters  
City Attorney

Date: February 1, 2021

**SMALL CELL FACILITY DEPLOYMENT  
AND MASTER RIGHT-OF-WAY LICENSE AGREEMENT  
NEW CINGULAR WIRELESS PCS (D/B/A AT&T MOBILITY)**

THIS SMALL CELL FACILITY DEPLOYMENT AND MASTER RIGHT-OF-WAY LICENSE AGREEMENT (this "Agreement") is dated as of January 1, 2021 (the "Effective Date") is made by and between the **CITY OF PRAIRIE VILLAGE, KANSAS** (the "City"), and **NEW CINGULAR WIRELESS PCS, LLC**, a Delaware limited liability company d/b/a AT&T Mobility ("Grantee") (collectively the "Parties").

**RECITALS**

WHEREAS, the City owns, operates, maintains and regulates the Right-of-way, and the City further owns, operates and maintains certain facilities within the Right-of-way, including but not limited to those defined herein as City Facilities; and

WHEREAS, Grantee proposes to construct, attach, operate and maintain Grantee's Wireless Facilities within the Right-of-way on or within: (i) the facilities (*i.e. poles, lines and conduit*) of third parties (*e.g., Kansas City Power & Light Company, Southwestern Bell Telephone Company, etc.*); (ii) Grantee's own poles (*e.g., a small cell monopole*); and/or (iii) City Facilities as Attachments; and

WHEREAS, the lease of a City Facility is a commercial transaction involving the rental of City (personal) 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; and

WHEREAS, pursuant to above-referenced Statutes and the City's Home Rule authority, the Parties are entering into this Agreement to address both Grantee's siting of Grantee's Wireless Facilities within the Right-of-way (*as described further in Part II*) and the attachment of Grantee's Attachments on City Facilities (*as described further in Part III*).

NOW, THEREFORE, in consideration of the above recitals and the following mutual covenants, agreements, and obligations, which constitute good and valuable consideration, the sufficiency of which is acknowledged, and with the intention to be legally bound hereby, the Parties agree as follows:

**PART I - INTRODUCTION**

**1. ORGANIZATION**

This Agreement is organized into four parts in order to account for the difference in the City's general regulatory authority of the Right-of-way (Part II) and the City's proprietary ownership of City Facilities and its decision to grant a license for the use thereof (Part III). This Introduction (Part I) and the General Provisions (Part IV) apply to both the regulatory and proprietary interests.

**2. DEFINITIONS**

For the purposes of this Agreement, the following terms and their derivations shall have the meaning given herein, unless more specifically defined within a specific Section or Subsection. When not inconsistent with the context, words in the present tense include the future tense, words in the plural include the singular, and words in the singular include the plural. The words "shall" and "will" are mandatory and "may" is permissive. Words not defined shall be given their common and ordinary meaning.

**Applicable Laws:** means all applicable federal, state and local laws, rules and regulations. (See Section 4).

**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.

**Attaching Entity:** means any public or private entity, including Grantee, who, pursuant to a valid authorization with the City, places small cell facilities (as defined by K.S.A. 66-2019(b), as amended) on City Facilities to provide Wireless Services.

**Attachment(s):** means Grantee's Wireless Facilities placed directly on a City Facility (subject to the authorization process in Part III). For billing purposes an Attachment shall include Grantee's antenna(s) on each City Facility together with the associated cables and small-cell equipment.

**Capacity:** means the ability of a City Facility to accommodate an additional Attachment based on Applicable Standards, including space and loading considerations.

**City Facility(ies):** means City Streetlights and associated property, that are capable of accommodating Grantee's Wireless Facilities in accordance with Applicable Standards. Provided, no Attachments will be allowed on any traffic control signal (as defined in the Manual on Uniform Traffic Devices).

**City Streetlight:** means each City-owned streetlight fixture, pole and attached photocell, together with the lateral arm on which the streetlight fixture is mounted.

**Days:** means calendar days unless business days are specified.

**FCC:** means the Federal Communications Commission.

**Grantee:** means NEW CINGULAR WIRELESS PCS, LLC, a Delaware limited liability company d/b/a AT&T Mobility, authorized to do business in Kansas, its authorized agents, successors, designees and assigns.

**KCC:** means the Kansas Corporation Commission.

**Make-Ready Work:** means all work, as reasonably determined or approved by the City, required to accommodate Grantee'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, removal (less any salvage value), (City-approved) substitution of a streetlight pole, tree trimming (other than for normal maintenance purposes), and City Facility construction, but does not include routine maintenance.

**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.

**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 Grantee's Attachment on a City Facility. Such work includes, but is not limited to, field inspection and administrative processing.

**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 utility easements.

**Site:** means each place for which the Parties enter into a Supplement pursuant to this Agreement for the purposes of installing Grantee's Attachment on a designated City Facility.

**Supplement:** means the written sublicense, substantially in the form attached hereto as Exhibit A, which will be executed by the Parties and shall document Grantee's authorization to make and maintain a specific Attachment to a specific City Facility at a specific Site pursuant to the requirements of this Agreement and any applicable city code or regulation.

**Supplement Application:** means the application for a Supplement pursuant to the applicable requirements of this Agreement and any applicable city code or regulation. The Supplement Application shall include the application for any applicable ROW Permit.

**Tag:** means to place distinct markers on wires and cables, coded by color or other means specified by Applicable Laws, that will readily identify the type of Attachment and its owner.

**Wireless Facilities:** means Grantee's "small cell facilities," and any applicable "wireless support structure" comprising of Grantee's "small cell network system" facilities located within the Right-of-way that are designed and constructed for the purpose of producing, receiving, amplifying or distributing Wireless Services. (Terms in quotations shall have the meanings set forth in K.S.A. 66-2019(b), as amended.)

**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) as amended.)

**Wireless Services Provider:** means a provider of Wireless Services. (See K.S.A. 66-2019(b)(24)).

## **PART II – REGULATIONS FOR THE USE OF RIGHT-OF-WAY**

### **3. GRANT**

3.1. There is hereby granted to Grantee this nonexclusive Agreement governing the construction, operation and maintenance of Grantee's Wireless Facilities along, across, upon or under any 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 Agreement, subject to the terms and conditions of this Agreement. This Agreement does not:

3.1.1 Convey title, equitable or legal, in the Right-of-way, and shall give only the right to occupy the Right-of-way, for the purposes and for the period stated in this Agreement.

3.1.2 Grant the authority to construct, operate or maintain any of Grantee's Wireless Facilities on any easements dedicated to the City or on any (real) property owned or controlled by the City outside of the Right-of-way, specifically including, but not limited to, parkland, arboretum, golf courses, farmstead, soccer complex, pools, community center property, city hall property, other city office property, or public works facility property.

3.1.3 Grant the right to use the facilities, equipment or any other (personal) property owned or controlled by the City. (Except as specifically set forth in Part III hereafter.)

3.1.4 Grant the right to use the facilities or other (real or personal) property owned or controlled by a third party without the consent of the third party.

3.2 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 and the KCC. Grantee shall also comply with all Applicable Laws. (See Section 4.)

3.3 Grantee shall not provide any additional services for which a separate agreement or franchise is required without first obtaining such agreement or franchise from the City.

3.4 Grantee shall not knowingly allow the use of Grantee's Wireless Facilities by any third party in violation of any federal, state or local law.

This authority to occupy the Right-of-way shall be granted in a competitively neutral and nondiscriminatory basis and not in conflict with state or federal law.

### **4. REGULATORY COMPLIANCE**

4.1 **Lawful Purpose and Use.** Grantee's Wireless Facilities must at all times serve a lawful purpose, and the use of the Right-of-way or any City Facilities must comply with all Applicable Laws (federal, state and local laws, rules and regulations).

4.2 **City Right-of-way Regulations.** Grantee's use of the 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 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 or policies, resolutions and ordinances adopted by the City, relating to the construction and use of the Right-of-way, including, but not limited to, the City's Use and Occupancy of the Public Right-of-Way Ordinance and amendments thereto, Codified at Chapter 13, Article 5 of the City Code, and the City's zoning and land use ordinances, and related rules and regulations and amendments thereto, to the extent such laws do not conflict with or are not preempted by any federal or state law or regulation.

- 4.3 **Necessary Authorizations.** Grantee shall be responsible for obtaining from the appropriate public or private authority or other appropriate persons any required authorization to construct, operate and/or maintain Grantee's Wireless Facilities on public and/or private property before it occupies any portion of the Right-of-way or attaches onto any City Facilities. The City retains the right to require evidence that appropriate authorization has been obtained before any ROW Permit is issued or any Supplement is finalized. Grantee's obligations under this Subsection include, but are not limited to, its obligation to obtain all necessary approvals to occupy Right-of-way, including, but not limited to, any applicable FCC or KCC authorization, any ROW Permit, or any applicable zoning or land use approval, and to pay all costs associated therewith. Grantee shall defend, indemnify and reimburse the City for all reasonable 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 Grantee does not have sufficient rights or authority to occupy any specific portion of the Right-of-way, to attach Grantee's Attachments on City Facilities, or to provide particular Wireless Services.

## 5. SPECIFICATIONS

- 5.1 **Applicable Standards.** Grantee's use of the Right-of-way, its Wireless Facilities and its attachment of Attachments to City Facilities shall be subject to and shall meet all Applicable Standards, Notwithstanding, unless required by federal or state law or regulation or due to a threat to the public health safety and welfare, Grantee shall not be required to retrofit any existing Wireless Facilities or Attachments to comply with any change in the Applicable Standards.
- 5.2 **No Obstruction.** Grantee's Wireless Facilities shall be so constructed, operated and maintained so as not to obstruct or hinder the usual travel or public safety in the Right-of-way or obstruct the legal use by other utilities and service providers.
- 5.3 **Tagging.** Grantee shall Tag all of Grantee's Wireless Facilities in accordance with any Applicable Laws.
- 5.4 **Protective Equipment.** Grantee, and its employees and contractors, shall utilize and install adequate protective equipment to ensure the safety of people and facilities.
- 5.5 **Pedestals, Enclosures and Cabinets.** Except as permitted by Applicable Laws, nothing in this Agreement shall authorize Grantee to place above-ground pedestals, enclosures or cabinets in the Right-of-way or at the base of any City Facilities upon which Grantee has made authorized Attachments.
- 5.6 **RF Emissions.** Grantee's operation of its Wireless Facilities shall comply with all FCC regulations regarding RF emissions and exposure limitations. Grantee is allowed to install signage and other mitigation, such as a power cut-off switch on its facilities and the facilities on which it attaches, to allow workers and third parties to avoid excess exposure to RF emissions. Except in an emergency, the City's authorized field personnel will contact Grantee's designated point of contact at least one business day in advance to inform Grantee of the need for a temporary power-shut-down. In the event of an unplanned outage or cut-off of power or an emergency, the power-down will be performed with such advance notice as practicable. Once the work has been completed and the worker(s) have departed the exposure area, the party who accomplished the power-down shall restore power and inform Grantee as soon as possible that power has been restored. The Parties acknowledge that they understand the vital nature of Grantee's Wireless Facilities and agree to limit the frequency of power-downs and to restore power as promptly as reasonably possible.
- 5.7 **Interference.** Grantee shall not allow Grantee's Wireless Facilities to impair the ability of the City or any third party which exists prior to the installation of Grantee's Wireless Facilities to use City Facilities, nor shall Grantee allow its Attachments to interfere with the operation of any City or other governmental facilities and equipment.
- 5.7.1 Grantee shall comply with all 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 Grantee's Wireless Facilities.
- 5.7.2 In the event that the installation, operation or maintenance of Grantee's Wireless Facilities on a City Facility, whether or not such operation is in compliance with the terms of Grantee's applicable FCC licenses, creates any interference with the operation of the City's or any other

governmental entity's communication or other equipment, Grantee shall as soon as reasonably possible, at Grantee'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.

- 5.7.3 In the event that the installation, operation or maintenance of one of Grantee's Attachments creates any interference with the operation of the pre-existing equipment of third parties using a designated City Facility pursuant to an agreement with the City or any other pre-existing uses of electronic equipment, Grantee shall as soon as reasonably possible, at Grantee'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.
- 5.7.4 If Grantee is unable or refuses to eliminate such interference (set forth in Subsections 5.7.2 and 5.7.3), the City may require Grantee to power down Grantee's Wireless Facilities to eliminate the interference. In the event Grantee is thereafter unable to take necessary action to eliminate such interference within a period of 90 days or such period as the Parties otherwise agree to in writing, the City may (if applicable) terminate Grantee's use of or right to use the City Facility upon which such interfering Wireless Facilities is located, and Grantee shall promptly remove the Wireless Facilities from the City Facility. The City agrees to include a provision substantially similar to this Subsection in any future agreements with third parties seeking to install wireless facility equipment on City Facilities.
- 5.7.5 Notwithstanding the foregoing, if equipment installed on a City Facility by any third party using the City Facility pursuant to an agreement with the City subsequent to the installation of Grantee's Attachment on the Site causes interference, either electronically or physically, with Grantee's previously installed Attachments, Grantee shall immediately notify City and such third party and City shall work in good faith with the parties to develop workable solutions to resolve the interference in a mutually acceptable manner in accordance with FCC or other applicable regulatory requirements. Alternatively, Grantee may upon 30 days written notice to the City terminate the affected Supplement.

