

**MERRIAM CITY COUNCIL AGENDA  
CITY HALL  
9001 WEST 62<sup>ND</sup> STREET  
JANUARY 9, 2017  
7:00 P.M.**

<p><b>If you require any accommodation (i.e. qualified interpreter, large print, reader, hearing assistance) in order to attend this meeting, please notify the Administrative Office at 913-322-5500 no later than 24 hours prior to the beginning of the meeting.</b></p>
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**I. CALL TO ORDER - PLEDGE OF ALLEGIANCE**

**II. ROLL CALL**

**III. PUBLIC ITEMS**

Members of the public are encouraged to use this time to make comments about matters that do not appear on the agenda. Comments about items on the regular agenda will be taken as each item is considered. ***Please note: individuals making Public Comments will be limited to 5 minutes.***

**IV. CONSENT AGENDA**

All items listed under the heading are considered to be routine by the City Council and may be enacted by one motion. There will be no separate discussion of these items unless a Councilmember or citizen so requests, in which case that item will be removed from the Consent Agenda and considered separately.

1. Consider approval of the minutes of the City Council meeting held December 12, 2016.
2. Consider acceptance and authorize final payment to J. M. Fahey for Antioch Road Improvements (67<sup>th</sup> Street to Johnson Drive).
3. Consider approval of a Letter of Understanding between the cities of Merriam, Fairway, Leawood, Prairie Village, Roeland Park, Mission, Merriam and Johnson County Park and Recreation District for 2017 Reciprocal use of swimming pool facilities. (Superpass agreement)
4. Consider approval of a letter of understanding between the cities of Merriam, Fairway, Leawood, Prairie Village, Roeland Park, Mission, Merriam and Johnson County Park and Recreation District for use of agency pools during swim and dive meets.
5. Consider approval of eligible depository bank accounts for 2017.

6. Consider approval of the Operation Greenlight Agreement with Mid-America Regional Council (MARC).

**V. MAYOR'S REPORT**

1. Swearing in of Police Officer Colin Brown.
2. Council vacancy announcement and procedure for filling vacancy.

**VI. COUNCIL ITEMS**

**A. Finance and Administration**

1. Discussion of the proposed 2017 Legislative Agenda.
2. Monthly Finance Report.

**B. Community Development/Public Works/CIP**

1. Final presentation and acceptance of the Parks and Recreation Facilities Master Plan.
2. CIP Update.

**VII. STAFF ITEMS**

**IX. NEW BUSINESS**

**X. EXECUTIVE SESSION**

**XI. ADJOURNMENT**

Respectfully submitted,

*Juliana Pinnick*

Juliana Pinnick  
City Clerk

**MERRIAM CITY COUNCIL MINUTES  
CITY HALL  
9001 WEST 62<sup>ND</sup> STREET  
DECEMBER 12, 2016  
7:00 P.M.**

**I. CALL TO ORDER - PLEDGE OF ALLEGIANCE**

Mayor Ken Sissom called the meeting to order at 7:00 pm

**II. ROLL CALL**

Al Frisby  
Scott Diebold  
Chris Evans Hands  
Cheryl Moore  
Nancy Hupp  
Bob Pape  
Robert Weems  
Jim Wymer was absent

Staff present: Chris Engel, City Administrator; Mike Daniels, Police Chief; Anna Slocum, Parks and Recreation Director; Cindy Ehart, Finance Director; Kevin Bruemmer, Public Works Director; Bryan Dehner, Fire Chief; Bryan Dyer, Community Development Director; Nicole Proulx Aiken, City Attorney; and Juli Pinnick, City Clerk.

**III. PUBLIC ITEMS**

Members of the public are encouraged to use this time to make comments about matters that do not appear on the agenda. Comments about items on the regular agenda will be taken as each item is considered. ***Please note: individuals making Public Comments will be limited to 5 minutes.***

John Seeber, 55<sup>th</sup> and Knox commented that he has had some conversations with the Police Department and the Mayor regarding excessive speed on Knox. While there has been some police presence in the area after his calls and tickets have been issued there still seems to be problems with speeding on Knox. He requested more effort by the Police Department to get the traffic to slow down.

Nicole Brown, Johnson County Health Department addressed the council regarding the Tobacco 21 issue on the agenda. Ms. Brown commented that there are a few people in the audience willing to talk about this issue and offer more information, if needed.

**IV. CONSENT AGENDA**

All items listed under the heading are considered to be routine by the City Council and may be enacted by one motion. There will be no separate discussion of these items unless a Councilmember or citizen so requests, in which case that item will be removed from the Consent Agenda and considered separately.

1. Confirm the reappointment of Shawn McConnell to the Board of Zoning Appeals for the term expiring December 31, 2019.
2. Confirm the reappointment of Katie Leary to the Parks and Recreation Advisory Board for the term expiring December 31, 2018.
3. Consider approval of the Eastern Kansas Multi-County Task Force Arson Investigation Agreement.
4. Consider Approval of Merriam Aquatic Center 2017 Recommended Season Operating Schedule.
5. Consider Approval of Merriam Farmers' Market 2017 Schedule located at Merriam Marketplace.
6. Consider approval of the minutes of the City Council meeting held November 28, 2016.

Mayor Sissom removed item 1 from the Consent Agenda.

**COUNCILMEMBER MOORE MOVED THAT THE COUNCIL APPROVE CONSENT AGENDA ITEMS 2-6 COUNCILMEMBER FRISBY SECONDED AND THE MOTION WAS UNANIMOUSLY APPROVED.**

Sam Matier, 8515 W. 57<sup>th</sup> St. commented about Consent Agenda item 1. Mr. Matier stated that Shawn McConnell was appointed to the City Council around 2005 after the death of Mike McCormick. Mr. Matier stated that his experience with Mr. McConnell regarding a street project was not good. He had made several phone calls to Mr. McConnell about an issue with the street project and those calls were never returned. Mr. Matier feels that appointments and reappointments should be based on performance. Perhaps there should be some discussion on this issue further he asked how do people get appointed, are they vetted and how is there performance measured.

Mayor Sissom asked Mr. Matier how long ago it was that he had interaction with Mr. McConnell.

Mr. Matier responded that it was in 2006 and while it was 10 years ago, and he may have changed, someone should consider if he returning phone calls to people who have questions about the Zoning Board and it's the council's responsibility to ask those questions.

Mayor Sissom commented that initially when someone is appointed to a volunteer board it is upon the recommendation of the Mayor or a councilmember, at that time, their credentials and background are reviewed and are they asked questions. Mayor Sissom commented that any complaints against a board member, which are rare, would go to the City Administrator. Mayor Sissom went on to explain that a Zoning Board position is very different from a councilmember position; public contact with such a board member is very limited. The Zoning Board may only meet once or twice per year and that is only if there is a case to hear.

Community Development Director Bryan Dyer commented that the Zoning Board is a quasi-judicial board and are instructed and encouraged to not take any public comments until it is heard in front of the entire board at the scheduled meeting.

For clarification, Mayor Sissom asked Mr. Dyer if a Zoning Board member receives contact from a member of the public about an upcoming zoning issue they are instructed to not return a call to that person.

Mr. Dyer responded that they could contact that person, however staff would encourage them to not contact that person and instead let city staff return those calls and provide any information or clarification regarding the case.

Mayor Sissom asked Mr. Dyer how long Mr. McConnell has been on the Board of Zoning Adjustment, if he has received any complaints about Mr. McConnell, and if his performance serving on the board has been satisfactory.

Mr. Dyer responded he has worked with Mr. McConnell for about nine years as a BZA member, has received no complaints from residents, and that his performance on the board has been satisfactory.

**COUNCILMEMBER HUPP MOVED THAT THE COUNCIL CONFIRM THE REAPPOINTMENT OF SHAWN MCCONNELL TO THE BOARD OF ZONING ADJUSTMENT FOR THE TERM EXPIRING DECEMBER 31, 2019 COUNCILMEMBER HANDS SECONDED AND THE MOTION WAS UNANIMOUSLY APPROVED.**

## **V. MAYOR'S REPORT**

## **VI. COUNCIL ITEMS**

### **A. Finance and Administration**

1. Consider approval of an ordinance enacting Tobacco 21 legislation.  
(consider waiving the first reading)

City Administrator Chris Engel provided the background for this item.

During the October 24, 2016, council meeting, the governing body was presented information about the Tobacco 21 initiative, which encourages cities to prohibit the sale of tobacco products to any person under the age of 21. After the meeting, staff notified all retailers in the City of Merriam about the proposed change in the law. Since then, no retailer in Merriam has contacted staff with any concerns about the Tobacco 21 initiative.

On November 14, 2016, the council approved a motion directing staff to draft an ordinance to consider enacting Tobacco 21 legislation that would prohibit the sale of tobacco products to any person under 21 years of age. This ordinance addresses that motion by amending section 5.7 of the Uniform Public Offense Code to make it unlawful for any person to sell, furnish, or distribute tobacco products to any person under 21 years of age, or to buy tobacco products for any person under 21 years of age. If the council approves the ordinance, section 44-2.1 will be added to the Merriam City Code to reflect this change.

Staff recommends the council approve this ordinance. Staff also recommends the council waive the first reading of the ordinance so the new law may go into effect on January 1, 2017.

**COUNCILMEMBER HANDS MOVED THAT THE COUNCIL WAIVE THE CUSTOMARY FIRST READING OF AN ORDINANCE AMENDING SECTION 5.7 OF THE UNIFORM PUBLIC OFFENSE CODE MAKING IT UNLAWFUL TO SELL, FURNISH, OR DISTRIBUTE TOBACCO PRODUCTS TO ANY PERSON UNDER 21 YEARS OF AGE. COUNCILMEMBER FRISBY SECONDED AND THE MOTION WAS UNANIMOUSLY APPROVED.**

Councilmember Weems asked why the Tobacco 21 initiative is focusing on cities and not the state to get this legislation passed on a state-wide basis.

Jessica Hembry, Healthcare Foundation of Kansas City responded that the Foundation has had success with the Clean Air Act that was passed state wide in 2009 and the reason for that success was due to major support from cities. Currently in Missouri 35% of the population are in a tobacco 21 community and 20-25% in Kansas. The hope is that if a majority of the state's population are already in tobacco 21 communities the states will follow that lead and make it

state-wide. Within the past year, the states of California and Hawaii have passed tobacco 21 laws.

**COUNCILMEMBER FRISBY MOVED THAT THE COUNCIL APPROVE AN ORDINANCE AMENDING SECTION 5.7 OF THE UNIFORM PUBLIC OFFENSE CODE MAKING IT UNLAWFUL TO SELL, FURNISH, OR DISTRIBUTE TOBACCO PRODUCTS TO ANY PERSON UNDER 21 YEARS OF AGE. COUNCILMEMBER DIEBOLD SECONDED AND THE MOTION WAS UNANIMOUSLY APPROVED.**

2. Presentation of Parks and Recreational Facilities Draft Plan.

Parks and Recreation Director Anna Slocum provided the background for this item.

Facility Condition Assessments have been recently completed for the 30-yr.-old Merriam Aquatic Center and the 100-yr.-old Irene B. French Community Center. These assessments were commissioned after suffering several significant age-related system repairs with the goal being to provide the city with a better understanding of their long-term (20 years) maintenance costs. At the conclusion of those assessments, the consultants provided detailed options to address or update our current facilities as well as an estimated cost to build new facilities with similar functions.

To make a more informed decision regarding the “new facility” option, staff recommended completing a Facilities Master Plan to better understand resident needs, as well as capital and operational expenses associated with new facilities. In early 2016, staff released a request for proposals to complete this project. PROS Consulting, partnering with a team of professionals from Confluence and SFS Architecture, were selected to complete the project. Scope of Work stressed that the study must be a public process, to include the following deliverables:

Demographic information for the community

Level of Service recommendations

Identify areas of service shortfalls and projected impact of future trends

Provide useable and workable definitions and recommendations for designated facilities and parameters defined as appropriate

Develop recommendations for operations, staffing, maintenance programming and funding needs

Provide a clear plan for development of programming direction based on standards and demand analysis

Develop a definitive program for acquisition and development of recreation facilities and administration of facilities for the future

Provide conceptual layout and design

Provide a maintenance and operation analysis

Identify opportunities for available funding and acquisition alternatives

Develop an action plan which includes strategies, priorities and an analysis of budget support and funding mechanisms for the short term, mid-term and long term for park facilities and recreation programs and services

The Facilities Master Plan must include phased goals, plans, objectives and policy statements that articulate a clear vision and “road map” and model for the Parks and Recreation Department’s future

A Financial Plan

An Action Plan

Since the project is near completion, the consultants are here to review the process utilized in drafting the Facilities Master Plan. The draft plan has been presented to the Steering Committee and will be presented December 13<sup>th</sup> at 7 pm in a Public Meeting at the Irene B. French Community Center. Comments from these meetings will be included in the final plan which will be presented on January 9, 2017 at the regularly scheduled City Council meeting

Consultants from PROS Consulting presented a slide show depicting 3 options for a combined new Community Center and Aquatic Center. The three concepts, which would all be located at the site of the current Aquatic Center in Vavra Park included different building square footages and had either outdoor aquatics only, indoor and outdoor aquatics or outdoor aquatics only. The amenities for each concept varied slightly.

All three concepts listed the estimated cost for construction, operational costs and membership fee proposals, including cost recovery estimates based on each concept.

City Administrator Chris Engel reminded the council that on January 9<sup>th</sup> the council will be asked to accept the recommendation of the Steering Committee for one of the new build options presented tonight and only one option will be recommended for final approval.

In addition, there are three choices for improvements to the facilities. One being the “band-aid” option, which is extensive repairs to both facilities the other is a major remodel of the Community Center and the third is a new build combined facility to include an aquatic feature and Community Center.

Sam Matier, 8515 W. 57<sup>th</sup> St. commented that he feels the council is not representing the residents. He voiced concern that other alternatives for the facilities are not being considered. Mr. Matier suggested that the ¼ cent sales tax that could be used to build a new facility might be better used somewhere else. He feels that the council should provide other options to the public and that all the people in Merriam may not support a new facility. Mr. Matier still does not believe that the council will allow a public vote even though it is required by law as there is an option to charter out of the statute.

Mayor Sissom commented that there is no desire by the council to charter out of the statute. This information was discussed at the last city council meeting.

### 3. Monthly Finance Report.

Finance Director Cindy Ehart presented the Finance Report for the month of November.

## **B. Community Development/Public Works/CIP**

### 1. Confirm Selection of Nabholz Construction as the Construction Manager at Risk for the Police Building expansion and remodel.

Police Chief Mike Daniels provided the background for this item.

Construction Management at Risk is a system that holds construction contractors responsible for subletting construction work to trade contractors and guarantees completion of a project for a fixed, negotiated price following the completion of the design. It brings the contractor onboard during the early design phase to assist the architect and city in producing a superior project that will help control costs and prevent delays.

The city received five proposals for the PD project. These proposals were evaluated by members of the police department, Chris Engel, John Hollis

and Chris Birkenmaier (Hoefler Wysocki). After a narrowing process, three companies were interviewed and the panel made a unanimous recommendation of Nabholz Construction.

Several factors led to this decision but the most important is their ability to self-perform work on our project. This means they are not solely reliant on the hyper-busy sub-contractor market to complete our project. They employ over 500 craftsmen with expertise including several in critical areas for our project. An example of this is that a major portion of our project is the HVAC system and they have experts in mechanical/electrical that are capable of self-performing work.

Nabholz Construction is a large multi-discipline, employee-owned firm with more than 1000 employees with locations in Arkansas, Oklahoma, Mississippi, Missouri, and Olathe, Kansas. They have experience working with school districts and cities. They recently built police stations for the cities of Conway and Rogers in Arkansas and schools in Holton and La Cygne, Kansas. Construction Management at Risk projects make up 91% of their business.

The construction management fee for Nabholz is \$114,279. The total cost of the project will be further defined during the design process with the estimate of total costs from Nabholz being \$1,988,097.

**COUNCILMEMBER HANDS MOVED THAT THE COUNCIL APPROVE THE SELECTION OF NABHOLZ CONSTRUCTION AS THE CONSTRUCTION MANAGER AT RISK FOR THE POLICE BUILDING EXPANSION AND REMODEL AND AUTHORIZE THE MAYOR TO SIGN THE CONTRACT UPON FINAL APPROVAL BY THE CITY ATTORNEY. COUNCILMEMBER HUPP SECONDED AND THE MOTION WAS UNANIMOUSLY APPROVED.**

2. Consider approval of an agreement with BNSF Railroad to install a Wayside Horn System at the Johnson Drive, 65th Street, and 67th Street at-grade crossings.

**COUNCILMEMBER HANDS MOVED THAT THE COUNCIL RECESS INTO EXECUTIVE SESSION PURSUANT TO THE KANSAS OPEN MEETINGS ACT EXCEPTION TO DISCUSS MATTERS WITH LEGAL COUNSEL THAT WOULD BE DEEMED PRIVILEGED IN AN ATTORNEY-CLIENT RELATIONSHIP. PRESENT WILL BE THE GOVERNING BODY, CITY ATTORNEY AND CITY ADMINISTRATOR. THE MEETING WILL RECONVENE IN THE COUNCIL CHAMBERS AT 9:20 PM. COUNCILMEMBER PAPE SECONDED AND THE MOTION WAS UNANIMOUSLY APPROVED.**

***The meeting reconvened at 9:20 p.m.***

City Administrator Chris Engel presented the background for this item.

