



# AGENDA

## GARDNER CITY COUNCIL

City Hall – 120 East Main Street -- Gardner, Kansas  
Monday, June 17, 2024, 7:00 p.m.

If you wish to provide written public comment regarding any items below by email (please limit comment to 500 words), please provide them by noon on June 17, 2024 to [cityclerk@gardnerkansas.gov](mailto:cityclerk@gardnerkansas.gov).

\*Watch this meeting live on the City's YouTube channel at <https://www.youtube.com/user/CityofGardnerKS> \*

### CALL TO ORDER

### PLEDGE OF ALLEGIANCE

### PRESENTATIONS

1. 2023 Audit and Annual Comprehensive Financial Report
2. Revised 2025 Budget Presentation

### PUBLIC HEARINGS

1. Hold a public hearing for the purpose of receiving comments to a request for a Waiver of the Distance Limitation to allow for the sale and consumption of Cereal Malt Beverages for consumption within 200 feet of a school, church or library during the Santa Fe Disco Y Rodeo event at the Johnson County Fairground.

### PUBLIC COMMENTS

Members of the public are welcome to use this time to make comments about City matters or items on the agenda that are not part of a public hearing

### CONSENT AGENDA

1. Standing approval of the minutes as written for the regular meeting on June 3, 2024.
2. Standing approval of City expenditures prepared May 30, 2024 in the amount of \$467,971.68 and June 6, 2024 for \$1,079,989.79.
3. Consider authorizing an agreement with JEO Consulting Group for design of the Gardner Traffic Signal Interconnect Project.

### PLANNING & ZONING CONSENT AGENDA

1. Consider accepting the dedication of right-of-way and easements on the final plat for Cypress Creek 3<sup>rd</sup> Plat.
2. Consider accepting the dedication of right-of-way and easements on the final plat for Cypress Creek 4<sup>th</sup> Plat
3. Consider accepting the dedication of right-of-way and easements on the final plat for Villas on Grand 1<sup>st</sup> Plat.
4. Consider accepting the dedication of right-of-way and easements on the final plat for Grand Mission Estates 1<sup>st</sup> Plat.

### COMMITTEE RECOMMENDATIONS

1. Consider approving a conditional use permit for Nice Ice Baby at 312 W. Main St.

### OLD BUSINESS

None

### NEW BUSINESS

1. Consider an ordinance of the City of Gardner, Kansas amending Section 114.2 of the "Standard Traffic Ordinance for Kansas Cities: Edition of 2023" relating to the operation of work-site utility vehicles, golf carts or micro utility trucks on city streets.
2. Consider approving adjustments to the city's contribution strategy for health insurance.
3. Consider awarding the Progressive Design Build Phase II construction services contract to the Crossland Heavy Contractors, Inc. for the Kill Creek Water Resource Recovery Facility Expansion, CIP Project No WW8012.
4. Consider a request for a Waiver of the Distance Limitation and a Temporary Permit to allow for the sale of cereal malt beverages for consumption within 200 feet of a school, church, or library during an event at the Johnson County Fairground.

**COUNCIL UPDATES** – Oral presentation unless otherwise noted



In compliance with the Americans with Disabilities Act, the City of Gardner will provide reasonable accommodations for all public meetings. Persons requiring accommodations in attending any of our public meetings should contact the City Clerk's Office at 913-856-0945 a minimum of 48 hours prior to the meeting.



## **AGENDA GARDNER CITY COUNCIL**

City Hall – 120 East Main Street -- Gardner, Kansas  
Monday, June 17, 2024, 7:00 p.m.

### **EXECUTIVE SESSION**

1. Consider entering into executive session to discuss matters of attorney/client privilege related to a proposed development project.

### **ADJOURNMENT**



In compliance with the Americans with Disabilities Act, the City of Gardner will provide reasonable accommodations for all public meetings. Persons requiring accommodations in attending any of our public meetings should contact the City Clerk's Office at 913-856-0945 a minimum of 48 hours prior to the meeting.

