**MERRIAM CITY COUNCIL AGENDA**
**CITY HALL**
**9001 WEST 62ND STREET**
**September 26 2016**
**7:00 P.M.**

**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.**

## 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.

## V. MAYOR'S REPORT

## VI. PLANNING COMMISSION

## VII. COUNCIL ITEMS

1. Consider approval of the minutes of the City Council Meeting held September 12, 2016.

### A. Finance and Administration

1. Appointment of City voting delegates for the Kansas League of Municipalities Annual Conference.

2. Consider approval of an ordinance amending section 44-244, penalty for possession of marijuana and section 44-241, definition of marijuana, of the Merriam Code of Ordinances. (recommend waiving the first reading)

3. Consider acceptance of an Acknowledgement and Release from Hendrick Automotive Group for the Merriam Pointe Redevelopment Project.

4. Consider approval of a funding agreement between Merriam Luxury Imports, LLC and the City.

5. Consider the appointment of Columbia Capital as Financial Advisor to the City for a three-year term.

6. Consider approval of an ordinance regarding right-of-way excavation. (recommend waiving the first reading)

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

1. Presentation regarding landlord situs address.

2. Community Development Update.

**VIII. STAFF ITEMS**

**IX. NEW BUSINESS**

**X. EXECUTIVE SESSION**

**XI. ADJOURNMENT**

Respectfully submitted,

*Juliana Pinnick*

Juliana Pinnick
City Clerk

**MERRIAM CITY COUNCIL AGENDA**
**CITY HALL**
**9001 WEST 62ND STREET**
**SEPTEMBER 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

Staff present: Chris Engel, City Administrator; Mike Daniels, Police Chief; Anna Slocum, Parks and Recreation Director; Kevin Bruemmer, Public Works Director; Cindy Ehart, Finance 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.***

Sam Matier, 8515 W. 57th St. commented that he is concerned about the expenditures related to the Community Center and Aquatic Center. His concern is that there has not been any discussion regarding how these facilities will be paid for or how much each will cost. As well he commented that there has been a question on the community survey that asked if residents desired a property or sales tax increase in order to pay for the facilities. He is unclear how these decisions will be made; will the residents be allowed to vote or will the City Council make that decision? He feels that this information, when received needs to be distributed to the residents.

Mike Joyce, 6614 Wedd St. asked about planting of trees in the Timber Ridge development. While it appears there is a landscapre plan he was unsure how closely that plan =needed to be followed.

Mayor Sissom commented that typically a staff member would be able to answer that question. It would not be something that the council would necessarily know. He asked Mr. Joyce if he has contacted any staff member at City Hall.

Mr. Joyce replied he had not.

Mayor Sissom commented that if would contact City Hall staff would be able to help him with his questions.

## 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 August 22, 2016.

2. Consider approval of the purchase of an asphalt roller and trailer for Public Works.

3. Consider approval of the 2017-2019 Turkey Creek Festival Agreement with Johnson County Parks and Recreation District.

**COUNCILMEMBER MOORE MOVED THAT THE COUNCIL APPROVE CONSENT AGENDA ITEMS 1-3. COUNCILMEMBER HANDS SECONDED AND THE MOTION WAS UNANIMOUSLY APPROVED.**

## V. MAYOR'S REPORT

## VI. COUNCIL ITEMS

### A. Finance and Administration

1. New City Website Demo.

   Andy Graham, Communication and Public Engagement Manager demonstrated the City's new website.

2. Consider approval of an agreement with JCRION (Johnson County Regional Interagency Operating Network) for Niche Records Management software.

   Police Chief Mike Daniels provided the background for this item. JCRION (Johnson County Regional Interagency Operating Network) is a consortium

put together to provide its members with a law enforcement records management system. This project started in 2014 with a committee to evaluate our current Intergraph records management system, I-Leads. From this work the Olathe Police Department decided that they needed to move in a different direction and began the process of evaluating other records management systems. At that time, we began discussions with both Olathe and Overland Park about the future of records management in Johnson County. When the evaluations were completed we decided that the Niche Records Management System would be the best system for the Merriam Police Department.

The Olathe Police Department agreed to host the system and allow other agencies to join with their own individual domains. We started making plans to move to the Olathe hosted system, when Johnson County's JIMS management suggested that the system be hosted by the county. Olathe agreed and the new JCRION was formed and approved by the Board of County Commissioners unanimously. JCRION will include all the law enforcement agencies in Johnson County. This will be the first time in our history that all law enforcement agencies in Johnson County will use one records management system.

The transition to the new system with take most, if not all of 2017. During the transition process we will pay for the current Intergraph I-Leads RMS quarterly with a total possible cost of $7,879.08. The year JCRION fees will include an annual hosting fee $2,604 and an annual maintenance fee that starts in 2018 of $8,576. Our 2017 estimated cost for JCRION will be ¼ to ½ of the annual hosting fee. The JCRION agreement is for 10 years, which will bring consistency to records management in Johnson County.

**COUNCILMEMBER HANDS MOVED THAT THE COUNCIL APPROVE AN INTERLOCAL AGREEMENT WITH JOHNSON COUNTY REGIONAL INTERAGENCY OPERATING NETWORK (JCRION) FOR THE NICHE RECORDS MANAGEMENT SYSTEM AND AUTHORIZE THE MAYOR TO SIGN SAID AGREEMENT; AND AUTHORIZE CHIEF DANIELS TO SIGN THE JCRION INTERAGENCY POLICY AGREEMENT. THE MOTION WAS UNANIMOUSLY APPROVED.**

3. Monthly Finance Report.

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

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

1. Consider approval of a letter authorizing Merriam Luxury Imports LLC's, agent Richard Webb, to act as owner agent for city owned properties generally located at 7000 W. Frontage Road.

   Community Development Director Bryan Dyer presented the background for this item.

   At the March 14, 2016 City Council meeting, Merriam Luxury Imports LLC's agent, Richard Webb presented his plans to fill in the drainage area that is south of his Infiniti dealership and construct another automobile dealership. To accomplish this a number of items must occur, one of which is his purchase of the city owned properties that are generally located at 7000 W. Frontage Road. After hearing the proposal Council authorized staff to begin negotiations of the sale of the properties to Mr. Webb.

   Since that Council meeting there have been a number of meetings between city staff and Mr. Webb's development team. Mr. Webb's development team submitted a tax increment financing (TIF) application. The development team has also discussed with staff the requirements for the submittal of a development plan and plat to the Planning Commission and the purchase of the city owned properties.

   It is likely that Mr. Webb will request that his purchase of the city properties be contingent on the approval of the TIF application and development plans. This is a typical request of a developer when negotiating a property purchase. The next step in the process is the drafting of a purchase agreement for Council approval.

   Mr. Webb plans to submit development plan and plat applications to the Planning Commission. However, Mr. Webb cannot submit plans that include the city's property because he is not the property owner. In these situations, it is typical for the property owner to provide the developer with an "owner agent" letter authorizing the developer to act on the property owner's behalf for planning submittals.

   Staff drafted the attached owner agent letter authorizing Mr. Webb to submit preliminary development plan and plat applications to the Planning Commission that include the city owned properties. If Council approves the letter, Mr. Webb will be able to submit his applications to the Planning Commission.

   If City Council approves Mr. Webb's TIF, development plan, and plat applications, the properties will ultimately be sold to Mr. Webb prior to development.

**COUNCILMEMBER HANDS MOVED THAT THE COUNCIL APPROVE THE OWNER AGENT LETTER AUTHORIZING MERRIAM LUXURY IMPORTS LLC'S AGENT RICHARD WEBB, TO ACT AS OWNER AGENT FOR CITY OWNED PROPERTIES GENERALLY LOCATED AT 7000 W. FRONTAGE ROAD AND AUTHORIZE THE MAYOR TO SIGN SAID LETTER. COUNCILMEMBER WEEMS SECONDED AND THE MOTION WAS UNANIMOUSLY APPROVED.**

2. CIP Update.

Public Works Director Kevin Bruemmer provide the following CIP Updates:
The Farley Ave Project is going along well, the retaining wall on the east side of the north portion is being built and the road grade is getting set. The contractor feels they can meet the deadline for this project

Antioch Road project will be switching lanes over on Thursday due to the rain.

The Sidewalk Infill Project has GBA still looking at some questionable areas to determine if a sidewalk will be feasible.

## VII. STAFF ITEMS

## VIII. NEW BUSINESS

## IX. EXECUTIVE SESSION

**COUNCILMEMBER HANDS MOVED THAT THE COUNCIL RECESS INTO EXECUTIVE SESSION PURSUANT TO THE KANSAS OPEN MEETINGS ACT EXCEPTION FOR THE PURPOSE OF RECEIVING LEGAL ADVICE. PRESENT WILL BE THE GOVERNING BODY, CITY ATTORNEY AND CITY ADMINISTRATOR. THE MEETING WILL RECONVENE IN THE COUNCIL CHAMBERS AT 8:25 PM. COUNCILMEMBER HUPP SECONDED AND THE MOTION WAS UNANIMOUSLY APPROVED.**

***The meeting reconvened at 8:25 pm.***

## X. ADJOURNMENT

**THERE BEING NO FURTHER BUSINESS TO COME BEFORE THE COUNCIL, COUNCILMEMBER HUPP MOVED TO ADJOURN AT 8:25 PM. COUNCILMEMBER WEEMS SECONDED AND THE MOTION WAS UNANIMOUSLY APPROVED.**

DRAFT

Respectfully submitted,

*Juliana Pinnick*

Juliana Pinnick
City Clerk

DRAFT

THE LEAGUE OF KANSAS MUNICIPALITIES

300 SW 8th Avenue, Ste. 100
Topeka, KS 66603-3951
P: (785) 354-9565
F: (785) 354-4186
www.lkm.org

August 19, 2016

Dear City Clerks or City Managers/City Administrators:

We are pleased the League's Annual Conference in Overland Park, October 8-10, 2016, is shaping up to be an exciting experience. We have an outstanding program of speakers, panel discussions and workshops planned which were highlighted in the July issue of the *Kansas Government Journal*.

I am writing to invite your city governing body to register its League voting delegates. State law provides that the governing body of each member city of the League may elect city delegates from among the city's officers to represent the city in the conduct and management of the affairs of the League. League bylaws provide that a city voting delegate or alternate delegate qualifies by having his or her name, city title and address registered with the executive director.

Each member city needs to file new registration forms with the League of Kansas Municipalities. You may send them one of three ways: by mail to League of Kansas Municipalities, 300 SW 8th Avenue, Topeka, KS 66603; scanning the form and emailing adebusk@lkm.org; or via FAX to 785-354-4186. **Please send forms by Friday, September 16th to the attention of Anna DeBusk.**

Article 4, Sec. 5 of the League Bylaws prescribes the total number of votes provided to each member city based on population. The number of delegate registration forms enclosed is based on the following table.

| City Population | No. Votes | No. Delegate Forms | No. Alternate Forms |
|---|---|---|---|
| 1 - 2,500 | 1 | 1 | 1 |
| 2,501 - 7,500 | 2 | 2 | 2 |
| 7,501 - 17,500 | 3 | 3 | 3 |
| 17,501 - 37,500 | 4 | 4 | 4 |
| 37,501 - 77,500 | 5 | 5 | 5 |
| 77,501 - 117,500 | 6 | 6 | 6 |
| 117,501 - 157,500 | 7 | 7 | 7 |
| 157,501 - 197,500 | 8 | 8 | 8 |
| 197,501 - 237,500 | 9 | 9 | 9 |
| 237,501 - 277,500 | 10 | 10 | 10 |
| 277,501 - 355,500 | 11 | 11 | 11 |
| 355,501 - 395,500 | 12 | 12 | 12 |

A business and policy session of city voting delegates will be held on Monday afternoon, October 10th, at the conference in Overland Park.

I look forward to hearing from you.

Sincerely,

Erik A. Sartorius
Executive Director

Enclosures

# AGENDA ITEM INFORMATION FORM

**Agenda Item:** Consider approval of an ordinance amending the definition of marijuana and changing the penalties for first and second marijuana possession convictions to match state law.

**Department:** Administration

**Background/Description of Item:**
During the 2016 legislative session, the Kansas Legislature passed HB 2462, which lowered the penalties for first and second marijuana possession convictions. Under state law, before July 1, 2016, a first conviction for possession of marijuana was a Class A non person misdemeanor; a second conviction for possession of marijuana was a drug severity level 5 felony. Now, under state law, the penalty for a first conviction of possession of marijuana is a Class B non person misdemeanor; a second conviction of possession of marijuana is a Class A non person misdemeanor.

Merriam's City Code currently penalizes possession of marijuana as a Class A violation. This ordinance mirrors the new state law and changes the penalty for a first conviction of possession of marijuana to a Class B violation. The ordinance also adds that a second conviction of possession of marijuana is a Class A violation. Before July 1, 2016, Merriam's municipal court could not prosecute second convictions of possession of marijuana, because they were felonies. Now, with this change, Merriam's municipal court will be able to prosecute second violations, if requested by Johnson County District Court. The ordinance also amends the definition of marijuana to match the definition in state law.

Constitutional home rule allows the city of Merriam to impose stricter penalties than the state. Thus, the council may choose to continue penalizing first convictions of marijuana possession as Class A violations. However, city staff, including the city prosecutor, chief of police, and city attorney recommend that the council lower the penalty to match new state law. The city prosecutor has indicated that this ordinance will not affect her prosecution, the fines charged, or the penalties imposed. Staff further recommends that the council waive the first reading requirement because the new state law took effect on July 1, 2016.

**Related Ordinance(s) or Statute(s):** Merriam Municipal Code Sections 44-241 and 44-244

**Recommendation:** Staff recommends the city council approve this ordinance amending the definition of marijuana and lowering the penalties for first and second marijuana possession convictions to match state law.

Prepared by: Nicole Proulx Aiken Date: September 22, 2016

**ORDINANCE NO._____**

**AN ORDINANCE AMENDING SECTIONS 44-241 AND 44-244 OF THE CODE OF ORDINANCES OF THE CITY OF MERRIAM, KANSAS; AMENDING THE DEFINITION OF MARIJUANA, REVISING THE PENALTY FOR POSSESSION OF MARIJUANA, AND REPEALING THE SECTIONS HEREBY AMENDED.**

**BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF MERRIAM, KANSAS THAT:**

**Section 1.** Section 44-241 of the Code of Ordinances of the City of Merriam is amended to read as follows:

Sec. 44-241. - Definitions.

Terms in this article shall have the meaning provided in K.S.A. 21-5701 and K.S.A. 65-4101.

*Controlled substance* means any drug, substance or immediate precursor included in any of the schedules as designated in the Uniform Controlled Substance Act, Chapter 65, Article 41 of the Kansas Statutes Annotated (65-4101 et seq.).

*Deliver* or *delivery* means actual, constructive or attempt to transfer from one person to another whether or not there is an agency relationship.

*Drug* means:

(1) Substances recognized as drugs in the official United States pharmacopoeia, official homeopathic Pharmacopoeia of the United States or official national formulary, or any supplement to any of them;

(2) Substances intended for use in the diagnosis, cure, medication, treatment or prevention of disease in man or animal;

(3) Substances other than food intended to affect the structure or any function of the body or man or animal;

(4) Substances intended for use as a component of any articles specified in subsections (1), (2) or (3) of this definition, but does not include devices or their components, parts or accessories.

*Drug paraphernalia.*

(1) The term "drug paraphernalia" means all equipment, products and materials of any kind which are used or intended for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance in violation of the Uniform Controlled Substances Act, Chapter 65, Article 41 of the Kansas Statutes Annotated (65-4101 et seq.), as from time to time amended. The term "drug paraphernalia" includes but is not limited to:

a. Kits used, intended for use, or designated for use in planting, propagating, cultivating, growing or harvesting any specifies of plant which is a controlled substance or from which a controlled substance can be derived;

b. Kits used or intended for use in the manufacturing, compounding, converting, producing, processing, or preparing controlled substances;

c. Isomerization devices used or intended for use in increasing the potency of any species of plant which is a controlled substance;

d. Any equipment used or intended for use in identifying or in analyzing the strength, effectiveness or purity of a controlled substance;

e. Scales and balances used or intended for use in weighing or measuring controlled substances;

f. Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, which are used or intended for use in cutting controlled substances;

g. Separating gins and sifters used or intended for use in removing twigs and seeds from or otherwise cleaning or refining marijuana;

h. Blenders, bowls, containers, spoons and mixing devices used or intended for use in compounding controlled substances;

i. Capsules, balloons, envelopes and other containers used or intended for use in packaging small quantities of controlled substances;

j. Containers and other objects used or intended for use in storing or concealing controlled substances;

k. Hypodermic syringes, needles and other objects used or designed for use in parenterally injecting controlled substances into the human body;

l. Objects used or intended for use in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human body, such as:

    1. Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;

    2. Water pipes;

    3. Carburetion tubes and devices;

    4. Smoking and carburetion masks;

    5. Roach clips (objects used to hold burning material such as marijuana cigarettes that have become too hot or too short to be held in the hand);

    6. Miniature cocaine spoons and cocaine vials;

    7. Chamber pipes;

    8. Carburetor pipes;

    9. Electric pipes;

    10. Air-driven pipes;

11. Chillums;
12. Bongs; or
13. Ice pipes or chillers.

(2) In determining whether an object is drug paraphernalia, a court or other authority shall consider in addition to all other logically relevant factors, the following:

a. Statements by an owner or person in control of the object concerning its use;

b. Prior convictions, if any, of the owner or person in control of the object under any city, state or federal law relating to any controlled substance;

c. The proximity of the object, in time and space, to a direct violation of the Uniform Controlled Substances Act;

d. The proximity of the object to a controlled substance;

e. The existence of any residue of controlled substances on the object;

f. Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object to deliver it to persons whom he knows or should reasonably know, intends to use the object to facilitate a violation of the Uniform Controlled Substances Act; the innocence of an owner or person in control of the object, as to a direct violation of the Uniform Controlled Substances Act does not prevent a finding that the object is intended for use as drug paraphernalia;

g. Oral or written instructions provided with the object concerning its use;

h. Descriptive materials accompanying the object that explain or depict its use;

i. National and local advertising concerning the object's use;

j. The manner in which the object is displayed for sale;

k. Whether the owner or person in control of the object is a legitimate supplier of the object or related items to the community such as a distributor or dealer of tobacco products;

l. Direct or circumstantial evidence of the ratio of sales of the object or objects to the total sale of the business enterprise;

m. The existence and scope of legitimate uses for the object in the community or expert testimony concerning the object's use.

*Intended for use* or *with intent to deliver* means the intent of the person possessing, manufacturing, selling, offering to sell, dispensing, giving away or displaying, drug paraphernalia or any simulated controlled substances or simulated drug.

*Manufacture* means the production, preparation, propagation, compounding, conversion or processing of a controlled substance either directly or indirectly by extraction from substances of natural origin or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis and includes any packaging or repackaging of the substance or labeling or relabeling of its container, except that this term does not include the preparation or compounding of a controlled substance by an individual for his own use or the preparation, compounding, packaging or labeling of a controlled substance:

(1) By a practitioner or his authorized agent pursuant to a lawful order of a practitioner as an incident to the administering or dispensing of a controlled substance in the course of his professional practice; or

(2) By a practitioner or by his authorized agent under his supervision for the purpose of or as an incident to research, teaching or chemical analysis or by a pharmacist or hospital as incident to his or its dispensing of a controlled substance.

*Marijuana* means all parts of all varieties of the plant cannabis, whether growing or not, the seeds thereof, the resin extracted from any part of the plant and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, except the resin extracted therefrom, fiber, oil or cake or the sterilized seed of the plant which is incapable of gestation.

*Patient* means, as the case may be:

(1) The individual for whom a drug is prescribed or to whom a drug is administered; or

(2) The owner or the agent of the owner of the animal for which a drug is prescribed or to which a drug is administered; provided, that the prescribing or administering referred to in subsections (1) and (2) of this definition is in good faith and in the course of professional practice only.

*Person* means individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association or any other legal entity.

*Pharmacist* means an individual currently licensed to practice the profession of pharmacy in this state.

*Practitioner* means a physician (M.D. or D.O.), dentist, podiatrist, veterinarian, scientific investigator or other person licensed, registered or otherwise authorized by law to administer and prescribe, use in teaching or chemical analysis, or conduct research with respect to a controlled substance in the course of professional practice and research.

*Prescription* means a written order, and in cases of emergency, a telephone order, issued by a practitioner in good faith in the course of his professional practice to a pharmacist for a drug for a particular patient which specifies the date of its issue, the name and address of the patient (and, if such drug is prescribed for an animal, the species of such animal), the name and quantity of the drug prescribed, the directions for use of such drug, and the signature of such practitioner.