This agreement allows the City to install, own, operate, and maintain a Wayside Horn System at the Johnson Drive, 65th Street, and 67th Street at-grade crossings.

A Wayside Horn System is an audible warning device used in place of a locomotive horn. The system is mounted at grade crossings to face oncoming traffic. While the system produces a warning similar to a locomotive horn, noise pollution in the City will significantly decrease because the sound is directed toward the roadway. After installation, BNSF will sound a locomotive horn only in emergencies.

Under this agreement, the City will pay for all expenses to install, own, operate, and maintain a Wayside Horn System, including reimbursing BNSF for the costs (flagging services, changes to BNSF contact terminals, etc.) it incurs.

The agreement also requires the city to take on significant liability. Sections 4c and 5b of the agreement, require the City to indemnify, defend, and hold harmless BNSF for its negligence. This means if an accident occurs because of the Wayside Horn System, and BNSF was partially negligent, the City would have to defend BNSF and would ultimately be liable for any of BNSF's negligence. Section 5c of the agreement further requires the city to adjust and settle any claims made against BNSF. Estimate insurance costs to cover these extra liabilities will be \$3,500 - \$4,000 a year.

**COUNCILMEMBER HANDS MOVED THAT THE COUNCIL APPROVE AN AGREEMENT WITH BNSF RAILROAD TO INSTALL A WAYSIDE HORN SYSTEM AT THE JOHNSON DRIVE, 65<sup>TH</sup> STREET, AND 67<sup>TH</sup> STREET AT-GRADE CROSSINGS. COUNCILMEMBER HUPP SECONDED AND THE MOTION WAS UNANIMOUSLY APPROVED.**

3. CIP Update.

Public Works Director Kevin Bruemmer provided the following CIP updates:

Farley Ave is nearly complete and the west side wall has been extended to enhance the look of the overall project. The 70<sup>th</sup> Terrace sidewalk installation will also be completed as part of the Farley Ave. project.

Antioch Rd. project is also nearly complete, with just a couple of streetlights that are not completely working due to damage from vehicular accidents that occurred shortly after installation.

The Shawnee Mission Parkway Bridge over BNSF project has an early start date of March 2017. It is a 3-stage project with the bridge then the mill and overlay components.

Residential Street Group V will host a neighborhood meeting this Wednesday. This will be the second meeting and the design engineer is getting ready for design after receiving input from the residents.

- VII. STAFF ITEMS**
- VIII. NEW BUSINESS**
- IX. EXECUTIVE SESSION**
- X. ADJOURNMENT**

**THERE BEING NO FURTHER BUSINESS TO COME BEFORE THE COUNCIL, COUNCILMEMBER HUPP MOVED TO ADJOURN AT 9:30 PM. COUNCILMEMBER HANDS SECONDED AND THE MOTION WAS UNANIMOUSLY APPROVED.**

Respectfully submitted,

*Juliana Pinnick*

Juliana Pinnick

## AGENDA ITEM INFORMATION FORM

**Agenda Item:** Authorize final payment to J.M. Fahey Construction in the amount of \$215,094.98 and authorize acceptance of the project for Antioch Road Improvements (67<sup>th</sup> Street to Johnson Drive).

**Department:** Public Works

**Background/Description of Item:** J.M. Fahey Construction completed the project and staff issued a final pay estimate for \$215,094.98. The original contract amount of \$1,789,770.68 was reduced by (\$37,096.26) bringing the new contract total to \$1,752,674.42. The contractor has completed all of the punch list items identified by City Staff. Approval of this final payment denotes the City's acceptance of the project and triggers the two-year maintenance warranty period.

**Funding Reviewed:** Cindy Ehart: Finance Director

**Recommendation:** The Council authorize the final payment to J. M. Fahey Construction in the amount of \$215,094.98.

Prepared by: Kevin Bruemmer, Public Works Director

Date: January 9, 2017

## AGENDA ITEM INFORMATION FORM

**Agenda Item:** Consider Approval of Interlocal Agreement with Cities of Fairway, Leawood, Prairie Village, Roeland Park, Mission, Merriam and Johnson County Park and Recreation District For 2017 Reciprocal Use of Swimming Pool Facilities.

**Department:** Parks and Recreation

**Background/Description of Item:** The attached Interlocal Agreement known as the “Superpass” is proposed by staff representing the Northeast Johnson County cities of Prairie Village, Merriam, Mission, Fairway, Roeland Park, Leawood and Johnson County Park and Recreation District (as operators of the Roeland Park pool) for the 2017 summer season. The purpose of the Superpass is to establish cooperation among the cities allowing residents reciprocal use of each city’s outdoor pools with the purchase of a special pass.

Following successful efforts which began in 2009 and have continued annually through 2016, staff representing these agencies have met and evaluated the 2016 program and are recommending continuation of the program for 2017. The fee for a Superpass for a five (5) member resident family will increase to \$60, with additional members \$5 each; resident individual passes will remain \$25. The fee for a Superpass for a five (5) member non-resident family will increase to \$65; non-resident individual passes will remain \$30. Attached is the 2017 Superpass agreement for your review.

Each city will keep track of the sales and usage of the passes and report seasonly to Prairie Village who will be responsible for collecting the results. Each city will retain one-half of the Superpass revenue and hold the other half (shared revenue) in suspense until the end of the season. The shared revenue will be distributed propotionally to each city as decribed in the agreement. Attached is a copy of the final 2016 funding charts.

The renewal of the Superpass was discussed as part of the 2017 aquatic center admission policy which was approved by the Parks and Recreation Advisory Board at the October 2016 meeting.

The City Attorney has reviewed the agreement.

**Advisory Board and Staff Recommendation:** Recommend Approval of Interlocal Agreement with Cities of Fairway, Leawood, Merriam, Mission, Prairie Village, Roeland Park and Johnson County Park and Recreation District for the 2017 Reciprocal Use of Outdoor Swimming Pool Facilities.

**AGREEMENT BY AND AMONG THE CITY OF FAIRWAY, KANSAS, THE CITY OF LEAWOOD, KANSAS, THE CITY OF MERRIAM, KANSAS, THE CITY OF MISSION, KANSAS, THE CITY OF PRAIRIE VILLAGE, KANSAS, THE CITY OF ROELAND PARK, KANSAS, AND JOHNSON COUNTY PARK AND RECREATION DISTRICT FOR USE OF SWIMMING POOL FACILITIES**

This Agreement made and entered into as of the effective date specified herein by and among the City of Fairway, Kansas (“Fairway”), the City of Leawood, Kansas (“Leawood”), the City of Merriam, Kansas (“Merriam”), the City of Mission, Kansas (“Mission”), the City of Prairie Village, Kansas (“Prairie Village”), the City of Roeland Park, Kansas (“Roeland Park”), and Johnson County Park and Recreation District (“JCPRD”) as operator of the Roeland Park swimming pool facility.

**RECITALS**

A. The cities of Fairway, Leawood, Merriam, Mission, Prairie Village and Roeland Park (each a “City” and collectively the “Cities”) and JCPRD as operator of the swimming pool facility for Roeland Park, operate the public outdoor swimming pool facilities (“Pool Facilities”) described on the attached Exhibit A.

B. The Cities desire to enter into this Agreement to allow the residents of each City the option to use all of the Pool Facilities during the 2017 swim season with the purchase of a special pass.

C. K.S.A. § 12-2908 authorizes the cities to enter into this agreement.

D. K.S.A. § 19-2862 authorizes JCPRD to enter into this agreement.

NOW, THEREFORE, pursuant to, and in accordance with, the statutory authority invested in the parties to this Agreement, and in consideration of the mutual advantage received by each party, the parties hereto enter into this Agreement upon, and subject to, the following terms and conditions:

**I. PURPOSE AND INTENT.**

The purpose of this agreement is establish cooperation among the Cities, and JCPRD as operator of the Roeland Park pool facility, by making all of the Pool Facilities available for use by the qualified patrons of all the Cities with the purchase of a special pass during the 2017 swim season, which commences approximately May 27, 2017 and ends approximately September 4, 2017.

## **II. EFFECTIVE DATE AND TERM.**

This Agreement shall become effective upon its adoption by each participating jurisdiction and shall remain in full force and effect for a term of one (1) year from the effective date hereof.

## **III. COOPERATION USE OF POOL FACILITIES.**

As part of its program for use of its Pool Facilities during the 2017 swim season, each City shall establish and authorize a category of pool pass entitled "Super Pool Pass" with the following features:

a. The Super Pool Pass will be offered by each City as an additional option to Qualified Patrons, defined below, who are purchasing a family or individual season pass to that City's Pool Facilities. As to each City, the term "Qualified Patron" means (a) residents of the City, and (b) non-residents of the City who have purchased a pool membership in the City for the immediately preceding year.

b. For Qualified Patrons who are residents of a City, the cost of a Super Pool Pass will be \$60 per up to five (5) person family category of seasonal pool pass, with an additional charge of \$5 for each additional family member, and \$25 per individual category of seasonal pool pass. For Qualified Patrons who are non-residents of a City, the cost of a Super Pool Pass will be \$65 per up to five (5) person family category of seasonal pool pass, with an additional charge of \$5 for each additional family member, and \$30 per individual category of seasonal pool pass.

c. The Super Pool Pass fee will be collected by each City in the same manner as standard seasonal pool passes.

d. The Super Pool Pass will be designated with a high quality, not easily reproducible sticker added to the seasonal pass card of qualified patrons. The Cities will agree in advance on the form and cost of the sticker. Cities without seasonal pass cards will need to produce a form of season pass card on which to affix the sticker. The cost of the stickers will be funded by the pooled dollars described below.

e. The Super Pool Pass will authorize the holders access to any of the Pool Facilities described on the attached Exhibit A during the 2017 swim season.

f. Each City will keep track of (i) the sales of Super Pool Passes by category, and (ii) the number of times each day a Super Pool Pass is used to enter any of its Pool Facilities and how

many individuals are admitted for each use of a family Super Pool Pass; and report these counts by email at the end of the season to the Assistant to the City Administrator at Prairie Village. Prairie Village will email the tally to all of the Cities promptly upon receipt of the tallies from all Cities.

g. Each City will retain one-half of the Super Pool Pass revenue, and hold the other half (the “Shared Revenue”) in suspense until the end of the season.

h. The Shared Revenue will be summed to reach a total of pooled revenue, and used initially to pay for the cost of the stickers. The remaining pooled revenue will then be distributed proportionally to each City based on the Super Pool Pass use count at the City’s Pool Facilities divided by the total number of Super Pool Pass use count. The calculation will be used to determine the transfer of funds among Cities based on money collected and due each entity. For example, if at the end of the 2017 swim season Super Pool Passes were used on 500 occasions at all Pool Facilities, and on 100 occasions at the Mission Pool Facilities, then Mission would be credited 1/5th of the pooled revenue. This number will be compared to dollars collected in Mission to determine transfer in or out of funds.

i. Qualified Patrons who are residents may only purchase Super Pool Passes from the City in which they reside.

#### **IV. POOL SAFETY STANDARDS**

Each City agrees to operate and maintain its Pool Facility in compliance with safety standards generally applicable to municipal pool facilities in Kansas, including, but not limited to, the following practices:

a. All Pool Facilities must comply with federal regulations contained in the Virginia Graeme-Baker Act.

b. All Pool Facilities must be municipally owned and either (a) operated by municipal staff, (b) operated by a professional pool management company engaged by the city, or (c) operated by JCPRD.

c. All Pool Facilities must meet facility standards in regards to proper placement of guards, number of guards on duty and facility readiness standards as published by the American Red Cross, Ellis and Associates, or Starguard.

d. All lifeguards must receive lifeguard certification from an accredited association.

**V. LIABILITY**

The purpose of this Agreement is only to set forth the rights and duties of the parties with regard to the cooperative use of Pool Facilities described above. This Agreement does not create any right, benefit, or cause of action for any third party. By executing this Agreement, none of the parties waives, nor shall be deemed hereby to waive, any immunity or defense that would otherwise be available to it against claims arising in the exercise of governmental powers and functions. Each party shall be solely responsible for any loss, damage, injury, or death to a third party (parties) arising out of or related to the acts or omissions of its employees or agents and not those of any other party.

IN WITNESS WHEREOF, the above and foregoing Agreement has been executed by each of the parties hereto on the day and year indicated by each signature.

[signature pages follow]

CITY OF FAIRWAY, KANSAS

By \_\_\_\_\_  
Jerry Wiley, Mayor

Attest:

\_\_\_\_\_  
City Clerk

Approved as to Form:

\_\_\_\_\_  
City Attorney

CITY OF LEAWOOD, KANSAS

By \_\_\_\_\_  
Peggy Dunn, Mayor

Attest:

\_\_\_\_\_  
City Clerk

Approved as to Form:

\_\_\_\_\_  
City Attorney

CITY OF MERRIAM, KANSAS

By \_\_\_\_\_  
Ken Sissom, Mayor

Attest:

\_\_\_\_\_  
City Clerk

Approved as to Form:

\_\_\_\_\_  
City Attorney

CITY OF MISSION, KANSAS

By \_\_\_\_\_  
Steve Schowengerdt, Mayor

Attest:

\_\_\_\_\_  
City Clerk

Approved as to Form:

\_\_\_\_\_  
City Attorney

CITY OF PRAIRE VILLAGE, KANSAS

By \_\_\_\_\_  
Laura Wassmer, Mayor

Attest:

\_\_\_\_\_  
City Clerk

Approved as to Form:

\_\_\_\_\_  
City Attorney

CITY OF ROELAND PARK, KANSAS

By \_\_\_\_\_  
Joel Marquardt, Mayor

Attest:

\_\_\_\_\_  
City Clerk

Approved as to Form:

\_\_\_\_\_  
City Attorney

JOHNSON COUNTY PARKS AND  
RECREATION DISTRICT

By \_\_\_\_\_  
Paul Snider, Board Chair

Attest:

\_\_\_\_\_  
Nancy Wallerstein, Secretary

Approved as to Form:

\_\_\_\_\_  
Ernie Ballweg, District Legal Counsel

**Exhibit A**

<b>CITY</b>	<b>OUTDOOR POOL FACILITIES</b>
Fairway	6136 Mission Road Fairway, KS 66205
Leawood	10601 Lee Boulevard Leawood, KS 66206
Merriam	6040 Slater Merriam, KS 66202
Mission	6090 Woodson Road Mission, KS 66202
Prairie Village	7711 Delmar Street Prairie Village, KS 66208
Roeland Park/Parks and Recreation District	4843 Rosewood Drive Roeland Park, KS 66205

## AGENDA ITEM INFORMATION FORM

**Agenda Item:** Consider Approval of Letter of Understanding Between Cities of Merriam, Fairway, Prairie Village, Roeland Park, Mission, and Johnson County Park and Recreation District For Use of Agency City Pools During Swim and Dive Meets

**Department:** Parks and Recreation

**Background/Description of Item:** The attached Letter of Understanding is proposed by staff representing the Cities of Merriam, Fairway, Prairie Village, Roeland Park, Mission, and Johnson County Park District (as the operator of the Roeland Park pool.) This agreement was first introduced in 2009 and is well received by patrons. This agreement provides an option for resident and non-resident members of each City pool to have access to a participating pool during normal business hours on the days when their home pool is closed to the public to host a home swim or dive meet. Members of the host pool would gain admission, at no additional cost, to a non-hosting pool by producing their City issued membership card. A draft copy of the 2017 Johnson County Swim and Dive League Meet Schedules are attached for your reference.

The Parks and Recreation Advisory Board approved this as part of the 2017 operation policies at the October 2016 meeting.

The City Attorney has reviewed the draft as to form.

**Advisory Board and Staff Recommendation:** Recommend Approval of Letter of Understanding between Cities of Merriam, Fairway, Prairie Village, Roeland Park, Mission, and Johnson County Park and Recreation District for use of agency City pools during swim and dive Meets.

Prepared by: Anna Slocum, Director of parks and recreation

Date: 01/09/2017

## Letter of Understanding

This UNDERSTANDING (“Understanding”) is made and entered into this \_\_\_ day of \_\_\_\_\_, by and between the **Johnson County Park & Recreation District** and the **Cities of Fairway, Leawood, Prairie Village, Roeland Park, Mission and Merriam** (individually referred to as “Hosting Agency and collectively as “Hosting Agencies”), for the following arrangement (the "Arrangement"): On days when an agency hosts a swim or dive meet, all other non-hosting agencies will honor host agency memberships.

### RECITALS

1. The Hosting Agencies recognize the importance of cooperation for the purposes of providing high quality services to their constituents; and
2. Each of the Hosting Agencies is involved in the Johnson County Swim and Dive League or the MOKAN Swim and Dive League.

### CONDITIONS

1. This Arrangement shall only apply to the 2017 swim and dive team season from the beginning of June to the end of July.
2. This Arrangement is only applicable on days when a Hosting Agency must be closed during regular business hours to host a meet.
3. Members of the Hosting Agencies may gain admission, at no cost, to any non-Hosting Agency’s outdoor swimming pool facilities by providing agency issued membership identification.
4. Non-Hosting Agencies will honor host agency memberships during ALL regular business hours on meet days.
5. Any Hosting Agency may “opt out” of this Arrangement by providing written notice to each other Hosting Agency. Hosting Agencies shall meet at the end of the season to evaluate the success of the Arrangement and determine participation for the 2017 season.
6. The purpose of this Agreement is only to set forth the rights and duties of the parties with regard to the cooperative use of Pool Facilities described above. This Agreement does not create any right, benefit, or cause of action for any third party. By executing this Agreement, none of the parties waives, nor shall be deemed hereby to waive, any immunity or defense that would otherwise be available to it against claims arising in the exercise of governmental powers and functions. Each party shall be solely responsible for any loss, damage, injury, or

death to a third party (parties) arising out of or related to the acts or omissions of its employees or agents and not those of any other party.