# COUNCIL DISCUSSION FORM

# PRESENTATION ITEM NO. 1

**MEETING DATE:** JUNE 17, 2024

**STAFF CONTACT:** MATTHEW WOLFF, FINANCE DIRECTOR

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**Agenda Item:** Presentation of the 2023 Audit and Annual Comprehensive Financial Report

**Strategic Priority:** Fiscal Stewardship

**Department:** Finance

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

This is the twentieth year that the City has prepared an Annual Comprehensive Financial Report; to date, all nineteen previous annual financial reports were award winners. In our continued pursuit of excellence, this latest annual report will again be submitted for a Certificate of Achievement for Excellence in Financial Reporting with the Government Finance Officers Association (GFOA). The GFOA established the Certificate of Achievement for Excellence in Finance Reporting Program in 1945 to encourage and assist state and local governments to go beyond the minimum requirements of generally accepted accounting principles to prepare annual comprehensive financial reports that evidence the spirit of transparency and full disclosure, and then to recognize individual governments that succeed in achieving that goal. GFOA notes on its website, "The goal of the program is not to assess the financial health of participating governments, but rather to ensure that users of their financial statements have the information they need to do so themselves."

The City's independent auditing firm, Allen, Gibbs & Houlik, L.C. completed the audit of the 2023 financial records. Staff is pleased to report that the auditors have again issued an "unmodified" opinion regarding the City's financial practices and reporting for its basic financial statements; an "unmodified" opinion is the highest possible opinion.

Brian Holst, Vice President, Assurance, of Allen, Gibbs & Houlik will be at the meeting to present the completed FY 2023 audit to the Governing Body.

### **Attachments:**

- *Required Communications Letter*
- *Independent Auditor's Report 2023 Audit*
- *Independent Auditor's Report on Internal Controls and Compliance 2022 Audit*

The Honorable Mayor and City Council Members  
**City of Gardner, Kansas**

We are pleased to present this report related to our audit of the financial statements of the City of Gardner, Kansas (City) as of and for the year ended December 31, 2023. This report summarizes certain matters required by professional standards to be communicated to you in your oversight responsibility for the Organization's financial reporting process.

This report is intended solely for the information and use of the Mayor, City Council Members and management, and is not intended to be, and should not be, used by anyone other than these specified parties.

Auditing Standards generally accepted in the United States of America (AU-C 260, *The Auditor's Communication With Those Charged With Governance*) require the auditor to promote effective two-way communication between the auditor and those charged with governance. Consistent with this requirement, the following summarizes our responsibilities regarding the financial statement audit as well as observations arising from our audit that are significant and relevant to your responsibility to oversee the financial and related compliance reporting process.

### **Our Responsibilities with Regard to the Financial Statement and Compliance Audit**

Our responsibilities under auditing standards generally accepted in the United States of America and *Government Auditing Standards* issued by the Comptroller General of the United States and the *Kansas Municipal Audit and Accounting Guide* have been described to you in our arrangement letter dated October 4, 2023. Our audit of the financial statements does not relieve management or those charged with governance of their responsibilities, which are also described in that letter.

### **Overview of the Planned Scope and Timing of the Financial Statement Audit**

We have issued a separate communication dated March 25, 2024 regarding the planned scope and timing of our audit and identified significant risks.

### **Accounting Policies and Practices**

Preferability of Accounting Policies and Practices - Under generally accepted accounting principles, in certain circumstances, management may select among alternative accounting practices. In our view, in such circumstances, management has selected the preferable accounting practice.

Adoption of, or Change in, Accounting Policies - Management has the ultimate responsibility for the appropriateness of the accounting policies used by the City. The following is a description of significant accounting policies or their application that were either initially selected or changed during the year:

The City adopted GASB Statement No. 96, Subscription-Based Information Technology Arrangements (SBITAs). The objective of this statement is to better meet the information needs of financial statement users by establishing uniform accounting and financial reporting requirements for SBITAs, improving the comparability of financial statements among governments that have entered into SBITAs, and enhancing the understandability, reliability, and relevance, and consistency of information about SBITAs. The City evaluated its current SBITAs and determined that one agreement met the criteria to be reported in the amount of \$454,767.

Significant Accounting Policies - We did not identify any significant accounting policies in controversial or emerging areas for which there is a lack of authoritative guidance or consensus.

Significant Unusual Transactions - We did not identify any significant unusual transactions.

Management's Judgments and Accounting Estimates - Accounting estimates are an integral part of the preparation of financial statements and are based upon management's current judgment. The process used by management encompasses their knowledge and experience about past and current events, and certain assumptions about future events. You may wish to monitor throughout the year the process used to determine and record these accounting estimates. The following summarizes the significant accounting estimates reflected in the City's financial statements.