*Production* includes the manufacturing, planting cultivation, growing or harvesting of a controlled substance.

*Simulated drugs* and *simulated controlled substance* mean any product which identifies itself by a common name or slang term associated with a controlled substance and which indicates on its label or accompanying promotional material that the produce simulates the effect of a controlled substance.

*Warehouseman* means a person who, in the usual course of business, stores drugs for others lawfully entitled to possess them and who has no control over the disposition of such drugs except for the purpose of such storage.

*Wholesaler* means a person engaged in the business of distributing drugs to persons included in any of the classes named in this chapter.

**Section 2.** Section 44-244 of the Code of Ordinances of the City of Merriam is amended to read as follows:

Sec. 44-244. - Penalties.

(a) Except as provided in subsection (b), a violation of any provision of this article shall be punishable as a Class A violation.

(b) Possession of marijuana shall be punishable as a:

(1) Class B violation, except as provided in (b)(2);

(2) Class A violation if that person has a prior conviction under this subsection; under K.S.A. 21-5706, and amendments thereto; under K.S.A. 65-4162, prior to its repeal; under a substantially similar offense from another jurisdiction; or under any city ordinance or county resolution for a substantially similar offense.

(c) Class A violation and Class B violation are defined by the "Uniform Public Offense Code for Kansas Cities," as incorporated by reference in section 44-1.

**Section 3.** **Existing Sections.** Those sections of Chapter 44 of the Code of Ordinances of the City of Merriam, Kansas not heretofore repealed shall remain in full force and effect.

**Section 4.** **Severability.** If any section, subsection, sentence, clause, or phrase of this Ordinance is, for any reason, held to be invalid, such invalidity shall not affect the validity of the remaining portions of this Ordinance and the Governing Body hereby declares that it would have passed the remaining portions of this Ordinance if it would have known that such part or parts thereof would be declared invalid.

**Section 5.** **Repeal.** Sections 44-241 and 44-244 of the Code of Ordinances of the City of Merriam, Kansas as they existed before the above amendments are hereby repealed.

**Section 6.** **Effective Date.** This Ordinance shall be in full force and effect from and after its passage, approval, and publication in the official city newspaper, all as provided by law.

PASSED by the City Council this _____day of _____, 2016.

APPROVED AND SIGNED by the Mayor this_____ day of _____, 2016.

_____
Ken Sissom, Mayor

ATTEST:

_____
Juliana Pinnick, City Clerk

APPROVED AS TO FORM:

_____

Nicole Proulx Aiken, City Attorney

# AGENDA ITEM INFORMATION FORM

**Agenda Item:** Consider approval of Acknowledgement and Release Agreement of Hendrick Automotive Group (Hendricks) from the March 28, 2011 Amended and Restated Redevelopment Agreement for the Merriam Pointe Project.

**Department:** Administration

**Background/Description of Item:**

On March 28, 2011, the City approved an Amended and Restated Redevelopment Agreement for the Merriam Pointe Project with Merriam Investors, LLC and Hendricks. The agreement set the maximum tax increment financing (TIF) reimbursement at $6.75 million including $1 million to be remitted to Hendricks. Because Hendricks has now received the maximum allowable reimbursement and because they have satisfied their obligations under the 2011 agreement, Merriam Investors, LLC wishes to release Hendricks from that agreement.

Merriam Investors, LLC remains as the sole Developer and owner of the remaining TIF. Certified, unreimbursed TIF expenses due to Merriam Investors, LLC per terms of the 2011 agreement are currently $3,443,743. The City's TIF/Development attorney Joe Serrano has reviewed the Acknowledgement and Release Agreement.

**Related Ordinance or Statutes:** None

**Recommendation:** Staff recommends approval of Acknowledgement and Release Agreement of Hendrick Automotive Group from the March 28, 2011 Amended and Restated Redevelopment Agreement for the Merriam Pointe Project.

Prepared by: Cindy Ehart, Finance Director Date: September 21, 2016

# ACKNOWLEDGEMENT AND RELEASE

THIS ACKNOWLEDGEMENT AND RELEASE (the "Acknowledgement") is made effective as of the 12 day of August, 2016 (the "Effective Date"), by Hendrick Automotive Group, a New York general partnership ("Co-Developer").

## RECITALS

A. Hendricks is the Co-Developer under that certain Amended and Restated Redevelopment Agreement for the Merriam Pointe Redevelopment Project dated March 28, 2011 (the "Redevelopment Agreement") by and between the City of Merriam, Kansas, a municipal corporation duly organized under the laws of the State of Kansas ("City"), the Co-Developer and Merriam Investors, LLC, a Kansas limited liability company (the "Lead Developer"), which Redevelopment Agreement was filed of record on March 30, 2011 with the Register of Deeds of Johnson County, Kansas, as Document No. 201103300007813, Book 201103, Page 007813 and which Redevelopment Agreement is incorporated herein for all purposes by this reference.

B. The Redevelopment Agreement affects real property located in Merriam, Johnson County, Kansas, as more specifically described on Exhibit A attached hereto and incorporated herein by this reference (the "Property").

C. Pursuant to Section 401 of the Redevelopment Agreement, upon completion of its development responsibilities under the Redevelopment Agreement, the Co-Developer is to receive a maximum of One Million and 00/100th Dollars ($1,000,000.00) (the "Payment") from the Incremental Real Property Taxes (as that term is defined in the Redevelopment Agreement) generated by the Property.

D. The City has acknowledged that the Co-Developer has completed the development of its Project Portion in compliance with the Redevelopment Agreement.

E. The Co-Developer has received in full the Payment under the Redevelopment Agreement.

F. The City has requested that the Co-Developer acknowledge receipt in full of the Payment and as a result, release any and all of its rights and interests under the Redevelopment Agreement.

NOW, THEREFORE, in consideration of the agreements herein and other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, the Co-Developer hereby states as follows:

1. Recitals. The Recitals are incorporated herein as true and correct.

2. Payment. The Co-Developer hereby acknowledges receipt of the Payment in the amount of One Million and 00/100th Dollars ($1,000,000.00) pursuant to Article IV, Section 6 of

the Redevelopment Agreement and further acknowledges that there are no other outstanding obligations owed to the Co-Developer by the City under the Redevelopment Agreement.

3. Release. The Co-Developer hereby releases all of its rights and interests as Co-Developer under the Redevelopment Agreement intending that the Lead Developer become the sole Developer thereunder, including any rights to consent to an amendment of the Redevelopment Agreement under Section 905.

4. Recording. This Assignment amends the Redevelopment Agreement shall be recorded in the Office of the Recorder of Deeds in Johnson County, Kansas.

5. Authority. The individual executing this Acknowledgement and Release on behalf of the Co-Developer represents that he/she has the full power and authority to execute this Acknowledgement and Release.

***(Remainder of page intentionally left blank. Signature page to follow.)***

## *Signature Page*

IN WITNESS WHEREOF, Hendrick Automotive Group has caused this instrument to be executed this 19 day of September, 2016.

HENDRICK AUTOMOTIVE GROUP,
a New York general partnership

By: _____
Name: A. Scott Ennis
Title: Vice President

STATE OF North Carolina )
) ss.
COUNTY OF Mecklenburg )

On this 19th day of ~~July~~ September, 2016, before me, the undersigned Notary Public, in and for said state, personally appeared A. Scott Ennis, to me personally known, who, being by me and duly sworn did say that he/she is the Vice President of Hendrick Automotive Group, a New York general partnership, and that said instrument was signed on behalf of said general partnership, and said person acknowledged said instrument to be the free act and deed of said general partnership.

Subscribed and sworn to me the day and year above written.

Deanna Milito
Notary Public:

My commission expires:

3-22-2019

DEANNA MILITO
NOTARY
PUBLIC
UNION COUNTY, NC



4845-4838-3028.2

***Signature Page***

The Mayor hereby acknowledges and consents to the Acknowledgement and Release described herein.

CITY OF MERRIAM, KANSAS,
a municipal corporation

By: _____
Ken Sissom, Mayor

[SEAL]

Attest:

By: _____
Juli Pinnick, City Clerk

STATE OF KANSAS )
) ss.
COUNTY OF JOHNSON )

On this _____ day of _____, 2016, before me, the undersigned Notary Public, in and for said state, came Ken Sissom, Mayor, and Juli Pinnick, City Clerk of the City of Merriam, Kansas, a municipal corporation duly authorized, incorporated and existing under and by virtue of the Constitution and laws of the State of Kansas, personally known to me to be the same persons who executed the within instrument on behalf of said City, and duly acknowledged the execution of the same to be the act and deed on behalf of said City.

Subscribed and sworn to me the day and year above written.

_____
Notary Public:

My commission expires:

_____

*Signature Page*

Merriam Investors LLC hereby acknowledges and consents to the Acknowledgement and Release described herein.

MERRIAM INVESTORS LLC,
a Kansas limited liability company

By: _____
David J. Christie, Co-Manager

By: _____
David Block, Co-Manager

STATE OF Missouri )
) ss.
COUNTY OF Jackson )

On this 12th day of ~~July~~ August, 2016, before me, the undersigned Notary Public, in and for said state, personally appeared David Block and David J. Christie, to me personally known, who, being by me and duly sworn did say that they are co-managing members of Merriam Investors LLC, a Kansas limited liability company, and that said instrument was signed on behalf of said limited liability company, and said person acknowledged said instrument to be the free act and deed of said limited liability company.

Subscribed and sworn to me the day and year above written.

Lisa R. Stanley
Notary Public:

My commission expires:
11-16-16

LISA R. STANLEY
NOTARY PUBLIC-NOTARY SEAL
STATE OF MISSOURI
JACKSON COUNTY
MY COMMISSION EXPIRES NOV. 16, 2016
MY COMMISSION # 12402622



4845-4838-3028.2

**EXHIBIT A**
**TIF DISTRICT**
**LEGAL DESCRIPTION**

Beginning at the intersection of Interstate Highway 35 and 75th Street; thence west along 75th Street to a point 250 feet west of the west right-of-way line of the Burlington Northern Railroad; thence north 800 feet; thence east 100 feet; thence north 540 feet; thence east approximately 690 feet to the centerline of the Burlington Northern Right-of-Way; thence north along the centerline of the Burlington Northern right-of-way to the centerline of 67th Street; thence west along 67th Street to the west property line of Lot 5, Cunningham Gardens Subdivision; thence north along the west property line of Lot 5 to the south property line of West Vernon Place Unit No. 2 Subdivision; thence east along said south property line to the east property line of said West Vernon Place Unit No. 2 Subdivision; thence north to the north property line of said subdivision; thence east 100 feet along the boundary between the existing R-1 and I-1 zoning districts; thence north 750 feet along said zoning district boundary; thence easterly 230 feet along said zoning district boundary; thence northerly 200 feet along said zoning district boundary; thence easterly 253 feet along said zoning district boundary; thence northerly 50 feet along said zoning district boundary; thence easterly to the centerline of the Burlington Northern right-of-way; thence northerly along said railroad right-of-way to Shawnee Mission Parkway; thence east along said parkway to Interstate Highway 35; thence north along said highway to a point west of 62nd Terrace projected; thence easterly along 62nd Terrace to Slater Road; thence south along Slater Road to Shawnee Mission Parkway; thence west along said parkway to the intersection of the East Frontage Road; thence southwesterly along said frontage road to a point north of the west line of the Pinegate Subdivision projected; thence south along said line to a point east of 65th Street projected; thence west along said line and 65th Street to Interstate Highway 35; thence south along said highway to the point of beginning on 75th Street, and;

Part of the Southeast ¼ of Section 12, Township 12 South, Range 24 East in the City of Merriam, Johnson County, Kansas, more particularly described as follows: BEGINNING at the point of intersection of the Centerline of Slater Road and the Centerline of Johnson Drive, said centerline of Johnson Drive also being the North line of the Southeast1/4, of

said Section 12; thence North 90° West along the centerline of Johnson Drive and the North line of said Southeast ¼, 918.48 feet to the point of intersection of said North Line of the Northeast ¼ and the Northerly prolongation of the Westerly right of way line of Grandview Avenue, said point of the intersection also being a point on the Easterly right of way line of Interstate Highway No. I-35; thence Southerly along the Easterly right of way lone of Interstate Highway No. I-35 to the point of intersection of said Easterly right of way line of Interstate Highway No, I-35 and the Westerly prolongation of the Centerline of 62nd Street Terrace; thence South 89° 49' 24" East along said centerline of 62nd Street Terrace, 1129.62' to the point of the intersection of said centerline of said 62nd Street Terrace and the centerline of Slater Road; thence North 00° 37'19"East, along the centerline of Slater Road, 2206.37 feet to the POINT OF BEGINNING. Containing 307 acres of land, more or less

# AGENDA ITEM INFORMATION FORM

**Agenda Item:** Consider approval of a Funding Agreement between Merriam Luxury Imports, LLC and the City.

**Department:** Administration

**Background/Description of Item:**

On March 28, 2011, the City executed a Redevelopment Agreement for the Merriam Pointe project with Merriam Investors, LLC and Hendrick Automotive Group. Earlier tonight, the City approved a release of Hendricks from their rights and obligations as Co-Developer under this agreement. Merriam Investors, LLC is now the sole Developer and owner of the remaining tax increment financing (TIF) incentives under the 2011 agreement.

On August 03, 2016 Merriam Investors, LLC granted the City an authorization to communicate and negotiate with Merriam Luxury Imports, LLC (MLI) in connection with an application for additional TIF incentives in the Merriam Pointe project area. MLI, managed by Mr. Richard Webb, owns the vacant drainage parcel adjacent to the Infiniti dealership on West Frontage Road. MLI seeks $6 million for the purpose of constructing a new automobile dealership, but indicates the cost of site work is prohibitive without the assistance of TIF.

To consider the request, the City will need outside legal and professional consultants. Mr. Webb has advanced $50,000 as required per the terms. The agreement outlines what the funds may be used for and how the City would request additional funds if necessary. The agreement *does not commit* the City to make any changes in the existing Redevelopment District Plan, Redevelopment Project Plan or Redevelopment Agreement. It simply protects the City from incurring out-of-pocket costs associated with consideration of the changes.

The City's TIF/Development attorney Joe Serrano of Kutak Rock, LLP has reviewed the Funding Agreement.

**Related Ordinance or Statutes:** None

**Recommendation:** Staff recommends approval of the Funding Agreement between the City and Merriam Luxury Imports, LLC.

Prepared by: Cindy Ehart, Finance Director Date: September 21, 2016

# FUNDING AGREEMENT

THIS FUNDING AGREEMENT (the "Agreement") is entered into this ___ day of _____, 2016, between MERRIAM LUXURY IMPORTS, LLC (the "Applicant"), and the CITY OF MERRIAM, KANSAS (the "City").

**RECITALS**

A. The City is a municipal corporation duly organized and existing under the laws of the State of Kansas and authorized by K.S.A. 12-1770 *et seq.*, as amended (the "TIF Act"), to provide tax increment financing for certain qualified projects upon compliance with the procedures set forth in the TIF Act.

B. The Applicant is a limited liability company, organized under the laws of the State of Kansas.

C. Pursuant to TIF Act, and to provide certain tax increment financing to assist with redevelopment, the City has established a redevelopment district known as the I-35 Redevelopment District (the "District") and adopted a Redevelopment District Comprehensive Plan relating to the development of the District (the "District Plan").

D. Pursuant to Ordinance No. 1446 passed on July 28, 2003, Ordinance No. 1485 passed on October 25, 2004, Ordinance No. 1667 passed on March 28, 2011 and Ordinance No. 1687 passed on April 23, 2012, the Governing Body of the City approved a redevelopment project plan (the "Project Plan") for the portion of the District shown on Exhibit A (the "Project Area"), which project plan is known as the Merriam Pointe Redevelopment Project (the "Project").

E. The Applicant is the owner of certain real property located within the District.

F. The Applicant has requested that the City (i) consider the preparation of an amended Redevelopment Project Plan (as defined in the TIF Act), a new Redevelopment Project Plan and/or other economic development incentives available through the TIF Act (collectively, the "Economic Development Incentives"), (ii) consider the approval of such Economic Development Incentives in accordance with the TIF Act, and, if approved, (iii) implement and administer such Economic Development Incentives to completion. In order to do so, the City must retain administrative and professional staff, legal counsel and outside consultants, and incur expenses, but is without a source of funds to pay such staff, counsel, consultants and expenses.

NOW, THEREFORE, in consideration of the premises and the mutual covenants and agreements hereinafter expressed, the parties mutually agree as follows:

1. **Services to be Performed by the City.**

The City shall retain administrative and professional staff, legal counsel and outside consultants, and incur expenses which it, in its sole discretion, deems necessary to:

a. Prepare and consider the Economic Development Incentives in accordance with the provisions of the TIF Act, give all notices, make all publications, hold all hearings as required by the TIF Act and prepare any required feasibility study, resolutions and ordinance to approve such Economic Development Incentives;

b. Prepare and negotiate a definitive agreement between the parties for implementation of the Economic Development Incentives (the "Redevelopment Agreement"); and

c. If a definitive Redevelopment Agreement is entered into, administer such Economic Development Incentives and the Redevelopment Agreement until terminated or completed.

2. **Payment.**

The Applicant shall pay the City for the following, which shall hereinafter collectively be referred to as the "Charges": the City's fees and expenses; the time of the City's administrative and professional staff, as the City may from time to time deem appropriate; all charges for the City's legal counsel and outside consultants; and all other expenses incurred by the City in providing the services set forth in this Agreement, subject to the following conditions:

a. In order to insure the prompt and timely payment of the Charges, the Applicant shall establish a fund in the amount of $50,000 (the "Fund") by paying such amount to the City contemporaneously with the execution of this Agreement, receipt of which is hereby acknowledged. Thereafter, the City shall pay all Charges from moneys on deposit in the Fund and shall provide an itemized statement thereof to the Applicant on a monthly basis. If, in the judgment of the City's Finance Director, there are insufficient amounts on deposit in the Fund to pay for the projected Charges expected to be incurred, the Applicant shall make a subsequent deposit or deposits into the Fund in an amount equal to the initial deposit or such other amount which in the judgment of the City's Finance Director is required to provide sufficient funds to pay the projected Charges.

b. In the event that there are insufficient moneys on deposit in the Fund to pay for Charges when incurred, the City shall issue an itemized invoice to the Applicant which shall be payable within thirty (30) days of receipt thereof. If not so paid, the City shall have no obligation to perform any of the services set forth in Section 1 until all outstanding invoices are paid in full, and the unpaid balance shall be subject to a penalty of five percent (5%) per month until paid.

c. If an Amended Redevelopment Project Plan or a new Redevelopment Project Plan is adopted, all payments made hereunder are eligible redevelopment costs under the TIF Act and as such are reimbursable out of the special tax increment fund created pursuant to the TIF Act.

3. **Termination.**

a. The City may terminate this Agreement upon ten (10) days' notice in the event the Applicant fails to make any payments when due.

b. The Applicant may terminate this Agreement in the event it determines not to proceed further to complete the Economic Development Incentives upon notice to the City thereof.

c. If either party terminates this Agreement, the City shall apply the balance of the Fund, if any, to outstanding Charges pursuant to this Agreement and any moneys due and owing to the City pursuant to any other agreement. The City shall pay the remaining balance, if any, to the Applicant within thirty (30) days of such termination. In the event the balance of the Fund is insufficient to pay the outstanding Charges payable hereunder, the Applicant shall pay such Charges within thirty (30) days of receipt of a statement from the City of the balance required to pay such Charges.

4. **No Obligation to Proceed with Economic Development Incentives.**

The Applicant acknowledges that the City is not obligated by the execution of this Agreement to approve any Economic Development Incentives or a Redevelopment Agreement and that the approval of any Economic Development Incentives and a Redevelopment Agreement are subject to the sole discretion of the Governing Body of the City and the requirements of the TIF Act.

5. **Notice.**

Any notice, approval, request or consent required by or asked to be given under this Agreement shall be deemed to be given if it is in writing and mailed by United States mail, postage prepaid, or delivered by hand, and addressed as follows:

To the City:

Mr. Chris Engel, City Administrator
City of Merriam, Kansas
City Hall
9001 West 62nd Street
Merriam, KS 66202

With a copy to:

Mr. Joseph D. Serrano, City Bond Counsel
Kutak Rock LLP
2300 Main Street, Suite 800
Kansas City, MO 64108

To the Applicant:

Mr. Richard Webb
Merriam Luxury Imports, LLC
6960 West Frontage Road
Merriam, KS 66203

With a copy to:

Sandra S. Watts, Esq.
White Goss Bowers March Schulte & Weisenfels
a Professional Corporation
4510 Belleview, Suite 300
Kansas City, MO 64111

Each party may specify that notice be addressed to any other person or address by giving to the other party ten (10) days' prior written notice thereof.