[signatures]

CITY OF FAIRWAY, KANSAS

By: \_\_\_\_\_  
Jerry Wiley, Mayor

Attest: \_\_\_\_\_

CITY OF LEAWOOD, KANSAS

By: \_\_\_\_\_  
Peggy Dunn, Mayor

Attest: \_\_\_\_\_

CITY OF MERRIAM, KANSAS

By: \_\_\_\_\_  
Ken Sissom, Mayor

Attest: \_\_\_\_\_

CITY OF MISSION, KANSAS

By: \_\_\_\_\_  
Steve Schowengerdt , Mayor

Attest: \_\_\_\_\_

CITY OF PRAIRIE VILLAGE, KANSAS

By: \_\_\_\_\_  
Laura Wassmer, Mayor

Attest: \_\_\_\_\_

CITY OF ROELAND PARK, KANSAS

By: \_\_\_\_\_  
Joel Marquardt, Mayor

Attest: \_\_\_\_\_

JOHNSON COUNTY PARK AND RECREATION DISTRICT

By: \_\_\_\_\_  
Paul Snider, Board Chair

Attest: \_\_\_\_\_

## Johnson County Swim & Dive League Pre-Competitive Swim Schedule 2017

All Pre-Competitive Meets Held On Saturday  
Warm-ups 8:00 a.m. --- Meet Starts 8:30 a.m.

Meet Date	Host		Visitor(s)
<b>10-Jun</b>			
	Olathe	vs.	Prairie Village, Shawnee
	Roeland Park	vs.	Merriam, Fairway
	Overland Park	vs.	Leawood, Lenexa

<b>17-Jun</b>			
	Olathe	vs.	Overland Park, Fairway
	Shawnee	vs.	Leawood, Lenexa
	Merriam	vs.	Roeland Park, Priarie Village

<b>24-Jun</b>			
	Olathe	vs.	Merriam, Leawood
	Shawnee	vs.	Overland Park, Roeland Park
	Fairway	vs.	Priarie Village, Lenexa

<b>30-Jun (Friday)</b>			
	Olathe	vs.	Lenexa

<b>1-Jul</b>			
	Leawood	vs.	Prairie Village, Overland Park
	Merriam	vs.	Shawnee, Fairway, Roeland Park

## AGENDA ITEM INFORMATION FORM

**Agenda Item:** Consider approval of eligible depository financial institutions.

**Department:** Finance

**Background/Description of Item:**

State statutes require that the Governing Body designate by official action a list of eligible depositories. Additionally, Council Policy No. 121 (Investment Policy) provides that the Finance Director establish procedures for the operation of the investment program. Procedures include obtaining collateral/depository and safekeeping agreements.

This is a routine submission and reflects removal of two banks which no longer hold, nor will hold, City funds. Marshall and Ilsley (formerly Gold Bank) was removed due to its 2016 merger with BMO Harris Bank, which invalidated our security agreement. New York Bank was removed since they no longer provide trustee services to the City, following the 2016 termination of Merriam Town Center TIF.

**Related Ordinance or Statutes:** K.S.A. 9-1401, K.S.A. 9-1408, K.S.A. 12-1675

**Recommendation:** Staff recommends approval of the eligible depository financial institutions.

Prepared by: Cindy Ehart, Finance Director

Date: January 5, 2017

**City of Merriam  
Eligible Depository Banks  
as of January 1, 2017 \*\***

Financial Institution	Branch Address	Type of Eligible Activity
First State Bank of Kansas City, Kansas	650 Kansas Avenue, Kansas City, KS 66105	Investment (Certificates of Deposit)
First National Bank of Olathe	444 E. Santa Fe, Olathe, KS 66051-1500	Investment (Certificates of Deposit)
Brotherhood Bank and Trust	756 Minnesota Ave, Kansas City, KS 66101	Investment (Certificates of Deposit)
Morrill & Janes (formerly First National Bank of Onaga)	6740 Antioch Road, Merriam, KS 66204	Investment (CD's)/NOW account
UMB Bank	6900 Mission Road, Prairie Village, KS 66208	Investment (Certificates of Deposit)
Country Club Bank	9400 Mission Road, Prairie Village, KS 66206	US T-Bills/US Agency securities
U.S. Bank	8600 Shawnee Mission Parkway, Merriam, KS	Checking accounts/NOW account
T. D. Ameritrade Institutional	4075 Sorrento Valley Blvd, San Diego, CA 92121	Investments/U.S Govt Money Market

\*\*KSA 9-1401 requires that the Governing Body designate by official action a list of eligible depositories.

## AGENDA ITEM INFORMATION FORM

**Agenda Item:** Consider approval of a Cooperative Agreement with Mid-America Regional Council (MARC) for operation and maintenance of the Operation Green Light (OGL) Traffic Control System

**Department:** Public Works

**Background/Description of Item:**

Operation Green Light (OGL) is a regional effort to improve traffic flow and reduce vehicle emissions by reducing travel delays and congestion. MARC worked with federal, state, and local agencies to develop and implement a system that will coordinate traffic signal timing plans and communication between traffic signal equipment across jurisdictional boundaries. All the participating City of Merriam signals received hardware upgrades to communicate directly with the MARC Control Center for optimal traffic signal timing.

Attached is an agreement between MARC and the City of Merriam. Generally, the participating corridors include Shawnee Mission Parkway – Mastin to Craig, Johnson Drive – Merriam Drive to Antioch, 75<sup>th</sup> Street – Switzer to Antioch, Antioch Road – I-35 to 55<sup>th</sup> Terrace and Antioch Road – Johnson Drive to Shawnee Mission Parkway. There are 23 participating intersections, some of which are shared with adjacent cities. Eighteen (18) intersections are entered into the agreement.

By entering into this agreement with MARC, operation and maintenance of communication facilities necessary for coordination and monitoring of these corridors from the Regional Traffic Management Center (RTMC).

In Exhibit 3: Compensation of the Agreement is a summary of contract amount per year. The MARC OGL has received federal subsidy to supplement local agencies share of the costs. The actual cost per signal under OGL is \$1,600 per signal. However, Federal Surface Transportation funding covers 50% of per signal costs. Total City cost for 2017-2018 is \$28,800, for which the City will be billed \$14,400 annually. The City Attorney has reviewed the agreement.

**Recommendation:** Approve and authorize the Mayor to sign a Cooperative Agreement with MARC for operation and maintenance of the Operation Green Light (OGL) Traffic Control System for years 2017-2018 for \$28,800.

**Funding Source Reviewed by:** Cindy Ehart, Finance Director

**Funding Source:** General Fund Overhead Account: 001.1520.419.43.16

Prepared by: Kevin Bruemmer, Public Works Director

Date: December 20, 2016

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

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

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

**WHEREAS**, the Strategic Plan 2013-2016 established the vision, mission, objectives, and goals of the program; and

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

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

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

**WHEREAS**, the Member Agencies which are political subdivisions or agencies of the State of Kansas are authorized pursuant to the provisions of Sections 12-2901 et. seq. of the Kansas Statutes Annotated to enter into cooperative agreements for the purpose of coordinating traffic signals between and within the Jurisdictional Boundaries of the Member Agencies; and

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

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

**Sec. 1. STATUTORY AUTHORITY.** Pursuant to the authority set forth in K.S.A. 12-2901 et. seq. the parties enter into this Agreement for the funding of the operations of the Regional Traffic Control System for the purpose of coordinating traffic signals within the Jurisdictional Boundaries of the Member Agencies from a regional perspective. The individual parties which are entering into this Agreement under the jurisdiction of K.S.A. 12-2901 will file for recording an executed copy of this Agreement in the appropriate county in the State of Kansas and file a copy with the Kansas Secretary of State.

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

*Exhibit 1* – Steering Committee Document

*Exhibit 2* – Scope of Services

*Exhibit 3* – Compensation

*Exhibit 4* – Insurance Requirements

*Exhibit 5* – Ownership Matrix

*Exhibit 6* – Concept of Operations

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

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

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

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

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

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

*Regional Traffic Management Center* – the site or location designated by the Steering Committee containing various equipment, computer hardware, and computer software capable of controlling and coordinating the Regional Traffic Control System. The Regional Traffic Management Center is sometimes referred to herein and in the Exhibits as the Traffic Operations Center (“TOC”).

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

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

### **Sec. 3. RESPONSIBILITIES OF PARTIES.**

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

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

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

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

**Sec. 6. SEVERABILITY.** Should any provision hereof for any reason be deemed or ruled illegal, invalid, or unconstitutional by any court of competent jurisdiction, no other provision of

this Agreement shall be affected; and this Agreement shall then be construed and enforced as if such illegal or invalid or unconstitutional provision had not been contained herein.

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

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

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

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

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

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

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

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

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

**Sec. 14. WAIVER.** Waiver by the any party to this Agreement of any term, covenant, or condition hereof shall not operate as a waiver of any subsequent breach of the same or of any

other term, covenant, or condition. No term, covenant, or condition of this Agreement can be waived except by written consent of all of the Parties to this Agreement, and forbearance or indulgence by any party to this Agreement in any regard whatsoever shall not constitute a waiver of same to be performed by said party to which the same may apply and, until complete performance of the term, covenant, or condition, the Parties to this Agreement shall be entitled to invoke any remedy available to it under this Agreement or by law despite any such forbearance or indulgence.

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

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

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

**Sec. 18. AFFIRMATIVE ACTION; NON-DISCRIMINATION.**

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

(b) During the performance of this Agreement or any subcontract resulting thereof, MARC, Private Firms, and all subcontractors and vendors (the Private Firms, together with all subcontractors and vendors, shall for purposes of this Section 18 be collectively referred to as the "Other Contractor Parties") shall observe the provisions of the Kansas Acts Against Discrimination (K.S.A. 44-1001 et seq.) and Title VII of the Civil Rights Act of 1964 as amended and shall not discriminate against any person in the performance of work under the Agreement because of race, religion, color, sex, national origin, age, disability, ancestry, veteran status, or low income. In all solicitations or advertisements for employees, MARC and the Other

Contractor Parties shall include the phrase “equal opportunity employer” or a similar phrase to be approved by the Kansas Human Rights Commission (“Commission”). If MARC fails to comply with the manner in which MARC reports to the Commission in accordance with the provisions of K.S.A. 44-1031 and amendments thereto, or if MARC is found guilty of a violation of the Kansas Act Against Discrimination under a decision or order of the Commission which has become final, MARC shall be deemed to have breached this Agreement, and this Agreement may be canceled, terminated, or suspended, in whole or in part, by any of the Member Agencies.

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

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

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

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

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

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

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

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

**Sec. 23. GOVERNING LAW.** This Agreement shall be construed and governed in accordance with the law of the State of Kansas. Any action in regard to this Agreement or arising out of its terms and conditions must be instituted and litigated in the courts of the State of Kansas, and in no other. The Parties submit to the jurisdiction of the courts of the State of Kansas and waive venue.

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

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

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

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

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

**[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]**



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

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

**EXECUTION OF AGREEMENT**

BONNER SPRINGS, KS

By: \_\_\_\_\_  
[PRINTED NAME]  
[TITLE]

Date: \_\_\_\_\_

Attest:

\_\_\_\_\_  
**Clerk**

APPROVED AS TO FORM:

ACKNOWLEDGMENT

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

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

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

\_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Notary Public – State of Kansas  
Commissioned in \_\_\_\_\_

My commission expires:

\_\_\_\_\_

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

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

**EXECUTION OF AGREEMENT**

FAIRWAY, KS

By: \_\_\_\_\_  
[PRINTED NAME]  
[TITLE]

Date: \_\_\_\_\_

Attest:

\_\_\_\_\_  
**Clerk**

APPROVED AS TO FORM:

\_\_\_\_\_

ACKNOWLEDGMENT

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

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

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

\_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Notary Public – State of Kansas  
Commissioned in \_\_\_\_\_

My commission expires:  
\_\_\_\_\_

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

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

**EXECUTION OF AGREEMENT**

UNIFIED GOVERNMENT

By: \_\_\_\_\_  
[PRINTED NAME]  
[TITLE]

Date: \_\_\_\_\_

Attest:

\_\_\_\_\_  
**Clerk**

APPROVED AS TO FORM:

\_\_\_\_\_

ACKNOWLEDGMENT

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

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

\_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Notary Public – State of Kansas  
Commissioned in \_\_\_\_\_

My commission expires:  
\_\_\_\_\_

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

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

**EXECUTION OF AGREEMENT**

LANSING, KS

By: \_\_\_\_\_  
[PRINTED NAME]  
[TITLE]

Date: \_\_\_\_\_

Attest:

\_\_\_\_\_  
**Clerk**

APPROVED AS TO FORM:

ACKNOWLEDGMENT

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

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

\_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Notary Public – State of Kansas  
Commissioned in \_\_\_\_\_

My commission expires:  
\_\_\_\_\_

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

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

**EXECUTION OF AGREEMENT**

LEAVENWORTH, KS

By: \_\_\_\_\_  
[PRINTED NAME]  
[TITLE]

Date: \_\_\_\_\_

Attest:

\_\_\_\_\_  
**Clerk**

APPROVED AS TO FORM:

\_\_\_\_\_

ACKNOWLEDGMENT

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

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

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

\_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Notary Public – State of Kansas  
Commissioned in \_\_\_\_\_

My commission expires:  
\_\_\_\_\_

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

City of Leawood  
Attention: David Ley, City Engineer  
4800 Town Center Dr.  
Leawood, KS 66211

**EXECUTION OF AGREEMENT**

LEAWOOD, KS

By: \_\_\_\_\_  
[PRINTED NAME]  
[TITLE]

Date: \_\_\_\_\_

Attest:

\_\_\_\_\_  
**Clerk**

APPROVED AS TO FORM:

\_\_\_\_\_

ACKNOWLEDGMENT

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

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

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

\_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Notary Public – State of Kansas  
Commissioned in \_\_\_\_\_

My commission expires:  
\_\_\_\_\_

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

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

**EXECUTION OF AGREEMENT**

LENEXA, KS

By: \_\_\_\_\_  
[PRINTED NAME]  
[TITLE]

Date: \_\_\_\_\_

Attest:

\_\_\_\_\_  
**Clerk**

APPROVED AS TO FORM:

\_\_\_\_\_

ACKNOWLEDGMENT

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

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

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

\_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Notary Public – State of Kansas  
Commissioned in \_\_\_\_\_

My commission expires:  
\_\_\_\_\_

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

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

**EXECUTION OF AGREEMENT**

MERRIAM, KS

By: \_\_\_\_\_  
[PRINTED NAME]  
[TITLE]

Date: \_\_\_\_\_

Attest:

\_\_\_\_\_  
**Clerk**

APPROVED AS TO FORM:

\_\_\_\_\_

ACKNOWLEDGMENT

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

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

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

\_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Notary Public – State of Kansas  
Commissioned in \_\_\_\_\_

My commission expires:

\_\_\_\_\_

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

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

**EXECUTION OF AGREEMENT**

MISSION, KS

By: \_\_\_\_\_  
[PRINTED NAME]  
[TITLE]

Date: \_\_\_\_\_

Attest:

\_\_\_\_\_  
**Clerk**

APPROVED AS TO FORM:

\_\_\_\_\_

ACKNOWLEDGMENT

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

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

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\_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Notary Public – State of Kansas  
Commissioned in \_\_\_\_\_

My commission expires:  
\_\_\_\_\_

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

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

**EXECUTION OF AGREEMENT**

MISSION WOODS, KS

By: \_\_\_\_\_  
[PRINTED NAME]  
[TITLE]

Date: \_\_\_\_\_

Attest:

\_\_\_\_\_  
**Clerk**

APPROVED AS TO FORM:

\_\_\_\_\_

ACKNOWLEDGMENT

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

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

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

\_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Notary Public – State of Kansas  
Commissioned in \_\_\_\_\_

My commission expires:  
\_\_\_\_\_

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

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

**EXECUTION OF AGREEMENT**

OLATHE, KS

By: \_\_\_\_\_  
[PRINTED NAME]  
[TITLE]

Date: \_\_\_\_\_

Attest:

\_\_\_\_\_  
**Clerk**

APPROVED AS TO FORM:

\_\_\_\_\_

ACKNOWLEDGMENT

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

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

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

\_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Notary Public – State of Kansas  
Commissioned in \_\_\_\_\_

My commission expires:

\_\_\_\_\_

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

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

**EXECUTION OF AGREEMENT**

OVERLAND PARK, KS

By: \_\_\_\_\_  
[PRINTED NAME]  
[TITLE]

Date: \_\_\_\_\_

Attest:

\_\_\_\_\_  
**Clerk**

APPROVED AS TO FORM:

\_\_\_\_\_

ACKNOWLEDGMENT

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

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

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

\_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Notary Public – State of Kansas  
Commissioned in \_\_\_\_\_