- *Total Other Post-Employment Benefit (OPEB) Liability:* The City contracts with an external actuary to develop an estimate for the annual OPEB cost, which pertains to health care offered to retirees. The amount calculated by the actuary is then reduced by actual claims paid for retirees, resulting in a total OPEB liability at year-end to record as a liability. As a basis for our conclusions, we reviewed the actuarial report for reasonableness and verified and recalculated the information provided in the report.

Additionally, the City participates in KPERS' death and disability OPEB plan. The City followed guidelines in GASB statement No. 75 for reporting its share of the KPERS' death and disability OPEB plan. This included obtaining an actuary report provided by KPERS on the City's share of this plan liability. As a basis for our conclusion, we reviewed KPERS' report for reasonableness and verified and recalculated the City's information provided in the report.

- *Net pension liability:* The City follows guidelines in GASB Statement No. 68 and 82 for reporting its proportionate share of KPERS' collective net pension liability. This included obtaining KPERS' report on Schedules of Employer and Nonemployer Allocations and Schedules of Pension Amounts by Employer and Nonemployer, which was audited by KPERS' auditors. The City compared contributions made by the City to amounts included in this report. As a basis for our conclusions, we reviewed the KPERS' report for reasonableness and verified and recalculated the City's information provided in the report.
- *Allowance for uncollectible:* The City records an allowance for uncollectible related to utility trade receivables. The City records the allowance based on all accounts receivable balances in excess of 238 days. As a basis for our conclusion, we reviewed the accounts receivable aging detail for reasonableness and to ensure that the amounts reported for each fund were supported by the total of the accounts receivable greater than 238 days.

### **Audit Adjustments and Uncorrected Misstatements**

There were no audit adjustments made to the original trial balance presented to us to begin our audit. We are not aware of any uncorrected misstatements other than misstatements that are clearly trivial.

### **Management Representations**

In connection with our audit procedures, we have obtained a written management representation letter. This representation letter constitutes written acknowledgments by management that it has the primary responsibility for the fair presentation of the financial statements in conformity with generally accepted accounting principles and also includes the more significant and specific oral representations made by officers and employees during the course of the audit. The letter is intended to reduce the possibility of misunderstandings between us and the City and reminds the signing officers to consider seriously

whether all material liabilities, commitments and contingencies or other important financial information have been brought to our attention.

### **Other Information Included in Annual Reports**

Our responsibility for other information included in annual reports is to read the information and consider whether its content or the manner of its presentation is materially inconsistent with the financial information covered by our auditor's report, whether it contains a material misstatement of fact or whether the other information is otherwise misleading. We read the City's Introductory and Statistical sections and did not identify material inconsistencies with the audited financial statements.

### **Observations About the Audit Process**

We did not discuss with management any alternative treatments within generally accepted accounting principles for accounting policies and practices related to material items during the current audit year; we encountered no disagreements with management over the application of significant accounting principles, the basis for management's judgments on any significant matters, the scope of the audit or significant disclosures to be included in the financial statements; we are not aware of any consultations management had with other accountants about accounting or auditing matters; no significant issues arising from the audit were discussed or the subject of correspondence with management; we did not encounter any difficulties in dealing with management relating to the performance of the audit; and we did not encounter any significant and difficult or contentious matters that required consultation outside the engagement team.

### **Shared Responsibilities for Independence**

Independence is a **joint responsibility** and is managed most effectively when management, audit committees, and audit firms work together in considering compliance with AICPA and *Government Accountability Office* (GAO) independence rules. For Allen, Gibbs & Houlik, L.C. (AGH) to fulfill its professional responsibility to maintain and monitor independence, management, the audit committee, and AGH each play an important role.

### **Our Responsibilities**

- AICPA and GAO rules require independence both of mind and in appearance when providing audit and other attestation services. AGH is to ensure that the AICPA and GAO's General Requirements for performing non-attest services are adhered to and included in all letters of engagement.
- Maintain a system of quality control over compliance with independence rules and firm policies.