## 6. DUTIES AND RESPONSIBILITIES

- 6.1 **Kansas One Call.** Grantee shall participate in the Kansas One Call utility location program.
- 6.2 **As-Is Condition.** Grantee acknowledges and agrees that the City does not warrant the **condition** or safety of the Right-of-way or any City Facilities, or the premises surrounding the same.
- 6.3 **Knowledge of Work Conditions.** By executing this Agreement, Grantee 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 Grantee will undertake under this Agreement and that it fully understands or will acquaint itself with the Right-of-way or applicable City Facilities, and with any difficulties and restrictions attending the execution of such work.
- 6.4 **Duty of Competent Supervision and Performance.** Grantee shall ensure that its employees, agents, contractors and subcontractors have the necessary qualifications, skill, knowledge, training and experience to protect themselves, their fellow employees, City employees and the general public, from harm or injury while performing work permitted pursuant to this Agreement. In addition, Grantee 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.
- 6.5 **Protection of Grantee's Wireless Facilities.** It shall be the responsibility of Grantee to take adequate measures to protect and defend its Wireless Facilities from harm or damage. If Grantee fails to accurately or timely locate its Wireless 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.
- 6.6 **Environmental Hazards.** Grantee represents and warrants that its use of the Right-of-way or any City Facilities will not generate any Hazardous Substances, that it will not store or dispose on or about or transport to the Right-of-way or any City Facilities any hazardous substances and that Grantee's Wireless Facilities 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, Grantee shall be permitted to bring and keep equipment commonly used in the wireless 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. Grantee and its agents, contractors and subcontractors shall defend, indemnify and hold harmless the City and its officials, officers, 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 of litigation) arising from or due to the release, threatened release, or storage of any Hazardous Substances on, under or adjacent to the Right-of-way or any City Facilities attributable to Grantee's use, except to the extent of the City's negligence or willful misconduct in connection with such liability. The City acknowledges Grantee shall not be responsible for any contamination to the extent caused in whole or in part by the City or a third party.

- 6.7 **Liens.** In no event shall Grantee permit any lien to be filed or to exist upon the Right-of-way, any City Facilities, or any other City property, as a result of any claim against Grantee. In the event such lien is filed as a result of any claim against Grantee, Grantee agrees, within 60 days of the receipt of notice of such lien, to cause the lien to be released of record by payment or posting of a bond; provided, however, Grantee shall have the right to contest in good faith such lien, 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.

### **PART III – LICENSE TO USE CITY FACILITIES**

*(City's Proprietary Interests)*

## **7. GRANT OF LICENSE**

- 7.1 **Grant.** Subject to the provisions of this Agreement, the City hereby grants Grantee a revocable, nonexclusive license authorizing Grantee to construct, attach, operate and maintain permitted Attachments on specified City Facilities, as further detailed and authorized through individual Supplements to this Agreement. Placement of Grantee's Attachments on any specific City Facility shall be at the sole but reasonable discretion of the City so long as Grantee is treated in a competitively neutral and non-discriminatory manner as compared with other similarly situated third parties.
- 7.2 **Supplement Issuance and Attachment Conditions.** The City will enter into a Supplement with Grantee for a proposed Attachment on 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; (ii) Grantee meets all requirements set forth in this Agreement; and (iii) such Attachment complies with all Applicable Standards. Notwithstanding, the City reserves the right to deny or modify Grantee's access to any City Facility, on a competitively-neutral and non-discriminatory basis, where City determines that Grantee'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 the City Facility; or (c) violate Applicable Laws or zoning restrictions; or (d) exceed the capacity of the City Facility, to include taking into consideration the Reserved Capacity of the City Facility; or (e) interfere with the City's intended use of the City Facility; or (f) interfere with any other reasonable governmental interest.
- 7.3 **No Interest in Property.** No use, however lengthy, of any City Facility, and no payment of any fees or charges required under this Agreement, shall create or vest in Grantee any easement or other ownership or property right of any nature in any portion of such City Facility. Neither this Agreement nor any Supplement shall constitute an assignment of any of the City's rights to any City Facility. Notwithstanding anything in this Agreement to the contrary, Grantee shall, at all times with respect to City Facilities, be and remain a Grantee of a license only.

- 7.4 **Grantee's Right to Attach.** Nothing in this Agreement, other than a Supplement executed by the Parties, shall be construed as granting Grantee any right to attach Grantee's Attachment to any specific City Facility.
- 7.5 **City's Rights over City Facilities.** The Parties agree that this Agreement does not in any way limit the City's right to locate, operate, maintain or remove the City Facilities in the manner that will best enable it to fulfill any governmental purposes.
- 7.6 **Expansion of Capacity.** The City may take steps as reasonably appropriate, in a competitively neutral manner, to expand City Facilities to accommodate Grantee'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 City Facility or portion of thereof for use when such City Facility is not needed for the City's or any other governmental service requirements. Likewise, the City may agree – but is not required – to allow Grantee to provide a substitute for the City Facility that can accommodate Grantee's Attachment; provided, the Parties agree that City will have ownership of the substitute City Facility. (For example, Grantee might provide a replacement light pole that is aesthetically comparable to the City's light pole but has more structural capacity so that it can support Grantee's Attachment.)
- 7.7 **Effect of Consent to Construction/Maintenance.** Consent by the City (granted through a Supplement) to the construction, operation or maintenance of any Attachment by Grantee to a City Facility shall not be deemed consent, authorization or an acknowledgment that Grantee has the authority to construct, operate or maintain any other such Attachments. It is Grantee's responsibility to obtain all necessary approvals for each Attachment from all appropriate parties or agencies.
- 7.8 **No Forfeiture of City's Rights.** In the event an Attachment creates a forfeiture of City's rights, City shall notify Grantee in writing of the reasons why City believes such a forfeiture would occur and afford Grantee a reasonable time period in which to attempt to resolve the issue. If after exhausting all of its remedies Grantee is unable to resolve the matter in a period not to exceed thirty (30) days or such reasonable time as agreed to by the parties, Grantee shall remove its Attachments from the subject City Facility within ninety (90) days. Upon such removal, City shall provide an alternate City Facility for relocation of the Attachment equivalent to Grantee's current use of the City Facility, in which case Grantee shall submit a Supplement Application for such new location and City shall waive the applicable Supplement Application Fee.
- 7.9 **No Use After Termination.** Nothing in this Agreement shall be construed to require the City to allow Grantee to use City Facilities after the termination of this Agreement.

## **8. SPECIFICATIONS**

- 8.1 **Installation and Maintenance of Attachment.** Upon execution of a Supplement pursuant to this Agreement, Grantee's Attachment shall be installed and maintained in accordance with the City's applicable requirements and specifications and all Applicable Laws. All of Grantee's Attachments must comply with all Applicable Standards Grantee shall be responsible for the installation and maintenance of its Attachments. Grantee shall, at its own expense, make and maintain its Attachments in safe condition and good repair, in accordance with all Applicable Standards; and Grantee shall replace, remove, reinforce or repair any defective Attachments (unless otherwise agreed to by the City in writing). Notwithstanding, unless required by federal or state law or regulation or due to a threat to the public health safety and welfare, Grantee shall not be required to retrofit any existing Wireless Facilities or Attachments to comply with any change in the Applicable Standards.
- 8.2 **Authorized Attachment(s) and Installation Methods.**
- 8.2.1 Prior to any installation of an Attachment, the City must approve the Attachment that Grantee is proposing to place on a City Facility. Except as authorized by the City in writing, only the Attachments depicted and described in the approved Supplement Application may be attached to the City Facility; provided, however, subsequent to the original installation of an Attachment on a City Facility, Grantee may modify or replace all or a portion of the Attachment without City approval so long as such modification or replacement results in different internal components being substituted as part of an upgrade of Grantee's Attachment (assuming the external appearance remains the same). Provided, any said

upgrade or substitution must not create a nuisance and must maintain the structural integrity of the City Facility, and Grantee will provide all necessary supporting documentation, such as a structural certification and calculations; and further provided, any excavation or any modification to or work within the City Facility itself shall require advance notice to the City. Notwithstanding the foregoing, Grantee may modify and/or replace Wireless Facilities on a Grantee or third party structure at its discretion in accordance with Applicable Laws.

- 8.2.2 Grantee shall make all reasonable effort to ensure the design, color, and aesthetics of the Attachment blend with and do not contrast with the City Facility to which it is to be attached.
  - 8.2.3 In no event may Grantee 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.
  - 8.2.4 Nothing in this Agreement shall be construed as a guaranty of the condition of any City Facility in connection with Grantee's Attachments or impose any obligation upon the City to repair or replace an existing City Facility in order to accommodate a request by Grantee to install an Attachment; provided, however, if City elects not to replace a City Facility, City will work with Grantee to find a new location.
- 8.3 **Other Specifications.** Grantee's Attachments shall also meet the specifications in Section 5.
- 8.4 **Violation of Specifications.** If Grantee's Attachment(s), or any part thereof, are installed, used or maintained in violation of the Specifications set forth in Section 5, and Grantee has not corrected the violation(s) within 45 days from receipt of written notice of the violation(s) from the City (or if the violation cannot be reasonably corrected in such timeframe, Grantee has not timely commenced work and diligently pursued the cure to completion), the City at its option, may unilaterally correct such conditions. Notwithstanding the foregoing, if such violation results from or is in connection with the defective or other condition of a City Facility, Grantee and/or Grantee's Attachment will not be deemed to be in violation of this Agreement until the condition of the City Facility is sufficiently repaired and, if such Attachment violation still exists, Grantee fails to correct such violation within the applicable cure periods set forth above. The City will attempt to notify Grantee 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, the City may perform such work and/or take such action as it deems necessary without first giving written notice to Grantee. As soon as practicable thereafter, the City will advise Grantee of the work performed or the action taken. Grantee shall be responsible for all actual and reasonable costs incurred by the City in taking action pursuant to this Subsection.
- 8.5 **Restoration of City Service.** The City's service restoration requirements shall take precedence over any and all work operations of Grantee on City Facilities.
- 8.6 **Effect of Failure to Exercise Access Rights.** If Grantee does not commence to exercise any access right granted pursuant to this Agreement by the applicable Supplement or any other written City approval (e.g., a ROW Permit) within one (1) year of the later of the approval of the applicable Supplement or other City approval, the City may terminate the Supplement or other approval and use the space scheduled for Grantee's Attachment for its own needs or for other Attaching Entities. In such instances, the City shall endeavor to make other space available to Grantee, upon written Supplement Application, as soon as reasonably possible and subject to all requirements of this Agreement, including the Make-Ready Work provisions.

## **9. SUPPLEMENT APPLICATION PROCEDURES**

- 9.1 **Supplement Required.** Grantee shall not install any Attachments on any City Facilities without first completing a Supplement Application (which includes the applicable ROW Permit application) pursuant to the applicable City requirements and entering into a Supplement for such Attachment(s) with the City pursuant to this Agreement. Such application shall not be considered complete until the applicable Supplement Application Fee is submitted. Attachments to or rights to occupy or utilize City property not covered by this Agreement, such as the lease and use of City-owned conduit, fiber optic capacity or any other City property (including, but not limited to, City offices, parks, swimming pools,

soccer complex, farmstead recreational centers, arboretum or the like, as these properties are generally not available for third party use) must be separately negotiated.

- 9.1.1 Unless otherwise agreeable to the Parties, Grantee shall submit a Supplement Application for every proposed above-ground Site of Attachment that shall be accompanied by: (i) photos of the subject City 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; (iv) structural calculations; (v) traffic control plan for any work that includes temporary lane reduction or closure; and (vi) additional information which may be reasonably required by City as necessary.
- 9.1.2 Grantee shall have a copy of the approved Supplement or ROW Permit, the approved Attachment plans, and (if required) the approved traffic control plan at the job site at all times during installation or any modification requiring permitting. Provided, a copies are not required for any routine maintenance not requiring permitting or during an emergency.
- 9.2 **Professional Certification.** Unless otherwise waived in writing by the City, as part of the Supplement Application process and at Grantee's sole expense, a qualified and experienced professional engineer, or an employee or contractor of Grantee who has been approved by the City, must participate in the Pre-Construction Survey, conduct the Post-Construction Inspection and certify that Grantee's Attachment can be and was installed on the identified City Facility in compliance with all Applicable Standards and Applicable Laws, and in accordance with the Supplement.
- 9.3 **City Review of Supplement Application.** Upon receipt of a properly executed Supplement Application, which shall include the Pre-Construction Survey, and detailed plans for the proposed Attachments in a form acceptable to City staff, the City will review the Supplement Application and notify Grantee if such Supplement Application is incomplete within thirty (30) days after submission identifying the specific grounds of incompleteness. The City acceptance of the submitted design documents does not relieve Grantee 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.
  - 9.3.1 **Review Period.** In accordance with K.S.A. 66-2019(g) and 66-2019(h)(1) and (3)<sup>1</sup>, the City shall review and respond to properly executed and complete Supplement Applications within 60 days of receipt for an existing City Facility or 150 days for a City Facility requiring a new or replacement City Facility. The City will either accept the Supplement or provide a written explanation why the Supplement Application is being denied, either in whole or in part.
- 9.4 **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, Grantee shall be authorized to make its Attachment.