My commission expires:  
\_\_\_\_\_

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

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

**EXECUTION OF AGREEMENT**

PRAIRIE VILLAGE, KS

By: \_\_\_\_\_  
[PRINTED NAME]  
[TITLE]

Date: \_\_\_\_\_

Attest:

\_\_\_\_\_  
**Clerk**

APPROVED AS TO FORM:

\_\_\_\_\_

ACKNOWLEDGMENT

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

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

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

\_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Notary Public – State of Kansas  
Commissioned in \_\_\_\_\_

My commission expires:  
\_\_\_\_\_

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

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

**EXECUTION OF AGREEMENT**

SHAWNEE, KS

By: \_\_\_\_\_  
[PRINTED NAME]  
[TITLE]

Date: \_\_\_\_\_

Attest:

\_\_\_\_\_  
**Clerk**

APPROVED AS TO FORM:

\_\_\_\_\_

ACKNOWLEDGMENT

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

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

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\_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Notary Public – State of Kansas  
Commissioned in \_\_\_\_\_

My commission expires:  
\_\_\_\_\_

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

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

**EXECUTION OF AGREEMENT**

WESTWOOD, KS

By: \_\_\_\_\_  
[PRINTED NAME]  
[TITLE]

Date: \_\_\_\_\_

Attest:

\_\_\_\_\_  
**Clerk**

APPROVED AS TO FORM:

\_\_\_\_\_

ACKNOWLEDGMENT

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

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

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\_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Notary Public – State of Kansas  
Commissioned in \_\_\_\_\_

My commission expires:  
\_\_\_\_\_

## EXHIBIT 1

### OPERATION GREEN LIGHT COMMITTEE

#### Role, Responsibility, and Organizational Structure

- 1.1.1 *Responsibilities: The Operation Green Light Steering Committee shall serve to approve budgets, procurement and staffing recommendations to the Mid-America Regional Council Board of Directors and to make other technical and policy decisions concerning the development, deployment and operation of the Operation Green Light regional traffic signal coordination program, including:* approve the program's upcoming annual budget during the final meeting of the calendar year. Purchases and contracts shall follow MARC's established threshold guidelines as well as the following: amounts of \$15,000-\$25,000 shall be reported to the committee; amounts of \$25,001 or more shall be voted on and approved by the Steering Committee before purchase or contract is sent to MARC's Board of Directors for approval.
- 1.1.2 Participate in program decision-making at key points by reviewing and providing comments on project deliverables and by approving or rejecting technical and policy recommendations;
- 1.1.3 Participate in the development of inter-jurisdictional agreements for the construction, operation, maintenance and other activities of the regional traffic signal coordination system; and
- 1.2 Call upon committee members to participate in Task Force work groups as technical issues arise requiring additional effort than time allows during a Steering Committee meeting. The Task Force shall submit to the Steering Committee recommendations based on its discussions.
- 1.3 Membership and Meetings: The Steering Committee shall be composed of representatives from participating agencies in the following manner:

(The following table is a current list as of May 2016)

<b>Participating Agency</b> Non-Funding Agency in Bold	<b>Membership</b> <b>(voting)</b>
Belton	1
Bonner Springs	1
Fairway	1
FHWA – MO & KS	Ex Officio
Gladstone	1
Independence	1
Kansas City, MO	1
KCScout	Ex Officio
KDOT	1
Lansing	1
Leavenworth	1
Leawood	1
Lee's Summit	1
Lenexa	1
Liberty	1
MARC	1
Merriam	1
Mission	1
Mission Woods	1
MoDOT	1
North Kansas City	1

Olathe	1
Overland Park	1
Prairie Village	1
Raymore	1
Shawnee	1
Unified Government/KCK	1
Westwood	1

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

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

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

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

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

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

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

## **EXHIBIT 2**

### **SCOPE OF WORK**

#### **1. Project Management**

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

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

#### **2. Traffic Signal Timing**

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

### **3. Operations and Maintenance**

#### ***3.1. Computer Software and Databases***

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

#### ***3.2. Computer Network***

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

#### ***3.3. Field Communications System***

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

#### ***3.4. Traffic Signal Controllers***

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

**EXHIBIT 3**  
**COMPENSATION**

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

<b>REVENUE SOURCES FOR OPERATION GREEN LIGHT</b>				
<b>FOR OPERATING YEARS 2017-2018</b>				
<b>LOCAL GOVERNMENTS</b>				
			<b>2017</b>	<b>2018</b>
		<b>Locations weighted</b>	<b>Cost per signal</b>	<b>Cost per signal</b>
	<b>Agency</b>	<b>by % ownership</b>	<b>at \$800/year</b>	<b>at \$800/year</b>
1	BONNER SPRINGS	4	\$ 3,200.00	\$ 3,200.00
2	FAIRWAY	2	\$ 1,600.00	\$ 1,600.00
3	LANSING	4	\$ 3,200.00	\$ 3,200.00
4	LEAVENWORTH	1	\$ 800.00	\$ 800.00
5	LEAWOOD	11.25	\$ 9,000.00	\$ 9,000.00
6	LENEXA	29	\$ 23,200.00	\$ 23,200.00
7	MERRIAM	18	\$ 14,400.00	\$ 14,400.00
8	MISSION	2.75	\$ 2,200.00	\$ 2,200.00
9	MISSION WOODS	0.75	\$ 600.00	\$ 600.00
10	OLATHE	15	\$ 12,000.00	\$ 12,000.00
11	OVERLAND PARK	44.75	\$ 35,800.00	\$ 35,800.00
12	PRAIRIE VILLAGE	6.75	\$ 5,400.00	\$ 5,400.00
13	SHAWNEE	14.5	\$ 11,600.00	\$ 11,600.00
14	UGOVT/KCK	63	\$ 50,400.00	\$ 50,400.00
15	WESTWOOD	1.25	\$ 1,000.00	\$ 1,000.00
	<b>TOTALS</b>	<b>218</b>	<b>\$ 174,400.00</b>	<b>\$ 174,400.00</b>

- B. It shall be a condition precedent to payment of any invoice from MARC that MARC is in compliance with, and not in breach or default of, all terms, covenants and conditions of this Contract. If damages are sustained by a Member Agency as a result of breach or default by MARC, the Member Agency may withhold payment(s) to MARC for the purpose of set off until such time as the exact amount of damages due the Member Agency from MARC may be determined.
- C. No request for payment will be processed unless the request is in proper form, correctly computed, and is approved as payable under the terms of this Agreement.
- D. A Member Agency is not liable for any obligation incurred by MARC except as approved under the provisions of this Agreement.

## Exhibit 4

### INSURANCE REQUIREMENTS

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

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

- a. Severability of Interests Coverage applying to Additional Insureds
- b. Contractual Liability
- c. Per Project Aggregate Liability Limit or, where not available, the aggregate limit shall be \$2,000,000
- d. No Contractual Liability Limitation Endorsement
- e. Additional Insured Endorsement, ISO form CG20 10, current edition, or its equivalent

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

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

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

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

<u>Fee Minimum Limits</u>	<u>Professional Liability Minimum</u>
Less than \$25,000	\$100,000
\$25,000 or more, but less than \$50,000	\$500,000
\$50,000 or more	\$1,000,000

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

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

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

**EXHIBIT 5**

**Operation Green Light Location / Ownership Matrix**

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

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

## **Exhibit 6**

# **OGL Concept of Operations: Roles and Responsibilities**

### **Introduction**

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

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

### **Signal Timing**

#### **Initial Deployment of Regional Timing Plans**

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

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

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

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



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

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

### **Providing Maintenance Timing Plans**

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

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

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

### **Incident Management**



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

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

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

### **Citizen Complaints**

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

### **Dispute Resolution**

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

### **Emergency Provisions**

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

## **Field Communication Operation and Maintenance**

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



### **Controller Upgrades and Work inside the Traffic Controller Cabinet**

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

### **Technical Support for OGL Computer Network**

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

### **The Traffic Operations Center**

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

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

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



Sec. 2-27. - Councilmember vacancy; procedure for filling.

Whenever a vacancy occurs in the position of councilmember, including when a councilmember moves from the ward from which elected, or whenever the council president becomes mayor leaving a vacancy in the office of councilmember, the city council shall appoint an elector of the ward where the vacancy occurs to be councilmember for the balance of the unexpired term and a notice of vacancy shall be announced at the first regular council meeting following the occurrence of such vacancy. The vacancy shall be filled by the city council pursuant to the following procedures:

- (1) The deadline for individuals to submit a letter of interest and statement of qualifications for the vacant council position shall be 30 days from the date the notice of vacancy is announced. If such 30th day is a weekend or holiday, the deadline shall be the next regular business day following the expiration of such 30-day period.
- (2) Letters of intent and statements of qualifications for the vacant council position shall only be considered by the city council if submitted to the city clerk's office by 4:30 p.m. on the deadline specified by the city council as set forth in subsection (1) of this section.
- (3) The city council may use whatever publicity forum it chooses to disseminate information regarding the vacancy and the associated selection process.
- (4) All letters of intent and statements of qualifications and associated documents received for the vacant council position shall be treated as open records pursuant to the provisions of the Kansas Open Records Act, K.S.A. [45-215](#) et seq.
- (5) The city council shall interview all qualified candidates (electors of the ward where the vacancy occurred who have timely submitted letters of intent and statements of qualifications) within 30 days following the deadline specified by the city council as set forth in subsection (1) of this section. Interviews shall be conducted as open meetings of the city council according to the provisions of the Kansas Open Meetings Act, K.S.A. [45-215](#) et seq. Nothing herein shall be construed as to limit the number of interview sessions the city council may conduct, so long as each remaining candidate has the opportunity to be interviewed in each subsequent set of interview sessions.
- (6) In the event that eight or more candidates have submitted a letter of intent and statement of qualifications for the vacant council position, following the completion of candidate interviews, the city council, in an open meeting and by written ballot, shall narrow the list of candidates to five. Each city council member shall vote for not more than five candidates. Each ballot shall include the name of the city council member casting such ballot and shall be considered an open record. The votes will be tabulated by the city clerk and announced at the open meeting at which the ballots are cast. Once the list of candidates is reduced to five, those remaining candidates shall be considered as set forth in subsection (7) of this section.
- (7) Whenever more than two, but less than eight, candidates have submitted a letter of intent and statement of qualifications for the vacant council position, or whenever the number of candidates has been reduced as set forth in subsection (6) of this section, the city council shall, by written ballot, narrow the list of candidates to two. Each city council member shall vote for not more than two candidates. Each ballot shall include the name of the city council member casting such ballot and shall be considered an open record. The votes will be tabulated by the city clerk and announced at the open meeting at which the ballots are cast. Once the list of candidates is reduced to two, those two remaining candidates shall be considered as set forth in subsection (8) of this section.
- (8) Whenever two or fewer candidates have submitted a letter of intent and statement of qualifications for the vacant council position, or whenever the number of candidates has been reduced to two as set forth in subsection (7) of this section, each city council member shall, by written ballot, cast not more than one vote for the purpose of selecting a candidate to fill the vacant council position. Each ballot shall include the name of the city council member casting such ballot and shall be considered an open record. The votes will be tabulated by the city clerk and announced at the open meeting at which the ballots are cast. The candidate receiving a majority vote of the city council shall be appointed as councilmember for the balance of the unexpired term as set forth in section 2-26

(Code 1967, § 2-26; Ord. No. 1635, § 1, 2-8-2010)

## AGENDA ITEM INFORMATION FORM

**Agenda Item:** Discussion of the proposed 2017 Legislative Agenda

**Department:** Administration

### **Background/Description of Item:**

Each year City Council adopts a legislative agenda that establishes its legislative priorities. The Board of County Commissioners also annually approves a legislative agenda geared toward the common interests of all Johnson County cities. The joint agenda is the result of meetings with local managers that identify the common interests we should collectively assert in Topeka.

Attached are three documents: the draft 2017 City of Merriam Legislative Agenda; the approved Board of County Commissioners joint 2017 agenda; the approved 2016 City of Merriam agenda.

The 2017 Draft Agenda incorporates the following substantive changes from the 2016 agenda:

#### ADDITIONS

- Statewide Expansion of Medicaid (new item) – Supports expansion of Medicaid / KanCare. KanCare is managed by the State and heavily funded by the Federal government. The decision to limit its expansion unnecessarily burden's local taxpayers with payments that would otherwise be covered.
- Local Control of Right of Way (new item) – Supports repeal of the 2016 legislation allowing unregulated placement of cell towers in city rights-of-way.

#### DELETIONS

- Limits on Appraised Valuation Growth - Addressed in the “Repeal of The Property Tax Lid” item.
- Sales Tax Exemption – It is not believed this will be an issue in 2017.
- Maintain Local Control Over Decisions Including Revenue and Spending – Addressed in the “Repeal of The Property Tax Lid” item.
- Law Enforcement Mutual Aid – It is not believed this will be an issue in 2017.

The remaining items are from 2016 and contain updated wording but no substantial change.

This agenda has been reviewed by Stuart Little and he agrees they are appropriate items to address.

**Staff Recommendation:** n/a

Prepared by: Chris Engel, City Administrator

Date: January 5, 2017

# CITY OF MERRIAM 2017 LEGISLATIVE AGENDA

*State and local government are partners providing numerous governmental services that are funded and made available to citizens. Local units of government are closest to the citizens and therefore, are extremely well-positioned to represent the interests of citizens in the communities in which they live. The partnership depends upon stable funding, efficient use of citizens' resources, and responsiveness at the city and county level. We support the preservation of local authority, maintenance of local control of local revenue and spending, and oppose the devolution of State duties to local units of government without planning, time and resources. The City of Merriam advocates on the following issues in the interests of our elected representatives and on behalf of the citizens who live in city.*

Adopted by Merriam City Council on

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## **SALES TAX COLLECTION ON AUTOMOBILES**

We support current laws that govern the collection point and structure for sales taxes collected on automobile sales.

## **NON-PARTISAN ELECTIONS**

We are opposed to any legislation that would require local elections be conducted with partisan identification, or vacancies in non-partisan elected positions be filled through partisan means.

## **INTERNATIONAL SYMBOL OF ACCESS**

We support updating the Americans with Disabilities Act (ADA) regulations to allow for the use of the "Accessible Icon" to identify ADA compliance, and urge the Kansas Legislature to encourage the United States Government to make the necessary changes to law to allow for its use. The updated symbol aims to change the focus from "disability" to being active and engaged in the lived environment.

## **REPEAL OF THE PROPERTY TAX LID**

We strongly oppose any state-imposed limits on the taxing and spending authority of cities and counties and urge the repeal of the property tax lid legislation passed during the 2015 Session. We believe those elected to manage the affairs of cities and counties can be most responsive to the local taxpayers and make budget and tax decisions that are most reflective of the community's need and financial interests. We note that these same taxing and spending limits on cities and counties were not placed on state government. State government should abide by the same taxing and spending decisions as they impose upon cities and counties.

Absent repeal, the state-imposed tax lid on local governments should be modified to require a public vote based on a protest petition provision. Additionally, the Legislature should review and consider including appropriate exemptions that existed largely under the prior tax lid but were not included in the current law such as human resources costs, KPERS, and mental health issues among other items. (Added in 2016, 2017)

## **K-12 EDUCATION FINANCING**

We are supportive of the Kansas Legislature adequately and equitably funding primary and secondary education to a level that places Kansas among the leading states in support of a "world class" education. We support local schools in their efforts to craft a new school finance formula that supports local components and treats local property taxes contributions fairly for local property taxpayers and schools. (Added in 2017)

## **TAX POLICY**

We support stable revenue sources and urge the Kansas Legislature to avoid applying any further exemptions to the ad valorem property tax base, including exceptions for specific business entities or the state/local sales tax base, as well as industry-specific special tax treatment through exemptions or property classification. The local tax burden has shifted too far to residential property taxes due to state policy changes. We do not support changes in State taxation policy that would narrow the tax base or significantly reduce available funding for key programs. These changes would place Kansas at a further competitive disadvantage with the state of Missouri. We do not support a sales tax on professional services. (Added in 2012, 2016)

## **COMPREHENSIVE TRANSPORTATION PLAN**

To ensure the critical well-being of Kansas infrastructure, we urge the Kansas Legislature to follow through on the commitments in the Comprehensive Transportation Plan, also known as T-WORKS. The current funding level is far from adequate to address ongoing statewide infrastructure funding needs in areas of preservation, maintenance, and safety; therefore, it is critical for our state highway funds to be used for the purpose they are collected. Funds should be allocated strategically to ensure there is an identifiable long-term return on investment for the entire state. Additionally, because investment in growth areas is vital to creating a sustainable revenue stream that will address statewide infrastructure needs, we encourage the state to invest in public transportation that specifically demonstrates regional coordination in both rural and urban areas, and to support innovative platforms like ridesharing to increase access to employment and educational opportunities, as well as ease congestion and delay the need for costly road expansion. (Added in 2010, 2016, 2017)