### **The City's Responsibilities**

- Timely inform AGH, before the effective date of transactions or other business changes, of the following:
  - New affiliates, directors, officers, or persons in financial reporting and compliance oversight roles.
  - Changes in the reporting entity impacting affiliates such as partnerships, related entities, investments, joint ventures, and component units.
- Provide necessary affiliate information such as new or updated structure charts, as well as financial information required to perform materiality calculations needed for making affiliate determinations.

- Understand and conclude on the permissibility, prior to the City and its affiliates, officers, directors, or persons in a decision-making capacity, engaging in business relationships with AGH.
- Not entering into arrangements of non-audit services resulting in AGH being involved in making management decisions on behalf of the City.
- Not entering into relationships resulting in AGH, AGH covered persons or their close family members, temporarily or permanently acting as an officer, director, or person in an accounting, financial reporting or compliance oversight role at the City.

### **Other Matters**

Cybersecurity Risk - Effective cybersecurity risk management has never been more important than in today's environment. The Mayor, City Council, and executive management (the governance team) face an enormous challenge: to oversee how the organization manages cybersecurity risk.

An effective cybersecurity risk management program includes assessments of your comprehensive risk, controls and vulnerabilities to provide reasonable, but not absolute, assurance that material breaches are prevented or detected, and mitigated in a timely manner. The combined effects of a City's dependency on IT, the complexity of IT networks and business applications, extensive reliance on third parties and human nature (i.e., susceptibility to social engineering) are only likely to increase the need for effective cybersecurity risk management programs.

As a best practice, we encourage executive management to be intimately involved with the risk management program and to share the results with the governance team.

Comprehensive Policy and Procedure Review - Given the broad and deep scope of your operations, you should consider completing a comprehensive evaluation of the adequacy and effectiveness of the entity's internal financial policies, processes and procedures, including a comparison to best practices among organizations the same size.

For entities that have experienced budget cuts in the finance area or those that have experienced turnover, a periodic review of controls is imperative. Even if your finance team has been stable over the years, we remind you that even the best design of controls is only as good as the people who carry out and execute such controls.

Financial policies, procedures and processes are a key element of sound fiscal administration. When policies are effective, they can preserve or enhance the fiscal health and wealth of the organization and create efficiencies for staff members.

This comprehensive evaluation could include:

1. Evaluation of existing controls
2. Identification of financial policies that could lead to vulnerability to fraud and/or abuse
3. For those identified weaknesses and risks, recommendations for improvements

AGHUniversity Resources - As part of AGH's ongoing commitment to serve as a trusted advisor, we offer these resources as a key part of the additional value AGH provides beyond the engagement itself:

- AGHUniversity.com - a full schedule of complimentary CPE or current and relevant topics and other updates to clients throughout the year. Free registration and webinars are available for the

Company's staff and council members at [aghuniversity.com](http://aghuniversity.com). A sample of recent topics include Lease accounting; Become a destination employer: 5 factors you must get right; 6 steps to improving employee soft skills - Along with productivity and profitability; Measuring what matters in your 401(k) plan for recruitment, retention and reward; Cybersecurity: Protect your organization from cybercriminals; and 10 steps to prepare your business for a sale.

- AGH alerts and newsletters - this includes periodic mailings or emails to alert clients to new accounting standards or regulatory changes.

### **Closing**

We will be pleased to respond to any questions you have about this report or set up an introductory meeting to discuss the other recommendations at no charge. We appreciate the opportunity to continue to be of service to the City of Gardner, Kansas.

*Allen, Gibbs & Houlik, L.C.*  
CERTIFIED PUBLIC ACCOUNTANTS

Overland Park, KS  
May 31, 2024

## INDEPENDENT AUDITOR'S REPORT

The Honorable Mayor and City Council Members  
**City of Gardner, Kansas**

### **Report on the Audit of the Financial Statements**

#### ***Opinions***

We have audited the accompanying financial statements of the governmental activities, the business-type activities, each major fund, and the aggregate remaining fund information of the City of Gardner, Kansas (the City) as of and for the year ended December 31, 2023, and the related notes to the financial statements, which collectively comprise the City's basic financial statements as listed in the table of contents.

In our opinion, the accompanying financial statements referred to above present fairly, in all material respects, the respective financial position of the governmental activities, the business-type activities, each major fund, and the aggregate remaining fund information of the City of Gardner, Kansas, as of December 31, 2023, and the respective changes in financial position, and, where applicable, cash flows thereof and the respective budgetary comparison for the general fund for the year then ended in accordance with accounting principles generally accepted in the United States of America.