6. **Governing Law.**

This Agreement shall be construed in accordance with the laws of the State of Kansas.

***(Remainder of page intentionally left blank. Signature page to follow.)***

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representatives the day and year first above written.

**MERRIAM LUXURY IMPORTS, LLC**

By: _____
Richard Webb, MANAGER

**CITY OF MERRIAM, KANSAS**

By: _____
Ken Sissom, Mayor

[SEAL]

Attest:

By: _____
Juli Pinnick, City Clerk

STATE OF _____ )
) SS.
COUNTY OF _____ )

On this _____, 2016, before me, a notary public, appeared Richard Webb to me personally known, who being by me duly sworn, did say that he is the _____ of Merriam Luxury Imports, LLC and that said instrument was signed in behalf of said limited liability company and he acknowledged said instrument to be the free act and deed of said limited liability company.

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

_____
Notary Public

My Commission Expires: _____

STATE OF KANSAS )
) SS.
COUNTY OF JOHNSON )

On this _____, 2016, before me, a Notary Public in and for said State, personally appeared Ken Sissom, Mayor, and Juli Pinnick, City Clerk of the City of Merriam, Kansas, who are personally known to me to be the same individuals who executed, as such official, the within instrument on behalf of said City and each such person duly acknowledged to me that be executed the same for the purposes therein stated, and that the execution of the same was the free act and deed of said City.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year above written.

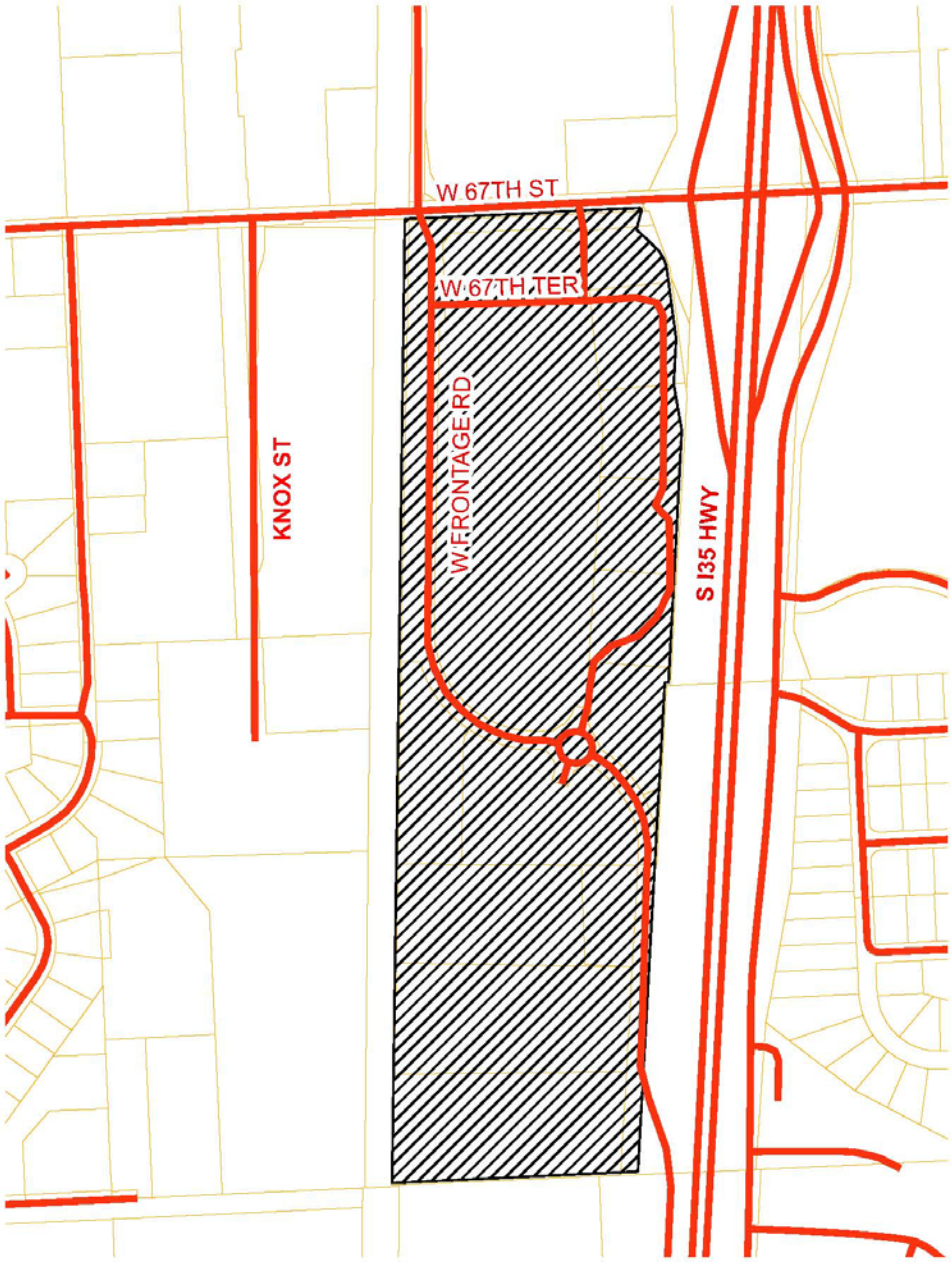
_____
Notary Public

My Commission Expires: _____

# EXHIBIT A

## Project Area

**PROJECT PLAN AREA**




**Legend**

Merriam Pointe Plan Area

bpd - 03/04/2011

# AGENDA ITEM INFORMATION FORM

**Agenda Item:** Consider appointment of Columbia Capital as Financial Advisor to the City for a three-year term.

**Department: Finance**

**Background/Description of Item:**

From time to time the City requires an outside financial advisor to provide services including evaluation of requests for developer incentives, coordination of debt issues, and other financial advisory services. In recent years the City has used various firms to provide these services on an "as-needed" basis. Staff recently issued a request for qualifications (RFQ) from interested firms to evaluate and select the firm best able to deliver services.

The City received submittals from six firms that were reviewed by the city administrator and finance director. Each submittal was judged on several criteria including quality, completeness, relevant firm experience, staff experience, and customer references. Fees were considered after the initial review but received less weight.

Staff recommends Columbia Capital as the firm best able to provide services. Columbia Capital was formed in 1996 as an independent alternative to investment banking firms. They have extensive experience with economic development and bond issuance projects for Kansas clients, including Edgerton, Prairie Village and Topeka. Colombia Capital currently serves the City as investment advisor under a separate agreement. The firm has eight employees in their Overland Park office. Mr. Jeff White will be the firm principal responsible for their engagement with the City.

Attachments: Columbia Capital's response to the RFQ
Columbia Capital's fee proposal
Merriam's original RFQ

**Related Ordinance or Statutes:** none

**Recommendation:** Consider appointment of Columbia Capital as Financial Advisor to the City for a three-year term and to permit staff to negotiate the final contract for signature by the Mayor.

Prepared by: Cindy Ehart, Finance Director Date: September 22, 2016

MERRIAM

*Just right.*

# REQUEST FOR QUALIFICATIONS (RFQ)
# FINANCIAL ADVISORY SERVICES

August 22, 2016

SUBMIT QUALIFICATIONS TO:
City of Merriam
Attn: Juliana Pinnick, City Clerk
9001 W. 62nd Street
Merriam, KS 66202-2815
913.322.5500

**Due by: 12:00 Noon CDT, September 12, 2016**

## 1. INTRODUCTION

The City of Merriam (the "City") is seeking qualifications for the services of an independent financial advisor to the City for a period of three years. In order to avoid conflicts of interest, the City will not consider qualifications from any firm who intends to provide underwriting services for the City during the contract period. Further, the firm selected for the financial advisory services will not be considered for underwriting services which may occur during the contract period.

## 2. INFORMATION REGARDING THE CITY

General Information

The City of Merriam is a first-tier suburb with a population of 11,290 and covering 4 1/2 square miles. It is located in northeast Johnson County, Kansas in the metropolitan Kansas City area. Situated at the intersection of Interstate-35 and Shawnee Mission Parkway, the City is home to several large auto dealerships, IKEA Merriam home furnishing store, and Shawnee Mission Medical Center. Merriam has the highest "pull factor" in the State of Kansas at 4.67, meaning that more purchases are made by shoppers who live outside the City than those who live within the City.

The City operates under a non-partisan Mayor/Council form of government with the addition of a City Administrator. The Mayor is elected on an at-large basis and serves a four-year term. The eight Councilmembers are elected by ward (two representing each of four wards) and serve four-year terms of office. The City Administrator is appointed by the Mayor and City Council as the chief administrative officer of the City and is charged with the efficient and effective administration of the City. The City provides traditional governmental services of police, fire, public works, planning, and parks and recreation with 112 full-time equivalent employees.

2017 Approved Budget

The total budget for all funds is $33,334,181, including operating expenditures of $27,919,778. General Fund operating expenditures are budgeted at $13,402,587 and Capital Improvement Fund expenditures are budgeted at $11,882,447. Preliminary 2017 assessed valuation is $187,032,361. Current mill levy is 27.676.

Tax Increment Financing District

The City has one active tax increment financing (TIF) district – I-35 Redevelopment District with several active project areas.

Bonded Debt

Outstanding bonded debt (Series 2012 Refunding Bonds) as of June 30, 2016 is $5,165,000, which will mature in 2023. The City's latest bond rating is Aa2 from Moody's Investor Service, Inc.

City Sales Tax

The City's 1% sales tax will generate an estimated $7.7 million in revenues for 2017. The City's ¼ cent sales tax is dedicated to street and stormwater drainage improvements and will generate an estimated $1.9 million per year until it expires in 2020.

## 3. SCOPE OF SERVICES

The City of Merriam is inviting qualifications for the purpose of selecting a firm to serve as independent financial advisor to the City. The City's independent financial advisor will be expected to perform services as required by the City in a professional and timely manner. Services could include, but are not limited to, the following tasks:

- Task 1: Evaluation of Requests for Developer Incentives
- Task 2: Coordination of Debt Issues
- Task 3: Other Financial Advisory Services

Task 1: Evaluation of Requests for Developer Incentives
The City may require the services of the financial advisor to evaluate developer requests for incentives including internal rate of return analysis, economic feasibility studies, cost/benefit analyses, and review of developer's financial capacity.

Task 2: Coordination of Debt Issues
The financial advisor will be asked to consult on all aspects of debt issuance, from advice on debt structure through bond closing activities. The financial advisor may also assist with continuing disclosure compliance. The City will consider bond issuance to fund major improvements to the City's community center and outdoor swimming pool.

Task 3: Other Financial Advisory Services
The financial advisor may be asked to review and analyze the City's operating and capital budgets in order to identify funding alternatives, assist with long-term financial forecasting, or provide other general financial advisory services.

## 4. QUALIFICATIONS CONTENT

The qualifications should be organized in the following format and information sequence:

A. Provide a letter of transmittal including the full name and address of your organization. The letter should be signed by an authorized agent and include their title and contact information.
B. Provide a brief description of your firm, including qualifications, experience, depth of staff, quality control, and your ability to be the City's financial advisor.
C. Include a resume and list of engagements for those individuals who will act in an advisory capacity for the City. Indicate who will serve as the lead professional for the City.
D. Provide a list of at least three recent Kansas government client references including name, address, phone number, e-mail address and contact person for each entity.
E. Provide a response to Section 8 of this Request for Qualifications (RFQ) pertaining to conflict of interest.
F. Provide a response to Section 9 of this RFQ pertaining to pending or existing litigation or investigations.
G. Proof of insurance coverage as outlined in Section 10 of this RFQ.
H. Fee Proposal - **IN A SEPARATE, SEALED ENVELOPE** provide cost information using the format shown in Exhibit A.

## 5. SUBMISSION OF THE QUALIFICATIONS

- Each respondent must submit one (1) original, signed RFQ, (3) three copies, plus an electronic version of the RFQ in PDF format. **PLEASE SUBMIT THE FEE PROPOSAL IN A SEPARATE, SEALED ENVELOPE INCLUDING THE FIRM NAME.**

- All Qualifications and related reference information submitted in response to this RFQ will become the property of the City and will not be returned. Each entity submitting a qualification waives any right of confidentiality as to the qualification documents. If an entity submitting a qualification considers certain material in the qualification proprietary information, it shall clearly designate those portions of the qualification it wishes to remain confidential. As a public entity, the City is subject to making records available for public disclosure. The City will attempt to maintain the confidentiality of material marked proprietary; however, it cannot guarantee that information will not be made public.

- The City reserves the right to (1) accept or reject any and all qualifications and to waive any technicalities or irregularities involving any qualification and to cancel the RFQ process at any time prior to entering into a formal contract for financial advisory services, (2) not award a contract for any or all of the services that are the subject of this RFQ process, (3) negotiate contract terms acceptable to the City with the successful firm, (4) disregard all nonconforming, non-responsive or conditional qualifications, (5) reject the response of any firm which does not submit a qualification to the City's satisfaction, and (6) in its sole discretion, enter into preliminary negotiations with more than one respondent.

- In evaluating qualifications, the City may consider the qualifications of entities submitting qualifications and those criteria set forth in Section 6 of this RFQ and any other criteria the City deems necessary and appropriate in the selection of a financial advisor.

- During the evaluation process, the City reserves the right to request additional information or clarifications from those firms submitting qualifications and to allow corrections of errors and/or omissions.

- Submission of a qualification indicates acceptance by the firm submitting the qualification of the terms, conditions and specifications contained in this RFQ and to include the contract requirements set forth herein.

- The City will not pay for any information herein requested, nor is it liable for any costs incurred by those firms submitting qualifications. The City reserves the right to select the qualification that will best meet its needs. Qualifications that do not meet the stated requirements will be considered in non-compliance and will be disqualified unless the City waives such non-compliance.

- No qualification may be withdrawn for a period of thirty (30) days from the date set for the opening thereof.

- After the due date, all qualifications that comply with all the qualification requirements will be distributed to the evaluation committee. The evaluation committee shall conduct an evaluation of all qualifications on the basis of the information provided. The evaluation committee will select the qualification that most closely fulfills the needs and expectations of the City. No final choice will be made until the evaluation committee is satisfied it has all the information needed to make a responsible decision. The City reserves the right to reject any and all qualifications and to seek new qualifications when reasonably in its best interest.

- During this process, please be prepared to be contacted for clarification of previously submitted information or asked for additional information. Interviews may be requested.

**Questions regarding the RFQ should be directed to:**

Cindy Ehart
Finance Director
913.322.5504
cehart@merriam.org

**Qualifications should be delivered to**:

Juliana Pinnick, City Clerk
Attn: RFQ for Financial Advisory Services
9001 W. 62nd Street
Merriam, KS 66202-2815

**Qualifications are due on 12:00 Noon, Monday, September 12, 2016.**

## 6. EVALUATION OF THE QUALIFICATIONS

An evaluation committee will be used to evaluate the qualifications. The committee will evaluate the qualifications based on the following criteria. The City reserves the right to utilize other appropriate selection and evaluation criteria, as it deems necessary.

1. Quality and completeness of the response to the RFQ (maximum 20%).
2. Relevance and quality of expertise cited for the tasks outlined in the Scope of Services (maximum 30%).
3. The experience and availability of staff serving the City (maximum 15%).
4. Customer references (maximum 25%).
5. Fees (maximum 10%).

## 6. CONTRACT PERIOD

The agreement for financial advisory services will become effective immediately upon execution of an agreement by all parties. Subject to the annual availability of an appropriation required by the State cash basis law and the requirements of this RFQ, a three-year contract is contemplated, however not guaranteed. Any engagement for financial advisory services beyond the initial one year contract shall be conditioned on an annual contract review, the satisfactory negotiation of terms, including a cost acceptable to the City and the approval of the City's Governing Body.

## 7. SCHEDULE OF EVENTS

The City has developed the following tentative schedule of events for selection of a financial advisor.

| Item | Timing |
|---|---|
| Issue RFQ | Monday, August 22, 2016 |
| Qualifications Due | Monday, September 12, 2016 at 12:00 Noon CDT |
| Recommendation to City Council | Monday, October 10, 2016 |

## 8. CONFLICT OF INTEREST

Explain in detail any existing or potential conflict of interest that would be created by your firm's representation of the City. In your response, note explicitly your understanding that if selected as the City's financial advisor, your firm will not be permitted to participate as an underwriter on City bond issues.

## 9. PENDING LITIGATION/INVESTIGATIONS

Is there any current or pending litigation against your firm? Are there any investigations by any regulatory agency? If yes, please provide a detailed explanation.

## 10. TERMS AND CONDITIONS/CONTRACT REQUIREMENTS

See Exhibit B for a copy of terms and conditions required in the City's professional services agreement.

**EXHIBIT A – CITY OF MERRIAM**
**REQUEST FOR QUALIFICATIONS**
**FINANCIAL ADVISORY SERVICES**
**FEE PROPOSAL (page 1 of 2)**
**PLEASE SUBMIT IN A SEPARATE, SEALED ENVELOPE**

**Tasks 1: Evaluation of Requests for Developer Incentives**

Please provide staff rates *and/or* discuss pricing approach for various aspects of evaluation including: internal rate of return analysis, economic feasibility studies, cost/benefit analysis, and review of developer's financial capacity.

_____
_____
_____
_____
_____
_____
_____
_____
_____

| Staff Person Assigned | Hourly Rate or Basis for Fees |
|---|---|
| | |
| | |
| | |

**Task 2: Coordination of Debt Issues**

Indicate rates for each amount and type of issue:

| Amount of Issue | Temporary Notes | General Obligation Bonds | Refunding Bonds |
|---|---|---|---|
| Up to $1,000,000 | | | |
| From $1,000,001 to $2,000,000 | | | |
| From $2,000,001 to $3,000,000 | | | |
| From $4,000,001 to $5,000,000 | | | |
| From $5,000,001 to $6,000,000 | | | |
| From $6,000,001 to $7,000,000 | | | |
| From $7,000,001 to $8,000,000 | | | |
| From $8,000,001 to $9,000,000 | | | |
| From $9,000,001 to $10,000,000 | | | |
| From $10,000,001 and above | | | |

**EXHIBIT A – CITY OF MERRIAM**
**REQUEST FOR QUALIFICATIONS**
**FINANCIAL ADVISORY SERVICES**
**FEE PROPOSAL (page 2 of 2)**
**PLEASE SUBMIT IN A SEPARATE, SEALED ENVELOPE**

**Task 2: Coordination of Debt Issues (continued)**

Indicate rates or basis for pricing for debt issuance tasks not included above:

_____
_____
_____
_____
_____
_____
_____
_____

**Task 3:** Other Financial Advisory Services

Indicate rates or basis for pricing for other tasks including review/analysis of operating and capital budgets, long-term financial forecasting, and other services:

_____
_____
_____
_____
_____
_____
_____
_____

| Staff Person Assigned | Hourly Rate or Basis for Fees |
|---|---|
| | |
| | |
| | |

**Other Information:**

Indicate how travel expenses are billed:

_____
_____
_____
_____
_____
_____
_____

**EXHIBIT B – CITY OF MERRIAM**
**REQUEST FOR QUALIFICATIONS**
**FINANCIAL ADVISORY SERVICES**
**Sample Addendum**

## Addendum to Letter Agreement Dated XXXXXXXX between FIRM NAME and the City of Merriam, Kansas for financial advisory services

*Compliance with Laws*. We shall keep fully informed of, and shall comply with, all local, state and federal ordinances, statutes, laws, codes, rules, resolutions and regulations affecting our performance of the obligations contained herein (regardless of whether such requirements are specifically referred to in this letter of understanding). We shall protect and indemnify the City and its officers and agents against any claims or liability arising from or based on any violations of the same.

*Indemnification*. We agree to defend, indemnify and hold the City, its officers, agents and employees, harmless from and against all liability for damages, costs and expenses, including attorney fees, arising out of any claim, suit, judgment or demand arising from our negligent and/or intentional acts or omissions, or that of our agents or employees in the performance of the services confirmed in this letter of understanding. We shall give the City immediate written notice of any claim, suit or demand that may be subject to this provision.

*Amendments.* This letter of understanding may not be amended unless such amendment is in writing and signed by both parties hereto.

*Assignment.* Neither this letter of understanding nor any rights or obligations hereunder shall be assigned or otherwise transferred by us without the prior written consent of the City. This letter of understanding is binding upon and fully enforceable against our successors and assigns, whether consented to or not.