## **10. MAKE-READY WORK/INSTALLATION**

- 10.1 **Make-Ready Survey.** The Grantee shall prepare a make-ready survey (the "Make-Ready Survey"), at Grantee's cost, to determine the adequacy or the capacity of the City Facility to accommodate Grantee's proposed Attachment without jeopardizing the safety (engineering or otherwise) of the City Facility or placing the City in violation of generally applicable zoning or other restrictions. Grantee shall be responsible for performing and 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 Grantee may be present for the inspection.
- 10.2 **Make-Ready Work.**
  - 10.2.1 Except where the City denies a Supplement Application, whenever any City Facility to which Grantee seeks attachment or occupancy requires modification or replacement to accommodate both Grantee's Attachment and the existing attachments or equipment of the

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<sup>1</sup> AT&T reserves its right to challenge a failure to timely process this Supplement Application under the time frames and requirements specified in FCC Rules. See 47 C.F.R. § 1.6003. AT&T agrees to extend the applicable FCC shot clock to run concurrently with state law.

City or other Attaching Entities, Grantee will prepare the City Facility for Grantee's Attachment. All actual costs for Make-Ready Work will be borne by Grantee. (See definition for specific components of Make-Ready Work.)

10.2.2 After receiving notification that Make-Ready Work is required, if Grantee still desires to make the Attachment, Grantee may within 90 days of receiving the notice, elect by written notice to the City that Grantee or Grantee's contractors will perform all the Make-Ready Work. The contractors shall be approved by the City to work on the City Facility. Approval shall be based upon reasonable and customary criteria employed by the City in the selection of its own contract labor.

10.2.3 If Grantee submits a Supplement Application that impacts existing Attaching Entities on the requested City Facility, the City will inform Grantee, and upon request, will provide Grantee with the existing Attaching Entities' contact information so Grantee can discuss the possibility of collocation with the Attaching Entities. To the extent collocation is feasible with the existing Attaching Entities, and that their third-party equipment is affected by Grantee's request, the City will follow the procedure as described in Subsection 10.2.1, but only to the extent the existing Attaching Entities do not elect to perform the rearrangement or are not already obligated to rearrange their third-party equipment and bear the expense of such rearrangement and coordination under a pre-existing separate agreement.

### 10.3 **Grantee's Installation/Removal/Maintenance Work.**

10.3.1 All of Grantee's installation, removal and maintenance work shall be performed at Grantee'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 Section 23.

10.3.2 All of Grantee's installation, removal and maintenance work performed on City Facilities or in the vicinity of other City property, either by its employees or contractors, shall be in compliance with all Applicable Standards and all Applicable Laws. Grantee shall assure that any person installing, maintaining, or removing its Attachment is fully qualified and familiar with all Applicable Standards, all Applicable Laws and the provisions of this Agreement, including but not limited to, the provisions of Sections 4, 5, 6, 8, 9 and 10.

10.3.3 After completion of any installation, removal and maintenance work, Grantee shall, if applicable, provide City with updates plans and specifications for the Attachments and City Facilities including but not limited to as-builts and structural analysis.

## 11. **INSPECTION OF ATTACHMENTS**

11.1 **Inspections.** The City may conduct an inventory and inspection of Attachments at any time at City's cost and expense. Grantee shall correct all Attachments that are not found to be in compliance with Applicable Standards within sixty (60) days of notification.

11.2 **Notice.** The City will give Grantee 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.

11.3 **No Liability.** Inspections performed under this Section 11, or the failure to do so, shall not operate to impose upon the City any liability of any kind whatsoever or relieve Grantee of any responsibility, obligations or liability whether assumed under this Agreement or otherwise existing.

11.4 **Attachment Records.** Notwithstanding the above inspection provisions, upon the written request from City, Grantee is obligated to furnish the City on an annual basis an up-to-date map or list depicting the locations of Grantee's Attachments in an electronic format specified by the City.

## 12. **RELOCATIONS**

12.1 **Required Relocations of Grantee's Attachments.** If the City reasonably determines that a relocation of Grantee's Attachments is necessary in order to accomplish construction and maintenance activities directly related to improvements for the health, safety, and welfare of the

public, Grantee agrees to allow such relocation or remove the affected Attachment pursuant to Subsection 15.1, and the City agrees to reasonably cooperate with Grantee to locate a replacement City Facility on which to relocate Grantee's Attachment that provides substantially similar signal coverage as the original City Facility. In such instances, the City shall require Grantee to perform such relocation or removal at its own expense within 180 days after receipt of notice from the City. If Grantee fails to relocate Grantee's Attachment within said 180-day period, the City shall have the right to relocate Grantee's Attachment using its personnel and/or contractors. The costs of such relocations shall be apportioned as specified under Section 13. The City shall not be liable for damage to Grantee's Attachment except to the extent provided in Section 22. The written advance notification requirement of this Subsection 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 5 business days of the occurrence.

### **13. MODIFICATIONS AND/OR REPLACEMENTS**

- 13.1 **Grantee's Action Requiring Modification/Replacement.** In the event any City Facility to which Grantee desires to make an Attachment is unable to support or accommodate the additional equipment in accordance with all Applicable Standards, the City will notify Grantee. If the City is willing to allow a modification or replacement of the City Facility to accommodate Grantee's Attachment, the City will notify Grantee and the Parties will discuss the necessary Make-Ready Work to provide an adequate City Facility, including but not limited to replacement of the City Facility and rearrangement or transfer of the City's equipment and fixtures. Before any modification or replacement of any City Facilities commences, plans for the same must first be approved in writing by the City and the timing for the same must be coordinated with City staff. If Grantee elects to go forward with the necessary changes, Grantee shall bear the actual cost of any Make-Ready Work, per Subsection 10.2. When applicable, the Make-Ready Work must also include the arrangement or transfer of any existing equipment of other Attaching Entities; and Grantee shall be responsible for separately entering into an agreement with the other Attaching Entities concerning the allocation of costs for the same. In such event, and before the commencement of any Make-Ready Work, Grantee shall provide the City the agreements between Grantee and the other Attaching Entities concerning the relocation or rearrangement of their attachments and the costs involved.
- 13.2 **Treatment of Multiple Requests for Same City Facility.** If the City receives Supplement Applications for the same City Facility from two or more prospective grantees within 60 days of the initial request, and accommodation of both requests is not possible, the City will authorize the earliest complete Supplement Application received. If it is possible to accommodate more than one Attachment request through a modification, the City will consider, but is not required to authorize, such requests. If the City approves, the prospective grantees must reach an agreement on how to allocate the applicable costs associated with such modification or replacement among such grantees.
- 13.3 **Allocation of Costs.** The costs for any rearrangement or relocation of Grantee'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 Grantee and/or other Attaching Entity and/or other third party on the following basis:
- 13.3.1 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 or replacement of the City Facility. Grantee shall be responsible for all costs associated with any necessary modification or relocation of Grantee's Attachment. Prior to making any such modification or replacement of the City Facility the City shall provide Grantee at least 180 days' written notification of its intent in order to allow Grantee a reasonable opportunity to elect to modify, relocate or add to its existing Attachment. Should Grantee so elect, it must seek the City's written permission per this Agreement. The notification requirement of this Subsection shall not apply in the event of routine maintenance or emergency situations, in which case the City shall provide such advance notice as is practical given the urgency of the particular emergency situation. If Grantee elects to add to or modify its Attachment, Grantee shall bear the total incremental costs incurred by the City in making the space on the City Facilities accessible to Grantee.

- 13.3.2 If the modification or replacement of a City Facility is necessitated by the requirements of Grantee, Grantee shall be responsible for the costs related to the modification or replacement of the Facilities and for the costs associated with the relocation or rearrangement of any other Attaching Entity's wireless facilities as well as those of the City. Grantee shall submit to the City evidence, in writing, that it has made arrangements to reimburse all affected Attaching Entities for the cost to relocate 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 Grantee's responsibility for the costs associated with the relocation or rearrangement of another Attaching Entity's equipment pursuant to this Subsection.
- 13.3.3 If the modification or the replacement of a City 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 Grantee, 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 relocating Grantee's Attachment. Grantee shall cooperate with such third-party Attaching Entity to determine the costs of moving Grantee's Attachment
- 13.3.4 If a City Facility must be modified or replaced for a solely private benefit that would cause relocation or adjustment of Grantee's Attachment, Grantee shall not bear the cost of the relocation or adjustment to the extent of such private benefit and Grantee shall not be obligated to commence relocation or adjustment until receipt of funds for such relocation or adjustment. Grantee shall have no liability for any delays caused by a failure to receive funds for the cost of such relocation or adjustment.
- 13.3.5 If a City Facility must be modified or replaced for other reasons unrelated to the use of the City Facility by Attaching Entities (*e.g., storm, accident, deterioration*), the City shall pay the costs of the modification or replacement of the City Facility and Grantee shall pay any cost related to its Attachment; provided, however, that Grantee shall also 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 Grantee in order to accommodate Grantee's Attachment or meet structural standards attendant thereto. In the alternative, Grantee may replace the City Facility at Grantee's cost or the City may replace its City Facility with a similar City Facility which existed prior to the provision of a substitute by Grantee. Under all such circumstances, Grantee shall be responsible for the costs of rearranging or relocating its Attachment.
- 13.4 **City Not Required to Relocate.** No provision of this Agreement shall be construed to require the City to relocate Grantee's Attachments or to modify or replace City Facilities for the benefit of Grantee; provided, however, if City elects not to replace a City Facility, City shall cooperate with Grantee to identify a mutually agreeable alternate City Facility.

#### **14. ABANDONMENT OR REMOVAL OF CITY FACILITIES**

- 14.1 **Notice of Abandonment or Removal of City Facilities.** If the City desires at any time to abandon, or remove any City Facilities to which Grantee's Attachment is attached, the City shall give Grantee notice in writing to that effect at least sixty (60) days prior to the date on which it intends to abandon or remove such City Facilities. Such notice shall indicate whether the City is offering Grantee an option to acquire the City Facilities. If, following the expiration of the applicable notice period, Grantee has not yet removed and/or relocated all of its Attachments therefrom and has not elected to acquire the City Facilities pursuant to Subsection 14.2, the City shall have the right to have Grantee's Attachment removed and/or relocated from the City Facility at Grantee's expense. The City shall give Grantee 15 days prior written notice of any such removal or relocation of Grantee's Attachment.
- 14.2 **Option to Purchase Abandoned City Facilities.** Should the City desire to abandon any City Facility, the City, in its sole discretion, may grant Grantee the option of purchasing such City Facility in "as is, where is" condition at a reasonable rate negotiated by the parties. Grantee must notify the City in writing within thirty (30) days of the date of the City's notice of abandonment that Grantee desires to purchase the abandoned City Facility. If Grantee elects to acquire title, then City shall promptly execute and deliver a bill of sale and assignment transferring the City Facility to Grantee in "as is, where is" condition, subject only to City's representation and warranty that City is the sole owner, and

City owns the City Facility, as the case may be, free and clear of any liens, leases, licenses or other third party rights or encumbrances. Should Grantee not provide notice of its intent to purchase or should the parties fail to enter into an agreement for Grantee to purchase Grantee must remove its Attachments as required under Section 14.1. The City is under no obligation to sell Grantee the City Facilities that it intends to remove or abandon.