#### ***Basis for Opinions***

We conducted our audit in accordance with auditing standards generally accepted in the United States of America (GAAS), the *Kansas Municipal Audit and Accounting Guide*, and the standards applicable to financial audits contained in Government Auditing Standards (*Government Auditing Standards*), issued by the Comptroller General of the United States. Our responsibilities under those standards are further described in the Auditor's Responsibilities for the Audit of the Financial Statements section of our report.

We are required to be independent of the City and to meet our other ethical responsibilities, in accordance with the relevant ethical requirements relating to our audit. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinions.

#### ***Responsibilities of Management for the Financial Statements***

Management is responsible for the preparation and fair presentation of the financial statements in accordance with accounting principles generally accepted in the United States of America, and for the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, management is required to evaluate whether there are conditions or events, considered in the aggregate, that raise substantial doubt about the City's ability to continue as a going concern for twelve months beyond the financial statement date, including any currently known information that may raise substantial doubt shortly thereafter.

## ***Auditor's Responsibilities for the Audit of the Financial Statements***

Our objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinions. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit conducted in accordance with GAAS and *Government Auditing Standards* will always detect a material misstatement when it exists. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.

Misstatements are considered material if there is a substantial likelihood that, individually or in the aggregate, they would influence the judgment made by a reasonable user based on the financial statements.

In performing an audit in accordance with GAAS and *Government Auditing Standards*, we

- exercise professional judgment and maintain professional skepticism throughout the audit.
- identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, and design and perform audit procedures responsive to those risks. Such procedures include examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements.
- obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the City's internal control. Accordingly, no such opinion is expressed.
- evaluate the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluate the overall presentation of the financial statements.
- conclude whether, in our judgment, there are conditions or events, considered in the aggregate, that raise substantial doubt about the City's ability to continue as a going concern for a reasonable period of time.

We are required to communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit, significant audit findings, and certain internal control-related matters that we identified during the audit.

### ***Required Supplementary Information***

Accounting principles generally accepted in the United States of America require that the management's discussion and analysis and required supplementary information listed on the table of contents be presented to supplement the basic financial statements. Such information is the responsibility of management and, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. We have applied certain limited procedures to the required supplementary information in accordance with auditing standards generally accepted in the United States of America, which consisted of inquiries of management about the methods of preparing the information and comparing the information for

consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We do not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance.

### ***Supplementary Information***

Our audit was conducted for the purpose of forming opinions on the financial statements that collectively comprise the City's basic financial statements. The combining and individual nonmajor fund financial statements and schedules are presented for purposes of additional analysis and are not a required part of the basic financial statements. Such information is the responsibility of management and was derived from and relates directly to the underlying accounting and other records used to prepare the basic financial statements. The information has been subjected to the auditing procedures applied in the audit of the basic financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the basic financial statements or to the basic financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America. In our opinion, the combining and individual nonmajor fund financial statements and schedules is fairly stated, in all material respects, in relation to the basic financial statements as a whole.

### ***Other Information***

Management is responsible for the other information included in the annual report. The other information consists of the introductory, statistical and annual operating data sections as listed in the table of contents but does not include the basic financial statements and our auditor's report thereon. Our opinions on the basic financial statements do not cover the other information, and we do not express an opinion or any form of assurance thereon.

In connection with our audit of the basic financial statements, our responsibility is to read the other information and consider whether a material inconsistency exists between the other information and the basic financial statements, or the other information otherwise appears to be materially misstated. If, based on the work performed, we conclude that an uncorrected material misstatement of the other information exists, we are required to describe it in our report.

### ***Other Reporting Required by Government Auditing Standards***

In accordance with *Government Auditing Standards*, we have also issued our report dated May 31, 2024 on our consideration of the City's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements and other matters. The purpose of that report is solely to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the City's internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the City's internal control over financial reporting and compliance.