*Applicable Law*. This letter of understanding shall be governed by, interpreted and construed in accordance with the laws of the State of Kansas.

*Legal Action.* We agree that the appropriate venues for any legal actions arising out of this letter of understanding are the District Court of Johnson County, Kansas, or, if federal jurisdiction exists, the United States District Court of Kansas.

*Insurance*. We shall, at our sole cost and expense, throughout the term of this letter of understanding and during all phases of the services described herein, maintain in effect all insurance coverages required herein.

A. General Requirements.

1. All insurance coverage shall be provided by insurance companies with a Best's rating of no less than "A" and/or that is acceptable to the City.

2. We shall provide to the City properly completed insurance certificates prior to beginning services under this letter of understanding for not less than the limits and terms set forth herein.

3. All certificates of insurance shall provide that the insurer will give thirty (30) days written notice to the City before cancellation of any policy. Upon the expiration, cancellation or renewal of any policy, we shall supply to the City a new certificate of insurance that complies with the requirements of this letter of understanding.

4. The City shall be named as an Additional Insured and Loss Payee for all coverages required herein except Workers' Compensation coverage.

B. Specific Coverage Requirements.

1. Commercial General Liability. We shall maintain General Liability coverage including Premises-Operations Liability, Independent Contractors Liability, Products and Completed Operations, and Broad Form Property Damage with these minimum limits:

| | |
|---|---|
| Bodily injury & Property Damage | $1,000,000 combined single limit per occurrence: $2,000,000 annual aggregate |
| Fire Damage Liability | $ 50,000 |
| Medical Payments | $ 5,000 |

The property damage liability coverage shall contain no exclusion relative to blasting, explosion, collapse of buildings, or damage to underground property.

2. Comprehensive Automobile Liability. We shall maintain Automobile Liability coverage including coverage for Owned, Hired and Non-owned Liability providing for all injuries to members of the public and damage to property of others arising from the use of motor vehicles on and off the Work site with these minimum limits:

| | |
|---|---|
| Bodily Injury & Property Damage | $1,000,000 combined single limit per occurrence |

3. Workers' Compensation and Employer's Liability. We shall maintain Workers' Compensation coverage for all claims made under applicable state workers' compensation laws. Contractor shall also maintain Employer's Liability coverage for claims made for injury, disease or death of an employee which, for any reason, may not fall within the provisions of a worker's compensation law. The following minimum limits shall apply:

| | |
|---|---|
| Workers' Compensation | Statutory limits |
| Employer's Liability | $100,000 each accident<br>$500,000 disease – policy limit<br>$100,000 disease – each employee |

4. Professional Liability Insurance. We shall maintain Professional Liability Insurance in an amount of no less than $1,000,000 and provide City with certification thereof upon request.

*Equal Opportunity*.

A. *Discrimination Prohibited*. In carrying out the services to be provided under this letter of understanding, we shall not discriminate against any person on the basis of race, religion, color, sex, disability, national origin, ancestry or age and shall comport its performances with all pertinent provisions of the Kansas Acts Against Discrimination (K.S.A. 44- 1001 *et seq.)* and the Kansas Discrimination in Employment Act (K.S.A. 44-1110 *et seq.* (including the Kansas Age Discrimination in Employment Act, K.S.A. 44-1111 *et seq.))* .

B. *Soliciting Employees*. In all solicitations or advertisements for employees, we shall include the phrase "equal opportunity employer" or a similar phrase approved by the Kansas Human Rights Commission.

C. Non-Compliance. If we:

1. fail to comply with the reporting requirements of K.S.A. § 44-1031 or K.S.A. § 44-1116 and amendments thereto;
2. are found guilty of a violation of the Kansas Act Against Discrimination or the Age Discrimination in Employment Act under a decision or order of the Kansas Human Rights Commission which has become final;

we shall be deemed to be in default of this letter of understanding and it may be immediately canceled, terminated or suspended, in whole or in part, by City.

D. *Flow Through of Requirements*. We shall include the provisions of Sections A - D in all of our subcontracts and purchase orders in order to ensure such provisions are binding upon our subcontractors and vendors.

E. *Exempt Contractors*. The provisions of this section are recommended but not enforceable against us if:

1. We employ fewer than four (4) employees at all times during the term of this letter of understanding; or

2. all of our contracts with the City cumulatively total Five Thousand Dollars ($5,000.00) or less during the fiscal year of the City pursuant to K.S.A. 44-1030(c).

*Survivorship*. Notwithstanding the termination of this letter of understanding, our obligations with respect to Indemnification, Insurance, and any other terms and conditions which by their nature should survive termination, shall survive the termination of this letter of understanding.

*Incorporation of Exhibits.* Exhibit *XX* (City's Request for Qualifications) and Exhibit *XX* (our Qualifications) are incorporated herein by reference are a part of this letter of understanding to the same extent as if fully set forth herein.

By:

_____

*Firm Name*

By: _____

Title: _____

Attest: _____

Date: _____

City of Merriam, Kansas

MERRIAM

# City of Merriam, Kansas

Request for Qualifications
Financial Advisory Services
September 2016

COLUMBIA CAPITAL
MUNICIPAL ADVISORS

Columbia Capital Management, LLC
6330 Lamar, Suite 200
Overland Park, KS
913.312.8077

**Jeff White**
Principal
jwhite@columbiacapital.com

**Adam Pope**
Vice President
apope@columbiacapital.com

Columbia Capital is a **municipal advisor**, registered with the US Securities and Exchange Commission and the Municipal Securities Rulemaking Board. Columbia Capital provides advice as a fiduciary to its clients.

COLUMBIA CAPITAL
MUNICIPAL ADVISORS

6330 Lamar, Suite 200
Overland Park, KS 66202

**Jeff White**, Principal
913.312.8077
jwhite@columbiacapital.com

September 9, 2016

Ms. Juliana Pinnick
City Clerk
9001 W. 62nd Street
Merriam, KS 66202

Dear Ms. Pinnick:

Thank you for the opportunity to respond to the City of Merriam's (the "City") Request For Qualifications For Financial Advisory Services. Columbia Capital Management, LLC ("Columbia") was founded in 1996 to offer public bond issuers a capable, independent alternative to receiving financial advice from investment banks. Columbia is well-positioned to serve the City for a variety of reasons:

**Extensive Breadth and Depth of Experience.** Columbia brings to the City experience serving a variety of issuers. Columbia's team has advised on more than 600 transactions totaling over $33 billion in combined par and spanning a variety of credit structures, bond types and financing programs. This experience includes extensive work on a variety of issuers and borrowers in Kansas including the Kansas Development Finance Authority, Kansas Turnpike Authority, City of Topeka, City of Olathe, City of Prairie Village, City of Junction City, City of Roeland Park, City of Edgerton, City of De Soto and City of Scott City.

**Holistic, Innovative Service.** Columbia possesses a track record of success developing and implementing innovative and thoughtful financing solutions. Our team often works with clients to design financing programs from the ground up, very frequently providing each of the services identified in the City's RFQ, including: comprehensive financial planning and debt management, capital budget programming, conducting advanced quantitative analysis; monitoring outstanding debt and identifying potential refunding candidates; evaluating the advantages and disadvantages of financing alternatives; working closely with bond counsel on the construction of legal and offering documents; developing rating agency strategies and presentations; administering successful competitive auctions; serving as an informed and aggressive fiduciary during price negotiations; and facilitating a timely settlement.

**Responsive, Team-Based Service.** Unlike many firms, Columbia uses a true team system to serve clients—an approach that grants each client access to the firm's full range of skills and expertise. Our team builds on a variety of backgrounds, including law, investment banking, economics, local government administration, and state government finance, to develop thoughtful, and often novel, financing solutions. Our distinctive service delivery model offers many advantages, including seamless account coverage, unparalleled responsiveness, and a thoroughness of approach and innovation that we feel sets us apart from the competition.

**Advice as a Fiduciary.** The public finance industry has undergone substantial regulatory change in recent years. Most recently, as of July 2014, the Securities and Exchange Commission implemented new standards for municipal advisors. These rules codified the long-anticipated restrictions governing the manner in which a variety of parties are permitted to interact with municipal bond

COLUMBIA CAPITAL
MUNICIPAL ADVISORS

6330 Lamar, Suite 200
Overland Park, KS 66202

**Jeff White**, Principal
913.312.8077
jwhite@columbiacapital.com

issuers and borrowers with regard to the planning for, and issuance of, municipal financial products. As a registered municipal advisor with the SEC and MSRB, Columbia is duty-bound to provide financial advice as its clients' fiduciary—a standard the firm has maintained since its inception. Six of our advisors participated in the MSRB's Series 50 pilot examination process in 2016, each receiving a passing score.

**Financial Strength.** Celebrating its 20th anniversary of providing high-quality, independent advice to public sector clients in October 2016, Columbia has the financial strength to withstand changing market conditions. With sizeable working capital balances, no debt, no outside investors and three employee-owners, Columbia provides absolutely independent advice—even when that advice is not popular for our clients to hear. Columbia carries industry-standard insurance protection, including at least $1 million of professional liability/errors and omissions coverage.

Columbia acts only as a financial advisor. We do not underwrite bond transactions or provide escrow securities. We have no ties to the investment banking or broker-dealer community, no outside investors and no debt. Our advice is wholly independent, both strategically and analytically—a position we maintain through the extensive and ongoing investment in the same analytical resources and information systems used by municipal bond dealers.

As signatory, I am legally authorized to commit the firm to all terms and conditions contained in the proposal. We appreciate your consideration and look forward to the opportunity to discuss our candidacy with you and your colleagues in more depth.

Respectfully submitted,
COLUMBIA CAPITAL MANAGEMENT, LLC

Jeff White
Principal

## CONTENTS

Description of the Firm ..... 1
Key Personnel ..... 13
References ..... 16
Conflict of Interest ..... 16
Pending Litigation/Investigations ..... 16
Insurance Coverage ..... 16

Appendix A: Proof of Insurance Coverage

## Description of the Firm

Now more than ever, borrowers of municipal bonds need financial advice that is independent, creative, in-depth and valuable to the borrower's important policy decisions. Borrowers need a firm that can provide that financial advice in a responsive, high-quality way. Columbia Capital Management, LLC is that firm. Issuers and borrowers large and small, from coast to coast, have relied upon Columbia Capital as a strategic advisor for almost 20 years. We look forward to working with the City of Merriam, Kansas (the "City") to meet its financial advisory needs.

Many things distinguish us from others providing advisory services. Columbia Capital is different:

- *Strategic thinking*. Our advice to our clients is based on both what is smart for today *and* for tomorrow.

- *Clear communications*. We boil down complex concepts into simple decision points for our clients and their stakeholders.

- *Comprehensive understanding*. We strive to understand our clients' businesses in-depth. This results in high-quality advice and solid financial management.

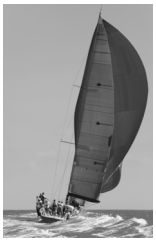
- *Team approach*. Our clients have access to the full range of expertise and abilities within our firm on every engagement.

- *Thorough document review*. Our attention to the transaction documents ensures our clients actually get the business deal they are expecting.

- *Independence*. We are an independent, financially stable municipal advisor with no debt, no outside investors and no ties to broker-dealers or commercial banks. Our advice is in the best interest of one entity…*our client.*

- *Proven abilities*. The advice we provide carries the strength of our significant expertise and depth of knowledge. The results are evident in the number of long-standing relationships we maintain with regular, high-profile bond issuers and borrowers.

## Why Engage Columbia Capital?



### Independence

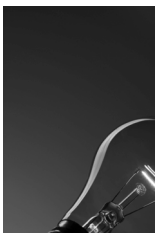
Columbia Capital is an independent advisor to municipal bond issuers and borrowers. We do not underwrite bonds. We are not owned by a hedge fund. We are not swap dealers. Objective advice in our clients' best interests is our stock-in-trade. We are in full compliance with the fiduciary advisor standard the 2010 Dodd-Frank financial reform bill requires and, because we do not provide bond underwriting, will never be precluded from providing the City with financial advice under the new municipal advisor regulations.

### Market Expertise

Columbia Capital has advised on hundreds of transactions over the last decade. The staff team assigned to the City has been involved in each one of those transactions. We have experience advising the smallest city to state government, from deals of less than $1 million to those nearly $2 billion in size. Our résumé includes a significant number of new credits and unusual or challenging transactions.

### Wide-Ranging Experience

With experience on unusual and complex credits such as housing, non-profit education, pension and economic development bonds, Columbia Capital is skilled and experienced advising on transactions ranging from straightforward to innovative and unusual. We have significant expertise advising on general obligation bond transactions.



### Creative, Strategic Thinking

Over the past few years, a significant segment of Columbia Capital's work has involved bringing new credits to the market. We have the ability to structure a transaction from the ground up, to model the potential results and to assess transaction risks for our clients. We use this same skill set to help our clients make decisions that are not only smart in today's environment, but that will withstand the test of time.

### Team-Based Client Service

With nearly a decade and a half of experience advising some of the largest and most sophisticated issuers in the country, Columbia has been successful by being different. Columbia provides the staff strength and depth of experience of a national firm with the creativity, responsiveness, local knowledge and individually-tailored client service only a boutique firm can provide.

## Firm Profile

Columbia Capital formed in October 1996 to provide financial advisory services to municipal bond issuers and investment advisory assistance to local governments and non-profit borrowers. Columbia combines more than 100 years of public finance expertise among its professionals. Columbia's founders formed the firm to offer issuers an experienced and independent alternative to obtaining financial advisory services from investment banking firms.

**Financial Advice**
- Financial planning (budgets and CIP)
- Conceptual plans of finance
- Financial modeling
- Debt transaction management
- Coordinating the professional team

**Economic Development**
- Sustainable economic development
- Policy development and analysis
- Plan of finance development and cost/benefit modeling
- Transaction management
- NMTC, TIF, TDD, CID, NID, tax abatement, etc.

**Structured Investments**
- Investment of bond proceeds
- Brokering of structured investments
- bidvault®, Columbia's patented secure image bidding system
- Unwinds and terminations

**Cash Management**
- Policy development and analysis
- Cash demand forecasting
- Investing idle funds
- Portfolio accounting and reporting
- Analyzing alternative investments

**Consulting**
- Municipal finance consulting
- Solutions to complex problems
- General government consulting
- munivault® post-issuance compliance services
- Policy development and analysis

Columbia Capital has provided financial advisory services on more than $33 billion of bonds including fixed and variable rate, new money and refunding, in areas including general obligation, revenue, annual appropriation, education, transportation, toll/turnpike, mass transit, parking, housing, pension, unemployment, and water utilities.

Because Columbia Capital has no ties to or relationships with any broker-dealer, **we provide absolutely independent, objective advice to our clients.** Columbia does not suffer from the intrinsic conflicts of interest that exist with underwriters providing financial advisory services. Because our firm does not provide underwriting services, we will never be precluded from providing advice to the City under the new "municipal advisor" regulations. Our team has built the firm, not by providing a one-size-fits-all approach, but by tailoring our services and our approach to the individual needs of each of the issuers we serve. Creative and innovative, Columbia provides the quality of advice of a major national firm with the one-on-one "boutique" client service only a smaller firm can provide.

## Evaluation of Requests for Developer Incentives

Columbia is prepared to advise the City on every aspect of its economic development projects, including evaluating new proposals and advising on the structure of development agreements.

Because the firm's founders were both attorneys, Columbia matches its financial acumen with a critical legal mindset in the review of documents, particularly related to economic development projects. In recent months, Columbia has reviewed and analyzed development proposals presented to the cities of Topeka, Olathe, Prairie Village, Edgerton, De Soto, Junction City, Riverside, plus St. Louis County, Missouri, and others.

**Feasibility Study Review.** Columbia provides a full-range of municipal consulting services, including reviewing and analyzing feasibility studies and third-party reports related to proposed economic development projects that stand to impact our clients, either directly or indirectly. We draw upon the deep and diverse expertise of our advisory team to bring a variety of perspectives to this review.

Columbia is prepared to review feasibility studies for the City, including studies related to conduit bond issues and economic development projects. We see our primary role in this effort not as one of taking sides, but ensuring that all parties are operating under a set of facts that make sense and are defensible. We dissect feasibility proposals to ensure they accurately depict the size and timing of asset streams, make reasonable assumptions about economic activity, and use present value calculations that are intellectually honest.

Where possible we build a business case for a public return on investment: what will the community see in returns from investment in the project? Is that return reasonable given the risk? What is the value of that return when compared to other opportunities to invest the same moneys? Although Kansas law does not require a "but-for" test with respect to TIF, for instance, we attempt to quantify whether the incentives provide a reasonable boost of the project's private returns to a market (but not above market) level. We commonly present our findings to our clients in the form of a memorandum detailing our approach, our findings, their implications for the model and our recommendations for developer re-modeling of the numbers and/or safeguards the city should consider inserting into the development agreement.

**Reviewing Incentive Packages.** Columbia brings to the City experience working with several local government issuers in evaluating economic development proposals. This includes evaluating the feasibility and economics of potential incentive packages.

At the heart of every proposed economic development project is the concept that the undertaking will add value to the community net of initial or ongoing costs in the form of captured or abated taxes. Identifying a feasible project entails tailoring incentive packages that are valuable enough to attract new development and promote economic growth, yet remain below the reasonably expected added value (which comes in many forms) of the project itself. Each opportunity must be evaluated on a case-by-case basis, and involves the prudent and intellectually honest modeling of both sides of the equation.

A clear line of demarcation between Columbia and many of our competitors is our capacity for elaborate and thoughtful ad hoc quantitative analysis and economic modeling. We bring a critical eye to every aspect of the proposed project and incentive package, modeling each

component from scratch with careful—and dynamic—assumptions to determine the potential economic impact of the project under a variety of scenarios. Our analysis is as transparent as it is comprehensive—we summarize and document our assumptions, using empirical evidence and real-world precedence to substantiate our inputs and support our conclusions.

The following case studies describe Columbia's economic development advisory services.

**CASE STUDY** Edgerton, Kansas – BNSF Intermodal Infrastructure Finance

The City of Edgerton, in the southwest corner of the Kansas City metropolitan area, is the home of BNSF railroad's newest rail/freight intermodal facility, and a key node along its Transcontinental Corridor. Surrounding the 450-acre intermodal port is Logistics Park Kansas City (LPKC), a 1000+ acre master planned distribution and warehousing logistics park anticipated to house 19 million square feet of buildings, including three million square feet of rail-served warehousing. Total public and private development will exceed $1.2 billion at build-out. LPKC's development is governed by a unique three-party agreement including a master private developer (Northpoint), BNSF Railroad and the City of Edgerton.

Although the Kansas Department of Transportation developed a key connection between LPKC and Interstate 35, more than $60 million of adjacent and interior infrastructure to this formerly greenfield site is anticipated to be financed from local sources. Working together, the parties have created a financing strategy that produces a variety of revenue streams from new development within LPKC.

Because of Edgerton's small population and limited borrowing capacity, the City had to explore a variety of approaches to finance public improvements supporting the intermodal facility. The intended financing approach, an intermodal revolving loan facility administered by the State's DOT, has not come to fruition, and the City's governing body is committed not to use the City's credit to finance intermodal-related infrastructure.

Working within these constraints, Columbia worked closely with City staff and legal counsel to develop a public-private partnership with Northpoint where it provides the initial financing for projects, evidenced by a note secured under a master revenue bond indenture issued by the City. The master indenture provides that the security for repayment of these financings comes solely from the half-dozen project-related revenue streams administered and captured by the City. As the project develops, the City anticipates the ability to issue revenue bonds to the public, refunding the Northpoint infrastructure notes, providing Northpoint with capital to undertake additional projects.

Columbia Capital developed and maintains a complex, dynamic financial model identifying the timing and scale of the development's revenue streams, and we are currently working with the parties to develop an availability payment-type structure to provide public-private financing for the bulk of the project's infrastructure needs.

**CASE STUDY** City of Prairie Village, Kansas

In 2014, the owner of Meadowbrook Golf and Country Club approached the City of Prairie Village, Kansas with a potential plan for the redevelopment of the property. The development company wished to transform the 140 acre site into a 90+ acre regional park managed by the Johnson County Parks and Recreation district and a 50 acre high-end mixed-use development, including single-family homes, market-rate apartments, senior living and a 35-room inn.

As advisor to the City, Columbia was actively involved in all facets of the project's development, including timing, end uses, public-private partnership issues, public information, council education and developer negotiations. Columbia developed the financial modeling the team used to make decisions about the size and scope of the project, the feasibility of both City-backed and special obligation bonds, and the "right" mix of shared costs between the public and private parties.