## 15. REMOVAL OF GRANTEE'S ATTACHMENTS

- 15.1 **Removal on Expiration/Termination.** At the expiration or other termination of this Agreement or any individual Supplement(s), Grantee shall remove its Attachment(s) from the affected City Facilities at its own expense. After removal, Grantee shall restore the City Facilities to their condition immediately prior to the date such Attachments were made, excepting normal wear and tear and damage by other parties. Provided, if the City Facility was modified or replaced in accordance with Section 13, the City may, at its option, agree to keep the modified or replacement pole in place instead of having Grantee remove it and replace it with a standard City Streetlight pole. If Grantee fails to remove such Attachments and restore the City Facilities within 60 days of expiration or termination or some greater period as allowed by the City, the City shall have the right to do so at Grantee's expense.
- 15.2 **Grantee Removal.** Grantee may, at any time, remove its Attachment from any City Facility, provided it gives the City at least 14 days prior written notice. Provided, the City may require Grantee to leave in place any conduit, innerduct or similar wireless facility equipment in order to prevent damage to the City Facility. After removal, Grantee shall pay for the actual cost to restore the City Facility to its condition immediately prior to the date the Attachment was made, including the cost for removal and replacement of a City Facility that Grantee installed, excepting normal wear and tear.
- 15.3 **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 Grantee's Attachments. In such event, the City will contact Grantee as soon as practicable to provide notice of such removal. Such removal shall be at Grantee's sole cost and expense, unless the removal was the result of negligence or willful misconduct by the City. The City will give notice to Grantee as soon as practicable under the circumstances.
- 15.4 **Casualty.** In the event of damage to a City Facility due to any casualty, fire, act of God, or other harm affecting a City Facility licensed in whole or in part to Grantee pursuant to a Supplement ("Casualty Event") that cannot reasonably be expected to be repaired within sixty (60) days following such Casualty Event or which City elects not to repair, then Grantee may, at any time following such Casualty Event; (i) terminate the applicable Supplement or affected portion thereof upon fifteen (15) days' written notice to City; or (ii) submit a new Supplement Application for an alternate location equivalent to Grantee's current use of the City Facility, in which case City, upon City approval of the Supplement application, shall waive the applicable application fee and transfer all remaining rights to the new City Facility, as long as such relocation was due to a Casualty Event not caused by Grantee. If Grantee elects to terminate the Supplement, notice of termination shall cause the applicable Supplement or affected portion thereof to terminate with the same force and effect as though the date set forth in such notice were the date originally set as the expiration date of the applicable Supplement. Grantee will be entitled to collect all insurance proceeds payable to Grantee on account thereof, and to be reimbursed for any prepaid Annual Attachment Fee on a pro rata basis. If Grantee does not elect to terminate the applicable Supplement, then the Annual Attachment Fee shall fully abate during the period of repair following such Casualty Event until the date that the Attachment is returned to full on-air operation in the ordinary course of Grantee's business.

## 16. TERMINATION OF SUPPLEMENT

- 16.1 **Automatic Termination of Supplement.** Any Supplement issued pursuant to this Agreement shall automatically terminate when Grantee ceases to have authority to construct operate and maintain its Attachment on public or private property at the Site of the particular City Facility covered by the Supplement.
- 16.2 **Surrender of Supplement.** Grantee may terminate a Supplement at any time upon written notice to the City, and remove its Attachment from the affected City Facilities, provided, however, that before commencing any such removal Grantee must, to the extent required by Applicable Laws, obtain the City's written approval of Grantee'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 and bond requirements of Section 23. No refund of any fees or charges will be made upon removal. However, rental fees shall cease for the Attachment at the time Grantee's Attachment is removed and, if applicable, Grantee has provided to the City the actual costs for the City Facility to be properly restored to its condition immediately prior to the date the Attachment was made, excepting normal wear and tear and damage by other parties. If Grantee terminates such Supplement pursuant to the provisions of this Section, but fails to remove its Attachments from City Facilities within 30 days thereafter, the City shall have the right to remove Grantee's Attachments at Grantee's expense.

## **17. UNAUTHORIZED OCCUPANCY OR ACCESS**

- 17.1 **Penalty Fee.** If any of Grantee's Attachments are found occupying any City 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 Subsection 22.2. In the event Grantee fails to pay such Fee within 30 days of receiving notification thereof, the City has the right to remove such Attachment at Grantee's expense and without liability, subject to the dispute resolution provisions of Subsection 28.10.
- 17.2 **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 Grantee shall be subject to all liabilities, obligations and responsibilities of this Agreement in regards to the unauthorized use from its inception.

## **18. REPORTING REQUIREMENTS**

Concurrently with Grantee's Annual Attachment Fee payment, Grantee shall report any Attachment Grantee has removed from City Facilities during the relevant reporting period. The report shall identify the City Facility from which the Attachment was removed and indicate the approximate date of removal. This requirement does not apply where Grantee is terminating a Supplement pursuant to Subsection 16.2.

## **19. RIGHT TO OPERATE CITY FACILITIES**

The City reserves to itself the right to maintain and operate the City Facilities in such manner as will best enable it to fulfill its governmental service requirements. Grantee agrees to use City Facilities at Grantee's sole risk.

## **PART IV – GENERAL PROVISIONS**

## **20. TERM**

- 20.1 This Agreement shall be effective for an initial term of ten (10) years term beginning on the Effective Date and ending on December 31, 2030. Thereafter, this Agreement will automatically renew for up to two additional 5-year terms, unless either Party notifies the other Party of its intent to terminate the Agreement at least 90 days before the termination of the then current term. The additional term shall be deemed a continuation of this Agreement and not as a new agreement.
- 20.2 Upon written request of either Party, this Agreement shall be renegotiated in good faith at any time in accordance with the requirements of state law with respect to specific terms that are materially affected upon any of the following events: a final, non-appealable change in federal or state laws or orders that materially affect any rights or obligations of either Party, including but not limited to the scope of the Agreement granted to Grantee or the compensation to be received by the City hereunder. All terms in the existing Agreement shall remain in effect while the Parties are negotiating.
- 20.3 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.

- 20.4 Even after the termination of this Agreement, Grantee's responsibility and indemnity obligations shall continue with respect to any claims or demands related to Grantee's Attachments or Wireless Facilities as provided for in Section 16.

## 21. FEES

- 21.1 **Fees for Wireless Facilities<sup>2</sup> in Right-of-way.** Prior to the installation of any of Grantee's Wireless Facilities in the Right-of-way, Grantee agrees to pay the applicable Supplement Application Fee. Thereafter, Grantee agrees to pay an Annual ROW Access Fee for each of Grantee's Wireless Facilities located on:

1. An existing non-city owned structure in the Right-of-way (*e.g. an existing utility pole*); and
2. A new non-city owned structure in the Right-of-way (*e.g., a new small cell monopole*)

The amount of the ROW Permit Application Fee and the Annual ROW Access Fee shall be the amounts specified in the City's Resolution of fees for all similarly-situated providers with small cell facilities. (See Section 21.3 regarding City Fee Resolutions.)

- 21.2 **Fees for Attachments to City Facilities.**<sup>3</sup> Prior to the installation of any Attachment on a City Facility, Grantee agrees to pay the applicable Supplement Application Fee. Thereafter, Grantee agrees to pay an Annual Attachment Fee for each Attachment located on a City Facility. (*The Annual Attachment Fee shall include any applicable Annual ROW Access Fee.*) Grantee also agrees to pay any other Non-Recurring Fees when applicable; and that, at the discretion of the City, Grantee may be required to pay such fees in advance. Non-Recurring Fees may include any of the following:

1. Supplement Application Fee – to reimburse the City for costs incurred for project management services, review of the ROW Permit and/or Supplement Application, and site design approval.
2. Make-Ready Work Costs – to reimburse the City for costs incurred for any Make-Ready Work done to accommodate the Attachment on the City Facility. (*Includes reasonable material, labor, engineering and administrative and overhead costs.*)
3. Inspection Fees – to reimburse the City for costs incurred with inspections of Grantee's Attachments. (*Includes reasonable material, labor, engineering and administrative and overhead costs.*)
4. Unauthorized Attachment Penalty Fee – for Attachments made without City approval. Payment of this fee does not guarantee the Attachment may remain on the City Facility.
5. Failure to Timely Transfer, Abandon or Removal Attachment Penalty Fee (holdover fee).

The amount of the Supplement Application Fee, Annual Attachment Fee, and other Non-Recurring Fees shall be the amounts specified in the City's Resolution of fees for all similarly-situated providers with small cell facilities. (See Section 21.3 regarding City Fee Resolutions.)

- 21.2.1 **Attachment Supplement.** The Annual Attachment Fee shall be memorialized in each individual Supplement. In the event of a modification to the City's Resolution of fee that changes the amount of the Annual Attachment Fee (subject to the notice requirement of Section 21.1), the Parties agree to enter into an amendment of the Supplement(s) to document the revised Annual Attachment Fee.

- 21.3 **City Fee Resolutions.** With respect to the City's Supplement Application Fee and Annual ROW Access Fee for Grantee's Wireless Facilities in the Right-of-way that are not attached to City Facilities (see Section 21.1), and the City's Supplement Application Fee, Annual Attachment Fee and other Non-Recurring Fees for Attachments on City Facilities in the Right-of-way (see Section 21.2), the parties acknowledge and agree as follows:

- 21.3.1 As of the date of execution of this Agreement, City Resolution No. 2020-07 specifies the

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<sup>2</sup> May be referred to in the City Fee Resolution as small cell facilities.

<sup>3</sup> May be referred to in the City Fee Resolution as city streetlight.

City's current Supplement Application Fee,<sup>4</sup> and City Resolution No. 2020-07 specifies the City's current Annual ROW Access Fee, Annual Attachment Fee<sup>5</sup> and Non-Recurring Fees.

- 21.3.2 After specifying the City's current Annual ROW Access Fee and Annual Attachment Fee amounts, City Resolution No. 2020-07 acknowledges the FCC's 2018 Declaratory Ruling regarding fee amounts, but disputes the FCC's authority to establish such fee limitations.<sup>6</sup> This said, Resolution No. 2020-07 provides an option for a provider to only pay the FCC's "safe harbor" annual fee of \$270 in lieu of these specified fee amounts, provided it first agrees in writing to pay any outstanding balance within sixty (60) days in the event the FCC Ruling or its fee limitations are vacated without any further appeal. Accordingly, Grantee hereby exercises this option and consents its condition with respect to the Annual ROW Access Fee and Annual Attachment Fee. Provided, both parties agree that Grantee will not be required to pay any outstanding balance for any period of time more than 18 months prior to the event of any such final, non-appealable order.
- 21.3.3 In the event the City ever seeks to amend or replace City Resolution No. 2020-07 (or any subsequent annual fee resolution that would amend those fees set forth in City Resolution No. 2020-07), the City shall first provide Grantee a minimum of 30 days written notice before any such fee modification takes effect with respect to Grantee's Wireless Facilities.

#### 21.4 **Payment.**

- 21.4.1 **Annual Fees.** Grantee shall pay all applicable Annual ROW Access Fees and all Annual Attachment Fees without requirement for invoice or reminder from the City by January 1 each year. Said annual fee payments are due in advance and not in arrears. As to any new Grantee's Wireless Facilities installed by or for Grantee during any calendar year, such fee may be prorated based on the number of days in the calendar year in which the Wireless Facilities were installed and shall commence upon the first day of the month following the effective date of the applicable Supplement and/or ROW Permit for the Wireless Facilities. In such event, Grantee shall clearly identify the same and the proration amount when Grantee's payment is made.
- 21.4.2 **Non-Recurring Fees.** The Supplement Application Fee is due when an application is submitted and an application is not considered complete without payment of the fee. All other Non-Recurring Fees are due within 60 days after the City issues the invoice.
- 21.4.3 All invoices and other requests for payment to City under this Agreement (other than the payment of the Annual ROW Access Fee and Annual Attachment Fee) shall be timely presented in writing to Grantee and accompanied with reasonable substantiation of the costs incurred by City. Properly presented invoices shall be paid by Grantee within sixty (60) days of receipt of invoice accompanied by such substantiation.
- 21.4.4 All fees paid under this Agreement are compensation for the use of the Right-of-way or for the attachment to City Facilities and shall in no way be deemed a tax of any kind.
- 21.5 **Late Charge and Billing Dispute Resolution.** If the City does not receive payment for any fee or other amount owed hereunder within 60 days after it becomes due, Grantee shall pay interest to the City on the amount due at the rate of 10% simple interest per annum; 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 Subsection 28.10.

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<sup>4</sup> Referred to therein as the "ROW Permit Fee."

<sup>5</sup> Referred to therein as "Annual ROW Access and Streetlight Attachment Fee."

<sup>6</sup> Resolution No. 2020-07 specifically states, "The FCC issued a Declaratory Ruling on September 27, 2018, in WT Docket Nos. 17-79 and 17-84 (FCC 18-133, 33 FCC Rc'd 9088) ("FCC Ruling") in which the FCC seeks to limit attachment, franchise and/or other small cell ROW access fees to the "reasonable approximation" of a local jurisdiction's cost for processing applications and managing deployment in the right-of-way, but then also establishes a "safe harbor" annual fee of \$270/site. The City disputes the FCC's authority to establish such fee limitations and notes several jurisdictions have filed legal challenges to the FCC Ruling. Given this status, until and unless a court of competent jurisdiction issues a final, non-appealable order vacating the FCC Ruling or its fee limitations, a provider may opt to pay the City only \$270/site towards the Annual Fees (items 2 or 3 above) provided it first agrees in writing that, in the event the FCC Ruling or its fee limitations are vacated without any further appeal, the provider shall pay any outstanding balance for said Annual Fees within 60 days thereof."