*Allen, Gibbs & Houlik, L.C.*

CERTIFIED PUBLIC ACCOUNTANTS

Overland Park, KS  
May 31, 2024

INDEPENDENT AUDITOR'S REPORT  
ON INTERNAL CONTROL OVER FINANCIAL REPORTING AND ON COMPLIANCE  
AND OTHER MATTERS BASED ON AN AUDIT OF FINANCIAL STATEMENTS  
PERFORMED IN ACCORDANCE WITH GOVERNMENT AUDITING STANDARDS

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The Honorable Mayor and City Council Members  
**City of Gardner, Kansas**

We have audited, in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States, the financial statements of the governmental activities, the business-type activities, each major fund, and the aggregate remaining fund information of the City of Gardner, Kansas (the City) as of and for the year ended December 31, 2023, and the related notes to the financial statements, which collectively comprise the City's basic financial statements, and have issued our report thereon dated May 31, 2024.

### **Report on Internal Control over Financial Reporting**

In planning and performing our audit of the financial statements, we considered the City's internal control over financial reporting (internal control) as a basis for designing audit procedures that are appropriate in the circumstances for the purpose of expressing our opinions on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the City's internal control. Accordingly, we do not express an opinion on the effectiveness of the City's internal control.

A *deficiency in internal control* exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis. A *material weakness* is a deficiency, or combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected on a timely basis. A *significant deficiency* is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Our consideration of the internal control was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies. Given these limitations, during our audit we did not identify any deficiencies in internal control that we consider to be material weaknesses. However, material weaknesses or significant deficiencies may exist that were not identified.

### **Report on Compliance and Other Matters**

As part of obtaining reasonable assurance about whether the City's financial statements are free from material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the financial statements. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

## **Purpose of this Report**

The purpose of this report is solely to describe the scope of our testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the City's internal control or on compliance. This report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the entity's internal control and compliance. Accordingly, this communication is not suitable for any other purpose.

*Allen, Gibbs & Houlik, L.L.C.*

CERTIFIED PUBLIC ACCOUNTANTS

Overland Park, KS  
May 31, 2024

**COUNCIL DISCUSSION FORM**

**PRESENTATION ITEM NO. 2**

**MEETING DATE: JUNE 17, 2024**

**STAFF CONTACT: MATTHEW WOLFF, FINANCE DIRECTOR**

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**Agenda Item:** Revised 2025 Budget Presentation

**Strategic Priority:** Fiscal Stewardship

**Department:** Finance

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**Background/Description of Item:**

Finance Director Matthew Wolff will provide a presentation on the 2025 Budget.

# COUNCIL ACTION FORM

# PUBLIC HEARING ITEM NO. 1

MEETING DATE: JUNE 17, 2024

STAFF CONTACT: RENEE RICH, CITY CLERK

**Agenda Item:** Hold a public hearing for the purpose of receiving comments to a request for a Waiver of the Distance Limitation to allow for the sale and consumption of Cereal Malt Beverages for consumption within 200 feet of a school, church or library during the Santa Fe Disco Y Rodeo event at the Johnson County Fairground

**Strategic Priority:** Quality of Life

**Department:** Administration

### Background/Description of Item:

Brenda Maturino has applied for a Temporary Permit and is requesting a Waiver of the Distance Limitation for an area to sell cereal malt beverages (CMB) during the Santa Fe Disco Y Rodeo event on June 30, 2024.

The location is to be in the derby arena area (see attached map). CMBs will be served within the area and all alcohol will be required to be consumed in that area. They have hired a private security company and have requested additional security from the Gardner Police Department.

Since the location of the event is within 200 feet of a school, church or library, the applicant must petition and be granted a Waiver of the Distance Limitation and a permit for a special event by the City Council.

This waiver and permit, if approved, will be for June 30, 2024, from 3:30 pm to 9:00 pm.

### Attachments:

- Fairgrounds Map (area of event shaded in yellow)

### Suggested Motion:

Open a public hearing for the purpose of receiving comments to a request for a Waiver of the Distance Limitation to allow for the sale and consumption of Cereal Malt Beverages for consumption within 200 feet of a school, church or library during the Santa Fe Disco Y Rodeo event on June 30, 2024, at the Johnson County Fairgrounds, 136 E. Washington St.