In May of 2016, the City issued $11.3 million of AAA rated General Obligation TIF Bonds (on which we

advised) to provide financing for purchase of the parkland and for park improvements. The public park and the mixed-use development is scheduled to open in 2017.

**CASE STUDY** City of Riverside, MO – CID Financing

The City of Riverside, Missouri engaged Columbia in the summer of 2013 to identify financing alternatives related to the formation of a downtown Community Improvement District (CID). After gathering information and project objectives from the City, Columbia composed a detailed description of the anticipated project, including various options for district boundaries and corresponding anticipated revenues for each district sizing option. Columbia also presented the City with alternative bond financing structures that could be executed to fund up-front improvements to the District. The financing alternatives included a stand-alone credit structure secured solely by revenue generated from the anticipated 1% CID tax and a structure secured by both CID revenues and a City pledge to annually appropriate funds each year to fund debt service not covered by CID revenues. The review included a discussion of the advantages and disadvantages of each type of structure in today's municipal market environment. Columbia summarized the amount of bond proceeds that would be available to the District by presenting a matrix of structuring assumptions including different district boundaries, credit structures, duration of bond amortization and changes to the current interest rate environment. The City has used this output to begin discussion with businesses located in the anticipated district and to assist in refining the scope of the projected use of CID proceeds.

**CASE STUDY** City of Branson, MO – Economic Development Planning Model

In the early and middle part of the decade, Branson, Missouri, host to more than 8 million visitors annually, invested significantly in economic revitalization of the community, including construction of a conference center and hotel and the development of a large "lifestyle" shopping center. The City and its conduit agencies served as issuers for much of the debt associated with the projects and the City, in many cases, provided credit support for the bonds. Faced with administering a trust indenture with a dozen discrete revenue streams and as many stops in the "waterfall of funds," the City engaged Columbia Capital to develop a spreadsheet model to track, forecast and report on the status of the various revenue streams, the health of the indenture's various funds and the City's potential budgetary liability. In addition to these components, Columbia's model also includes a feature to enter and store historical collections data allowing the model to be used for comparative reporting. Benefitting the trustee, Columbia's model produces periodic reporting and trustee direction in the format required by the indenture. The model is quite simple for the end-user, but is built upon a complex series of calculations that conform with the trust indenture and the prescribed flow of funds. As tourism and related revenues have fallen in recent years, the City has used the model for projections on the cost of its annual appropriation backstop to bonds that are no longer generating sufficient project-based revenues to cover debt service.

## Coordination of Debt Issues

Columbia proposes to provide a full-range financial advisory services to the City. The range of our common scope of services includes the services described below.

**Advise the City on All Financings Structure and Terms.** Columbia will work closely with the City and the other finance team members selected by the City to develop a plan of finance meeting the City's goals. Columbia will prepare analytical and informational materials about the various financing options available, their relative strengths and weaknesses, and our recommended approach. Columbia will work with the City to determine its preference as to the appropriate call provisions, amortization, couponing strategies and method of sale to minimize the cost of funds. Many of these factors are inter-related. For example, most issuers seek to avoid any redemption premium on their bonds, but there are some circumstances with premium couponing where use of a redemption premium can result in a lower true interest

cost (TIC) and result in debt service savings. Our advice in these cases includes a discussion of the alternatives, and the relative advantages and disadvantages of each alternative so that our clients can select the approach with which they are most comfortable.

**Quantitative Analysis.** Columbia will provide pro forma analysis and cash flow structuring services to the City using both off-the-shelf software and its proprietary models developed in Excel. Our approach to structuring transactions includes a detailed review of each alternative available to the issuer—an approach that often requires substantial and complex quantitative analysis. We will work with the City to determine the most effective way to meet its financing objectives in light of any fiscal restraints that currently exist or may arise down the road, including long-term financing planning. This means developing a structure that (a) meets the financing objectives, (b) achieves the lowest cost of financing while considering desired flexibility and term structure requirements, and (c) fits ideally into the City's existing framework of commitments and fiscal restraints.

**Meetings and Public Information.** Representatives of Columbia—in most cases, Jeff White or Adam Pope—will attend staff and City Council meetings as required. We regularly develop council briefing materials about general market topics or information specific to the transaction at hand, and we can assist the City in preparing media releases or other public information about the offering or its debt management in general.

**Overall Transaction Management and Coordination.** Columbia will work closely with the City and other finance team members including the underwriting syndicate, underwriter's counsel and bond and disclosure counsel to create and manage a transaction calendar that meets the City's goals. Columbia will drive the financing process, ensuring a successful and timely transaction. We will communicate frequently with other finance team members and organize, schedule and participate in meetings and conference calls.

**Review and Comment on All Documents.** Columbia works closely with our clients' internal and transaction legal counsel to develop legal documents that deliver the business deal desired while ensuring maximum future flexibility. Columbia prides itself on the thoughtfulness and thoroughness of our review and drafting of bond and offering documents. We review and comment on trust indentures, supplemental agreements, loan agreements and other contractual documents. We structure a notice of sale for competitive issues and work with the lead managing underwriter on negotiated transactions to outline the specific terms and conditions of the sale. On competitive sales, we work with bond counsel to put together the official statement, notice of sale and all other documents required. We work closely with bond counsel and, where present, underwriters' and disclosure counsel, to ensure the language in the offering documents meets the highest standard of disclosure.

**Procure Requisite Services.** Columbia generally advises and assists its clients with the selection of the underwriting team, trustee, paying agent/registrar, verification agent, and credit facility provider. When relevant, we will assist the City in all stages of the RFP process including developing and distributing an RFP, as well as summarizing and evaluating the responses.

**Rating Agency Strategy Support.** We will work with the City to prepare and present its transactions to the rating agencies. Our firm works regularly with representatives of the rating agencies and will open an early dialogue with these groups. Columbia will coordinate the preparation for any meeting with rating agencies and will be present for rating agency calls

and/or presentations. We will work with the City to anticipate areas of concern by the rating agencies and address them early before they impact ratings.

More and more frequently we are assisting our clients in developing a strategy regarding which agency or agencies to use. With the criteria used by the agencies diverging on even straightforward general obligation transactions, issuers are increasingly deciding to use the agencies that have criteria producing the best result for their individual agency.

**Competitive vs. Negotiated Sales.** Columbia Capital works closely with its clients to determine the most advantageous method of sale for its bonds or notes, taking into consideration the various financing aspects, including issue size, any unusual complexities or aspects of the credit or term structure, and prevailing market trends.

For issuers offering a relatively uncomplicated bond structure backed by a sound credit rating and straightforward credit, Columbia often encourages the consideration of a competitive sale. In today's market, there is strong bidder participation for high-quality bonds. A wide variety of underwriting firms participate in competitive auctions, yet no single firm has maintained a consistent winning record. This fact, coupled with the prevalence of large spread differentials between the high and low bids in many of the competitive sales we have administered over the last few years, illustrates that each underwriting firm's market clearing prices and distribution capacity vary greatly from week-to-week, and even day-to-day. By offering bonds via competitive sale, an issuer is marketing its bonds to every firm at the time of pricing, encouraging competition for its offering and putting itself in the position to sell its bonds to the underwriter offering the lowest interest rates at that particular point in the current market.

Alternatively, for less frequent or lower-rated issuers, or issuers offering a unique or complex credit or bond structure a negotiated sale may prove to be advantageous. A key advantage of negotiated sales is the ability to participate in the evolution of the final offering scale. By conducting independent research and analysis to support market price views, the financing team has the ability to directly influence the rates at which the bonds are sold during price negotiations. Additionally, negotiated sales offer the issuer the flexibility of working directly with the underwriting team to establish any necessary or specific structuring nuances that help to achieve a specific objective—an especially valuable feature on structurally complex financings.

**Competitive Sale Management.** In a competitive sale, we use market feedback to help us structure the terms and conditions of the notice of sale (effectively, the bid specifications). For a variety of bond math reasons, the most efficiently structured bond is one that produces pricing at or about par. A par bid requirement, however, ties the hands of potential investors that—for very good reasons—want to buy bonds with either premium or discount structured in. We use market feedback, our own expertise and the results of similar sales from other clients to adjust bidding parameters to make the sale attractive to investors, without sacrificing economic efficiency. Approaches such as limiting premium bids after the call date recognize two things: first, in today's market, many buyers want premium bonds on the short end of the curve, before the call date; and second, non-par structures prior to the call date have very little bearing on the overall economics or its future flexibility. We, therefore, try to provide the market with as much flexibility as possible, while ensuring our clients' goals are met.

As the competitive sale approaches, Columbia will prepare the electronic bidding platform and reach out to the various underwriting desks for which we maintain relationships with to maximize the numbers of bidding participants. Following the auction, Columbia will ensure each bid meets the parameters set forth in the notice of sale and will verify the True Interest Cost calculation of each bid using independent software, to determine the winning bidder.

**Negotiated Sale Management.** If a negotiated sale is pursued, we begin by crafting an underwriting RFP that will provide key information about dealers' abilities and experience pricing similar transactions, any structuring or marketing ideas they have and their proposed interest rate spreads to the 'AAA' or US Treasury benchmark for the sale. After providing the City with advice on the selection of one or more underwriters, we work closely with the underwriting team to bring them up to speed on the transaction and to incorporate their feedback in the structure of the offering.

In the weeks prior to a negotiated pricing we begin discussions in earnest with the underwriting team about market conditions, acceptable spreads to the applicable benchmark given comparable sales in the market and opportunities to improve the City's flexibility (through shorter-than-typical calls on tax-exempt bonds or avoiding make-whole calls on taxable bonds, for instance). We will advise the City on the approach to underwriting compensation (group net versus net designated) and unsold balance liabilities. For a transaction involving co-managing underwriters, we review the Agreement Among Underwriters (which may be encompassed in a separate document or on the pricing wire) to ensure co-managers will be treated fairly and competition for orders is fostered among the members of the team.

In the days prior to the sale, we engage in a regular dialogue with the lead underwriting manager, sharing results of bond sales we believe are particularly relevant to the pricing of the City's bonds. We employ a data-driven process to analyze market trends, experience of issuers of comparable transactions and benchmark movement (both across time and between maturity ranges) to identify the interest rate credit spreads we think are appropriate and marketable for each transaction. We ask the book running manager(s) to use a data-driven process as well to identify why they believe our analysis should not prevail. The process is appropriately adversarial without being disagreeable. Underwriters necessarily serve two masters—our job is to ensure they are adjudicating that role to the City's benefit.

**Bond Closing.** Columbia would prepare a closing memorandum, confirm the closing instructions and coordinate the distribution of proceeds. We review and confirm the cashflow schedules contained in the closing memorandum. Columbia provides investment advisory services, including the investment of bond proceeds, in addition to financial advisory services.

**Post-Sale Analysis.** After the completion of each financing or at the end of each year, Columbia will prepare a post-financing report or year-end debt profile. These reports will provide a summary of the bonds including key terms, a detailed description of the sale results and process (regardless if a competitive or negotiated sale is used), an analysis of recent comparable market transactions to gauge the competitiveness of the sale, and other importance information such as the final cash flows, rating agency reports, secondary market activity, orders and allotments, investor and rating agency presentations, closing memo, distribution list and financing calendar.

**Post-Issuance Services.** Columbia will provide all necessary post-sale wrap-up, including development of final cashflow schedules and other routine tasks and analysis as required by the City and will be available long after issuance should it need further assistance. This activity is of even greater importance under the new municipal advisor rules as the relationship with underwriters is no longer ongoing.

As a result of new guidance from the IRS to tax-exempt issuers and borrowers, along with increased audit activities, Columbia Capital has developed its **munivault®** suite of post-issuance compliance services. Although issuers and borrowers have historically been required to provide regular monitoring of their tax-exempt debt, the new post-issuance compliance policies formalize these responsibilities, and, for many, create significant new administrative burdens. We created **munivault®** to ease the administrative burden of post-issuance compliance and to provide a streamlined, internet-based approach to ensuring on-going compliance with post-issuance compliance policies and procedures.

The case study below describes Columbia's long-standing relationship with the City of Topeka, Kansas, and the value Columbia has provided during the debt issuance process.

**CASE STUDY** City of Topeka—Adding Value Through Strategy and Innovation

Columbia Capital has developed a close relationship with the City of Topeka, Kansas as the City's sole-financial advisor for 15-plus years. Our work for the City over the years is extensive and includes providing comprehensive financial adivsory services on dozens of financings totaling more than $1 billion in par offered and spanning a variety of credit structures, including general obligation, utility revenues and economic development/sales tax revenues. On occasion, Columbia's work for the City transcends the tradtional financial advisory role. In recent years, for instance, Columbia has provided a variety of consulting services, including assessing the economic feasibility of unusual private development proposals, and actively serving as the City's interim finance director.

**Developing a Combined Utility Security Structure**

One of Columbia's initial engagements with the City occurred in 1998 and entailed consolidating the City's water, wastewater, and, eventually, stormwater utility systems to form a combined utility security structure. Aggregating the City's utility enterprises to serve as a single credit offered several advantages, including: ehanced credit strength relative to stand-alone utility credits; improved economies of scale and reduced costs of issuance through the combination of multi-system financings; and consistent systemwide bonding convenats. This combined structure proved especially beneficial for the City's stormwater utility, which, due to its smaller size, was a relatively weaker credit on a stand-alone basis.

Columbia's work on the 1998 financing included designing the new credit structure, such as the rate covenants, additional bonds tests, reserve fund requirements, and provisions related to superior and subordinate indebtedness. In developing our recommendations for the financing covenants and provisions, we conducted a survey of recent utility revenue bond transactions throughout the country, as well as a review of Moody's and S&P rating criteria. Our recommendations were distributed to, and reviewed by, the City's financing team, utility system staff and the engineering firm engaged to provide a rate study of the systems.

Since the design and implementation of this new credit structure, Columbia has advised on the City's issuance of more than a dozen of combined utility revenue financings totaling more than $300 million in total par.

**Combined Utility Revenue Bonds 2016-A/B—Adding Value Through Creativity**

During the summer of 2016 the City sought Columbia's advice on the issuance of bonds to fund $9.6 million in infrastructure improvements. Along with preliminary new money financing analysis, Columbia identified two of the City's outstanding series of revenue bonds—Series 2007-B and Taxable Series 2007-C—as potential

current refunding canddiates. The financing team added both refunding components to the transaction since they each produced signficant economic savings. This resulted in two transactions: Series 2016-A (tax-exempt new money and refunding) and Series 2016-B (taxable refunding).

By convention, most issuers structure refunding transactions to maintain the existing debt service footprint of the refunded bonds and produce substantially level fiscal year savings. However, the Series 2016-B taxable refunding rendered this approach less advantageous for two reasons. First, the small size of the refunded bonds ($1.69 million) produced unusually small principal maturities throughout the existing amortization, and Columbia identified this as a potential deterrent to underwriters participating in the competitive auction. Second, accelerating the amortization of the more expensive taxable refunding component would both lower the City's borrowing cost and increase the bond block sizes, making the offering more attractive to investors.

The City maintained very specific debt service constraints for the overall transaction (Series 2016A + Series 2016B), and front-loading the taxable component in isolation would violate these constraints. To solve this problem, Columbia deferred the new money component of the tax-exempt Series 2016-A Bonds in a corresponding amount to perfectly offset the increased debt service associated with the accelerated Series 2016-B amortization. When combined, the Series 2016-A and Series 2016-B Bonds produced the City's desired overall debt service structure, while (i) lowering the City's borrowing costs and (ii) increasing the block sizes of the new taxable bonds

The City sold its Series 2016-A and Series 2016-B Bonds competitively in August; the transactions received five and four bids, respectively. **As a result of Columbia Capital's creative amortization structure, the City saved an additional $100,000 in interest payments, representing approximately 12% of the total budgetary refunding debt service savings.** On a present value basis, the City's refundings produced total savings of $500,000, or 23% of refunded principal.

**Facilitating a Credit Rating Upgrade**

The City has historically suffered from a high debt burden mitigated by a diverse and stable employment and tax base. During the global financial crisis, this stable economic base protected the City from deep reductions in sales and property tax receipts, but the lack of dynamism in the economy also prolonged the impacts of the recession on the City's operating budget. The City drew upon its "rainy day" funds to maintain critical public services between 2010 and 2012, leading to a Moody's rating downgrade from 'Aa2' to 'Aa3'.

Following the release by Moody's and Standard and Poor's of their new local government rating criteria, Columbia Capital analyzed the City's potential general obligation bond ratings from each agency and determined that it might suffer an additional downgrade under Moody's criteria while potentially experiencing an upgrade under Standard and Poor's. At Columbia's recommendation, the City pursued a private rating indication from S&P, reflecting the upgrade to 'AA' we anticipated, and ultimately switched to S&P for all new general obligation borrowings.

## Other Financial Advisory Services

Access to our advice is not limited to the scope of a bond financing. Columbia Capital maintains an active consulting practice in the area of municipal finance. We enjoy staying engaged in our clients' year-round financial planning activities and think that connection allows us to provide more valuable advice. We develop relationships with our clients to serve as their ongoing advisor, fiduciary, and consultant. At times this translates to serving as an extension of our client's staff.

We will work closely with staff to first understand the City's financial needs and constraints, and then develop possible financing scenarios. We regularly create, from scratch, financial planning models specific to our client's needs and circumstances. Our goal is to provide a powerful tool that is easy to understand and update. These models are built in Excel and provide staff a dashboard with the ability to perform "what-if" scenarios. These models are designed to produce output than can be shared with staff, elected officials and the general public.

Columbia constantly monitors our client's outstanding debt for refunding opportunities. Columbia will prepare a detailed debt report at the end of each year illustrating the City's outstanding debt, its issuance activity over the prior year, any recommendations regarding its debt including refunding opportunities and a summary of municipal market conditions.

Columbia often assists our clients with unique, or one-time consulting projects and provides ad hoc research and analysis to assist them in the decision-making process when evaluating unusual or complex undertakings.

The following case studies highlight Columbia's financial planning and debt management experience.

**CASE STUDY** Junction City, KS – Long Range Planning

The City of Junction City, Kansas engaged Columbia Capital to help it design and implement a financial turn-around plan in 2011-2012. In anticipation of the return of the Army's First Infantry Division ("the Big Red One") to Ft. Riley from Germany, policymakers at the Federal, state and local levels pressured the City to increase the capacity of local residential development to support an anticipated influx of troops to the area. In the mid-2000s, the City decided to support this new development through the financing of a number of special assessment projects. However, between slower-than-anticipated redeployments and a worsening economy, Fort Riley experienced a smaller-than-expected influx of troops, and as a result, the City now finds itself with a significant number of undeveloped lots supported by roads and underground infrastructure it financed only a few years prior.

The tactical components of the turnaround plan include providing nearly $10 million in budget relief through debt restructurings in 2011 and 2012, structured in such a way to keep the City from exceeding its statutory debt limits, which, following the expiration of special legislation, are now declining. The strategic components of the plan include a comprehensive review of capital and operating budgets, a long-term debt management plan, an evaluation of the City's revenue structure, a plan to deal with hundreds of undeveloped residential lots and an approach to communicate the plan to governing body members, the community, the legislature, the Army and the rating agencies.

**CASE STUDY** Edgerton, KS and Garder, KS – Wastewater Treatment Plant

As part of its preparation for the development of the Burlington Northern Santa Fe Intermodal Freight Facility, the City of Edgerton agreed to develop a significant amount of new infrastructure, including transportation and utility components. Edgerton's existing wastewater treatment facility does not have capacity to accept new waste from the site. As a result, the City began a planning process for a new wastewater treatment plant south of Edgerton along I-35. During the planning process the City of Gardner, a community sharing a border with the intermodal facility, approached Edgerton about its willingness to accept waste from Gardner at the new plant. Edgerton asked Columbia Capital to assist it in evaluating the potential impact of working with Gardner and to staff a working group composed of elected officials and staff members from each community. Over the period of less than one month, Columbia Capital developed a term-sheet outlining the key components of a joint infrastructure development plan and a wholesale wastewater treatment agreement, including a method for either community to cause the new wastewater treatment plant to be increased in size in the future. Each community's governing body, working from this term sheet, authorized the cities' mayors to execute formal agreements memorializing the agreement contained in the term sheet. Edgerton administered the $10 million project which is now accepting wastewater from both communities, along with the intermodal.

**CASE STUDY** City of Olathe, KS – Designing a Debt Program

The City of Olathe, Kansas hired Columbia Capital in 2013 to serve as its sole financial advisor. One of Columbia's initial tasks was to develop a Capital Improvement Plan financing model to track the authorization status, financing method (temporary or long-term general obligation financing versus cash-funded), and funding requirement of each of the City's capital improvement projects. The model, which is powered by various user-inputs, serves as a user-friendly financing guide by itemizing the financing requirement and funding source(s) of each of the City's capital projects.