## **STATUTORY PASS-THROUGH FUNDING**

We call for the preservation of local government revenues which pass through the State of Kansas' treasury. These funds come from a longstanding partnership between local governments and the State and are generated via economic activity at the local level. Both alcoholic liquor tax funds and the local portion of motor fuels taxes should not be withheld from local governments and siphoned into the State General Fund. The Kansas Government's use of these local funding sources may benefit the State, but it will increase the local property tax burden to replace the lost revenue or reduce services. Local governments in recent years have had to cope with the Kansas Legislature not funding Local Ad Valorem Tax Reduction (LAVTRF), County City Revenue Sharing (CCRS) demand transfers, and the machinery and equipment property tax "slider" and should not be forced to further aid in balancing the State's budget. Since 1997, more than \$1.8 billion in formula demand transfers from the State to local governments have not been made. LAVTR dates back to the 1930s with the existing statutory framework being established in 1965. LAVTR represents the local share of certain cigarette revenue, stamp taxes and cereal malt beverages taxes that the state removed in exchange for the commitment to fund the LAVTR. CCRS was established in 1978 as part of an agreement between the state and local governments regarding a number of different taxes related to cigarette and liquor enforcement. (Added in 2010, 2016)

## **KPERS FUNDING**

We support achieving a fully-funded public employees' retirement system within a reasonable period of time. The Kansas Government should fully fund its portion of the employer contributions at the Actuarial Required Contribution (ARC), and the local KPERS should be separated from the state and school retirement system. We support the state making its 2016 re-payment with interest as soon as possible. If any delays in scheduled 2017 re-payment(s) are made, then these re-payment(s) should be made with interest. The system should accumulate sufficient assets during members' working lifetimes to pay all promised benefits when members retire. Additionally, we support current provisions as they relate to accumulated leave and other human resources policies to determine a retiree's benefit. Possible policy changes could have a negative impact on local government employee recruitment and retention, particularly in competitive employment markets. (Added in 2010, 2016, 2017)

## **STATEWIDE EXPANSION OF MEDICAID**

We support Medicaid expansion through KanCare in Kansas. Providing Medicaid is the responsibility of the state and federal government. The decision to limit Medicaid expansion has an impact on the citizens of Merriam. Absent the state's participation in Medicaid expansion, city taxpayers are required to pay for these services that would otherwise be covered by Medicaid. Through local tax revenue, Johnson County provides approximately \$6.4 million in charitable care for mental health services and over \$2.2 million in uncompensated care for Med-Act services (approximately 1 mill) that could be significantly reduced by Medicaid expansion. (Added in 2014, 0217)

## **LOCAL CONTROL OF RIGHT OF WAY**

2016 Legislation granting the automatic placement of cell towers in city and county owned right of way, should be repealed. Regulation of the placement of cell towers should be subject to reasonable local zoning processes which review important community values such as safety and neighborhood concerns. (Added in 2017)

# JOHNSON COUNTY GOVERNMENT AND CITIES JOINT 2017 LEGISLATIVE PLATFORM

Adopted November 17, 2016

*State and local government are partners providing numerous governmental services that are funded and made available to citizens. Local units of government are closest to the citizens and therefore, are extremely well-positioned to represent the interests of citizens in the communities in which they live. The partnership depends upon stable funding, efficient use of citizens' resources, and responsiveness at the city and county level. We support the preservation of local authority, maintenance of local control of local revenue and spending, and oppose the devolution of State duties to local units of government without planning, time and resources. The Johnson County Government and Cities advocate on the following issues in the interests of our elected representatives and on behalf of the citizens who live in our county and cities.*

## **REPEAL OF THE PROPERTY TAX LID**

We strongly oppose any state-imposed limits on the taxing and spending authority of cities and counties and urge the repeal of the property tax lid legislation passed during the 2015 Session. We believe those elected to manage the affairs of cities and counties can be most responsive to the local taxpayers and make budget and tax decisions that are most reflective of the community's need and financial interests. We note that these same taxing and spending limits on cities and counties were not placed on state government. State government should abide by the same taxing and spending decisions as they impose upon cities and counties.

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Johnson County Government is supportive of the Kansas Legislature adequately and equitably funding primary and secondary education to a level that places Kansas among the leading states in support of a "world class" education. We support Johnson County schools in their efforts to craft a new school finance formula that supports local components and treats local property taxes contributions fairly for local property taxpayers and schools. (Added in 2017)

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We support stable revenue sources and urge the Kansas Legislature to avoid applying any further exemptions to the ad valorem property tax base, including exceptions for specific business entities or the state/local sales tax base, as well as industry-specific special tax treatment through exemptions or property classification. The local tax burden has shifted too far to residential property taxes due to state policy changes. We do not support changes in State taxation policy that would narrow the tax base or significantly reduce available funding for key joint State/County programs such as corrections, mental health, and public health. These changes would place the County at a further competitive disadvantage with state of Missouri. We do not support a sales tax on professional services. (Added in 2012, 2016)

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To ensure the critical well-being of Kansas infrastructure, we urge the Kansas Legislature to follow through on the commitments in the Comprehensive Transportation Plan, also known as T-WORKS. The current funding level is far from adequate to address ongoing statewide infrastructure funding needs in areas of preservation, maintenance, and safety; therefore, it is critical for our state highway funds to be used for the purpose they are collected. Funds should be allocated strategically to ensure there is an identifiable long-term return on investment for the entire state. Additionally, because Investment in growth areas is vital to creating a sustainable revenue stream that will address statewide infrastructure needs, we encourage the state to invest in public transportation that specifically demonstrates regional coordination in both rural and urban areas, and to support innovative platforms like ridesharing to increase access to employment and educational opportunities, as well as ease congestion and delay the need for costly road expansion. (Added in 2010, 2016, 2017)

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Adopted November 17, 2016

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We call for the preservation of local government revenues which pass through the State of Kansas' treasury. These funds come from a longstanding partnership between local governments and the State and are generated via economic activity at the local level. Both alcoholic liquor tax funds and the local portion of motor fuels taxes should not be withheld from local governments and siphoned into the State General Fund. The Kansas Government's use of these local funding sources may benefit the State, but it will increase the local property tax burden to replace the lost revenue or reduce services. Local governments in recent years have had to cope with the Kansas Legislature not funding Local Ad Valorem Tax Reduction (LAVTRF), County City Revenue Sharing (CCRS) demand transfers, and the machinery and equipment property tax "slider" and should not be forced to further aid in balancing the State's budget. Since 1997, more than \$1.8 billion in formula demand transfers from the State to local governments have not been made. LAVTR dates back to the 1930s with the existing statutory framework being established in 1965. LAVTR represents the local share of certain cigarette revenue, stamp taxes and cereal malt beverages taxes that the state removed in exchange for the commitment to fund the LAVTR. CCRS was established in 1978 as part of an agreement between the state and local governments regarding a number of different taxes related to cigarette and liquor enforcement. (Added in 2010, 2016)

## **KPERS FUNDING**

We support achieving a fully-funded public employees retirement system within a reasonable period of time. The Kansas Government should fully fund its portion of the employer contributions at the Actuarial Required Contribution (ARC), and the local KPERS should be separated from the state and school retirement system. We support the state making its 2016 re-payment with interest as soon as possible. If any delays in scheduled 2017 re-payment(s) are made, then these re-payment(s) should be made with interest. The system should accumulate sufficient assets during members' working lifetimes to pay all promised benefits when members retire. Additionally, we support current provisions as they relate to accumulated leave and other human resources policies to determine a retiree's benefit. Possible policy changes could have a negative impact on local government employee recruitment and retention, particularly in competitive employment markets. (Added in 2010, 2016, 2017)

## **STATEWIDE EXPANSION OF MEDICAID**

Johnson County supports Medicaid expansion through KanCare in Kansas. Providing Medicaid is the responsibility of the state and federal government. The decision to limit Medicaid expansion has an impact on the citizens of Johnson County absent the state's participation in Medicaid expansion, county taxpayers are required to pay for these services that would otherwise be covered by Medicaid. Through local tax revenue, Johnson County provides approximately \$6.4 million in charitable care for mental health services and over \$2.2 million in uncompensated care for Med-Act services (approximately 1 mill) that could be significantly reduced by Medicaid expansion. (Added in 2014, 2017)

## **DEVELOPMENT OF A COMPREHENSIVE ECONOMIC DEVELOPMENT PLAN FOR THE STATE OF KANSAS**

We strongly encourage the State of Kansas to develop a comprehensive plan to foster and enhance the State's fledgling economy. Toward this end and in the absence of a statewide effort by legislators and executive branch officials to do so, the County pledges support to bring proven statewide organizations and educational institutions together to create such a plan. (Added in 2017)

## **LOCAL CONTROL OF RIGHT OF WAY**

2016 Legislation granting the automatic placement of cell towers in city and county owned right of way, should be repealed. Regulation of the placement of cell towers should be subject to reasonable local zoning processes which review important community values such as safety and neighborhood concerns. (Added in 2017)

# CITY OF MERRIAM 2016 LEGISLATIVE AGENDA

*State and local government are partners providing numerous governmental services that are funded and made available to citizens. Local units of government are closest to the citizens and therefore, are extremely well-positioned to represent the interests of citizens in the communities in which they live. The partnership depends upon stable funding, efficient use of citizens' resources, and responsiveness at the city and county level. We support the preservation of local authority, maintenance of local control of local revenue and spending, and oppose the devolution of State duties to local units of government without planning, time and resources. The City of Merriam advocates on the following issues in the interests of our elected representatives and on behalf of the citizens who live in city.*

Adopted by Merriam City Council on January 25, 2016.

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## **SALES TAX COLLECTION ON AUTOMOBILES**

We support current laws that govern the collection point and structure for sales taxes collected on automobile sales.

## **NON-PARTISAN ELECTIONS**

We are opposed to any legislation that would require local elections be conducted with partisan identification, or vacancies in non-partisan elected positions be filled through partisan means.

## **REPEAL OF THE PROPERTY TAX LID**

We strongly oppose any state imposed limits on the taxing and spending authority of cities and counties and urge the repeal of the property tax lid legislation passed during the 2015 session of the Kansas Legislature. We believe those elected to manage the affairs of cities and counties can be most responsive to the local taxpayers and make budget and tax decisions that are most reflective of the community's need and financial interest. Should the property tax lid not be repealed, there are many issues to be addressed before the tax lid could be implemented in 2018. Any efforts to accelerate the imposition of the tax lid before 2018 will only exacerbate the problems that exist with the current law. The Legislature should amend the law to address conflicts regarding the mandatory election calendar and budget timeline, consider necessary exemptions, and better clarify how the new law conflicts with the local government determination of budgets and local property taxes.

## **LIMITS ON APPRAISED VALUATION GROWTH**

We strongly oppose any efforts made to implement artificial limits on appraised valuation growth by the state. Such limitations prevent local officials from making decisions the public expects of them and will also reduce bond ratings, resulting in more expensive debt service payments on needed capital projects. This ultimately has a negative effect on local taxpayers by reducing what they get for their tax dollars.

## **TAX POLICY**

We support stable revenue sources and urge the Kansas Legislature to avoid applying any further exemptions to the ad valorem property tax base, including exceptions for specific business entities or the state/local sales tax base, as well as industry-specific special tax treatment through exemptions or property classification. The local tax burden has shifted too far to residential property taxes due to state policy changes. We do not support changes in State taxation policy that would narrow the tax base or significantly reduce available funding for key programs. These changes place Kansas counties and cities at a competitive sales tax disadvantage with Missouri. We do not support a sales tax on professional services.

## **SALES TAX EXEMPTION**

We support the current law that exempts local government and public construction projects from sales tax. State imposed sales tax on government purchases and projects will have only one effect: increased local property taxes. Purchases have to be made and construction must occur; imposition of a sales tax would increase the local tax burden to cover those added costs. This sales tax revenue does not help local government, but in fact hurts our local economy and our residents who would have to pay much higher property taxes. Increased taxes ultimately reflect negatively on the state given our proximity to Missouri.

## **COMPREHENSIVE TRANSPORTATION PLAN**

To ensure the critical maintenance of Kansas infrastructure, we urge the Kansas Legislature to follow through on the commitments in the Comprehensive Transportation Plan, also known as T-WORKS. The current funding level is far

from adequate to address ongoing statewide infrastructure funding needs, therefore, it is critical for our state highway funds to be used for the purpose they are collected. As such, funds should be allocated strategically to ensure there is an identifiable long-term return on investment for the entire state.

### **MAINTAIN LOCAL CONTROL OVER DECISIONS INCLUDING REVENUE AND SPENDING**

Our local communities across the state are best served and citizens' values and standards are best reflected when local taxing and spending are determined by local voters and taxpayers, we support the retention and strengthening of local home rule authority to allow locally elected officials to conduct the business of their jurisdiction in a manner that best reflects the desires of their constituents and results in maximum benefit to that community.

### **STATUTORY PASS-THROUGH FUNDING**

We call for the preservation of local government revenues which pass through the State of Kansas' treasury. These funds come from a longstanding partnership between local governments and the State and are generated via economic activity at the local level. Both alcoholic liquor tax funds and the local portion of motor fuels taxes should not be withheld from local governments and siphoned into the State General Fund. Kansas Government seizure of these local funding sources may benefit the State but it will increase the local property tax burden to replace the lost revenue. Local governments in recent years have had to cope with the Kansas Legislature not funding Local Ad Valorem Tax Reduction (LAVTRF) and County City Revenue Sharing (CCRS) demand transfers and the machinery & equipment property tax "slider" and should not be forced to further aid in balancing the State's budget. Since 1997, more than \$1.8B in formula demand transfers from the state to local governments have not been made. LAVTR dates back to the 1930s with the existing statutory framework being established in 1965. LAVTR represents the local share of certain cigarette revenue, stamp taxes and cereal malt beverages taxes that the state removed in exchange for commitment to fund the LAVTR. CCRS was established in 1978 as part of an agreement between the state and local governments regarding a number of different taxes related to cigarette and liquor enforcement.

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### **LAW ENFORCEMENT MUTUAL AID**

We support the concept of mutual aid legislation to allow law enforcement agencies to work cooperatively with their counterparts in adjoining states.

### **INTERNATIONAL SYMBOL OF ACCESS**

We support updating the Americans with Disabilities Act (ADA) regulations to allow for the use of the "Accessible Icon" to identify ADA compliance, and urge the Kansas Legislature to encourage the United States Government to make the necessary changes to law to allow for its use. The updated symbol aims to change the focus from "disability" to being active and engaged in the lived environment. The goal is to change the perceptions of how society and individuals view people with disabilities.

### **PUBLIC EDUCATION**

Excellent public education is the cornerstone of an informed, engaged citizenry. As the state legislature develops a new funding formula, the City supports an adequate and equitable plan that provides for the quality of education Johnson County patrons expect. Additionally, the City of Merriam recognizes the importance of early learning and supports strengthening programs that have a history of being effective in those critical early years.

## AGENDA ITEM INFORMATION FORM

**Agenda Item:** Completed Facilities Master Plan Presentation

**Department:** Parks & Recreation

**Background/Description of Item:**

In early 2016, staff released a request for proposals to complete a Facility Master Plan for Parks and Recreation after the completion of Facility Conditions assessments for the Merriam Aquatic Center and Irene B. French Community Center. The purpose of the plan was to help provide a more informed decision regarding the “new facility” option identified in the assessments. PROS Consulting, partnering with a team of professionals from Confluence and SFS Architecture, were selected to complete the project. Throughout the project staff as well as the consultants have provided updates on the process utilized in order to deliver the final project. The Scope of Work stressed that it be a public process, to include the following deliverables:

- Demographic information for the community
- Level of Service recommendations
- Identify areas of service shortfalls and projected impact of future trends
- Provide useable and workable definitions and recommendations for designated facilities and parameters defined as appropriate
- Develop recommendations for operations, staffing, maintenance programming and funding needs
- Provide a clear plan for development of programming direction based on standards and demand analysis
- Develop a definitive program for acquisition and development of recreation facilities and administration of facilities for the future
- Provide conceptual layout and design
- Provide a maintenance and operation analysis
- Identify opportunities for available funding and acquisition alternatives
- Develop an action plan which includes strategies, priorities and an analysis of budget support and funding mechanisms for the short term, mid-term and long term for park facilities and recreation programs and services
- The Facilities Master Plan must include phased goals, plans, objectives and policy statements that articulate a clear vision and “road map” and model for the Parks and Recreation Department’s future
- A Financial Plan
- An Action Plan

With the Facilities Master Plan work complete, the preferred concept recommendation for the build new option has been finalized. The consultant team is in attendance to provide an overview of the process and information on the preferred concept.

**Staff Recommendation:** Staff recommends acknowledgement of the completion of the Facilities Master Plan with all deliverables being achieved.

Prepared by: Anna Slocum, Director of Parks and Recreation

Date: January 9, 2017



# CITY OF MERRIAM

## *Parks and Recreation Facilities Master Plan*

December 2016



*Just right.*

## Acknowledgements

### Steering Committee

William Bailey, Planning and Zoning Committee  
Stoney Bogan, Downtown Merriam Partnership  
Jay Brownawell, Aquatic Center Patron  
Larry Cisneros, Community Center Patron  
Thelma Fowler, Park Board  
Nancy Hupp, City Council / Merriam Parks, Recreation Community Center Foundation  
Gayle Stephens, Community Member  
Jim Wymer, City Council

### City Council

Ken Sissom, Mayor  
Scott Diebold, Ward 1  
Christine Evans Hands, Ward 3  
Robert Weems, Ward 1  
Nancy Hupp, Ward 3  
Al Frisby, Ward 2  
Cheryl Moore, Ward 4  
Jim Wymer, Ward 2  
Bob Pape, Ward 4

### Park Board

Kathy Stull, Ward 2  
Suzanne Downey, Ward 1  
Thelma Fowler, Ward 4  
LaVera Howard, Ward 3  
Tom Heffron - at large  
Katie Leary - at large

### Staff

Anna Slocum, Parks and Recreation Director  
Chris Engel, City Administrator  
Cindy Ehart, Finance Director

## EXECUTIVE SUMMARY

This Facility Master Plan is the third planning option the city has prepared. The previous two plans for the Merriam Aquatic Center in 2014 and the Irene B. French Community Center Study completed in 2015 focused only on repairs to those existing facilities. This Facilities Master Plan focuses on development of new recreation facilities as a replacement for the existing recreation facilities.