- 21.6 **Determination of Fees and Charges of City Work.** Wherever this Agreement requires Grantee to pay for work done or contracted by the City, the City may utilize its employees or contractors, or any combination of the two, to perform such work, or to permit Grantee to perform the work. Grantee will be responsible for payment to the City for all of the actual costs of all work the City or its contractors perform pursuant to this Agreement to accommodate Grantee's Attachments. 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 Grantee was required to perform work and fails to perform such work necessitating its completion by the City, the City may charge the actual costs associated with completion of such work. When requested by Grantee, the City agrees to provide Grantee with reasonable documentation to determine actual and estimated costs.
- 21.7 **True Up.** Wherever the City, at its discretion, requires advance payment of estimated expenses prior to undertaking an activity on behalf of Grantee and the actual cost of activity exceeds the advance payment of estimated expenses, Grantee 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 Grantee the difference in cost.
- 21.8 **Refunds.** No fees or charges shall be refunded on account of any removal of any of Grantee's Wireless Facilities (including any Attachment) or any termination of a Supplement granted hereunder. Notwithstanding the forgoing, the City shall not continue to charge going forward for any Supplement terminated in the previous calendar year, and Grantee shall be entitled to a refund upon discovery of such a billing error.
- 21.9 **No Accord.** No acceptance by the City of any fee shall be construed as an accord that the amount paid is in fact the correct amount, nor shall acceptance of any payment be construed as a release of any claim of the City.
- 21.10 **Default for Nonpayment.** Nonpayment of any amount due under this Agreement beyond 90 days following receipt of written notice of nonpayment shall constitute a default of a material term of this Agreement as set forth in Subsection 27.1.
- 21.11 **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) where Attachments are located or the basis on which such taxes are calculated, increase following installation of the Attachment, Grantee shall reimburse the City for the portion of such increase or change attributable to any construction, installation or improvements provided pursuant to this Agreement. Grantee 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 Grantee property located on the Site(s) that are billed directly to Grantee by the taxing authorities.

## **22. INDEMNITY AND HOLD HARMLESS**

- 22.1 It shall be the responsibility of Grantee to take adequate measures to protect and defend its Wireless Facilities in the Right-of-way from harm or damage. If Grantee fails to accurately or timely locate its Wireless Facilities when requested, in accordance with the Kansas Underground Utility Damage Prevention Act, K.S.A. 66-1801 *et seq.*, and amendments thereto, 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 Wireless Facilities.
- 22.2 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 or subcontractor of Grantee, while installing, repairing or maintaining Wireless Facilities in the Right-of-way.

- 22.3 The indemnity provided by this Section 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. Likewise, the indemnity provided by this Section does not apply to any liability resulting from the negligence of any third party not associated with Grantee, or for any portion of any harm caused by the same. 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.
- 22.4 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 Right-of-way.

## **23. INSURANCE AND BOND**

- 23.1 **Certificate of Insurance.** Grantee shall at its sole expense maintain the insurance coverage and limits required by this Section during the Term of this Agreement. Grantee agrees to procure the required insurance from an insurance company having and maintaining an A.M. Best rating of at least A-VII and deliver to the City a Certificate of Insurance evidencing the types of insurance and policy limits required.
- 23.2 **Required Insurance.**
- 23.2.1 **Workers' Compensation and Employer's Liability Insurance.** As required by statute, with Employer's Liability limits of \$500,000 each accident, \$500,000 by disease policy limits, and \$500,000 by disease each employee. To the extent allowed by Applicable Laws, the policy must include a blanket waiver of subrogation in favor of the City.
- 23.2.2 **Commercial General Liability Insurance.** Written on Insurance Services Office (ISO) Form CG 00 01 or a substitute form providing equivalent coverage, with limits of:
- |             |                                                          |
|-------------|----------------------------------------------------------|
| \$2,000,000 | General Aggregate Limit                                  |
| \$1,000,000 | Each Occurrence                                          |
| \$1,000,000 | Each Occurrence - Personal Injury and Advertising Injury |
| \$2,000,000 | Products/Completed Operations Aggregate Limit            |
- The required Commercial General Liability policy must include the City of Overland Park as an additional insured on a primary and non-contributory basis and a waiver of subrogation in favor of the City.
- 23.2.3 **Business Automobile Liability insurance.** With limits of \$1,000,000 Combined Single Limit for each Accident for Bodily Injury and Property Damage, extending to all company owned, leased, and non-owned vehicles.
- 23.2.4 **Umbrella/Excess Liability Insurance.** Coverage is to be in excess of the employers' liability, commercial general liability, and automobile liability insurance required above with limits of \$4,000,000 each occurrence, \$4,000,000 aggregate.
- 23.3 **Notice of Cancellation.** Grantee may meet the required insurance coverage and limits with any combination of primary and umbrella/excess liability insurance. Grantee shall provide at least 30 days advance written notice of cancellation or non-renewal of any required insurance that is not replaced. Notwithstanding the foregoing, Grantee may self-insure the required insurance under the same terms and conditions as outlined above; provided, Grantee or its parent company shall have and continuously maintain a tangible net worth of at least one hundred million dollars (\$100,000,000.00).
- 23.4 **Bond.** Grantee shall, as a material condition of this Agreement, 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 operation and maintenance of Grantee's Wireless Facilities located in the 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 Use and Occupancy of the Public Right-of-Way Ordinance and amendments thereto, Codified at Chapter 13, Article 5 of the City Code. 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.

## **24. ASSIGNMENT**

- 24.1 **Assignment.** This Agreement is granted solely to 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, or to an entity with which Grantee is under common ownership or control or in connection with the sale or other transfer of substantially all of Grantee's assets in the FCC market area where the City Facility or structures are located, upon written notice to the City. In the event of any transfer or assignment of either this Agreement 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. No assignment or transfer shall be allowed and Grantee shall remain fully liable under this Agreement until the successor entity becomes a signatory to this Agreement and assumes all obligations of Grantee arising under this Agreement. Additionally, Grantee's obligations under this Agreement with regard to indemnity, bonding and insurance shall continue until the successor entity 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.
- 24.2 **Sub-licensing.** Without the City's prior written consent, Grantee shall not sub-license or lease its rights under this Agreement to any third party, including but not limited to allowing third parties to place Attachments on City Facilities. Any such action shall constitute a default of material term of this Agreement as set forth in Subsection 27.1. Notwithstanding the foregoing, and subject to the reasonable approval of the City, the installation and use of internal space within Grantee's Attachments for third party wireless providers utilizing Grantee's Wireless Services is not subject to this Subsection. Furthermore, the use of Grantee's Attachments by third parties (including but not limited to leases of dark fiber) that involves no additional Attachment or overlying is not subject to this Subsection.

## **25. DISCLAIMER**

THE CITY MAKES NO EXPRESS OR IMPLIED WARRANTIES WITH REGARD TO THE RIGHT-OF-WAY OR THE CITY 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.

## **26. RESERVATION OF RIGHTS**

- 26.1 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.
- 26.2 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.
- 26.3 In entering into this Agreement, 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 Agreement, 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, ordinances and/or rulings.

- 26.4 The City specifically reserves its right and authority as a public entity with responsibilities towards its citizens, and as a customer (or potential customer) of Grantee, 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.

## 27. TERMINATION

- 27.1 If a Party is in default of any material term or condition of this Agreement or a Supplement, the other Party may terminate the Agreement, if such default is in relation to the Agreement as a whole, or the applicable Supplement(s) if such default is in connection with the Supplement(s). Before terminating the Supplement(s) or this Agreement, the Party will first notify the Party in default in writing of the details of such default. The Party in default shall take immediate corrective action to eliminate any such condition(s) within 60 days (or, if such default is not curable within 60 days, if the defaulting Party fails to commence that cure within 60 days or fails thereafter diligently to prosecute such cure to completion) and shall confirm in writing to other Party that the cited condition(s) has ceased or been corrected, or is in the process of being corrected. If the Parties are unable to resolve the dispute and the Party in default fails to discontinue or correct such condition(s) and/or fails to give the required confirmation, the initial Party may immediately terminate the applicable Supplement(s) or the Agreement, as applicable. In the event of termination of the Supplement(s) or the Agreement (as applicable), Grantee shall remove its Attachment(s) or Wireless Facilities pursuant to Section 16. In such instance, Grantee shall remain liable for and pay all fees and charges accrued pursuant to the terms of this Agreement to the City until Grantee's Attachment(s) or Wireless Facilities is actually removed.
- 27.2 Default of any material term or condition includes, but is not limited to, any of the following circumstances:
- 27.2.1 Construction, operation or maintenance of Grantee's Wireless Facilities in violation of Applicable Standards or the City's regulatory provisions (per Part II).
  - 27.2.2 Construction, operation or maintenance of Grantee's Wireless Facilities in violation of law or in aid of any unlawful act or undertaking.
  - 27.2.3 Construction, operation or maintenance of Grantee's Wireless Facilities after any authorization required of Grantee has lawfully been denied or revoked by any governmental or private authority.
  - 27.2.4 The expiration, termination or revocation of any other required regulatory authorization (as required by Section 4); provided, Grantee shall have a reasonable period of time to obtain the reinstatement of any such authorization.
  - 27.2.5 Construction, operation or maintenance of Grantee's Wireless Facilities without maintaining current insurance coverage or bond as set forth in Section 23.
  - 27.2.6 Nonpayment of any amount due under this Agreement beyond 90 days of written notice as set forth in Subsection 21.10.
  - 27.2.7 Unauthorized occupancy or access to City Facilities. (See Section 17.)
  - 27.2.8 Unauthorized sub-license or lease of City Facilities as set forth in Subsection 24.2.
  - 27.2.9 Failure to eliminate interference with a City Facility as set forth in Section 5. (Termination of applicable Supplement only.)
- 27.3 Nothing herein shall prevent either Party from invoking any other remedy that may otherwise exist under this Agreement, at law or in equity.

## 28. MISCELLANEOUS PROVISIONS

- 28.1 **Emergency Contact.** Grantee shall maintain with the City an emergency contact who shall be available at all times to act on behalf of Grantee in the event of an emergency. Grantee's emergency contact number shall be 1-800-638-2822. Failure to maintain an emergency contact shall eliminate the City's liability to Grantee for any actions that the City deems reasonably necessary given the

specific circumstances. Emergency notice by Grantee to the City may be made by telephone to the City Clerk or the Public Works Director.

- 28.2 **Notices.** All notices, requests and demands hereunder shall be in writing and shall be effective when personally delivered to, or when mailed by certified mail, return receipt requested, or by a nationally recognized overnight courier, postage prepaid, to be effective when properly sent and received, or refused. Except where specifically provided for elsewhere, notices will be as follows:

|                                                                                                                                                               |                                                                                                                                                                                                                                                                                                                                  |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>The City:</b><br>City of Prairie Village, Kansas<br>7700 Mission Road<br>Prairie Village, Kansas 66208<br>Attn: City Clerk<br>(913) 381-6464               | <b>Grantee:</b><br>New Cingular Wireless PCS, LLC<br>Attn: Tower Asset Group – Lease Administration<br>Re: Wireless Installation on Public Structures<br>City of Overland Park, Kansas<br>FA No.: _____<br>1025 Lenox Park Blvd NE, 3 <sup>rd</sup> Floor<br>Atlanta, GA 30319<br>Day to day operations - contact 1-800-638-2822 |
| <b>With a copy to:</b><br>City of Prairie Village, Kansas<br>7700 Mission Road<br>Prairie Village, Kansas 66208<br>Attn: City Administrator<br>(913) 381-6464 | <b>With a copy to:</b><br>New Cingular Wireless PCS, LLC<br>Attn: AT&T Legal Dept. – Network Operations<br>Re: Wireless Installation on Public Structures<br>(City of Overland Park, Kansas)<br>FA No.: _____<br>208 S. Akard Street<br>Dallas, TX 75202-4206                                                                    |

Any Party may change its address or other contact information at any time by giving the other Party and persons named above written notice of said change.

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 relocation or City Facility modifications.

- 28.3 **Entire Agreement.** This Agreement supersedes all previous agreements, whether written or oral, between the City and Grantee with respect to the subject matter of this Agreement; and there are no other provisions, terms or conditions to this Agreement except as expressed herein. 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.
- 28.4 **Conflict of Agreement and Supplements.** In the event of any conflict between this Agreement and any Supplement or exhibit hereto, the terms and conditions of this Agreement, as amended from time to time, shall control.
- 28.5 **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 the Right-of-way or City Facilities. Such rights shall not interfere with the rights granted to Grantee by the specific Supplements issued pursuant to this Agreement.
- 28.6 **Other Agreements.** Except as provided herein, nothing in this Agreement shall limit, restrict, or prohibit the City from fulfilling any agreement or arrangement regarding the Right-of-way or City Facilities into which the City has previously entered, or may enter in the future, with others not party to this Agreement, provided that any future attachments on City Facilities shall not interfere with Grantee's Attachments.
- 28.7 **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.