Columbia utilized the capital plan model while advising the City on the issuance of its $11.7 million General Obligation Temporary Notes, Series 2013-A, and its $27.3 million General Obligation Improvement and Refunding Bonds, Series 222. Combined, the notes and bonds financed approximately $35 million in various capital improvement projects, and advance refunded approximately $5 million of the City's outstanding Series 207 and 208 Bonds for economic savings.

The notes and bonds sold via competitive sale in May 2013, attracting three and seven bids, respectively, and both auctions produced aggressive results relative to comparable market transactions. The refunding portion of the financing was successful, producing present value savings of $330,000, or 6.7% of refunded principal.

## Key Personnel

One of Columbia Capital's core strengths is its approach to staffing financial advisory services. Working as a team, Columbia's advisors and analysts coordinate effectively to ensure unparalleled responsiveness and seamless account coverage. This approach allows us to be flexible when it comes to meeting our client's demands—whether that entails a prompt turnaround of an urgent analysis, or being available to present a topic to a client's board/governing body on short notice. Each team member assigned to the City has been an active in the transactions described in this response.

**Jeff White** and **Adam Pope** will have day-to-day responsibility for serving the City. Mr. White will be the firm principal responsible for the engagement. **Dennis Lloyd** will provide advisory-level support to Mr. White and Mr. Pope from the firm's Overland Park office. **James Prichard**, **Khalen Dwyer,** and **Jasmyn Turner** will provide analytical support to the advisory team from the firm's Overland Park office and will also be available to the City as needed. They will each be actively involved in quantitative work related to the engagement—running cashflows, developing revenue models, etc.—and will also manage the "housekeeping" duties of financing transactions, including maintaining both financing calendars and lists of transaction team members. Mr. Prichard maintains the firm's rating agency "scorecard" modeling for use in evaluating the credit quality of issuers and borrowers, preparing issuers/borrowers for rating agency presentations and negotiating with rating analysts on the application of criteria against the legal and financial terms of specific transactions under rating review.

Brief resumes of the team members assigned to the City can be found below.

### JEFF WHITE
PRINCIPAL

Jeff White serves as Principal of Columbia Capital Management. Prior to joining Columbia Capital in 2001, Mr. White spent more than a decade as a local government management practitioner.

As a city manager, assistant city manager, department head and budget director in cities from 14,000 to 124,000 in population, Mr. White became very familiar with the financial needs of local governments as debt issuers and investors. As public works director responsible for transportation, building inspection, engineering, and parking and water utilities, he managed annual operating budgets in excess of $50 million and capital programs exceeding $150 million. He enjoys bringing his passion for public service and an understanding of the business of local

government to Columbia's clients.

Mr. White brings to the City extensive experience providing a comprehensive range of financial advisory services to a broad range of clients, including St. Louis County, Missouri; Town of Yountville, California; Metro/Bi-State Development Agency; Illinois Toll Highway Authority; Southwestern Illinois Flood Prevention District Council; Chicago Public Schools; a myriad of public and private higher education institutions; and numerous communities throughout Kansas and Missouri. His breadth of public finance expertise, which spans a variety of industries and financing structures, lends itself to developing creative and innovative financing solutions for his clients. His experience ranges from developing plans of finance from inception to settlement; reviewing and providing suggestions on formal debt policies; assisting clients develop solutions to ad hoc problems and assessing complex analytical inquiries; and developing comprehensive debt restructuring programs for large, sophisticated borrowers.

Mr. White holds an A.B. in Political Science from the University of Michigan and a Master of Public Administration in Local Government Management from the University of Kansas. He is registered with the SEC as a Series 50 municipal advisor and is a Series 65 Investment Adviser Representative.

### ADAM POPE
VICE PRESIDENT

Adam Pope joined Columbia Capital in 2013 as a Senior Analyst. Mr. Pope previously worked at the Kansas City Federal Reserve Bank as an assistant economist in the Regional Affairs group for six years.

During his time at the Kansas City Fed, Mr. Pope managed a database of regional economic data that was used for monetary policy briefings, public outreach and regional research. He was the lead author of a quarterly publication called The Midwest Economist, which provided an update on current economic conditions in Kansas and western Missouri. He has been published in the Kansas City Fed's Economic Review and Public Choice. Mr. Pope has spoken to numerous business, education and community groups about the Kansas, Missouri and national economies.

Since joining Columbia, Mr. Pope has provided analytical and cashflow modeling advice for the State of Missouri; St. Louis County, Missouri; Boone County, Missouri; Metro Bi-State Development Agency; Truman State University and the Columbia (Missouri) Library District.

Mr. Pope is also active in Columbia's investment advisory practice. Mr. Pope provides investment advice and administrative support that includes trade settlement, month-end reconciliation, month-end reporting and general account support.

Mr. Pope graduated from Clemson University with a BS and MA in Economics. He is registered with the SEC as a Series 50 municipal advisor and is a Series 65 Investment Adviser Representative.

### DENNIS LLOYD
PRESIDENT

Dennis Lloyd is co-founder and President of Columbia Capital. Mr. Lloyd began his career in the municipal finance industry in 1981. Since then he has executed a large variety of transactions, including single and multi-family housing bonds, refundings, restructuring, temporary notes, asset sales, variable rate demand bonds, grantor trusts, swaps and other derivative products.

Mr. Lloyd's accomplishments include serving as financial advisor on the highest rated unemployment bond issue nationwide; establishing the financing structure and bond covenants for the City of Topeka's Water and Wastewater Combined Utility System; implementing an updated indenture for the Kansas Turnpike Authority; restructuring the Parking Revenue Bond system for the City of St. Louis; developing several novel revenue bond structures for Kansas Development Finance Authority transactions; educating issuers regarding the disadvantages of various "cutting edge" financing alternatives (including swaps and premium callable bonds); and working with the Missouri Housing Development Commission to implement the first tax credit advance loan program in the country.

Mr. Lloyd's experience is unusual for the breadth and variety of transactions that he has executed. Mr. Lloyd has an extensive history of developing innovative financing concepts, and his experience includes serving a number of large issuers, including the Birmingham Water Works Board; City of Chicago; Illinois Department of Employment Security; Kansas Development Finance Authority; State of Missouri; Kansas Turnpike Authority; Missouri Housing

Development Commission; Kansas City, Missouri; St. Louis, Missouri; and Topeka, Kansas.

Mr. Lloyd is also an attorney and applies his legal background in providing financial advisory services to clients. Mr. Lloyd holds a B.S. in Economics and J.D. from the University of Kansas. He is registered with the SEC as a Series 50 municipal advisor and is a Series 65 Investment Adviser Representative.

### JAMES PRICHARD
VICE PRESIDENT

James Prichard joined Columbia Capital in 2012 as Vice President. Mr. Prichard previously worked in the State of Illinois' Office of Management and Budget's Capital Markets Group for five years, most recently as Manager of Capital Markets. During his tenure, Mr. Prichard was extensively involved in the issuance of nearly $27 billion of State debt offerings. His work with the State included the issuance of general obligation bonds, short-term certificates, revenue bonds, tobacco securitization bonds, Build America Bonds, and unemployment insurance bonds. He used his quantitative skills to build various financial models used by the State including debt affordability models, a swap mark-to-market model, a GASB No. 53 derivative effectiveness model, and various other debt issuance and management models. In addition to his financial modeling, Mr. Prichard was extensively involved in investor outreach, including national road show presentations and bond rating agency meetings. He was also responsible for analyzing and drafting legislation and was involved in the State's budget preparation. Prior to his work for the State of Illinois, Mr. Prichard served as a Graduate Assistant for the Economics program at the University of Illinois.

Since joining Columbia, Mr. Prichard has advised on several refunding and new money transactions including work for the City Colleges of Chicago, the University of Oklahoma and various local communities located in Kansas and Missouri. Most recently he has developed models that forecast the likely impact Standard & Poor's Rating Services and Moody's Investor's Services new local government general obligation rating methodologies will have on Columbia's clients.

Mr. Prichard graduated Summa Cum Laude from Lee University with a BS of Business Administration. He holds an MBA from the University of Illinois. He is registered with the SEC as a Series 50 municipal advisor.

### KHALEN DWYER
VICE PRESIDENT

Mr. Dwyer joined Columbia Capital Management in 2010 as a recent graduate from Pittsburg State University and serves as Assistant Vice President.

Since joining Columbia, Mr. Dwyer has provided cashflow structuring advice and analytical and financial modeling services to several higher education and general government issuers including, the University of Kansas; Kansas State University; Wichita State University; East-West University (Chicago); State of Kansas (Kansas Development Finance Authority; State of Missouri; Kansas Turnpike Authority; Illinois Toll Highway Authority; St. Louis County, Missouri; Chicago Public Schools; and numerous cities throughout Kansas and Missouri.

Most recently, Mr. Dwyer has provided advice on several new money and refunding transactions for the University of Kansas, Kansas State University, and Wichita State University.

Among his other accomplishments, in 2012 Mr. Dwyer served as analyst for the Kansas Turnpike Authority's Series 2012A Refunding Bonds, in which Columbia advised the Authority to refund certain of its outstanding bonds to take advantage of historically low interest rates. Mr. Dwyer also served as analyst on one of the largest Qualified Energy Conservation Bond issues at the time: Kansas Development Finance Authority's Series 2010U-1 Bonds. The financing raised funds for energy efficiency improvements across Kansas State University's Manhattan, Kansas campus. Mr. Dwyer constructed in-house cash flow models to determine the most cost-effective amortization structure, and to configure the optimal structure around the complex and dynamic QECB subsidy.

Mr. Dwyer graduated Summa Cum Laude from Pittsburg State University, earning a B.B.A. in Finance. His undergraduate work included the construction of a model that compares and contrasts tax implications on investment returns in various retirement savings vehicles, and which uses a Monte Carlo simulation to observe the potential effects of market volatility on portfolio returns over extended periods of time. He is registered with the SEC as a Series 50 municipal advisor.

**JASMYN TURNER**
ANALYST

Ms. Turner joined Columbia Capital in 2016 as a recent graduate of Pittsburg State University and currently serves as Analyst. Ms. Turner holds a B.S. from Baker University and an MBA from Pittsburg State University, where she was named the 2016 MBA outstanding student.

As a graduate student, Ms. Tuner participated in the regional 2016 Chartered Financial Analyst (CFA) Research Challenge. This work included conducting in-depth research, financial pro forma analysis, and equity valuation modeling.

## References

**City of Topeka, Kansas**
Mr. Brandon Kauffman
Director of Finance
215 SE 7th St., Floor 3
Topeka, KS 66603
785.368.0919
bkauffman@topeka.org

**City of Prairie Village, Kansas**
Mr. Quinn Bennion
City Administrator
7700 Mission Road
Prairie Village, KS 66208
913.385.4601
qbennion@pvkansas.com

**City of Olathe, Kansas**
Ms. Dianna Wright
Resource Management Director
100 E. Santa Fe
Olathe, KS 66051
913.971.8680
dswright@olatheks.org

**City of Edgerton, Kansas**
Ms. Beth Linn
City Administrator
404 E. Nelson St.
Edgerton, KS 66021
913.893.6231
blinn@edgertonks.org

## Conflict of Interest

Columbia Capital is not aware of any existing or potential conflict of interest that would be created by our representation of the City.

## Pending Litigation/Investigations

There is not currently, nor has there ever been, any criminal or regulatory investigation or litigation against Columbia Capital or its principals.

## Insurance Coverage

Please find in Appendix A proof of Columbia Capital's insurance coverage as required by the City's professional services agreement.

## Appendix A – Proof of Insurance Coverage

ACORD®

# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 09/06/2016

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

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

PRODUCER

Lockton Affinity, LLC
P. O. Box 879610
Kansas City, MO 64187-9610

CONTACT NAME: Lockton Affinity, LLC
PHONE (A/C, No, Ext): 866-386-2544 FAX (A/C, No): 913-652-7599
E-MAIL ADDRESS:

| INSURER(S) AFFORDING COVERAGE | NAIC # |
|---|---|
| INSURER A : Certain Underwriter's at Lloyd's, London | AA1128623 |
| INSURER B : | |
| INSURER C : | |
| INSURER D : | |
| INSURER E : | |
| INSURER F : | |

INSURED

Columbia Capital Management, LLC
6330 Lamar Ave, Suite 200
Overland Park, KS 66202-4266

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

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

| INSR LTR | TYPE OF INSURANCE | ADDL INSD | SUBR WVD | POLICY NUMBER | POLICY EFF (MM/DD/YYYY) | POLICY EXP (MM/DD/YYYY) | LIMITS | |
|---|---|---|---|---|---|---|---|---|
| | COMMERCIAL GENERAL LIABILITY | | | | | | EACH OCCURRENCE | $ |
| | CLAIMS-MADE OCCUR | | | | | | DAMAGE TO RENTED PREMISES (Ea occurrence) | $ |
| | | | | | | | MED EXP (Any one person) | $ |
| | | | | | | | PERSONAL & ADV INJURY | $ |
| | GEN'L AGGREGATE LIMIT APPLIES PER: | | | | | | GENERAL AGGREGATE | $ |
| | POLICY PRO-JECT LOC | | | | | | PRODUCTS - COMP/OP AGG | $ |
| | OTHER | | | | | | | $ |
| | AUTOMOBILE LIABILITY | | | | | | COMBINED SINGLE LIMIT (Ea accident) | $ |
| | ANY AUTO | | | | | | BODILY INJURY (Per person) | $ |
| | ALL OWNED AUTOS / SCHEDULED AUTOS | | | | | | BODILY INJURY (Per accident) | $ |
| | HIRED AUTOS / NON-OWNED AUTOS | | | | | | PROPERTY DAMAGE (Per accident) | $ |
| | | | | | | | | $ |
| | UMBRELLA LIAB / OCCUR | | | | | | EACH OCCURRENCE | $ |
| | EXCESS LIAB / CLAIMS-MADE | | | | | | AGGREGATE | $ |
| | DED / RETENTION $ | | | | | | | $ |
| | WORKERS COMPENSATION AND EMPLOYERS' LIABILITY | | | | | | PER STATUTE / OTH-ER | |
| | ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) Y / N | N / A | | | | | E.L. EACH ACCIDENT | $ |
| | If yes, describe under DESCRIPTION OF OPERATIONS below | | | | | | E.L. DISEASE - EA EMPLOYEE | $ |
| | | | | | | | E.L. DISEASE - POLICY LIMIT | $ |
| A | Professional Liability | | | RIA2289725 | 09/06/2016 | 09/06/2017 | Each Claim | $2,000,000 |
| | | | | | | | Aggregate | $2,000,000 |
| | Claims Made Policy | | | Retro Date: 05/15/98 | | | Deductible | $25,000 |

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

The NAIC number shown above is the Alien Insurer Identification Number (AIIN) assigned by the National Association of Insurance Commissioners (NAIC)

CERTIFICATE HOLDER

2289725

CANCELLATION

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

AUTHORIZED REPRESENTATIVE

© 1988-2014 ACORD CORPORATION. All rights reserved.



The ACORD name and logo are registered marks of ACORD

# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 3/24/2016

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

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

**PRODUCER**
Lamb, Little & Co
1101 Perimeter Drive
Suite 500
Schaumburg IL 60173

CONTACT NAME: Angie Wilcox
PHONE (A/C, No, Ext): (847) 230-3266 FAX (A/C, No): (847) 398-7077
E-MAIL ADDRESS: awilcox@lamblittle.com

| INSURER(S) AFFORDING COVERAGE | NAIC # |
|---|---|
| INSURER A : Hartford Casualty Company | 29424 |
| INSURER B : The Hartford Group | 19682 |
| INSURER C : Hartford Underwriters Ins Co. | |
| INSURER D : | |
| INSURER E : | |
| INSURER F : | |

**INSURED** COLUM-3
Columbia Capital Management
6330 Lamar Ave., S#200
Overland Park KS 66202

**COVERAGES** **CERTIFICATE NUMBER:** 365261568 **REVISION NUMBER:**

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

| INSR LTR | TYPE OF INSURANCE | ADDL INSD | SUBR WVD | POLICY NUMBER | POLICY EFF (MM/DD/YYYY) | POLICY EXP (MM/DD/YYYY) | LIMITS | |
|---|---|---|---|---|---|---|---|---|
| A | X COMMERCIAL GENERAL LIABILITY | | | 83SBAPK9363 | 11/1/2015 | 11/1/2016 | EACH OCCURRENCE | $2,000,000 |
| | CLAIMS-MADE X OCCUR | | | | | | DAMAGE TO RENTED PREMISES (Ea occurrence) | $300,000 |
| | | | | | | | MED EXP (Any one person) | $10,000 |
| | | | | | | | PERSONAL & ADV INJURY | $2,000,000 |
| | GEN'L AGGREGATE LIMIT APPLIES PER: | | | | | | GENERAL AGGREGATE | $4,000,000 |
| | POLICY PRO-JECT LOC | | | | | | PRODUCTS - COMP/OP AGG | $4,000,000 |
| | OTHER: | | | | | | | $ |
| A | AUTOMOBILE LIABILITY | | | 83SBAPK9363 | 11/1/2015 | 11/1/2016 | COMBINED SINGLE LIMIT (Ea accident) | $2,000,000 |
| | ANY AUTO | | | | | | BODILY INJURY (Per person) | $ |
| | ALL OWNED AUTOS / SCHEDULED AUTOS | | | | | | BODILY INJURY (Per accident) | $ |
| | X HIRED AUTOS / X NON-OWNED AUTOS | | | | | | PROPERTY DAMAGE (Per accident) | $ |
| | | | | | | | | $ |
| B | X UMBRELLA LIAB X OCCUR | | | 83SBAPK9363 | 11/1/2015 | 11/1/2016 | EACH OCCURRENCE | $2,000,000 |
| | EXCESS LIAB CLAIMS-MADE | | | | | | AGGREGATE | $2,000,000 |
| | DED X RETENTION $ 10,000 | | | | | | | $ |
| C | WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y / N | N / A | | 83WECZP4125 | 11/1/2015 | 11/1/2016 | X PER STATUTE / OTH-ER | |
| | ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) | | | | | | E.L. EACH ACCIDENT | $1,000,000 |
| | If yes, describe under DESCRIPTION OF OPERATIONS below | | | | | | E.L. DISEASE - EA EMPLOYEE | $1,000,000 |
| | | | | | | | E.L. DISEASE - POLICY LIMIT | $1,000,000 |

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

**CERTIFICATE HOLDER**

Columbia Capital Management
6330 Lamar Ave., S#200
Overland Park KS 66202

**CANCELLATION**

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

**AUTHORIZED REPRESENTATIVE**
Mark A. Holle

**© 1988-2014 ACORD CORPORATION. All rights reserved.**

Columbia

**EXHIBIT A – CITY OF MERRIAM**
**REQUEST FOR QUALIFICATIONS**
**FINANCIAL ADVISORY SERVICES**
**FEE PROPOSAL (page 1 of 2)**
**PLEASE SUBMIT IN A SEPARATE, SEALED ENVELOPE**

**Tasks 1: Evaluation of Requests for Developer Incentives**

Please provide staff rates *and/or* discuss pricing approach for various aspects of evaluation including: internal rate of return analysis, economic feasibility studies, cost/benefit analysis, and review of developer's financial capacity.

- Cost-Benefit Analysis for Constitutional or IRB Abatements - $3,500 Flat Fee per Analysis

- "But-For" Internal Rate of Return Analysis - $5,000 per Analysis

- Other tasks such as review of financial capability, evaluation of feasibility reports, etc - Billed Hourly

| Staff Person Assigned | Hourly Rate or Basis for Fees |
|---|---|
| Principal/Managing Director | $325 |
| Vice President | $275 |
| Analyst | $225 |

**Task 2: Coordination of Debt Issues**

Indicate rates for each amount and type of issue: Columbia Capital proposes the following schedule for Debt Issuance:

| Amount of Issue | Temporary Notes | General Obligation Bonds | Refunding Bonds |
|---|---|---|---|
| Up to $1,000,000 | | | |
| From $1,000,001 to $2,000,000 | | | |
| From $2,000,001 to $3,000,000 | | | |
| From $4,000,001 to $5,000,000 | $15,000 Base Fee | $15,000 Base Fee | $15,000 Base Fee |
| From $5,000,001 to $6,000,000 | + $0.90/$1,000 Issued | + $0.90/$1,000 Issued | + $0.90/$1,000 Issued |
| From $6,000,001 to $7,000,000 | Maximum Fee - $35,000 | Maximum Fee - $50,000 | Maximum Fee - $50,000 |
| From $7,000,001 to $8,000,000 | | | |
| From $8,000,001 to $9,000,000 | | | |
| From $9,000,001 to $10,000,000 | | | |
| From $10,000,001 and above | | | |

**Economic Development Bonds**

$25,000 Base Fee
+ $2.00/$1,000 Issued
Maximum Fee - $100,000

**EXHIBIT A – CITY OF MERRIAM**
**REQUEST FOR QUALIFICATIONS**
**FINANCIAL ADVISORY SERVICES**
**FEE PROPOSAL (page 2 of 2)**
**PLEASE SUBMIT IN A SEPARATE, SEALED ENVELOPE**

**Task 2: Coordination of Debt Issues (continued)**

Indicate rates or basis for pricing for debt issuance tasks not included above:
- Routine tasks associated with the debt issuance process will not be billed.