This Executive Summary provides a brief overview of the planning process, the challenges and opportunities that were explored in addressing the community's identified recreational needs, and the alternative improvement concepts that were shared with the City of Merriam and the community for review and evaluation.

The City of Merriam, Kansas, with a current population of 11,290, is located eight miles south of downtown Kansas City. The existing recreation infrastructure, including the Irene B. French Community Center (IBFCC) and Merriam Aquatic Center (MAC), are both aging facilities within the community which have been identified as needing repairs and improvements in the near future which require a significant investment of City resources. As such, the City of Merriam identified the need to develop a comprehensive Facilities Master Plan. This plan will serve as a roadmap if future development of new recreation facilities is pursued, balancing the recreational needs of the City within a financially feasible and sustainable manner.

In spring of 2016, the City of Merriam selected a Consultant Team consisting of PROS Consulting, Confluence, SFS Architecture, and ETC Institute to evaluate the potential of new recreation facilities in the City of Merriam as part of a Facilities Master Plan.

The goals for the Facilities Master Plan include:

- Engage the community in the planning process to better understand existing and emerging recreational needs;
- Review existing facilities relative to their ability to sustainably satisfy these identified needs;
- Develop alternative improvement solutions to address these needs;
- Provide facilitated review and evaluation of these alternatives to determine a preferred concept recommendation.

## PLANNING PROCESS

To meet the goals and address the desires expressed by the City of Merriam, the Consulting Team developed a planning process utilizing a variety of tools to collect input for further analysis.

In the first phase, the Consulting Team evaluated "Where the Department is today?" by reviewing past evaluation reports for the Irene B. French Community Center and the Merriam Aquatic Center. This review of the existing facilities was completed to assess current conditions and verify report findings identified previously from other consultant studies. In addition to this study, a programs analysis was completed allowing the Consulting Team to understand what current program offerings should continue and what new programs may be implemented to help meet the needs of the community. A financial analysis was conducted of current operating budgets, cost recovery levels, pricing strategies and overall cost of managing the existing facilities. The Consulting Team developed a level of service to determine what is currently provided by the Department as it applies to land, recreation amenities and recreation space in the City.

The second phase of the process focused on “Where we are going tomorrow?” This involved developing a list of potential sites that would support program and facility needs for the City of Merriam’s citizens. This process included an extensive public input process that included stakeholder interviews, focus group interviews, public forums, a statistical-valid survey and on-line survey. A market analysis was developed to determine what the current market looks like by conducting a demographic analysis, recreation trend analysis and a benchmark comparisons of what other communities are providing in recreation facilities, programs and cost.

The third phase of the process focused on “How do we get there?” This phase prioritized the needs of the community, determined what kind of recreation spaces are needed, the cost to develop and operate, how to fund the development and operational cost. From this process, the Consulting Team developed three concept plans for Vavra Park; where the proposed new community center and aquatic would be located.

**Illustration of the Planning Process:**



## EXISTING FACILITIES

The **Irene B. French Community Center (IBFCC)** is an approximately 33,000 square foot building which was originally constructed as a school in 1911. Additions to the building occurred in 1938 (gymnasium) and 1951 (kitchen and classrooms). The building became an asset operated by the City of Merriam in 1989 after undergoing interior renovations and a small lobby expansion. The age of the facility and the infrastructure are showing obvious signs that it is reaching the end of its useful life. Many parts of the facility are unusable for recreation programs or other services that could be provided. Both facility's operations are highly tax subsidized now.

In 2015, a facility conditions assessment of the IBFCC was completed for the City of Merriam by Susan Richards-Johnson & Associates. That report documented the history of the building, additions, modifications, and existing conditions in great detail. The report recommended treatment approaches that included immediate needs and other rehabilitation and building addition scenarios to extend the life of the facility. The investment costs for repairs and immediate needs were estimated at \$375,000. Additional improvement scenarios ranged from an estimated \$5.6 million up to \$12 million to improve the facility over the next ten years.

Similar findings have been reported from a study conducted by Larkin Aquatics in 2014 for the **Merriam Aquatic Center**. All aquatic structures and amenities on site show significant signs of age and maintenance issues in addition to having poor paths of circulation, lack of accessibility, and inefficient facility organization for staff operations. Pool mechanical equipment and the pool basins are showing signs of significant concern and will require costly repair work or full replacement in the near future. The existing aquatic facility does not represent the highest and best use of the Vavra Park site.

**It is the opinion of the Consulting Team that the size and configuration of the existing facilities do not meet the needs of the community.** These issues have become evident through the engagement process which sought feedback from the community on the needs and types of spaces that are most desired and utilized.



Irene B. French Community Center Basement



Merriam Aquatic Center Filtration Room

## PUBLIC ENGAGEMENT

Building consensus for improving these facilities is predicated on involving all parties in the planning process. Understanding the city representatives, stakeholders and citizen's goals and desires for the facilities' financial performance and programming and incorporating those elements into the Facilities Master Plan ultimately created stronger support to further develop the project.

As part of the public engagement process, a series of **focus group meetings** were held over a two-day period. Participants included seniors, the local art community, fitness focused citizens, Steering Committee members and community center users. Focus group participants echoed the concerns of the two facility studies citing the aging community and aquatics center. Users love the benefits these facilities offer to the community. However, there is significant recognition that they need to be upgraded or replaced. Focus group participants expressed there are mixed emotions in the community as to how to progress toward future facility development. Some in the community have strong feelings toward retaining the existing community center while others realize it has reached the end of its useful life.



First Community Public Forum



City Council & Steering Committee Work Session



Final Community Public Forum

To help assess the attitudes and interests of the community, a **statistically valid needs assessment survey** was administered by the ETC Institute during the summer of 2016. Goals were established by the City and ETC Institute to obtain completed surveys from at least 375 residents. The goal was exceeded with a total of 522 residents completing the survey. The overall results for the sample of 522 households have a precision of at least +/-4.3% at the 95% level of confidence.

Within the ETC Institute survey, Merriam residents were asked to indicate their level of agreement with various statements regarding the value of having a community center in the City of Merriam. The responses indicated the strongest level of agreement with: it is valuable to me to have a community recreation center (76%), I believe a community recreation center boosts property values in our community (75%), and a community recreation center should generate revenue from user fees (71%).

From the survey results, **facility priority rankings were established** to provide a prioritized list of facility/amenity needs and recreation program needs for the community served by the Merriam Parks and Recreation Department. This model evaluates both quantitative and qualitative data.

- Quantitative data includes the statistically-valid community survey, which asked residents to list unmet needs and rank their importance.
- Qualitative data includes resident feedback obtained in community input, stakeholder interviews, staff input, local demographics, recreation trends, and planning team observations.

<b>Facility Priority Rankings</b>	
<b>Facility</b>	<b>Overall Rank</b>
Indoor walking / jogging track	1
Cardiovascular / fitness equipment areas	2
Indoor leisure swimming pools	3
Indoor lap lanes for exercise swimming	4
Senior activity / social areas	5
Gyms for basketball / volleyball	6
Rooms for recreation classes and other activities	7
Rooms for banquets & catered events	8
Rooms for community meetings & family gatherings	9
Aerobics / dance areas	10
Weightlifting exercise areas	11
Community meeting rooms	12
Café / coffee shop	13
Indoor archery / shooting range	14
Outdoor leisure swimming areas	15
Space for theatre or musical productions	16
Art gallery	17
Gaming areas with video games, billiards, etc	18
Pickleball courts	19
Arts and crafts areas	20
Rock climbing walls	21
Satellite post office	22
Photography studios	23
Library	24
Racquetball / handball courts	25

Should a new facility be created, choosing the right amenities will be a critical consideration to enhance its use among many demographic interests. With respect to programs and services, it will be important to ensure priorities exist for the resident and forward thinking takes place when creating new space to avoid regional replication. The following are the amenity priorities from the citizen survey for both a Community Center and Aquatic Center:

<b>Survey Results - Community Center</b>				
<b>Rank</b>	<b>Households with children under age 10</b>	<b>Households with children ages 10-19</b>	<b>Households ages 20-54 (no children)</b>	<b>Households ages 55+ (no children)</b>
1 <sup>st</sup> Choice	Indoor Jogging/ Walking rack (44%)	Indoor Jogging/ Walking rack (37%)	Indoor Jogging/ Walking rack (44%)	Indoor Jogging/ Walking rack (38%)
2 <sup>nd</sup> Choice	Indoor Leisure Swimming Pool (44%)	Cardiovascular/ Fitness Equipment Areas (33%)	Cardiovascular/ Fitness Equipment Areas (37%)	Cardiovascular/ Fitness Equipment Areas (36%)
3 <sup>rd</sup> Choice	Cardiovascular/ Fitness Equipment Areas (35%)	Indoor Leisure Swimming Pool (32%)	Weightlifting exercise areas (34%)	Senior Activity/ Social Areas (25%)
4 <sup>th</sup> Choice	Weightlifting exercise areas (26%)	Gyms (30%)	Indoor Lap Lanes for Exercise Swimming (29%)	Weightlifting exercise areas (24%)
5 <sup>th</sup> Choice	Gyms (22%)	Weighting exercise areas (25%)	Indoor Leisure Swimming Pool (25%)	Rooms for Community Meetings & Family Gathering (20%)
% That Selected at Least One Item	90%	83%	88%	77%

Survey Results - Outdoor Aquatics				
Rank	Households with children under age 10	Households with children ages 10-19	Households ages 20-54 (no children)	Households ages 55+ (no children)
1 <sup>st</sup> Choice	Zero Depth Entry Pool (64%)	Lazy River (59%)	Lazy River (57%)	Zero Depth Entry Pool (42%)
2 <sup>nd</sup> Choice	Lazy River (59%)	Zero Depth Entry Pool (43%)	Zero Depth Entry Pool (43%)	Lazy River (33%)
3 <sup>rd</sup> Choice	Water Slides (55%)	Water Slides (59%)	Outdoor Pool Lap Lanes (42%)	Outdoor Pool Lap Lanes (31%)
4 <sup>th</sup> Choice	Spray Pad (38%)	Outdoor Pool Lap Lanes (30%)	Water Slides (29%)	Diving Boards (29%)
% That Selected at Least One Item	98%	87%	89%	72%

In addition to focus group meetings and the statistically valid survey, Steering Committee members and the public were invited to **tour the two existing facilities** to understand current program elements and facility conditions. Participants in attendance were polled on the conditions of the two sites to understand preferences towards renovation of existing facilities or development of new facilities. Additional information was gathered through dot polling, allowing participants to provide feedback on preferred future facilities programs and amenities.

**Tours of comparable facilities** in the region provided feedback on facility layout, program elements, design and site character for members of the Steering Committee. Five community centers were visited in the cities of Olathe, Mission, Grandview, Belton and Lee’s Summit. The information gathered in each of these site tour meetings was recorded and used to guide the Consultant Team in future planning of the recommended new City of Merriam recreation facilities.

To gain an understanding of similar recreation/aquatic developments in the region, the Consulting Team and Merriam Parks and Recreation Staff, identified recreation facility metrics to be **benchmarked** against comparable cities and counties around the City of Merriam. Metrics were generated from twelve communities within 35 miles of the City. Studies were conducted to understand comparisons of recreation facilities, programs offered, membership fees, pricing and facility rental rates.

Throughout the process, a series of **public and Steering Committee input meetings** were conducted to gather direction on program elements, site preferences, and design character for the facilities. The input received during these meetings was confirmed by the findings of the statistically valid survey and formed the basis of conceptual design and financial goals for the Consultant Team. Continuity of information shared throughout the process enabled the participants to better understand the Consultant Team’s recommendations and next steps.

## ALTERNATIVE RECREATION IMPROVEMENT CONCEPTS

Potential sites for new recreation and aquatic facilities were reviewed through discussions with City of Merriam officials and two preferred sites were identified for further analysis and development. These were the existing Irene B. French Community Center site within Downtown Merriam and Vavra Park, the current location of the Merriam Aquatic Center. Both sites are currently owned by the City of Merriam and were also chosen based on a lack of available open space within the city boundaries.

The results of the public input process were taken into consideration as the team looked at the feasibility of incorporating various programs into two initial sites identified for development. **Through the analysis of site restrictions, public input of priorities and discussion indicated that Vavra Park provides an opportunity to incorporate the preferred program at a single site.** The limitations and issues on the existing site of the Irene B. French Community Center, when compared with the benefits of visibility, available space, and ease of access by the community, were a few of the reasons provided for future facility development.

The team developed a series of site diagrams to facilitate a discussion with stakeholders regarding their priorities for these new facilities relative to site circulation, pedestrian access, safety, and presence on the park site. Further refinement and development of the site plans occurred allowing the Steering Committee and City Council to visualize building and programs on the site. The Steering Committee provided input on design providing the Consultant Team with a direction to further evaluate, develop and refine site and building design concepts. Each of the **refined concepts** was reviewed to verify direction.

Data gathered from the statistically valid survey, Consultant Team findings, and direction from City Council and Steering Committee meetings was used to develop three **alternative concepts** for the Vavra Park site. These three concepts included:

- Community Center with indoor and outdoor aquatics
- Community Center with outdoor aquatics only
- Community Center with indoor aquatics only

**The three concepts were presented to the Steering Committee and to the Public in December 2016. At these presentations, the attendees were able to ask questions and to voice their support or concern for the concepts presented.**

## PREFERRED CONCEPT

Based on input from the December 2016 Steering Committee and Public meetings, **the preferred concept is the Community Center with Indoor and Outdoor Aquatics.** The preferred site development strategy locates a new community center and outdoor aquatic center toward the north end of Vavra Park in an area that is currently home to the Merriam Aquatic Center. The fact that it is already developed will help to minimize excessive excavation expenses compared to situating the facility up hill to the south. The remaining space is proposed as parking and pedestrian circulation allowing for small pockets of park/greenspace to be integrated adjacent to a new facility or remain as it exists presently. The preferred arrangement of facilities places a new community center in the northeast corner of the site along Slater Street. This proximity to the neighborhood east of Slater Street will require sensitivity when developing the architecture and adjacent landscape treatments to present an appropriate neighborhood interface for the new facility. A significant advantage of this location is the visibility that a new center will have to southbound traffic on IKEA Way. This provides a great opportunity for Merriam to make an

architectural statement, visible to many non-residents, with this important new civic asset. A new outdoor aquatic center is situated west of the community center similar to its current location on the site. The aquatic center lies in the foreground of the viewshed to a new community center from the north. It also takes advantage of the existing service access location.

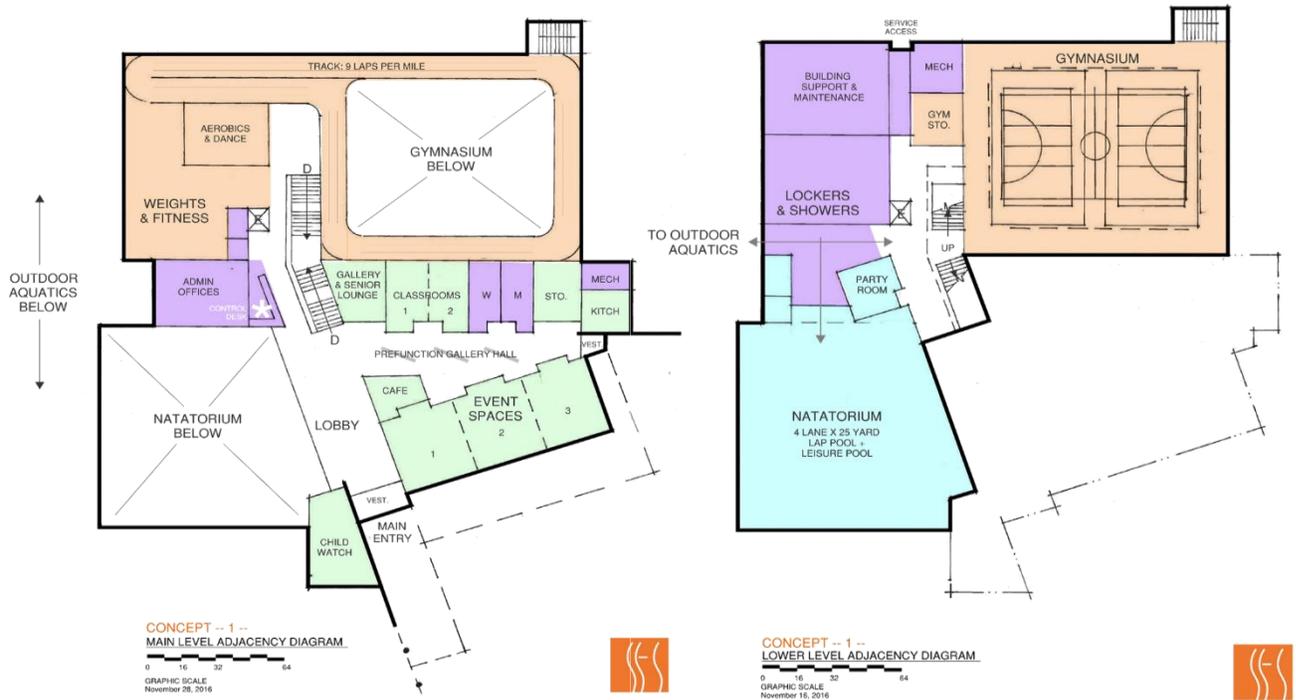
A primary factor in determining the overall site arrangement is providing one clearly visible and identifiable public entrance to the community center. This is accomplished by positioning the public parking on the south side of the facility, developing a prominent architectural entry treatment, and linking the two with a well-planned pedestrian entry sequence in the landscape. In this concept, all visitors pass through the main entrance of the community center with access to interior facilities as well as the seasonal outdoor aquatic center. This configuration simplifies control staffing and will also allow the indoor and outdoor facilities to share certain facilities reducing development cost and long term maintenance expense.