- 28.8 **No Third-Party Beneficiaries.** Nothing in this Agreement is intended to confer rights on any third party, as a third-party beneficiary or otherwise.
- 28.9 **Failure to Enforce.** Failure of either Party 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. No waiver or relinquishment shall be deemed to have been made by either Party unless said waiver or relinquishment is in writing and signed by both the City and Grantee.
- 28.10 **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 pursuing good faith negotiations, 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. Unless otherwise agreed in writing, and to the extent permitted under Applicable Laws, communication between the Parties under this Subsection will be treated as confidential information developed for settlement purposes, exempt from discovery, and inadmissible in litigation.
- 28.11 **Confidentiality.** Information provided to the City under this Agreement 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 Agreement.
- 28.12 **Force Majeure.** Each and every provision hereof shall be reasonably subject to acts of God, fires, strikes, riots, floods, earthquake, acts of terrorism, war and other disasters beyond either Party's control.
- 28.13 **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. Nothing herein shall be construed to waive or limit the City's immunities, limitation of liability, or defenses under the Kansas Tort Claim Act or other law.
- 28.14 **Survival.** Any termination of this Agreement shall not release Grantee from any liability, amount due, or other obligations hereunder, whether of indemnity or otherwise, which may have accrued or may be accruing at the time of termination.
- 28.15 **Severability.** If any provision or portion thereof of this Agreement is held to be invalid by any Applicable Laws or 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, either Party may elect to declare the entire Agreement invalidated if the portion declared invalid is, in the judgment of the Party, an essential part of the Agreement; provided further, before any such termination the Parties shall begin negotiate in good faith for a replacement of the invalid or unenforceable portion.
- 28.16 **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.
- 28.17 **Execution in Counterparts.** This Agreement may be executed in multiple counterparts, including scanned email counterpart signature, each of which shall be deemed an original, and all such counterparts once assembled together shall constitute one integrated instrument.
- 28.18 **Waiver of Jury Trial.** Each Party waives its right to a trial by jury on disputes arising from this Agreement.

*[Remainder of Page Intentionally Left Blank. Signature Page Follows Directly]*

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the day and year first above written.

**CITY OF PRAIRIE VILLAGE, KANSAS**

By: \_\_\_\_\_

Eric Mikkelson, Mayor

**ATTEST:**

By: \_\_\_\_\_

Adam Geffert, City Clerk

**APPROVED AS TO LEGAL FORM:**

By: \_\_\_\_\_

David E. Waters, City Attorney

**NEW CINGULAR WIRELESS PCS, LLC**

**By: AT&T Mobility Corporation**

**Its: Manager**

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

**LIMITED LIABILITY COMPANY ACKNOWLEDGMENT**

STATE OF \_\_\_\_\_ )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

BE IT REMEMBERED, that on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came \_\_\_\_\_, \_\_\_\_\_ of AT&T MOBILITY CORPORATION, the Manager of NEW CINGULAR WIRELESS PCS, LLC, a limited liability company duly organized and existing under and by virtue of the laws of Delaware; who is personally known to me to be the \_\_\_\_\_ and who is personally known to me to be the same person who executed as such officer the within instrument on behalf of said limited liability company, and such person duly acknowledged the execution of the same to be the act and deed of said limited liability company.

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

\_\_\_\_\_  
Notary Public

My Appointment Expires:

\_\_\_\_\_

**Exhibit A**

(Form of Supplement)

**SUPPLEMENT NO. \_\_\_\_\_  
TO MASTER LICENSE AGREEMENT**

This Supplement to Small Cell Facility Deployment and Master Right-of-Way License Agreement ("Supplement"), is made this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ (the "Effective Date") by and between the **CITY OF PRAIRIE VILLAGE, KANSAS** (the "City"), and **NEW CINGULAR WIRELESS PCS, LLC**, a Delaware limited liability company d/b/a AT&T Mobility ("Grantee") (collectively the "Parties").

1. **Supplement to the Agreement.** This Supplement is a Supplement as referenced in the Small Cell Facility Deployment and Master Right-of-Way License Agreement between the City and Grantee dated \_\_\_\_\_, 202\_, (the "Agreement"). All of the terms and conditions of the Agreement are incorporated herein by reference and made a part hereof. In the event of a contradiction, modification or inconsistency between the terms of the Agreement and this Supplement, the terms of the Agreement shall govern. Terms used in this Supplement shall have the same meaning described for them in the Agreement unless otherwise indicated herein.

2. **Site Description and Site Plan for Attachment.** City hereby licenses to Grantee certain spaces on the City Facility located at the Site described below:

Grantee Site Number: \_\_\_\_\_

Property Address: \_\_\_\_\_

City Pole Address: \_\_\_\_\_

Electric Service Address: \_\_\_\_\_

Site Plan: The Attachments of Grantee's Wireless 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 of the Agreement.

4. **Fee.** As prescribed by Section 21 of the Agreement and commencing on the Effective Date of this Supplement, Grantee shall pay to the City the Annual Attachment Fee for use of the above-cited City Facility in the amount of: \_\_\_\_\_.

5. **Site Specific Terms.** (Include any site-specific terms, e.g., replace lighting with LEDs)

**IN WITNESS WHEREOF**, the City and Grantee have executed this Supplement effective the day and year first above written.

**CITY OF PRAIRIE VILLAGE, KANSAS**

**NEW CINGULAR WIRELESS PCS, LLC**

By: \_\_\_\_\_  
Eric Mikkelson, Mayor

By: **AT&T Mobility Corporation**  
Its: **Manager**

**ATTEST:**

By: \_\_\_\_\_  
Adam Geffert, City Clerk

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

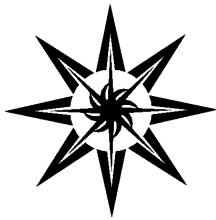
**APPROVED AS TO LEGAL FORM:**

By: \_\_\_\_\_  
David E. Waters, City Attorney

Title: \_\_\_\_\_

**Attachment 1**

*(Site Plan of Facilities and Attachments)*



## ADMINISTRATION

Council Meeting Date: February 1, 2021

**COU20201-20: Consider reaffirming expenditures to date and authorize City Staff to spend any additional Coronavirus Relief Funds for ongoing COVID related expenses**

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### RECOMMENDATION

Staff recommends the Governing Body reaffirm expenditures to date and authorize City Staff to use any additional Coronavirus Relief Funds (CRF) for ongoing COVID related expenses.

### SUGGESTED MOTION

Move to reaffirm the Coronavirus Relief Funds to date and give staff authorization to spend remaining funds for COVID related expenses.

### BACKGROUND

On November 2, 2020, the City Council approved the subrecipient grant agreement and affirmed expenditures to date of \$533,705.15. Prairie Village was eligible to receive \$689,201.15 in CRF. Prairie Village had \$155,496.00 in eligible funds remaining in CRF which had not yet been allocated to the City.

After the initial Council approval, the situation evolved and the rules for spending changed with Johnson County. As such, the City was able to capture the remaining CRF through police department salaries during the pandemic. Those funds were placed in a suspense account to be used for future COVID related costs. In addition to the \$533,705.15 for new projects or equipment, the City spent an additional \$58,951.54 which was necessary to complete IT projects and video conferencing capabilities already approved. Due to a very tight time frame, we learned the original estimates were not exact and some of the projects needed additional licensing or hardware. The City also had other miscellaneous COVID related expenses, including but not limited to disinfecting of facilities and testing for employees. In order not to deplete programs budgeted in the general fund, subsequent COVID related expenses were applied to the Corona Relief Funds allocated to the City.

Our expenditures are reflected in the expenditure spreadsheet. Prairie Village has spent to date:

|                          |                       |
|--------------------------|-----------------------|
| Subrecipient Allocation: | \$689,201.15          |
| Submittal 1-3:           | (\$60,982.12)         |
| Submittal 4:             | (\$16,540.97)         |
| Current expenditures:    | <u>(\$515,133.60)</u> |
| Balance:                 | \$96,544.46           |

City Staff is anticipating COVID related expenses in the future and would like Council approval to spend the unallocated funds for any of those future expenses associated to the pandemic.

### ATTACHMENTS

Current Expenditure Spreadsheet

**PREPARED BY**

Tim Schwartzkopf  
Assistant City Administrator  
Date: January 26, 2021

| Expenditures reflected at November 2, 2020 Council Meeting                     | Amount              |
|--------------------------------------------------------------------------------|---------------------|
| Bank Counter Window Intercom System                                            | 139.00              |
| 5 Hand Sanitizer Stands                                                        | 695.00              |
| Techno hands free flusher on 3 tank type toilets (Community Ctr)               | 4,550.00            |
| Side mount flusher on 11 toilets (Police Department)                           | 14,510.00           |
| Side mount flusher on 8 toilets (City Hall)                                    | 10,360.00           |
| iWave Air Purifiers (City Hall and Police Department)                          | 20,450.00           |
| Vmware Horizon - Enable desktop and application virtualization for teleworking | 75,205.05           |
| Office 365 - needed for teleworking                                            | 50,111.20           |
| Cisco UCS Server to allow staff to work offsite from any location              | 13,651.09           |
| Nimble SAN Expansion Shelf to add storage space needed for teleworking         | 29,526.16           |
| 13 laptop computer for remote work                                             | 14,081.73           |
| Online accident report website integrations to minimize public contact         | 5,291.00            |
| GoAnywhere Software - Manage file transfer to transfer securely                | 2,880.00            |
| Door lock and licensing to secure Police Department                            | 12,768.00           |
| Mitel softphone for remote work / telework services                            | 40,023.80           |
| Upgrade video conferencing equipment in the Council Chambers and MPR           | 111,337.00          |
| 7 Apple 10.2" iPad Wi-Fi 32 GB and 7 smart keyboards (Planning Commission)     | 2,238.04            |
| Professional Disinfecting                                                      | 1,888.60            |
|                                                                                | <b>\$409,705.67</b> |

| Expenditures after November 2, 2020 Council Meeting             | Amount              |
|-----------------------------------------------------------------|---------------------|
| Bio Protect (City Hall, Police Department and Community Center) | 4,691.00            |
| Covid Testing                                                   | 3,680.12            |
| Laptops                                                         | 7,999.90            |
| Legal                                                           | 295.00              |
| Cleaning                                                        | 288.00              |
| Signs                                                           | 74.15               |
| Air Purifier                                                    | 270.00              |
| Hand Sanitizer                                                  | 289.28              |
| Wipes                                                           | 108.62              |
| Zoom                                                            | 204.83              |
| Headset, webcam, etc.                                           | 371.53              |
| Portable printer                                                | 1,139.97            |
| Police Department Lobby Door                                    | 4,489.00            |
| Police Department Conference Room                               | 5,000.00            |
| Multi Purpose Room                                              | 9,877.78            |
| Laptops                                                         | 7,999.90            |
| Laptops                                                         | 11,782.29           |
| VM Horizon                                                      | 46,866.56           |
|                                                                 | <b>\$105,427.93</b> |

| Summary                       | Amount                |
|-------------------------------|-----------------------|
| Subrecipent Allocation        | <b>\$689,201.15</b>   |
| Submittal 1- 3                | <b>(\$60,982.12)</b>  |
| Submittal 4                   | <b>(\$16,540.97)</b>  |
| Expenditures (as shown above) | <b>(\$515,133.60)</b> |
| Balance                       | <b>96,544.46</b>      |



## **PARKS AND RECREATION**

**Parks & Recreation Meeting Date: November 18, 2020**

**Council Committee Date: February 1, 2021**

**City Council Meeting Date: February 16, 2021**

**COU2021-21: Consider 2021 Recreation Fee Schedule**

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### **RECOMMENDATION**

Recommend approval of the 2021 Recreation Fee Schedule as approved by the Parks & Recreation Committee.

### **BACKGROUND**

Per Council direction, staff annually reviews recreation fees to ensure they are reasonable and keep pace with any operational increases. The Parks & Recreation Committee voted at their November 18, 2020 meeting to recommend no changes to the fee schedule in 2021. The recommended fees are based off a typical year with no COVID-19 impacts. Changes may be proposed to the governing body later in the spring as accommodations related to the pandemic are considered.