- Escrow bidding agent for an open market escrow bid in association with an advanced refunding - $3,500 per account, subject to IRS safe harbor regulations.

- Munivault post-issuance compliance services - $2,500 for initial set-up, plus $700 per year for ongoing assistance

**Task 3:** Other Financial Advisory Services

Indicate rates or basis for pricing for other tasks including review/analysis of operating and capital budgets, long-term financial forecasting, and other services:
- Please see the hourly rate table below

| Staff Person Assigned | Hourly Rate or Basis for Fees |
|---|---|
| Principal/Managing Director | $240 |
| Vice President | $210 |
| Analyst | $175 |

**Other Information:**

Indicate how travel expenses are billed:

- None for travel within Johnson County

- IRS mileage rate and actual out of pocket expenses for travel outside of Johnson County

# AGENDA ITEM INFORMATION FORM

**Agenda Item:** Consider approval of an ordinance amending several sections of the Right-of-Way Use and Excavations Code to comply with new state law that takes effect on October 1, 2016.

**Department:** Administration

**Background/Description of Item:**
During the 2016 legislative session, the Kansas Legislature passed S Sub for HB 2131, which limits the city's ability to regulate the siting of wireless telecommunications infrastructure in the public right-of-way.

This ordinance amends several sections of the city's Right-of-Way Use and Excavation Code to comply with the legislation and to ensure the city retains the maximum authority allowed under state law to regulate the public right-of-way.

The ordinance also cleans up several sections of the code in which small changes were needed. For example, section 10 changes the name of water district no. 1 to WaterOne.

Staff further recommends that the city council waive the first reading of this ordinance, because the new law takes effect on October 1, 2016.

**Related Ordinance(s) or Statute(s):** Merriam Municipal Code Sections 59-60, 59-63, 59-64, 59-66, 59-67, 59-70, 59-72, 59-74, 59-75, 59-76, 59-79, 59-81, and 59-84

**Recommendation:** Staff recommends the city council approve this ordinance amending several sections of the Right-of-Way Use and Excavations Code to comply with new state law.

Prepared by: Nicole Proulx Aiken Date: September 22, 2016

**ORDINANCE NO._____**

**AN ORDINANCE CONCERNING RIGHT-OF-WAY USE AND EXCAVATIONS; AMENDING SECTIONS 59-60, 59-63, 59-64, 59-66, 59-67, 59-70, 59-72, 59-74, 59-75, 59-76, 59-79, 59-81, AND 59-84 OF THE CODE OF ORDINANCES OF THE CITY OF MERRIAM, KANSAS; AND REPEALING THE SECTIONS HEREBY AMENDED.**

**BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF MERRIAM, KANSAS THAT:**

**Section 1.** Section 59-60 of the Code of Ordinances of the City of Merriam is amended to read as follows:

Sec. 59-60. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Abandoned facilities* means those facilities owned by the ROW-user that are not in use and will not be utilized by the ROW-user in the future.

*Affiliate* means any person controlling, controlled by or under the common control of a "service provider."

*Applicant* means any person requesting permission to occupy, lease or operate facilities using the right-of-way, or to excavate the right-of-way.

*Area of influence* means that area around a street excavation where the pavement and sub-grade is impacted by the excavation and is subject to more rapid deterioration.

*City Engineer* means the city engineer of the city, or the authorized representative.

*Construct* means and includes construct, install, erect, build, affix or otherwise place any fixed structure or object, in, on, under, through or above the right-of-way.

*Day* means calendar day unless otherwise specified.

*Emergency* means a condition that:

(1) Poses a clear and immediate danger to life or health, or of a significant loss of property; or

(2) Requires immediate repair or replacement in order to restore service to a user.

*Excavate* means and includes any cutting, digging, excavating, tunneling, boring, grading or other alteration of the surface or subsurface material or earth in the right-of-way.

*Excavation fee* means the fee charged by the city for each street or pavement cut which is intended to recover the costs associated with construction and repair activities of the ROW-user and its contractors or subcontractors.

*FCC* means the Federal Communications Commission.

*Facility* means lines, pipes, irrigation systems, wires, cables, conduit facilities, ducts, poles, towers, vaults, pedestals, boxes, appliances, antennae, transmitters, gates, meters, appurtenances, wireless communications facilities, or other equipment.

*Governmental entity* means any county, township, city, town, village, school district, library district, road district, drainage or levee district, sewer district, water district, fire district or other municipal corporation, quasi-municipal corporation or political subdivision of the state or of any other state of the United States and any agency or instrumentality of the state or of any other state of the United States or of the United States.

*KCC* means the Kansas Corporation Commission.

*Parkway* means the area between a property line and the street curb. Sometimes called boulevard, tree-shelf or snow-shelf.

*Pavement* means and includes Portland cement concrete pavement, asphalt concrete pavement, asphalt treated road surfaces and any aggregate base material.

*Permit* and *inspection fee* means the fee charged by the city to recover its cost incurred for right-of-way management, including, but not limited to, costs associated with registering applicants; issuing, processing, and verifying right-of-way permit applications; inspecting job sites and restoration of improvements; determining the adequacy of right-of-way restoration; revoking right-of-way permits; and other costs the city may incur in managing the provisions of this article.

*Permittee* means any person to whom a right-of-way permit is issued to excavate a right-of-way.

*Public improvement* means any project undertaken by the city for the construction, reconstruction, maintenance, or repair of any public infrastructure, and including without limitation, streets, alleys, bridges, bikeways, parkways, sidewalks, sewers, drainage facilities, traffic control devices, street lights, public facilities, public buildings or public lands.

*Public lands* means any real property owned or leased by the city that is not right-of-way.

*Public works director* means the public works director of the city, or the authorized representative.

*Registration* means the application process of a service provider, the approval of the application by the city, and the authorization of the service provider to use any portion of the right-of-way within the city to provide service both within and beyond the city limits.

*Repair* means the temporary construction work necessary to make the right-of-way useable.

*Repair and restoration costs* means those costs associated with repairing and restoring the public right-of-way because of damage caused by the ROW-user and its contractors or subcontractors in the right-of-way.

*Restoration* means the process by which an excavated right-of-way and surrounding area, including pavement and foundation, is returned to the same condition, or better, that existed before the commencement of the work.

*Right-of-way* means the area on, below, or above streets, alleys, bridges, and parkways, in which the city has a dedicated or acquired right-of-way interest in the real property.~~.~~

*Right-of-way permit* means the authorization to excavate for the construction, installation, repair or maintenance of any type of facility within the right-of-way.

*Routine service operation* means a work activity that makes no material change to the facilities and does not disrupt traffic.

*ROW-user* means a person, its successors and assigns, that uses the right-of-way for purposes of work, excavation, provision of services, or to install, construct, maintain, repair facilities thereon, including, but not limited to, landowners and service providers. A ROW-user shall not include ordinary vehicular or pedestrian traffic or any governmental entity that has entered into an agreement pursuant to K.S.A. 12-2901 et seq. with the city regarding the use and occupancy of the city's right-of-way.

*Service* means a commodity provided to a person by means of a delivery system that is comprised of facilities located or to be located in the right-of-way, including, but not limited to, gas, telephone, cable television, internet services, open video systems, wireless services, alarm systems, steam, electric, water, telegraph, data transmission, petroleum pipelines, or sanitary sewerage.

*Service provider* means any person owning, possessing or having an interest in facilities in the right-of-way that are used for the provisions of a service for or without a fee; provided, that this definition shall also include persons owning, possessing or having an interest in facilities in the right-of-way that are used by, may be used by or are intended for use by another person, in whole or in part, to provide a service for or without a fee, regardless of whether the actual facility owner provides any service as defined herein.

*Street* means the pavement and sub-grade of a city residential, collector or arterial roadway.

**Section 2.** Section 59-63 of the Code of Ordinances of the City of Merriam is amended to read as follows:

Sec. 59-63. - Requirements of service provider.

(a) Any person who wishes to become a service provider, must first register with the city.

(b) The service provider shall report any changes in its registration information within 30 days.

(c) No service provider shall be authorized to utilize the right-of-way in any capacity or manner without registering and obtaining the necessary right-of-way permit from the city.

(d) The information required for registration includes the following:

  (1) Identity and legal status of service provider, including related affiliates.

  (2) Name, address, telephone number, fax number and email address of officer, agent or employee responsible for the accuracy of the registration statement.

  (3) Name, address, telephone number, fax number and email address of the local representative of the service provider who shall be available at all times to act on behalf of the service provider in the event of an emergency.

(4) Proof of any necessary ~~city~~ permit, license, certification, grant, registration, franchise agreement or any other required authorization required by any appropriate Governmental Entity, including, but not limited to, the City, the FCC, or the KCC.

(5) Description of the service provider's intended use of the right-of-way.

~~(e)Additionally, the following information shall be provided when requested by the public works director:~~

~~(1)Proof of any necessary permit, license, certification, grant, registration, franchise agreement or any other authorization required by any appropriate governmental entity, including, but not limited to, the FCC or the Kansas Corporation Commission (KCC).~~

(6)~~(2)~~ Information sufficient to determine whether the service provider is subject to franchising by state law.

(7~~3~~) Information sufficient to determine whether the service provider has applied for and received any certificate of authority required by the KCC.

(8~~4~~) Information sufficient to determine that the service provider has applied for and received any permit or other approvals required by the FCC.

(9~~5~~) Such other information as may be reasonably required by the city to complete the registration statement.

(e~~f~~) Each service provider shall designate a local person familiar with the facilities who will act as a local agent for the service provider and will be responsible for satisfying information requirements of this article. The service provider shall present to the city the agent's name, address, telephone number, fax number and email address. The agent shall be the person to whom relocation notices and other such notices shall be sent, and with whom rests the responsibility to facilitate all necessary communications. The service provider shall be responsible for all costs incurred by the city due to the failure to provide such information to the city.

(f~~g~~) Prior to construction, reconstruction, repair, maintenance, or relocation of facilities owned by the service provider in the right-of-way, the service provider shall first obtain the necessary right-of-way permit as provided hereafter.

(g~~h~~) Prior to providing service to the city and its residents, the service provider shall first obtain the necessary franchise agreement, if any, from the city.

(h~~i~~) The service provider shall participate in any joint planning, construction and advance notification of right-of-way work, including coordination and consolidation of street cut work as directed by the public works director. In addition, the service provider shall cooperate with other service providers and the city for the best, most efficient, most aesthetic and least obtrusive use of the right-of-way, consistent with safety, and to minimize traffic and other disruptions, including street cuts.

(i~~j~~) The service provider shall furnish maps showing the location of facilities of the service provider within the city as provided hereafter.

(j~~k~~) The city shall not exercise its authority under this provision to in any way deter competition or discriminate against any service provider.

**Section 3.** Section 59-64 of the Code of Ordinances of the City of Merriam is amended to read as follows:

Sec. 59-64. - Mapping requirements of service provider.

(a) The service provider shall keep and maintain accurate records and as-built drawings depicting accurate location of all its facilities constructed, reconstructed or relocated in the right-of-way.

(b) Within ten days of a request by the city, the service provider will provide to the city information concerning such facilities as may be reasonably requested.

(c) When available to the service provider, such information will be submitted electronically in an AutoCad®~~®~~ format to the extent compatible with the city's Geographical Information Systems (GIS) and the county Automated Integrated Mapping Systems (AIMS) provided, however, that nothing herein shall be construed to require the service provider to acquire or modify any electronic mapping system.

(d) Underground facilities shall be differentiated from overhead facilities.

(e) Such mapping and identification shall be at the sole expense of the service provider.

**Section 4.** Section 59-66 of the Code of Ordinances of the City of Merriam is amended to read as follows:

Sec. 59-66. - Use of the right-of-way.

(a) The ROW-user's use of the right-of-way shall in all matters be subordinate to the city's use or occupation of the right-of-way. The city may reserve sufficient space within the right-of-way for future public improvements. Without limitation of its rights, the city expressly reserves the right to exercise its governmental powers now and hereafter vested in or granted to the city.

(b) The ROW-user shall coordinate the placement of facilities in a manner ~~which~~ that ~~minimizes adverse~~does not interfere with any Public Improvement and does not compromise ~~impact on any public improvement~~public health, safety, and welfare, as reasonably determined by the city. Where placement is not regulated, the facilities shall be placed with adequate clearance from such public improvements so as not to impact or be impacted by such public improvements and ~~-~~as ~~defined~~ required by~~in~~ the city's Manual of Infrastructure Standards, which is available in the office of the public works director. Such standards shall be competitively neutral and not unreasonable or discriminatory.

(c) The ROW-user shall consider any request made by the city concerning placement of facilities in private easements in order to limit or eliminate future street improvement relocation expenses.

(d) All facilities shall be located and laid so as not to disrupt or interfere with any pipes, drains, sewers, irrigation systems, or other structures or public improvements already installed. In addition, the ROW-user shall, in doing work in connection with its facilities, avoid, so far as

may be practicable, disrupting or interfering with the lawful use of the right-of-way or other public lands of the city.

(e) All facilities of the ROW-user shall be placed so that they do not interfere with the use of right-of-way and public lands. The city, through its public works director, shall have the right to consult and review the location, design and nature of the facility prior to its being installed.

(f) ~~All newly constructed facilities shall be located underground and the ROW-user shall comply with all requirements of the city relating to underground facilities. Exceptions to this rule are:~~

~~(1) When otherwise specifically provided for in the city code or zoning regulations;~~

~~(2) When such requirement is waived by the planning commission as part of a development plan; or~~

~~(3) When the city council grants a special exception to this requirement on a temporary or permanent basis on such terms deemed appropriate in case of emergency, safety concerns, unusual circumstances, or some other good cause.~~ Whenever reasonably possible, all newly constructed facilities shall be located underground. The ROW-user shall comply with all requirements of the City relating to underground facilities. This requirement may be waived by the public works director at his discretion for safety concerns, or some other good cause under the condition that does not cause discrimination among ROW-users. If this requirement is waived, the facilities shall be located as directed by the public works director, including, but not limited to, requirements regarding location and height. Above ground facilities shall comply with the Manual of Infrastructure Standards and all applicable zoning regulations, and be located to minimize any adverse impacts to public health, safety, and welfare.

(g) The ROW-user shall not interfere with the facilities of the other ROW-users without their permission. If and when the city requires or negotiates to have a service provider cease using its existing poles and to relocate its facilities underground, all other service providers using the same poles shall also relocate their facilities underground at the same time, except transmission equipment, as defined in 47 CFR 1.40001.~~.~~

(h) The public works director may assign specific corridors within the right-of-way, or any particular segment thereof as may be necessary, for each type of facility that is currently, or pursuant to current technology the public works director expects will someday be, located within the right-of-way. All right-of-way permits issued by the public works director shall indicate the proper corridor for the ROW-user's facilities. Any ROW-user whose facilities are currently in the right-of-way in a position at a variance with the designated corridors shall, no later than at the time of next reconstruction or excavation of the area where its facilities are located, move the facilities to its assigned position within the right-of-way, unless this requirement is waived by the public works director for good cause shown, upon consideration of such factors as: the remaining economic life of the facilities;~~,~~ public health, safety, and welfare; user service needs; and hardship to the ROW-user.

(i) If, in the preparation and planning of a right-of-way project, the public works director deems it appropriate for a conduit to be constructed along, across or under the right-of-way, the public works director shall contact all appropriate ROW-users for their input on the planning and design of such conduit. If a ROW-user desires to construct, maintain or operate facilities along such right-of-way, the public works director may require the ROW-user to use such conduit,

and to contribute to the expense of such conduit, provided, however, the ROW-user's use of the conduit is reasonable and appropriate under the circumstances.

(j) All earth, sod, landscape features, materials, sidewalks, paving, crossings, utilities, other public improvements or improvements of any kind damaged or removed by the ROW-user shall be fully repaired or replaced promptly by the ROW-user at its sole expense and to the reasonable satisfaction of the city. Upon determination by the public works director that such repair or replacement is a public safety matter, all such repair or replacement shall be commenced within 24 hours of notice from the city, or the public works director may direct the city to make such repair or replacement and bill the ROW-user for the city cost. The public works director has the authority to inspect the repair or replacement of the damage, and if necessary, to require the ROW-user to do any necessary additional work.

(k) All technical standards governing construction, reconstruction, installation, operation, testing, use, maintenance, and dismantling of a ROW-user's facilities in the right-of-way shall be in accordance with the Manual of Infrastructure Standards and all applicable federal, state and local law and regulations, including those promulgated by national trade associations commonly associated with the service provided by the ROW-user. It is understood that the standards established in this subsection are minimum standards and the requirements established or referenced in this article may be in addition to or stricter than such minimum standards.

(l) A ROW-user shall not construct or reconstruct any of its facilities located upon, over, under or within the city right-of-way without first having submitted in writing a description of its planned improvement to the public works director and having received a permit for such improvement. The public works director may require that any drawings, plans or specifications submitted be certified by a state registered professional engineer stating that such drawings, plans or specifications comply with all applicable technical codes, rules and regulations, unless such plans are based directly on nationally recognized codes, which are appropriately cited, and attested to on the plans by the signature of an authorized official of the organization applying for the permit.

(m) The ROW-user shall cooperate promptly and fully with the city and take all reasonable measures necessary to provide accurate and complete on-site information regarding the nature and horizontal and vertical location of its facilities located within the right-of-way, both underground and overhead, when requested by the city or its authorized agent for a public improvement. Such location and identification shall be at the sole expense of the ROW-user without any expense to the city, its employees, agents, or authorized contractors.

(n) The city shall have the authority to prohibit the use or occupancy of a specific portion of the right-of-way by a ROW-user due to public health, safety and welfare considerations.

**Section 5.** Section 59-67 of the Code of Ordinances of the City of Merriam is amended to read as follows:

Sec. 59-67. - Facility relocation.

(a) The ROW-user shall promptly remove, relocate or adjust any facilities located in the right-of-way as directed by the city for a public improvement or when reasonably required by the city by reason of public health, safety and welfare. Such removal, relocation, or adjustment shall

be performed by the ROW-user at the ROW-user's sole expense without expense to the city, its employees, agents, or authorized contractors and shall be specifically subject to rules, regulations and schedules of the city pertaining to such. The ROW-user shall proceed with relocations at due diligence upon notice by the city to begin relocation.

(b) The ROW-user shall promptly remove, relocate or adjust any facilities located in private easement, as directed by the city, for a public improvement, at city expense, by moving such facilities to areas within the expanded right-of-way or within remaining private easements or remaining portions of such easements not condemned by nor disclaimed to the city to avoid conflict with city construction and improvements. The ROW-user shall disclaim those parts of its easements which lie within the expanded right-of-way. Should the city, in the future, elect to require the ROW-user to again relocate its facilities to other areas within the expanded right-of-way, the cost of any such future relocation shall be borne by the city.

(c) As soon as working drawings are available for public improvements which will require the ROW-user to relocate its facilities, the city shall provide the ROW-user with written notice of relocations and the anticipated bid letting date of the improvement. The ROW-user shall respond with any conflicts and a proposed construction schedule within 30 days.

(d) Following notice by the city in the form of the delivery of final design plans for such public improvements, the ROW-user shall remove, and relocate its facilities in accordance with the mutually agreed upon schedule, provided the project is not delayed by adverse weather conditions and other factors beyond the control of the ROW-user. The ROW-user shall certify to the city, in writing, that its facilities have been relocated or adjusted to clear construction in accordance with project plans provided by the city.

(e) Any damages suffered by the city, its agents or its contractors to the extent caused by ROW-user's failure to timely relocate or adjust its facilities, or failure to properly relocate or adjust such facilities, shall be borne by the ROW-user.

(f) In the event the ROW-user is required to move its facilities in accordance with this section, any ordinary right-of-way permit fee shall be waived.

(g) It is the intent of this section for both the city and the ROW-user to cooperate with one another so that the need for facility relocation is minimized and, when required and feasible, relocations may be completed prior to receipt of bids by the city for a public improvement.