# RECORD OF PROCEEDINGS OF THE GOVERNING BODY CITY OF GARDNER, KANSAS

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June 3, 2024

The City Council of the City of Gardner, Kansas met in regular session on June 3, 2024, at 7:00 p.m. in the Council Chambers at Gardner City Hall, 120 East Main Street, Gardner, Kansas, with Mayor Todd Winters presiding. Present were Councilmembers Mark Baldwin, Kacy Deaton, Mark Wiehn, Steve Shute and Steve McNeer. City staff present were City Administrator Jim Pruetting; Finance Director Matt Wolff; Police Chief Pam Waldeck; Utilities Director Gonz Garcia; Parks Director Jason Bruce; Community Development Director Dave Knopick; Public Works Director Kellen Headlee; City Attorney Ryan Denk; City Clerk Renee Rich. Others present included those listed on the sign-in sheet and others who did not sign in.

There being a quorum of Councilmembers present, Mayor Winters called the meeting to order at 7:00 p.m.

## **PLEDGE OF ALLEGIANCE**

Mayor Winters led those present in the Pledge of Allegiance.

## **PRESENTATIONS**

### **PUBLIC HEARING**

#### **1. Hold a public hearing to receive public comment on the results of the Phase II Treadway Apartments Cost Benefit Analysis and granting of exemption from ad valorem taxes.**

Councilmember Deaton made a motion to open a public hearing for the purpose of receiving comments on the results of the Phase II Treadway Apartments Cost Benefit Analysis and granting of exemption from ad valorem taxes.

Councilmember Shute Seconded.

With all of the Councilmembers voting in favor of the motion, the motion carried.

Tyler Ellsworth, Kutak Rock, said this is Phase II of the Treadway Apartments at the southwest edge of the Grata Development. Phase II is 162 units and because there's a property tax abatement at issue we're required to prepare an analysis of the cost and benefit of each of the affected taxing entities including the city, county and state of Kansas. The cost benefit analysis came back positive for each of the jurisdictions.

No members of the public came forward

Councilmember McNeer made a motion to close the public hearing.

Councilmember Deaton Seconded.

With all of the Councilmembers voting in favor of the motion, the motion carried.

## **PUBLIC COMMENTS**

Brandon Mitchell, refuse to give address because I'm live on the internet, I have been requesting the mayor's oath of office for two months and they refuse to give it to me because they say it is part of the personnel record.

Steve Zalodek, 636 E Willow, commends the council, police department and City Administrator for starting the meeting with the Pledge of Allegiance. My issue is there is an abandoned vehicle and it's my understanding that an abandoned vehicle should be cited after three days with the possibility of being towed. As of today, the vehicle has been sitting and then it gets moved to another location every couple of weeks. The location now is Cedar and White. It has not been registered since May 2023. It also has an unregistered, unlicensed trailer attached to it. I cannot get anyone to cite this vehicle. The owner of the vehicle is deceased. There is an individual living in the townhomes that has possession of the vehicle who periodically moves the vehicle to avoid having it towed. My question is what constitutes an abandoned vehicle and what gives the police department the authority to tow the vehicle? I don't know if the vehicle is in the possession of an individual who is a descendant of the deceased or if it is stolen. But we allow that vehicle to drive on public highways without insurance, without being registered and with a trailer that is not licensed and registered. I know this is not a codes violation and the police department has been reluctant to tag it because a citation would be issued to a deceased individual. So, I am asking the council, the city administrator or the mayor to help get this vehicle off the road and have it towed. If the guy really wants it, he'll get it registered and do it properly.

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May 6, 2024

**CONSENT AGENDA**

1. **Standing approval of the minutes as written for the regular meeting on May 20, 2024.**
2. **Standing approval of City expenditures prepared May 16, 2024 in the amount of \$871,259.95; May 23, 2024 in the amount of \$1,068,988.34; and May 24, 2024 for \$900.00.**
3. **Consider authorizing an agreement with KDOT for the Gardner Traffic Signal Interconnect Project.**
4. **Consider authorizing the City Administrator to execute a Memorandum of Agreement with Evergy for Substation 4.**
5. **Consider approving a City/County agreement for reconstruction of a culvert on Four Corners Road.**

Councilmember Shute made a motion to approve the Consent Agenda.

Councilmember Deaton Seconded.

With all of the Councilmembers voting in favor of the motion, the motion carried.

**PLANNING & ZONING CONSENT AGENDA**

None

**COMMITTEE RECOMMENDATIONS**

**OLD BUSINESS**

**NEW BUSINESS**

1. **Consider adopting a resolution declaring the intent of the city to issue Industrial Revenue Bonds for the purpose of financing the acquisition, construction, and equipping of a multifamily apartment project within the city (New Trails Multifamily, Phase 2)**

Finance Director Matt Wolff said this is related to the public hearing and is a development agreement the city has with Grata.