### **ATTACHMENTS**

2021 Recreation Fee Schedule as approved by the Parks & Recreation Committee

### **PREPARED BY**

Meghan Buum

Assistant City Administrator

Date: January 27, 2021

## 2021 Recreation Fee Schedule - PROPOSED

| CATEGORY | 2018 | 2019 | 2020 | 2021 | Percent Change |
|----------|------|------|------|------|----------------|
|----------|------|------|------|------|----------------|

|                       |      |             |             |             |    |
|-----------------------|------|-------------|-------------|-------------|----|
| <b>RESIDENT</b>       |      |             |             |             |    |
| Individual*           | \$45 | <b>\$50</b> | <b>\$50</b> | <b>\$50</b> | 0% |
| Senior Citizen (60+)* | \$40 | \$45        | \$45        | \$45        | 0% |
| 5 Swim Card           | \$30 | \$35        | \$35        | \$35        | 0% |

\*\$10 early bird special in April

**Under Age 2 - Free**

|                       |      |      |      |      |    |
|-----------------------|------|------|------|------|----|
| <b>NON-RESIDENT</b>   |      |      |      |      |    |
| Individual*           | \$75 | \$80 | \$80 | \$80 | 0% |
| Senior Citizen (60+)* | \$65 | \$70 | \$70 | \$70 | 0% |
| 5 Swim Card           | \$35 | \$40 | \$40 | \$40 | 0% |

\*\$10 early bird special in April

**Under Age 2 - Free**

|                                 |     |             |             |             |    |
|---------------------------------|-----|-------------|-------------|-------------|----|
| <b>DAILY</b>                    | \$8 | <b>\$10</b> | <b>\$10</b> | <b>\$10</b> | 0% |
| <b>TWILIGHT (after 4:30 pm)</b> | \$5 | <b>\$5</b>  | <b>\$5</b>  | <b>\$5</b>  | 0% |
| <b>DAYCARE</b>                  | \$5 | <b>\$5</b>  | <b>\$5</b>  | <b>\$5</b>  | 0% |

|                    |       |              |              |              |    |
|--------------------|-------|--------------|--------------|--------------|----|
| <b>POOL RENTAL</b> | \$350 | <b>\$350</b> | <b>\$350</b> | <b>\$350</b> | 0% |
|--------------------|-------|--------------|--------------|--------------|----|

|                                 |       |              |              |              |    |
|---------------------------------|-------|--------------|--------------|--------------|----|
| <b>AQUATICS</b>                 |       |              |              |              |    |
| Resident                        | \$110 | <b>\$110</b> | <b>\$110</b> | <b>\$110</b> | 0% |
| additional child                | \$105 | <b>\$105</b> | <b>\$105</b> | <b>\$105</b> | 0% |
| Non-Resident without membership | \$165 | <b>\$165</b> | <b>\$165</b> | <b>\$165</b> | 0% |
| Non-Resident with membership    | \$115 | <b>\$115</b> | <b>\$115</b> | <b>\$115</b> | 0% |
| Lessons (30 minutes)            | \$45  | <b>\$45</b>  | <b>\$45</b>  | <b>\$45</b>  | 0% |

|                           |       |              |              |              |    |
|---------------------------|-------|--------------|--------------|--------------|----|
| <b>TENNIS</b>             |       |              |              |              |    |
| JTL                       | \$105 | <b>\$105</b> | <b>\$105</b> | <b>\$105</b> | 0% |
| additional child          | \$100 | <b>\$100</b> | <b>\$100</b> | <b>\$100</b> | 0% |
| Private (30 minutes)      | \$25  | <b>\$25</b>  | <b>\$25</b>  | <b>\$25</b>  | 0% |
| Semi-Private (30 minutes) | \$16  | <b>\$20</b>  | <b>\$20</b>  | <b>\$20</b>  | 0% |
| Three & a Pro (1 hour)    | \$18  | <b>\$20</b>  | <b>\$20</b>  | <b>\$20</b>  | 0% |

|                              |        |               |               |               |    |
|------------------------------|--------|---------------|---------------|---------------|----|
| <b>ATHLETIC FIELD RENTAL</b> |        |               |               |               |    |
| Individual Rental (hourly)   | \$7.50 | <b>\$7.50</b> | <b>\$7.50</b> | <b>\$7.50</b> | 0% |
| Seasonal Practices           | \$40   | <b>\$40</b>   | <b>\$40</b>   | <b>\$40</b>   | 0% |
| Commercial Use (hourly)      | N/A    | <b>\$20</b>   | <b>\$20</b>   | <b>\$20</b>   | 0% |

|                                    |                          |                              |                              |                              |    |
|------------------------------------|--------------------------|------------------------------|------------------------------|------------------------------|----|
| <b>TENNIS COURT RENTAL</b>         |                          |                              |                              |                              |    |
| Individual Rental (hourly)         | \$7                      | \$7                          | \$7                          | \$7                          | 0% |
| School Tournament                  | \$300/<br>tournament     | \$150/day                    | \$150/day                    | \$150/day                    | 0% |
| Private Tournament                 | \$300<br>+ \$250 deposit | \$150/day<br>+ \$250 deposit | \$150/day<br>+ \$250 deposit | \$150/day<br>+ \$250 deposit | 0% |
| Seasonal School Rental (per court) | \$50                     | \$50                         | \$50                         | \$50                         | 0% |

Due to COVID-19 restrictions, most meetings will be held virtually. Please continue to check <http://pvkansas.com> for access details.

**MAYOR'S ANNOUNCEMENTS**  
**Monday, February 1, 2021**

|                                      |            |           |
|--------------------------------------|------------|-----------|
| Planning Commission                  | 02/02/2021 | 7:00 p.m. |
| Tree Board                           | 02/03/2021 | 6:00 p.m. |
| Arts Council                         | 02/10/2021 | 5:30 p.m. |
| Presidents Day – City Offices Closed | 02/15/2021 |           |
| City Council                         | 02/16/2021 | 6:00 p.m. |
| VillageFest Committee                | 02/25/2021 | 5:30 p.m. |
| City Council                         | 03/01/2021 | 6:00 p.m. |

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**INFORMATIONAL ITEMS**  
**February 1, 2021**

1. Forfeiture Trust Fund 2020 Annual Report
2. 2020 Crime Statistics
3. February Plan of Action

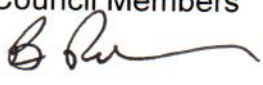


# PRAIRIE VILLAGE POLICE DEPARTMENT

"A Tradition of Service"

Byron K. Roberson  
Chief of Police



**DATE:** January 15, 2021  
**TO:** Mayor Mikkelson and City Council Members  
**FROM:** Chief Byron K. Roberson   
**SUBJECT:** FORFEITURE TRUST FUND 2020 ANNUAL REPORT

As per Council Policy, I am submitting the following annual report for the time period of January 1 through December 31, 2020.

---

## PD GENERAL FORFEITURE FUND – 01-00-00-2117-000

**FUND TOTAL - January 1, 2020:** **\$61,498.94**

### Expenditures

|                                                                |            |
|----------------------------------------------------------------|------------|
| KC Crime Commission – increase reward for homicide case        | -3,000.00  |
| Command School – Sgt. Joel Porter – tuition, meals and lodging | -6,236.41  |
| Riot gear – face shields for officers                          | -10,210.00 |
| Pole camera – mobile unit for SIU                              | -2,283.39  |
| replenish SIU buy fund                                         | -4,000.00  |

### Revenue

|                                            |        |
|--------------------------------------------|--------|
| Interest                                   | 288.22 |
| Restitution (19)                           | 996.83 |
| Drug Tax Distribution from State of Kansas | 412.35 |

**FUND BALANCE - December 31, 2020:** **\$37,466.54**

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**Federal Equitable Sharing Reserve – 01-00-00-2119-000**

**FUND TOTAL - January 1, 2020:** **\$482.81**

**Revenue**

Interest **2.69**

**FUND BALANCE - December 31, 2020:** **\$485.50**

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**FORFEITURE TRUST FUND BALANCE:** **\$37,952.04**

BKR:jlw

cc: Accounting

**PRAIRIE VILLAGE-MISSION HILLS COMBINED  
FINAL CRIME REPORT - 2020**

| CRIME                        | 2016         | 2017         | 2018         | 2019         | 2020          | AVERAGE         | 2020 +/- AVG    |
|------------------------------|--------------|--------------|--------------|--------------|---------------|-----------------|-----------------|
| Homicide                     | 1            | 0            | 0            | 0            | 1             | 0.40            | 0.60            |
| Rape                         | 1            | 2            | 4            | 1            | 2             | 2.00            | 0.00            |
| Robbery                      | 1            | 4            | 1            | 3            | 2             | 2.20            | -0.20           |
| Assault                      | 65           | 62           | 72           | 73           | 54            | 65.20           | -11.20          |
| Burglary                     | 58           | 41           | 50           | 55           | 34            | 47.60           | -13.60          |
| Residence                    | 53           | 36           | 38           | 43           | 23            | 38.60           | -15.60          |
| Business/ Miscellaneous      | 5            | 5            | 12           | 12           | 11            | 9.00            | 2.00            |
| Theft                        | 209          | 239          | 321          | 271          | 269           | 261.80          | 7.20            |
| Auto Theft                   | 37           | 29           | 34           | 42           | 49            | 38.20           | 10.80           |
| Arson                        | 0            | 1            | 2            | 0            | 0             | 0.60            | -0.60           |
| Forgery                      | 12           | 23           | 13           | 7            | 8             | 12.60           | -4.60           |
| Fraud                        | 84           | 35           | 0            | 1            | 1             | 24.20           | -23.20          |
| Criminal Damage              | 123          | 63           | 56           | 33           | 50            | 65.00           | -15.00          |
| Sexual Offenses              | 13           | 12           | 12           | 7            | 6             | 10.00           | -4.00           |
| <b>TOTAL</b>                 | <b>604</b>   | <b>511</b>   | <b>565</b>   | <b>493</b>   | <b>476</b>    | <b>529.80</b>   | <b>-53.80</b>   |
| ACCIDENTS                    | 2016         | 2017         | 2018         | 2019         | 2020          | AVERAGE         | 2020 +/- AVG    |
| Fatal                        | 1            | 0            | 1            | 0            | 0             | 0.40            | -0.40           |
| Street - Injury              | 49           | 47           | 49           | 61           | 51            | 51.40           | -0.40           |
| Street - Property + \$1,000* | 360          | 311          | 285          | 251          | 156           | 272.60          | -116.60         |
| Street - Property - \$1,000* | 54           | 56           | 43           | 56           | 9             | 43.60           | -34.60          |
| Private - Injury             | 4            | 2            | 4            | 4            | 2             | 3.20            | -1.20           |
| Private - Property           | 59           | 57           | 61           | 41           | 18            | 47.20           | -29.20          |
| Walk-In - Property           | 22           | 25           | 24           | 17           | 10            | 19.60           | -9.60           |
| <b>TOTAL</b>                 | <b>549</b>   | <b>498</b>   | <b>467</b>   | <b>430</b>   | <b>246</b>    | <b>438.00</b>   | <b>-192.00</b>  |
| MENTAL HEALTH                | 2016         | 2017         | 2018         | 2019         | 2020          | AVERAGE         | 2020 +/- AVG    |
| Suicide                      | 6            | 3            | 7            | 2            | 1             | 3.80            | -2.80           |
| Attempted Suicide            | 14           | 4            | 4            | 9            | 6             | 7.40            | -1.40           |
| Involuntary Committal        | 9            | 12           | 13           | 18           | 20            | 14.40           | 5.60            |
| Voluntary Committal          | 23           | 23           | 36           | 29           | 41            | 30.40           | 10.60           |
| All Other Mental Health      | 120          | 95           | 125          | 99           | 129           | 113.60          | 15.40           |
| <b>TOTAL</b>                 | <b>172</b>   | <b>137</b>   | <b>185</b>   | <b>157</b>   | <b>197</b>    | <b>169.60</b>   | <b>27.40</b>    |
| <b>TOTAL CALLS</b>           | <b>8,587</b> | <b>8,162</b> | <b>9,854</b> | <b>9,218</b> | <b>10,213</b> | <b>9,206.80</b> | <b>1,006.20</b> |