(h) In the event that a ROW-user is required to move its facilities for a private benefit, the ROW-user shall not bear the cost of the relocation or adjustment to the extent of such private benefit and the ROW-user shall not be obligated to begin the relocation or adjustment until receipt of funds for such relocation or adjustment.

**Section 6.** Section 59-70 of the Code of Ordinances of the City of Merriam is amended to read as follows:

Sec. 59-70. - Abandonment and unusable facilities.

(a) A ROW-user owning abandoned facilities in the right-of-way must either:

(1) Remove its facilities and replace or restore any damage or disturbance caused by the removal at its own expense. The public works director may allow underground facilities

or portions thereof to remain in place if the public works director determines that it is in the best interest of public health, safety, and welfare to do so. At such time, the city may take ownership and responsibility of such vacated facilities left in place; or

(2) Provide information satisfactory to the city that the ROW-user's obligations for its facilities in the right-of-way have been lawfully assumed by another authorized ROW-user; or

(3) Submit to the city a proposal and instruments for transferring ownership of its facilities to the city. If the ROW-user proceeds under this section, the city may, at its option, purchase the equipment, require the ROW-user, at its own expense to remove it, or require the ROW-user to post a bond in an amount sufficient to reimburse the city for reasonable anticipated costs to be incurred to remove the facilities.

(b) Facilities of a ROW-user who fails to comply with this section, and whose facilities remain unused for six months, shall be deemed to be abandoned after the city has made a good faith effort to contact the ROW-user, unless the city receives confirmation that the ROW-user intends to use the facilities. Abandoned facilities are deemed to be a nuisance.

(c) The city may exercise any remedies or rights it has at law or in equity, including, but not limited to:

(1) Abating the nuisance;

(2) Taking possession and ownership of the facility and restoring it to a useable function; or

(3) Requiring the removal of the facility by the ROW-user.

**Section 7.** Section 59-72 of the Code of Ordinances of the City of Merriam is amended to read as follows:

Sec. 59-72. - Permit applications.

(a) Application for a right-of-way permit shall be submitted to the public works director by either the ~~e~~ROW-user or by the person who will do the work or excavation in the right-of-way. Before an application may be submitted, the applicant must attend a pre-application conference, unless waived by the public works director.

(b) Right-of-way applications shall contain and be considered complete only upon receipt of the following:

(1) Compliance with verification of registration;

(2) A completed permit application and required attachments;

(3) Three sets of scaled plans and specifications containing all necessary information, including, but not limited to, the location and area of the proposed project, maps, plats, diagrams and detailed drawings necessary to show all existing topography, public utilities and other facilities at such location and all proposed construction and facilities. Sufficient surveys shall be made and plans drawn as required by the city engineer or public works director for the improvement of the street. All elevations shown shall be on U.S.

Geological Survey datum. The work performed shall be governed by the Standard Specifications for American Public Works Association (APWA), State Road and Bridge Construction, State Highway Commission of Kansas (current edition), except as otherwise specified herein or the project specifications. One set of plans shall be signed and returned when the plans are approved by the public works director;

(4) A traffic control plan;

(5) Payment of all money due to the city for permit fees and costs, for prior excavation costs, for any loss, damage or expense suffered by the city because of the applicant's prior excavations of the right-of-way or for any emergency actions taken by the city, unless the payment of such money is in dispute and timely appealed as provided hereafter.

(c) Applicants requesting right-of-way permits for wireless facilities shall provide notice by certified mail to all property owners adjoining the affected right-of-way, as required by the public works director.

(d) All applications shall be processed within the timeframe required by state and federal law.

**Section 8.** Section 59-74 of the Code of Ordinances of the City of Merriam is amended to read as follows:

Sec. 59-74. - Right-of-way permit fees and costs.

(a) The right-of-way permit fee shall be recommended by the public works director and listed in the schedule of fees maintained in the city clerk's office. An application shall not be deemed submitted unless the permit fee is paid. The permit fee shall be subject to all state and federal fee limitations.

(b) The right-of-way permit fee may include a permit and inspection fee, and an excavation fee.

(c) Fees paid for a right-of-way permit, which is subsequently revoked by the public works director, are not refundable.

(d) Except as provided for in an emergency situation, when a ROW-user is found to have worked or is working in the right-of-way without having obtained a permit, the fee for the permit will be double the amount had the ROW-user obtained a permit prior to beginning work.

(e) The city may also charge and collect any necessary repair and restoration costs.

(f) The right-of-way permit fee shall be waived where the ROW-user is required to remove, relocate or adjust facilities located in the right-of-way as directed by the city for a public improvement.

(g) The right-of-way permit fee may be waived when reasonably required by the city for reasons of public health, safety and welfare.

**Section 9.** Section 59-75 of the Code of Ordinances of the City of Merriam is amended to read as follows:

Sec. 59-75. - Issuance of permit.

(a) If the public works director determines that the applicant has satisfied the requirements of this article, the public works director shall issue a right-of-way permit.

(b) The public works director may impose reasonable conditions upon the issuance of a right-of-way permit and the performance of the permittee in order to protect the public health, safety and welfare, to ensure the structural integrity of the right-of-way, to protect the property and safety of other users of the right-of-way, and to minimize the disruption and inconvenience to the traveling public.

(c) When a right-of-way permit is requested for purposes of installing additional facilities and the performance and maintenance bond for additional facilities is reasonably determined to be insufficient, the posting of an additional or larger performance and maintenance bond for the additional facilities may be required.

(d) Issued permits are not transferable.

(e) If work is being done for the ROW-user by another person, a subcontractor or otherwise, the person doing the work and the ROW-user shall be liable and responsible for all damages, obligations, and warranties herein described.

~~(f) Individual right-of-way permits are limited to a maximum of 1,200 feet of contiguous work length.~~

**Section 10.** Section 59-76 of the Code of Ordinances of the City of Merriam is amended to read as follows:

Sec. 59-76. - Permitted work.

(a) The permittee shall not make any cut, excavation or grading of right-of-way other than excavations necessary for emergency repairs without first securing a right-of-way permit.

(b) The permittee shall not at any one time open or encumber more of the right-of-way than shall be reasonably necessary to enable the permittee to complete the project in the most expeditious manner.

(c) The permittee shall, in the performance of any work required for the installation, repair, maintenance, relocation or removal of any of its facilities, limit all excavations to those excavations that are necessary for efficient operation.

(d) The permittee shall not permit such an excavation to remain open longer than is necessary to complete the repair or installation.

(e) The permittee shall notify the city no less than three working days in advance of any construction, reconstruction, repair, location or relocation of facilities which would require any street closure or which reduces traffic flow to less than two lanes of moving traffic for more than four hours. Except in the event of an emergency as reasonably determined by the permittee, no such closure shall take place without notice and prior authorization from the city.

(f) Nonemergency work on arterial and collector streets may not be accomplished during the hours of 7:00 a.m. to 8:30 a.m. and 4:00 p.m. to 6:00 p.m., in order to minimize disruption of traffic flow.

(g) All work performed in the right-of-way or which in any way impacts vehicular or pedestrian traffic shall be properly signed, barricaded, and otherwise protected at the permittee's expense. Such signage shall be in conformance with the latest edition of the Manual on Uniform Traffic Control Devices, unless otherwise agreed to by the city.

(h) The permittee shall identify and locate any underground facilities in conformance with the Kansas Underground Utility Damage Prevention Act, K.S.A. 6~~1~~6-1801~~2~~ *et seq*., "Kansas One Call" system, and notice shall be provided directly to WaterOne ~~water district No. 1~~ and either to Kansas City Power and Light (KCPL) or to the public works department with respect to any municipal traffic signal and street light systems, as appropriate.

(i) The permittee shall be liable for any damages to underground facilities due to excavation work prior to obtaining location of such facilities, or for any damage to underground facilities that have been properly identified prior to excavation. The permittee shall not make or attempt to make repairs, relocation or replacement of damaged or disturbed underground facilities without the approval of the owner of the facilities.

(j) Whenever there is an excavation by the permittee, the permittee shall be responsible for providing adequate traffic control to the surrounding area as determined by public works director of the city. The permittee shall perform work on the right-of-way at such times that will allow the least interference with the normal flow of traffic and the peace and quiet of the neighborhood. In the event the excavation is not completed in a reasonable period of time, the permittee may be liable for actual damages to the city for delay caused by the permittee pursuant to this article.

(k) All facilities and other appurtenances laid, constructed and maintained by the permittee shall be laid, constructed and maintained in accordance with acceptable engineering practice and in full accord with any and all applicable engineering codes adopted or approved by the parties and in accordance with applicable state law, as well as the rules and regulations of the state corporation commission or any other local, state or federal agency having jurisdiction over the parties.

(l) Following completion of permitted work for new construction, the permittee shall keep, maintain and provide to the city accurate records and as-built drawings, drawn to scale and certified to the city as accurately depicting the location of all utility facilities constructed pursuant to the permit. When available to the permittee and upon request by the public works director, maps and drawings provided will be submitted in AUTOCAD.DXF or AUTOCAD.DWG automated formats. Such information shall be subject in all respects and shall have the benefit of protection as set forth in the section 59-64, entitled "mapping requirements of service provider" contained herein.

(m) The city may use the as-built records of the service provider's facilities in connection with public improvements.

**Section 11.** Section 59-79 of the Code of Ordinances of the City of Merriam is amended to read as follows:

Sec. 59-79. - Supplementary applications.

(a) A right-of-way permit shall ~~only~~ be valid only for the area of the right-of-way specified within the permit. No permittee may cause any work to be done outside the area specified in the permit, except as provided herein. Any permittee who determines that an area greater than ~~that which is~~the area specified in the permit must be excavated ~~prior to the commencement of work~~shall, before beginning work in that greater area: (1) ~~,~~ make application for a permit extension and pay any additional fees required; ~~thereby~~ and (2) receive a new right-of-way permit or permit extension.

(b) A right-of-way permit shall be valid only for the dates specified in the permit. No permittee may commence work before the permit start date or, except as provided herein, may continue working after the end date. If a permittee does not complete the work by the permit end date, the permittee must apply for and receive a new right-of-way permit or a permit extension for additional time. This supplementary application must be submitted to the city prior to the permit end date.

**Section 12.** Section 59-81 of the Code of Ordinances of the City of Merriam is amended to read as follows:

Sec. 59-81. - Denial of permit.

(a) The public works director may deny a permit or prohibit the use or occupancy of a specific portion of the right-of-way to protect the public health, safety and welfare, to prevent interference with the safety and convenience of ordinary travel over the right-of-way, or when necessary to protect the right-of-way and its users. The public works director, at his discretion, may consider all relevant factors including but not limited to:

(1) The extent to which the right-of-way space where the permit is sought is available;

(2) The competing demands for the particular space in the right-of-way;

(3) The availability of other portions of ~~locations in~~ the right-of-way or in other right-of-way for the facilities of the applicant;

(4) The applicability of any ordinance or other regulations, including city zoning regulations, that affect location of ~~facilities~~or other standards for facilities in the right-of-way;

(5) The degree of compliance of the applicant with the terms and conditions of its franchise, this article, and other applicable ordinances and regulations;

(6) The degree of disruption to surrounding communities and businesses that will result from the use of that part of the right-of-way;

(7) The balancing of costs of disruption to the public and damage to the right-of-way, against the benefits to that part of the public served by the construction in the right-of-way;

(8) Whether the applicant maintains a current registration with the city;

(9) Whether the issuance of a right-of-way permit for the particular dates or time requested would cause a conflict or interferes with an exhibition, celebration, festival, or any other event. In exercising this discretion, the public works director shall be guided by the safety and convenience of anticipated travel of the public over the right-of-way; ~~.~~

(10) Whether the application complies with the Manual of Infrastructure Standards;

(11) The adverse impact of the facilities or the facilities' proposed locations on any reasonable public interest necessitated by public health, safety, and welfare.

(b) Notwithstanding the provisions listed in subsection (a) of this section, the public works director may in his discretion issue a right-of-way permit in any case where the permit is necessary to prevent substantial economic hardship to a user of the applicant's service and allow such user to materially improve the service provided by the applicant.

(c) Any denial of a wireless communications antenna, tower, or related facility shall, in accordance with federal and state law, be made in writing and supported by substantial evidence contained in a written record issued contemporaneously with the decision.

**Section 13.** Section 59-84 of the Code of Ordinances of the City of Merriam is amended to read as follows:

Sec. 59-84. - Appeal procedure.

(a) Whenever a person shall deem themselves aggrieved by any decision or action taken by the public works director, the person may file an appeal to the city council within ten calendar days of the date of notice of such decision or action. Provided, this section shall not apply to any person who is availing themselves of the appeal provisions set forth in K.S.A. 66-2019(h)(6).

(b) The persons shall be afforded a hearing on the matter before the city council within 30 days of filing the appeal.

(c) In cases of applicability or interpretation of the rules, the city council may revoke such decision or action taken by the public works director.

(d) In cases where compliance with such decision or action taken by the public works director would cause undue hardship, the city council may extend the time limit of such decision or action, or may grant exceptions to, or waive requirements of, or grant a variance from the specific provisions of rules. The city council shall give due consideration to the purposes of the rules in preserving public safety and convenience, integrity of public infrastructure, and the operational safety and function of the public right-of-way.

(e) Pending a decision of the city council, the order of the public works director shall be stayed, unless the public works director determines that such action will pose a threat to public safety or the integrity of the public infrastructure.

(f) If a person still deems themselves aggrieved after the appeal to the city council, such person shall have 30 days after the effective date of the city council's final decision to institute an action in the district court of the county.

**Section 14. Existing Sections.** Those sections of Chapter 59, Article III of the Code of Ordinances of the City of Merriam, Kansas not heretofore repealed shall remain in full force and effect.

**Section 15. Severability.** If any section, subsection, sentence, clause, or phrase of this Ordinance is, for any reason, held to be invalid, such invalidity shall not affect the validity of the remaining portions of this Ordinance and the Governing Body hereby declares that it would have

passed the remaining portions of this Ordinance if it would have known that such part or parts thereof would be declared invalid.

**Section 16. Repeal.** Sections 59-60, 59-63, 59-64, 59-66, 59-67, 59-70, 59-72, 59-74, 59-75, 59-76, 59-79, 59-81, and 59-84 of the Code of Ordinances of the City of Merriam, Kansas as they existed before the above amendments are hereby repealed.

**Section 17. Effective Date.** This Ordinance shall be in full force and effect from and after its passage, approval, and publication in the official city newspaper, all as provided by law.

PASSED BY THE City Council the _____ day of _____, 2016.

APPROVED BY THE Mayor the _____day of _____, 2016.

_____

Ken Sissom, Mayor

ATTEST:

_____

Juliana Pinnick, City Clerk

APPROVED AS TO FORM:

_____

Nicole Proulx Aiken, City Attorney

# AGENDA ITEM INFORMATION FORM

**Agenda Item:** Update on landlord licensing fees for non-apartment and non-single-family rental units.

**Department:** Community Development

**Background/Description of Item:**
Landlords are required to pay a flat rate landlord licensing fee for each residential rental unit they lease out within the city. The only exception is apartment complexes. The licensing fee for apartment complexes is based on the square footage of living space within the complex. The implementation of the new Community Development and Administration case management software, Citizenserve, has identified inconsistencies in the assessment of landlord licensing fees.

The previous case management software assessed Landlord licensing fees on the situs address provided by Johnson County AIMS. Situs addressing is based upon a property parcel. Each property parcel has one situs address.

Assessing fees based on situs address is problematic because a single property parcel may have one situs address but multiple rental units. The most common example of this are duplexes that are located on one parcel with one situs address. Because the previous system assessed the landlord licensing fee based on the situs address, a landlord leasing a duplex was assessed a licensing fee for only one unit, not for both units.

Staff worked with Citizenserve to base the new tracking software on address points instead of situs address. AIMS provides an address point for each known dwelling unit within the city. Basing the new software on address points has a number of benefits including being able to accurately and equitably assess landlord licensing fees. Citzenserve will assess a licensing fee for each unit the landlord has for lease.

Staff has identified approximately 106 units owned by 70 landlords that have not been assessed the correct fee. The majority of those landlords will have a fee increase of $90. However, there are a number of landlords that own more than one duplex and their fee increase will be higher. Additionally, there are a few four-, five- and an eight-plex landlords that will have a more significant fee increase.

Community Development staff and the Communication Manager are working together to educate landlords on this billing correction. Attached is a letter that is being sent to each landlord that is affected by billing correction. The letter outlines the fee correction in addition to outlining services that the city provides as part of the Landlord Licensing and Rental Inspection program. Community Development staff will also personally reach out to those landlords most affected by the correction.

**Related Ordinance(s) or Statute(s):** Merriam Municipal Code Sec 14-206 Landlords.

**Recommendation:** No Council action is necessary

Prepared by: Bryan P. Dyer, Community Development Director Date: September 26, 2016

MERRIAM

*Just right.*

# CITY OF MERRIAM

Date:

Dear [LANDLORD]:

In an effort to provide landlords more equitable service, the City of Merriam has reverted to a landlord licensing and rental inspection fee structure based on the number of rental units per property. While this is traditionally a best practice for how these types of fees are assessed, in recent years, landlords in Merriam with only one rental unit were charged the same as landlords with up to eight rental units.

Starting **January 1, 2017**, landlords in the City of Merriam will be charged a $90 licensing and rental inspection fee *per* rental unit.

This approach supports the city's commitment to effectively, and efficiently, ensure that landlords and tenants maintain and reside in safe, code-compliant housing. The staff time required to meet these objectives by administering the same level of service per unit is considerable.

As a reminder, the city provides the following services to landlords for the licensing and rental inspection fee:

- Assesses compliance with the Code of Ordinance, fire, safety and building codes.
- Conducts an impartial (third party) property evaluation.
- Notifies property owners of any issues to address. This is intended to minimize repairs, and avoid a possible dangerous situation from taking place on the property.
- Improves communications and relations between landlords and tenants.
- Ensures that properties are safe and clean, protecting not only the tenant, but the property owner's investment.
- Documents proof of adequate maintenance to assist in the event of a landlord/tenant dispute.

For questions about the landlord licensing and rental inspection fee, or to receive additional information, please contact Neighborhood Services Manager David Easley at 913-322-5526, or email davide@merriam.org.

Landlord name: _____

Number of rental units: _____

Total amount due (number of units X $90): _____

[This notice is NOT an invoice. You will receive an invoice for the 2017 licensing and rental inspection fee by _____, to be paid by _____.]

CITY OF MERRIAM
9001 W 62nd Street • Merriam, Kansas 66202-2815
Phone: 913-322-5500 • Fax: 913-322-5505
www.merriam.org • cityofmerriam@merriam.org

**CITY COUNCIL SUGGESTED MOTIONS FOR YOUR CONSIDERATION**

**CONSENT AGENDA**

**MAYOR'S REPORT**

**COUNCIL ITEMS**

1. **Move that the council approve the minutes of the City Council Meeting held September 12, 2016.**

**FINANCE AND ADMINISTRATION**

1. **Move that the council authorize _____ as the Kansas League of Municipalities voting delegates to represent the City of Merriam.**

2. **Move that the council waive the customary first reading of an ordinance amending sections 44-244 and 44-241 of the Merriam Code of Ordinances.**

2a. **Move that the council approve an ordinance amending sections 44-244 and 44-241 of the Merriam Code of Ordinances.**

3. **Move that the council accept an Acknowledgement and Release from Hendrick Automotive Group for the Merriam Pointe Redevelopment Project and authorize the Mayor to sign said Acknowledgement and Release.**

4. **Move that the council approve a funding agreement between Merriam Luxury Imports, LLC and the City and authorize the Mayor to sign the agreement.**

5. **Move that the council appoint Columbia Capital as the City's Financial Advisor for a three-year term; authorize staff to negotiate the final contract and authorize the Mayor to sign the final contract.**

6. **Move that the council waive the customary first reading of an ordinance amending Chapter 59 of the Merriam Code of Ordinances regarding Right-of-Way Use and Excavation.**

6a. **Move that the council approve an ordinance amending Chapter 59 of the Merriam Code of Ordinances regarding Right-of-Way Use and Excavation.**

**COMMUNITY DEVELOPMENT/PUBLIC WORKS**

1. **No motion.**

2. **No motion.**

**STAFF ITEMS**

**EXECUTIVE SESSION**

1. **Move that the council recess into Executive Session pursuant to the Kansas Open Meetings Act exception for the purpose of receiving legal advice. Present will be the Governing Body, City Attorney and City Administrator. The meeting will reconvene in the Council Chambers at _____ p.m.**