Site access is provided from Slater Street and IKEA Way to provide ease of access for visitors from various directions and to provide easy access for emergency service vehicles from the nearby police and fire stations. The access from IKEA Way also provides an easy connection point to the adjacent municipal parking lot in the event that overflow parking is needed for larger events that take place at the new facilities. Service vehicles have access from the north end of the site to minimize visual impact to the facility.

The following concept plan demonstrates how preferred facilities would be positioned in Vavra Park.



These concept plans illustrate the layout of a community center as two floors with an indoor aquatic center (natatorium), double gym, walking track, fitness center and hospitality and program spaces.



The following are preliminary costs to develop the community center with indoor and outdoor aquatics:

Community Center with Indoor and Outdoor Aquatics	
Construction Costs	\$25,547,500
Soft Costs	\$3,273,180
Contingency	\$1,277,376
<b>TOTAL PROJECT COST</b>	<b>\$29,970,318</b>

### FUNDING OPTIONS FOR PREFERRED CONCEPT

While there is a sincere interest in the creation of a new pool and more functional indoor facilities, focus groups and staff would like to see attention given to financial sustainability with any new development.

Results from the ETC Institute survey indicate residents support the city using various funding options. For capital costs associated with building the facility it is likely municipal bonds would be required to finance **development of a new or renovated community recreation center**. Respondents were asked what option they would most likely support the City of Merriam using to repay such bonds. Twenty-five percent (25%) of respondents indicated they would most likely support a local sales tax increase, 6% indicated they would most likely support an increase to local property taxes, 24% indicated a preference for a combination of an increase in local property and sales tax, and 21% indicated they wanted no

increase in taxes. A 1/4-cent sales tax currently generates approximately 2 million dollars in annual revenue. With voter approval, the revenues from a new 1/4-cent sales tax could fund the debt service payments on a 20-year bond issue to construct the preferred community center and aquatic complex. If desired, a new sales tax could be coordinated with the expiration of the existing 1/4-cent pipes and streets sales tax set to expire on December 31, 2020.

For **costs associated with the operation, maintenance, and long term care** of a new or renovated community recreation center, residents' preferences for this funding is summarized as follows: User fees paid by patrons to the center was the most supported option (74%), followed by support for a local sales tax increase (35%), and an increase to local property taxes (13%). Several alternatives are outlined in this study to identify ways to fund operations. Those alternatives include sales tax initiatives, user fees and memberships.

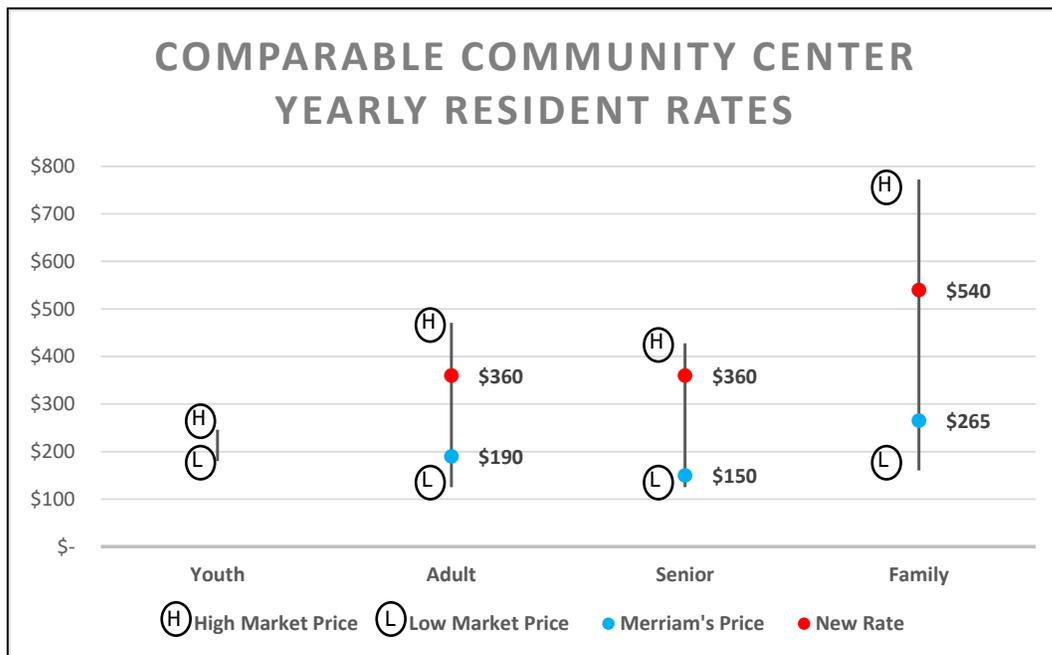
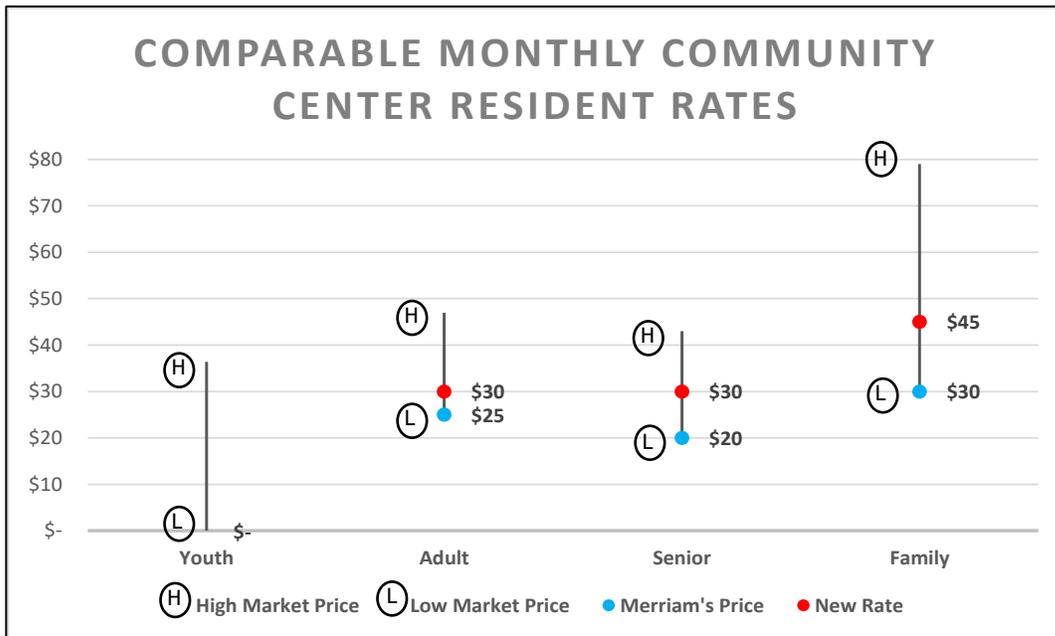
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#### PRO FORMA FOR PREFERRED CONCEPT

To better understand the costs associated to operate a new community center with indoor and outdoor pool, an overall proforma was completed. A list of pro forma assumptions was established in order to depict a dynamic operation of cost and revenue options in a static environment. The validity of the pro forma and financial plan is based on these assumptions being met in their entirety. Although it is believed the information and assumptions constitute a reasonable basis for preparation of the projections, the achievements of any financial projection may be affected by fluctuating economic conditions and are dependent upon the occurrence of future events that cannot be assured. Therefore, actual results may vary from the projections and such variations could change based on when the facilities are constructed.

Currently, the existing Irene B. French Community Center and Merriam Aquatic Center have a combined tax subsidy rate of approximately \$814,045 which equates to a 26% cost recovery. If the preferred concept is built, membership rates will slightly increase over the current existing combined rates but will feature substantially better amenities. The two charts below depict a high and a low rate that exists for comparable community centers in the Johnson County/Kansas City region. The (blue dots) depict what the City of Merriam charges for the existing Irene B. French Community Center versus what the new rate (red dots) would be if a new Community Center and Pool Complex were built and is the basis for the revenue impact in the pro-forma.

The comparable monthly community center resident rates are as follows:



The following assumptions are the basis of the pro forma projections:

Expenditures Assumptions

- Hours of operation
- Number of days open
- Staffing cost to operate facility
- Maintenance cost associated with maintaining facility
- Supply and equipment cost to maintain facility
- Update building costs as the facility ages

Revenue Assumptions

- Membership revenue
- Daily pass revenue
- Programs and rentals associated with providing services within the facility
- Other earned income opportunities to offset operating cost

PRO FORMA - YEAR 1	Revenues	Expenditures	Difference	Cost Recovery
MERRIAM COMMUNITY CENTER WITH INDOOR AND OUTDOOR AQUATICS	\$ 1,335,820.00	\$ 2,015,517.13	\$ (679,697.13)	66%

PRO FORMA - YEAR 6	Revenues	Expenditures	Difference	Cost Recovery
MERRIAM COMMUNITY CENTER WITH INDOOR AND OUTDOOR AQUATICS	\$ 1,548,581.49	\$ 2,175,989.76	\$ (627,408.27)	71%

**RECOMMENDATION**

Through the Master Plan process, community input indicated a preference for development of a dual use community center and aquatics center facility on the Vavra Park site. **The Consulting Team recommends a Community Center with an Indoor and Outdoor Pool as the preferred concept.**

If the City decides to move forward with developing a new facility at Vavra Park, **it will require at a minimum 2 1/2 years from the schedule of Architectural/Engineering procurement, pre-design, schematic design, design development, construction documents and permitting, bidding and negotiations, and construction up to a Grand Opening.**

In addition, consideration of all of the options for the existing site of the IBFCC will be need to be studied. There was significant resident support expressed in the ETC survey for demolishing the existing IBFCC if a new facility is developed on the Vavra Park Site. However, there may be alternative uses for the building (or portions of the building) that could provide value for the community. Similarly, if the building were demolished, the site could provide a great opportunity to develop new, valuable green space in downtown that would complement the Farmers’ Market. The rich history of the building and the strong emotional ties that many residents have with the facility warrant a thorough and thoughtful approach to its future.



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**CITY OF MERRIAM  
INTEROFFICE MEMORANDUM**

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**TO:** MAYOR AND THE CITY COUNCIL  
**FROM:** KEVIN BRUEMMER, PUBLIC WORKS DIRECTOR  
**SUBJECT:** JANUARY CIP UPDATE  
**DATE:** JANUARY 5, 2017

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**Highlights:**

- **Farley Avenue** – All curb, sidewalk and asphalt base have been placed. The current schedule is to begin placement of fence the week of December 12<sup>th</sup>. There will be limited work on the project through the winter months, but Farley Ave./70<sup>th</sup> Street and 69<sup>th</sup> Street will be passable.
  
- **Antioch Road from 67<sup>th</sup> Street to Johnson Drive** – Project is completed. Final acceptance on the Consent Agenda.
  
- **SMP Bridge over BNSF Railroad** – Comanche Construction, Inc. was the low bidder. City staff has executed all project documents with KDOT and GBA. Early start date for this project is March 2017.
  
- **Residential Streets Group V** – Affinis has completed preliminary plans. The third Public Meeting was held Wednesday December 14<sup>th</sup>. Schedule is to have the project out for bids February 2017.

### Capital Improvement Active Project List

Last Updated 1/4/2017

PROJECT NAME	FUNDING SOURCES	* BUDGETED CONSTRUCTION COST	* ACTUAL CONSTRUCTION COST	STATUS	DESIGN CONSULTANT	PUBLIC MEETING #1	PUBLIC MEETING #2	PUBLIC MEETING #3	ENGINEER'S ESTIMATE	BID OPENING	AWARD AT COUNCIL	CONTRACTOR	CONTRACT AMOUNT	NOTICE TO PROCEED	PROJECTED SUBSTANT COMPLETION DATE
<b>2016</b>															
Farley Ave - 67th to 69th St	Special sales tax-Street/stormwater	\$1,872,500		Construction	BHC-Rhodes	6/17/15	11/19/15	6/9/16	\$1,899,097.00	5/10/16	5/23/16	Pyramid Contractors Inc.	\$1,553,547.50	8/1/16	12/24/16
SMP Bridge over BNSF Rail Road & Mill/Overlay West	Special sales tax-Street/stormwater	\$2,843,599		Design	GBA					10/19/16	11/14/16	Comanche Construction, Inc.	\$2,425,574.90		
Antioch Road Improvement W. 67th Street to Johnson Drive	CARS/Special Sales Tax	\$1,095,487	\$1,752,674.42	Construction	BHC-Rhodes	4/5/2016			\$1,458,859.56	6/21/2016	6/27/2016	J.M. Fahey Construction	\$1,789,770.68	8/15/2016	10/14/2016
Corrigated Metal Pipe Replacement 47th/Eby/Antioch	General CIP	\$1,100,000		Design	BHC-Rhodes										
Residential Group V: 51st St., Merriam Lane	Special sales tax-Street/stormwater	\$2,326,500		Design	Affinis	6/29/16	9/27/16	12/14/16							
West Frontage Road Improvements	I-35 Redevelopment	\$1,220,000		Delayed	TBD										
<b>2017</b>															
Sidewalk Infill	General CIP	\$1,815,000		Design	GBA										
Turkey Creek	General CIP/SMAC	\$5,740,750		TBD-Federal Funding	USACE	7/25/01	10/19/11	8/14/13							
Police Department Facility Improvements	General CIP	\$1,950,000.00		Consultant Approved	Nabholz										

**BOARD OF ZONING APPEALS**

**CITY OF MERRIAM, KANSAS  
9001 W. 62<sup>nd</sup> ST.  
COUNCIL CHAMBERS**

**MINUTES**

**June 15, 2016  
7:00 pm**

The Board of Zoning Appeals meeting for the City of Merriam, Kansas, was called to order by Vice Chairman Bill Bailey on Wednesday, June 15, 2016, at 7:00 p.m. in the Council Chambers with the Vice Chairman inviting everyone present to participate in the Pledge of Allegiance to the Flag.

**I.**

**ROLL CALL**

Members Present: William Bailey, Vice-Chairman  
Russ Harmon, Secretary  
Mitch Fowler  
Cole Stephens

Members Absent: Shawn McConnell, Chairman  
Joseph Kronawitter  
Terrie Stanker

Also Present: Bryan Dyer, Community Development Director;  
Nancy Yoakum, Recording Secretary

**II. APPROVAL OF MINUTES OF AUGUST 19, 2015**

Vice Chairman Bill Bailey stated that the BZA board members had received a copy of the August 19, 2015 meeting minutes, and asked if there were any corrections or additions.

Hearing no comments, Vice Chairman Bill Bailey entertained a motion.

**MITCH FOWLER MOVED THAT THE MINUTES OF THE BOARD OF ZONING APPEALS MEETING OF AUGUST 19, 2015 BE APPROVED. COLE STEPHENS SECONDED THE MOTION. THE MOTION WAS UNANIMOUSLY APPROVED.**

### III. ITEMS OF BUSINESS

#### 1. Application V-1-16 – Lindell Clark – 6626 Goodman Dr.

Vice Chairman Bill Bailey presented to the BZA board members a request for a variance from the Merriam Zoning Regulations.

Community Development Director Bryan Dyer stated that the subject property is located at 6626 Goodman Dr. and is zoned R-1 (Single Family Residential) District. The applicant is requesting a large driveway on the north side of the property.

Mr. Dyer reviewed the site map and neighboring properties. Mr. Dyer stated that the applicant owns approximately .7 acres and also owns the vacant property immediately to the rear of his residence which is approximately a half acre.

Mr. Dyer stated the applicant's garage sits to the north side of his house and he is requesting to add approximately 1,300 sq. ft. of additional driveway. The driveway is going to be in his front and side yard. Because the driveway will be in his side yard, the applicant will need three (3) variances. The first variance is having a driveway forward of the front building line, exceeding 12 ft. in width. The second variance is the driveway between the front and the rear building line exceeding 12 ft. in width. The third variance is no driveway extension which is not parallel to the driveway may exceed 12 ft. in width.

Mr. Dyer displayed and reviewed the applicant's proposal. The applicant is requesting a variance to be granted to allow a 36 x 40 ft. extension, about 1,300 sq. ft. The applicant also shows a possible accessory structure that will not require a variance.

Mr. Dyer stated that the applicant has ample side yard from the new driveway to the north property line. The new driveway will be approximately 54 ft. from the north property line. Typically, side yard set backs are 7ft. and for a driveway are 3ft. There is a significant amount more side yard than what is required in a R-1 (Single Family Residential) District.