# PRAIRIE VILLAGE FINAL CRIME REPORT - 2020

| CRIME                  | 2016       | 2017       | 2018       | 2019       | 2020       | AVERAGE       | 2020 +/- AVG  |
|------------------------|------------|------------|------------|------------|------------|---------------|---------------|
| Homicide               | 1          | 0          | 0          | 0          | 1          | 0.40          | 0.60          |
| Rape                   | 1          | 2          | 4          | 1          | 2          | 2.00          | 0.00          |
| Robbery                | 1          | 4          | 1          | 3          | 2          | 2.20          | -0.20         |
| Assault                | 63         | 58         | 69         | 72         | 48         | 62.00         | -14.00        |
| Burglary               | 40         | 35         | 39         | 43         | 29         | 37.20         | -8.20         |
| Residence              | 35         | 30         | 29         | 31         | 18         | 28.60         | -10.60        |
| Business/Miscellaneous | 5          | 5          | 10         | 12         | 11         | 8.60          | 2.40          |
| Theft                  | 180        | 201        | 274        | 242        | 236        | 226.60        | 9.40          |
| Auto Theft             | 28         | 23         | 26         | 32         | 40         | 29.80         | 10.20         |
| Arson                  | 0          | 1          | 2          | 0          | 0          | 0.60          | -0.60         |
| Forgery                | 12         | 19         | 12         | 7          | 8          | 11.60         | -3.60         |
| Fraud                  | 75         | 30         | 0          | 1          | 1          | 21.40         | -20.40        |
| Criminal Damage        | 102        | 52         | 50         | 31         | 43         | 55.60         | -12.60        |
| Sexual Offenses        | 13         | 12         | 12         | 7          | 5          | 9.80          | -4.80         |
| <b>TOTAL</b>           | <b>516</b> | <b>437</b> | <b>489</b> | <b>439</b> | <b>415</b> | <b>459.20</b> | <b>-44.20</b> |

| ACCIDENTS                    | 2016       | 2017       | 2018       | 2019       | 2020       | AVERAGE       | 2020 +/- AVG   |
|------------------------------|------------|------------|------------|------------|------------|---------------|----------------|
| Fatal                        | 1          | 0          | 1          | 0          | 0          | 0.40          | -0.40          |
| Street - Injury              | 45         | 43         | 46         | 59         | 45         | 47.60         | -2.60          |
| Street - Property + \$1,000* | 319        | 288        | 261        | 228        | 137        | 246.60        | -109.60        |
| Street - Property - \$1,000* | 49         | 49         | 39         | 51         | 9          | 39.40         | -30.40         |
| Private - Injury             | 4          | 2          | 4          | 4          | 2          | 3.20          | -1.20          |
| Private - Property           | 52         | 52         | 56         | 40         | 17         | 43.40         | -26.40         |
| Walk-In Property             | 17         | 23         | 21         | 7          | 8          | 15.20         | -7.20          |
| <b>TOTAL</b>                 | <b>487</b> | <b>457</b> | <b>428</b> | <b>389</b> | <b>218</b> | <b>395.80</b> | <b>-177.80</b> |

| MENTAL HEALTH           | 2016       | 2017       | 2018       | 2019       | 2020       | AVERAGE       | 2020 +/- AVG |
|-------------------------|------------|------------|------------|------------|------------|---------------|--------------|
| Suicide                 | 5          | 3          | 5          | 1          | 1          | 3.00          | -2.00        |
| Attempted Suicide       | 14         | 4          | 3          | 9          | 4          | 6.80          | -2.80        |
| Involuntary Committal   | 9          | 11         | 12         | 17         | 18         | 13.40         | 4.60         |
| Voluntary Committal     | 21         | 20         | 33         | 28         | 41         | 28.60         | 12.40        |
| All Other Mental Health | 108        | 91         | 122        | 89         | 117        | 105.40        | 11.60        |
| <b>TOTAL</b>            | <b>157</b> | <b>129</b> | <b>175</b> | <b>144</b> | <b>181</b> | <b>157.20</b> | <b>23.80</b> |

|                    |              |              |              |              |              |                 |               |
|--------------------|--------------|--------------|--------------|--------------|--------------|-----------------|---------------|
| <b>TOTAL CALLS</b> | <b>7,014</b> | <b>6,746</b> | <b>8,135</b> | <b>7,839</b> | <b>8,577</b> | <b>7,662.20</b> | <b>914.80</b> |
|--------------------|--------------|--------------|--------------|--------------|--------------|-----------------|---------------|

# MISSION HILLS FINAL CRIME REPORT - 2020

| CRIME                  | 2016      | 2017      | 2018      | 2019      | 2020      | AVERAGE      | 2020 +/- AVG |
|------------------------|-----------|-----------|-----------|-----------|-----------|--------------|--------------|
| Homicide               | 0         | 0         | 0         | 0         | 0         | 0.00         | 0.00         |
| Rape                   | 0         | 0         | 0         | 0         | 0         | 0.00         | 0.00         |
| Robbery                | 0         | 0         | 0         | 0         | 0         | 0.00         | 0.00         |
| Assault                | 2         | 4         | 3         | 1         | 6         | 3.20         | 2.80         |
| Burglary               | 18        | 6         | 11        | 12        | 5         | 10.40        | -5.40        |
| Residence              | 18        | 6         | 9         | 12        | 5         | 10.00        | -5.00        |
| Business/Miscellaneous | 0         | 0         | 2         | 0         | 0         | 0.40         | -0.40        |
| Theft                  | 29        | 38        | 47        | 29        | 33        | 35.20        | -2.20        |
| Auto Theft             | 9         | 6         | 8         | 10        | 9         | 8.40         | 0.60         |
| Arson                  | 0         | 0         | 0         | 0         | 0         | 0.00         | 0.00         |
| Forgery                | 0         | 4         | 1         | 0         | 0         | 1.00         | -1.00        |
| Fraud                  | 9         | 5         | 0         | 0         | 0         | 2.80         | -2.80        |
| Criminal Damage        | 21        | 11        | 6         | 2         | 7         | 9.40         | -2.40        |
| Sexual Offenses        | 0         | 0         | 0         | 0         | 1         | 0.20         | 0.80         |
| <b>TOTAL</b>           | <b>88</b> | <b>74</b> | <b>76</b> | <b>54</b> | <b>61</b> | <b>70.60</b> | <b>-9.60</b> |

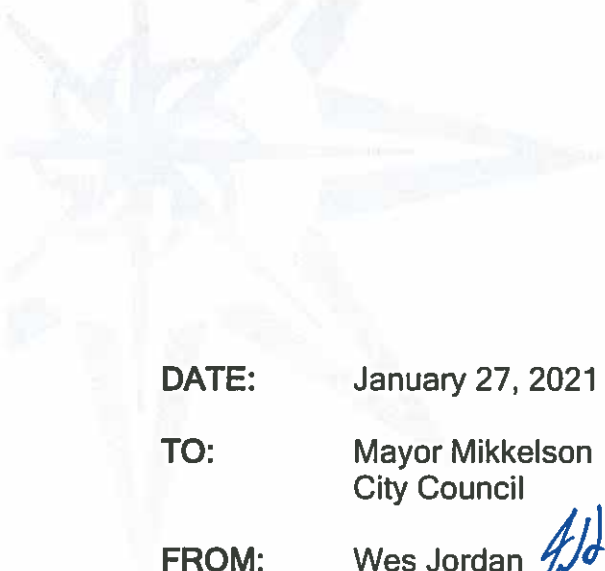
| ACCIDENTS                    | 2016      | 2017      | 2018      | 2019      | 2020      | AVERAGE      | 2020 +/- AVG  |
|------------------------------|-----------|-----------|-----------|-----------|-----------|--------------|---------------|
| Fatal                        | 0         | 0         | 0         | 0         | 0         | 0.00         | 0.00          |
| Street - Injury              | 4         | 4         | 3         | 2         | 6         | 3.80         | 2.20          |
| Street - Property + \$1,000* | 41        | 23        | 24        | 23        | 19        | 26.00        | -7.00         |
| Street - Property - \$1,000* | 5         | 7         | 4         | 5         | 0         | 4.20         | -4.20         |
| Private - Injury             | 0         | 0         | 0         | 0         | 0         | 0.00         | 0.00          |
| Private - Property           | 7         | 5         | 5         | 1         | 1         | 3.80         | -2.80         |
| Walk-In - Property           | 5         | 2         | 3         | 10        | 2         | 4.40         | -2.40         |
| <b>TOTAL</b>                 | <b>62</b> | <b>41</b> | <b>39</b> | <b>41</b> | <b>28</b> | <b>42.20</b> | <b>-14.20</b> |

| MENTAL HEALTH           | 2016      | 2017     | 2018      | 2019      | 2020      | AVERAGE      | 2020 +/- AVG |
|-------------------------|-----------|----------|-----------|-----------|-----------|--------------|--------------|
| Suicide                 | 1         | 0        | 2         | 1         | 0         | 0.80         | -0.80        |
| Attempted Suicide       | 0         | 0        | 1         | 0         | 2         | 0.60         | 1.40         |
| Involuntary Committal   | 0         | 1        | 1         | 1         | 2         | 1.00         | 1.00         |
| Voluntary Committal     | 2         | 3        | 3         | 1         | 0         | 1.80         | -1.80        |
| All Other Mental Health | 12        | 4        | 3         | 10        | 12        | 8.20         | 3.80         |
| <b>TOTAL</b>            | <b>15</b> | <b>8</b> | <b>10</b> | <b>13</b> | <b>16</b> | <b>12.40</b> | <b>3.60</b>  |

|                    |              |              |              |              |              |                 |              |
|--------------------|--------------|--------------|--------------|--------------|--------------|-----------------|--------------|
| <b>TOTAL CALLS</b> | <b>1,573</b> | <b>1,416</b> | <b>1,719</b> | <b>1,379</b> | <b>1,636</b> | <b>1,544.60</b> | <b>91.40</b> |
|--------------------|--------------|--------------|--------------|--------------|--------------|-----------------|--------------|



# THE CITY OF PRAIRIE VILLAGE

## STAR OF KANSAS

**DATE:** January 27, 2021

**TO:** Mayor Mikkelson  
City Council

**FROM:** Wes Jordan 

**SUBJECT:** FEBRUARY PLAN OF ACTION

The following projects will be initiated during the month of February:

- Restrictive Deed Restrictions/By-Laws - Tim/David (02/21)
- Review Alternative Changes to the Marijuana Ordinance - Tim (02/21)
- 2020 Annual Report - Ashley/Staff (02/21)
- Annual Statements of Financial Interest - Adam (02/21)
- 2021 Budget Calendar Review & Presentation - Nickie/Wes (02/21)
- Volunteer Committee Appointments - Staff (02/21)
- Village Voice Articles/Publication - Ashley (02/21)
- Consideration of Fireworks Display - Meghan (02/21)
- Finalize Insurance Renewal Reports - Nickie (02/21)
- 2020 Audit Preparation - Nickie (02/21)

### In Progress

- Annual Health Risk Assessments - Cindy (01/21)
- Master Personnel Spreadsheet Updates - Cindy/Jamie/Nickie (01/21)
- AT&T Small Cell Agreement - Jamie/Keith/David (01/21)
- Hazard Mitigation Plan Agreement w/County - Tim (01/21)
- Coordination of Marijuana Agenda Item (Inga/Ian request) - Tim (01/21)
- Special Event Coordinator Hiring Process - Meghan (01/21)
- Pool Reopening Plan - Meghan (01/21)
- 2021 Pool Staffing/Hiring - Meghan/Suzanne (01/21)
- 2021 Recreation Fees - Meghan (01/21)
- Superpass Agreement - Meghan (01/21)
- JCPRD Programming - Meghan (01/21)
- Orientation Process for New Volunteer Committee Members - Staff (12/20)
- Travelers Insurance Renewal Application - Nickie/Cindy/Jamie (12/20)
- Annual Meetings with County/State Elected Officials - Jamie/Wes/Mayor (11/20)
- Review of the Virtual Court Process - Tim/Wes (11/20)
- Geothermal Software Upgrade - PW (10/20)

- E/V Charging Station Installation - Meghan/PW (10/20)
- Dynamhex Implementation - Meghan (10/20)
- Diversity Task Force - Mayor/Staff (09/20)
- Historic Trail Signage - Keith (09/20)
- Tree Protection Zoning Consideration - Staff (08/20)
- Bias Training - Byron (07/20)
- Energy Efficiency Audit Public Buildings - David McAuliffe (04/20)
- 2018 Building Code Adoption - Jamie/Mitch (01/20)
- PW New Facility Planning - Keith (09/19)
- Memorial Plaques in Parks Criteria Review - Staff (08/19)
- JOCO Municipalities Housing Study Task Force - Jamie (07/19)
- Research Viability of Interior Rental Inspections - Jamie (06/19)
- Statuary Maintenance Plan - Meghan (05/19)
- Property Maintenance Code Revisions - Jamie (03/19)
- Contractor's License Requirements/Revisions - Jamie (03/19)
- Personnel Policy Updates - Cindy/Jamie (07/18)
- Organization of City Records/Contracts - Adam (05/19)
- Sustainability Grant Program - Jamie (02/20)

#### Completed

- 2021 Large Item Pickup Planning - Jamie (12/20)
- Annual Applications for Committees - Staff (11/20)
- Revisions to Council Policy 001 (Committees) - Meghan (01/21)
- Finance Director Orientation - Lisa (01/21)
- Council Work Session (Possible Cancellation) - Wes (01/21)
- New Building Inspector Orientation - Jamie/Mitch (01/21)
- Council President Election - Adam/Wes (01/21)
- Police Chief Appointment - Adam/Wes (01/21)
- State of the Cities - Staff/Mayor (01/21)
- Staff Reassignments to Committees - Wes (12/20)
- Ordinance Update For Food/Alcohol Serving Compliance - Adam/David (12/20)
- Diversity Task Force Recommendation(s) to Council - Jamie (12/20)
- Harmon Park All Inclusive Playground Equipment Presentation - Keith (12/20)
- Exterior Grant Update - Jamie (11/20)
- Village Vision/Comp Plan Update - Chris/Jamie/Wes (11/17)

#### Tabled Initiatives

- 20/20 Fitness Business Introduction to Council - Wes (04/20) [delayed]
- Civic Center Action Plan - Staff (03/20) [on hold]
  - Bond Capacity Discussion w/Council - Jeff White [completed]
  - Framework of Partnership Agreements with YMCA & Library
  - MOU - Public Engagement & Site Design
- Review & update the City Code/Ordinances

- Review & Update City Policies
- Review of Smoking Ordinance/e-cigs
- Sculpture Unveiling - Keith (11/19) [delayed]
- Single Use Plastic Bag Discussion - Staff (02/20) [pending Council direction]