Mr. Dyer stated that the applicant has a side entry garage which is atypical for a single family home. The applicant has an existing double car wide driveway. The current driveway is approximately 1,800 sq. ft. and the applicant is looking for a 1,300 sq. ft. addition, which comes to about 11% driveway coverage for the lot that the house sits on. The applicant also owns the lot to the west of his house.

Mr. Dyer stated that staff looked at surrounding situations that are similar to what the applicant is proposing. There is a home directly across the street to the east that is on a much smaller lot and has a driveway surface of 1,065 sq. ft. which is about 10% lot coverage which is very similar to the lot coverage the applicant is proposing.

Mr. Dyer stated that as part of the BZA deliberations both State Statutes and Merriam Municipal Code require that all five (5) conditions are met. Mr. Dyer then reviewed those conditions and staff's findings.

- (a) that a variance arises from such condition which is unique to the property in question and which is not ordinarily found in the same zone or district, and must be not created by an action of actions of the property owner or the applicant;**

Staff Finding: The applicant is requesting a variance be granted to allow for the installation of a thirty-six (36) ft. by forty-five (45) ft. driveway which is greater than allowed by the Merriam Code. The home has a side entry garage, which is reasonably unique in Merriam. The size of the lot is approximately 30,000 sq. ft. which is a larger size than most lots in Merriam.

**(b) That granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents;**

Staff Finding: The proposed driveway expansion is consistent with the existing zoning and surrounding uses. The granting of a variance for this purpose will not adversely affect the rights of adjacent property owners or residents.

**(c) That the strict application of the provisions of the zoning regulations of which variance is requested will constitute unnecessary hardship upon the property owner represented in the application;**

Staff Finding: A denial of this application will prevent the property owner from developing the property in the fashion that he has requested and additionally will hinder his desire for a detached accessory structure.

**(d) That the variance desired will not adversely affect the public health, safety morals, order, convenience, prosperity, or general welfare; and**

Staff Finding: This type of development is similar to the development that has occurred on adjacent properties. Staff finds that it will not have any adverse effect if the request of variance is granted.

**(e) That granting the variance desired will not be opposed to the general spirit and intent of the zoning regulation;**

Staff Finding: The applicant's lot is approximately three (3) times larger than a standard R-1 lot, additionally there are no immediate neighbors to the north, and staff finds that the request of the variance will not be opposed to the general spirit and intent of the zoning regulations.

Mr. Dyer stated that based upon the analysis discussed that the application meets the minimum requirements set forth in the state statutes and Merriam Municipal Code to be considered for approval with the following conditions:

1. The applicant obtain all required permits including building and right-of-way permits.
2. The applicant will not increase the width of the driveway at the street, property line or driveway approach.
3. The applicant will comply with all applicable zoning, code and building regulations.
4. The applicant will obtain a building permit within 12 months of the BZA approval of the variance otherwise the variance becomes null and void.

5. The driveway extension or parking area shall not be used for business related purposes.
6. Parking of RV's, campers, and trailers will be done in compliance with the Merriam Code.
7. The future detached garage shall not be constructed forward of the existing front building line of the single family residence.

Mr. Dyer stated he would answer any questions of the BZA board members and stated the applicant was present as well.

Vice Chairman Bill Bailey asked if the BZA board members had any questions for Mr. Dyer, hearing none he asked if the applicant would like to come forward.

Lindell Clark, 6626 Goodman St., Merriam, KS 66202 introduced himself to the BZA board members.

Mr. Clark stated that if the code were in effect that he would only be allowed more than 12 ft. in width which isn't enough room to be able to turn to enter into the driveway. Mr. Clark stated he wants to add additional parking because his wife is unable to access the driveway to the garage if his vehicle is parked on the driveway.

Vice Chairman Bill Bailey inquired if any of the BZA board members had any questions for the applicant.

Board member Russ Harmon inquired why Mr. Clark needed a large driveway extension and wanted to know what his plans were for the space.

Mr. Clark stated he wants to be able to park more vehicles.

Board member Russ Harmon stated to the applicant that vehicles being parked there cannot be used for business purposes.

Mr. Clark agreed.

Board member Russ Harmon stated that he looked at Mr. Clark's property and it appeared to him and apparently to Mr. Clark's neighbors that there is a business being run out of the home, and Mr. Harmon asked Mr. Clark if he was in fact running a business out of his home.

Mr. Clark stated that he was not running a business out of his home. Mr. Clark stated he has two large trucks and he is getting ready to sell one of the trucks.

Board member Russ Harmon stated he saw two large trees near the driveway and inquired if Mr. Clark had any plans to remove the trees.

Mr. Clark stated that he was planning on keeping the trees.

Board member Russ Harmon stated if the BZA board members were to approve the application he is concerned about working around the trees and the roots being cut and would recommend that Mr. Clark be very careful working around the trees.

Mr. Clark stated he would not be putting in a foundation that he would only be putting in a surface slab.

Vice Chairman Bill Bailey inquired if there would be a water ring placed around the trees so the trees can absorb water and not expire.

Mr. Clark stated that he would be 8ft. away for the trunk of trees.

Board member Cole Stephens inquired if Mr. Clark had made any consideration for drainage such as the installation of a French drain and understands that drainage is one of the concerns of the neighbors.

Mr. Clark stated that he hadn't planned installing a drain, but if there were a problem with the drainage on the north end of his property he would consider putting in a retention pond.

Vice Chairman Bill Bailey asked the if the BZA board members had any additional questions for the applicant, hearing none, he asked if anyone from the public would like to speak.

Bill Pugh 6556 Goodman Dr., Merriam KS 66202. Mr. Pugh introduced himself to the BZA board members.

Mr. Pugh stated that Mr. Clark stated he is not running a business out of his home and he was unable to find any records that there is a business under his or his wife's name. Mr. Pugh submitted a picture to the BZA board members that was not submitted prior to the meeting. Mr. Pugh stated he does not know how many people live in Mr. Clark's house but that there are two box trucks, a flatbed truck and a station wagon. Mr. Pugh is concerned that Mr. Clark is going to have those same vehicles and possibly more if the variance is approved. Mr. Pugh stated the picture he provided the BZA board members shows that one of the trucks has construction trash in the back. Mr. Pugh stated that if Mr. Clark is not running a business then why does he have construction trash. Mr. Pugh stated there are too many trucks for a residential neighborhood and it makes it hard for people in the neighborhood to sell their house for fair market value.

Mr. Pugh provided a letter from a realtor stating his opinion of how having a neighbor that appears to be running a commercial business will devalue the retail value of surrounding homes.

Mr. Pugh stated he feels that Mr. Clark's request will affect the general welfare and safety of others because there is a vacant lot where there is traffic of kids on bicycles, kids walking with parents and it is a serious safety hazard as someone could get hurt because of the trucks on Mr. Clark's property backing in and out. Mr. Pugh stated that Mr. Clark should enter off of Hemlock instead of Goodman Dr. to avoid the foot traffic going to Antioch Park.

Mr. Pugh is also concerned with the water run-off. Mr. Pugh reviewed his storm water concerns on the site plan that was displayed. Mr. Pugh is concerned with Mr. Clark adding more concrete to his lot that is will create more of a drainage problem. Mr. Pugh stated that he is against the variance.

Mr. Clark asked if he would be allowed to approach the BZA board. Mr. Clark stated that he is in the process of selling one of his trucks. Mr. Clark stated that he has rental properties and that is why there is construction trash in the back of one of his trucks. Mr. Clark stated that the vacant lot is wooded and that there is an access road that doesn't have any curbs to direct the water. Mr. Clark has not changed any elevations to his property that would affect the neighbors water concerns.

Vice Chairman Bill Bailey inquired if Mr. Clark had any plans to build a large garage on his property.

Mr. Clark stated that he would like to build a 24sq. ft. x 24sq. ft. garage.

Vice Chairman Bill Bailey inquired if the garage would be to store vehicles or for storage.

Mr. Clark stated it would just be for storage of items.

Vice Chairman Bill Bailey inquired if it would be to store construction material.

Mr. Clark said it would probably be a combination of items and perhaps some construction materials.

Vice Chairman Bill Bailey inquired if the BZA board members had any additional questions for Mr. Clark.

Board member Cole Stephens inquired if all of the vehicles on Mr. Clark's property were licensed and insured.

Mr. Clark stated they were licensed and insured.

Vice Chairman Bill Bailey asked if there was anyone else from the public that would like to speak.

Robbie Robinson 6574 Goodman Dr., Merriam, KS 66202. Mr. Robinson introduced himself to the BZA board members.

Mr. Robinson stated that Mr. Clark had applied with the city before to build a Quonset hut to store construction material but was denied. Mr. Robinson has a tractor trailer of his own that is licensed and insured but he pays rent to park it off site from his residence. Mr. Robinson states that Mr. Clark is in the construction business but most of his work was associated with churches.

Mr. Robinson is concerned with water run off on his property. He currently has a sump pump and window seals. Mr. Robinson stated there are railroad ties in the wooded area and when there is excessive rain, there are waterfalls that come over the railroad ties.

Mr. Robinson doesn't know if Mr. Clark is running a business from his home or not, but states most people do not drive a box truck unless they are hauling materials for a business.

Mr. Robinson is opposed to Mr. Clark's application because he is concerned about an increase in possible water runoff, and a construction company adjacent to his property because the largest investment a person will ever make is their home and doesn't wasn't the value to depreciate.

Vice Chairman Bill Bailey inquired if there was anyone else from the public that would like to speak.

Brenda O'Dell Pugh, 6556 Goodman Dr., Merriam, KS 66202. Ms. O'Dell-Pugh introduced herself to the BZA board members.

Ms. O'Dell-Pugh stated she is adamantly against the approval of this variance. Ms. O'Dell-Pugh stated that Mr. Clark's residence already looks like a commercial business with three large trucks that are parked there daily which is not acceptable in a residential zoned district. Ms. O'Dell-Pugh stated the letter from Reece Nichols real estate confirms that Mr. Clark's property will devalue the surrounding properties and make it more difficult for anyone to sell their property. Ms. O'Dell-Pugh states that no one knows what Mr. Clark plans to do with the extra driveway space for which he is requesting the variance. Ms. O'Dell-Pugh stated in the past Mr. Clark has had a bobcat parked on his property and that Mr. Clark has had a history of pushing the envelope with the city.

Ms. O'Dell-Pugh states that Mr. Clark tried to block the wooded path adjacent to his property with a 6ft. pile of gravel which the city made him remove. After that Mr. Clark tried blocking the path with a 6ft. pile of leaves which the city addressed as well. Ms. O'Dell-Pugh heard he did this because Mr. Clark didn't like all the people using the path to go to the park as he was concerned about the safety of the equipment on his property.

Ms. O'Dell-Pugh stated the neighbors have no guarantee of what he will do with the additional driveway space that is already in addition to the circle drive he has.

Ms. O'Dell-Pugh is concerned with the drop in elevation and the deluge of water that already runs over to neighboring properties and is concerned that if Mr. Clark has additional paved surface it will exacerbate the problem that already exists. Ms. O'Dell-Pugh feel it would be irresponsible for the BZA board to approve a variance for one individual to pave such a large area that could subject three (3) to four (4) neighbors to the south to more water runoff and flooding. Ms. O'Dell-Pugh thanked the BZA board for acknowledging that the residents have a right and a reasonable expectation to enjoy and protect their property as well as the neighborhood.

Vice Chairman Bill Bailey asked is anyone else from the public would like to speak.

Fred McCraw 6555 Goodman Dr., Merriam, KS 66202. Mr. McGraw introduced himself to the BZA board members.

Mr. McCraw stated he is concerned about Mr. Clark using his home for a business and being that it is a residential neighborhood, he feels the variance is inappropriate. Mr. McCraw is concerned about Mr. Clark coming to city for a permit to build a garage if the driveway variance is granted, and the process will never end. Mr. McCraw is concerned about the drainage the variance will create and how this will affect his neighbor's properties.

Vice Chairman Bill Bailey asked if there was anyone else from the public that would like to speak.

Mr. Dyer suggested that the BZA board members discuss the issues, ask any additional questions and state the position of each BZA board members prior to making a motion in order to determine if there is a majority of members in support of approval or denial of the request.

BZA board member Russ Harmon inquired to Mr. Dyer if there is a limit of how many vehicles Mr. Clark would be able to park on his property.

Mr. Dyer stated there are no limitations, however there are city ordinances that limit the parking of RV's, trailers and boats as well as construction equipment. Mr. Dyer stated that as long as the vehicles are operable, have current tags, no flat tire, there is not a limit on the number of vehicles.

BZA board member Cole Stephens inquired to Mr. Dyer if there is any civil engineer that would say if the driveway were to be put in how much more of an impact it would have in relation to drainage, and if it could be mediated with a drain.

Mr. Dyer stated that due to the small amount of impervious surface that Mr. Clark is requesting a drainage study is not required by city code. Mr. Dyer stated since the area is less than one (1) acre in size a drainage study is not required. Mr. Dyer stated that if there is a recommendation from the BZA board members to add a stipulation regarding drainage to the variance it may be appropriate.

BZA board member Cole Stephens inquired to Mr. Dyer how much of an impact of Mr. Clark's variance will have on neighboring properties.

Mr. Dyer stated that a stipulation could be added to the variance being granted if the drainage is a concern of the BZA board members.

BZA board member Mitch Fowler stated that he is he is reluctant to approve the variance due to the concerns of the neighbors.

Vice Chairman Bill Bailey suggested that each of the BZA board members state their position.

BZA board member Russ Harmon stated that he has reservations about the parking of vehicles and some appear to be business related, and that he doesn't see the need to have a parking area that large in a residential zoned district. Mr. Harmon stated he would vote to deny the variance.

BZA board member Cole Stephens stated he is concerned about the comments from the neighbors, however considering the adjacent property has a similar driveway percentage of coverage he would vote to approve the variance with the stipulation of adding a drain be installed to ensure there would be no water runoff.

BZA board member Mitchell Fowler stated he is reluctant to approve the variance because of the comments from the neighbors about the vehicles and has concerns about additional water drainage.

Vice Chairman Bill Bailey stated he is concerned about the parking of vehicles, the applicant coming in for future building permits for large building structures and is concerned about water runoff. Mr. Bailey stated that even though having a business outside of a residence, sometimes the business can carry over to the residence and property. Mr. Bailey stated he would vote to deny the variance.

Mr. Dyer stated that if the motion is for a denial the motion should include the reason for the denial in relation to one or more of the state and city required conditions that are in the staff report.

**RUSSELL HARMON MOVED THAT THE BOARD OF ZONING APPEALS DENY APPLICATION V-1-16 AS IT IS NOT AN UNNECESSARY HARDSHIP TO THE PROPERTY OWNER AS THERE IS AMPLE SPACE IN HIS REAR YARD TO CONSTRUCT A LARGE DRIVEWAY. MITCHELL FOWLER SECONDED THE MOTION. COLE STEPHENS VOTED NAY. THE MOTION WAS APPROVED 3 (THREE) TO 1 (ONE) WITH BZA BOARD MEMBER COLE STEPHENS VOTING NAY.**

2. 2016 Election of Officers

**RUSS HARMON NOMINATED BILL BAILEY FOR CHAIRMAN; MITCHELL FOWLER SECONDED THE MOTION. THE MOTION WAS UNANIMOUSLY APPROVED.**

**BILL BAILEY NOMINATED MITCHELL FOWLER FOR VICE-CHAIRMAN. MITCHELL FOWLER DECLINED.**

**RUSS HARMON NOMINATED COLE STEPHENS FOR VICE CHAIRMAN. MITCHELL FOWLER SECONDED THE MOTION. THE MOTION WAS UNANIMOUSLY APPROVED.**

**BILL BAILEY NOMINATED RUSS HARMON FOR SECRETARY. COLE STEPHENS SECONDED THE MOTION. THE MOTION WAS UNANIMOUSLY APPROVED.**

IV. BUSINESS FROM THE FLOOR

None

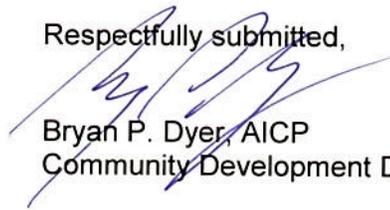
V. UNFINISHED BUSINESS

None

VI. ADJOURNMENT

There being no further business, **MITCHELL FOWLER MOVED FOR ADJOURNMENT.**  
The meeting was adjourned at 8:09 p.m.

Respectfully submitted,



Bryan P. Dyer, AICP  
Community Development Director

Approved: 12/21/2016

## **CITY COUNCIL SUGGESTED MOTIONS FOR YOUR CONSIDERATION**

### **CONSENT AGENDA**

- 1. Move that the council approve Consent Agenda items 1-6.**

### **MAYOR'S REPORT**

- 1. No motion.**
- 2. No motion.**

### **FINANCE AND ADMINISTRATION**

- 1. No motion.**
- 2. No motion.**

### **COMMUNITY DEVELOPMENT/PUBLIC WORKS**

- 1. Move that the council acknowledge acceptance of the Parks and Recreation Facilities Master Plan.**
- 2. No motion.**

### **STAFF ITEMS**

### **EXECUTIVE SESSION**

#### **Potential Executive Session:**

- 1. Move that the council recess into Executive Session pursuant to the Kansas Open Meetings Act exception for preliminary discussions relating to the acquisition of real property. Present will be the Governing Body, City Administrator and City Attorney. The meeting will reconvene in the Council Chambers at \_\_\_\_\_ p.m.**