Councilmember Wiehn asks about validation of analysis in the assumptions that are made. Wolff said staff & bond counsel look at it and compare it to ones done in the past. Wiehn asks if after review there is anything that they say the assumption was too high or too low or seemed right. Wolff said there is some back and forth where we question assumptions, but we agree with the assumptions and think it's where it needs to be. Councilmember McNeer said there was one assumption that stood out. In year two they were at 75% occupancy and in year three they are at 95% occupancy and that seems a bit aggressive. What happens to the rest of the performance if they don't meet those targets? Tyler Ellsworth said from the city's perspective, there are sales tax generation and transient guest tax generation from those levels of occupancy that really drive things, this is more in addition to the property tax base of the city and still holds true whether or not they are at 85%, 95% or 55% occupancy, the property tax value is still the same. It's accurate to say they might be closer to 100% occupancy by the third year as they've had tremendous success in leasing the first phase of the apartments and I would expect that with the second phase as well. McNeer asks if the value of the property is based upon occupancy. Tyler says this is not based upon occupancy. Councilmember Shute asks about the commercial development on this property and feels they have struggled to meet the benchmarks. Wolff explains that they expect the multifamily to build out first. Retail follows rooftops so that is what they are focused on with phase two. In the final phase of the apartments, we would expect the commercial to start moving. Administrator Pruetting said there were no general commercial development milestones, it's all tied to the CID. And those were slowed due to the pandemic.

Councilmember Shute made a motion to adopt Resolution No. 2142, a resolution declaring the intent of the City of Gardner, Kansas, to issue Industrial Revenue Bonds (taxable under federal law) in the principal amount not to exceed \$29,000,000 for the purpose of financing the acquisition, construction, and equipping of a multifamily apartment project within the city (New Trails Multifamily, Phase 2)

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Councilmember Deaton Seconded.

With all of the Councilmembers voting in favor of the motion, the Resolution passed and was assigned Resolution number 2142.

Deaton: Yes  
Wiehn: Yes  
Shute: Yes  
McNeer: Yes  
Baldwin: Yes

**2. Consider approving an ordinance levying and assessing special assessments on certain lots, pieces and parcels of land liable for such special assessments to pay the costs of improvements in the City of Gardner, Kansas, as authorized by Resolution No. 2140 of the City (Lone Star Prairie Special Benefit District)**

Finance Director Matt Wolff said the developer and property owner has petitioned the city for the creation of a special benefit district for the construction of a lift station and offsite sanitary sewer improvements. The ordinance levies \$1.15M for benefit district improvements. If the construction costs are lower than estimated, the amount of the assessments against the property will be correspondingly reduced. The cost of improvements will be assessed 100% against the improvement district and 0% against the city at large. The proposed term of the improvement district is 20 years.

Councilmember Deaton made a motion to adopt Ordinance No. 2799, levying and assessing special assessments on certain lots, pieces and parcels of land liable for such special assessments to pay the costs of improvements in the City of Gardner, Kansas, as authorized by Resolution No. 2140 of the City (Lone Star Prairie Special Benefit District)

Councilmember Baldwin Seconded.

With all of the Councilmembers voting in favor of the motion, the Ordinance passed and was assigned Ordinance number 2799.

Wiehn: Yes  
Shute: Yes  
McNeer: Yes  
Baldwin: Yes  
Deaton: Yes

**3. Consider adopting an ordinance amending Ordinance No. 2687 of the City of Gardner, Kansas, and assessing the final costs of the improvements for the Hilltop Ridge Phase One Offsite Sanitary Sewer and 167th Street Special Benefit District on certain lots, pieces, and parcels of land in the City.**

Finance Director Matt Wolff said on December 21, 2020, the city council adopted Ordinance number 2687 an ordinance levying and assessing maximum special assessments to pay for the cost of the offsite sewer on 167<sup>th</sup> Street for Hilltop Ridge residential development. The improvements have been completed and the final costs are now known. The proposed ordinance would amend ordinance 2687 to finalize the special assessments based on the final cost of the improvements. The city plans to issue general obligation bonds this summer to provide permanent financing for the improvements. To help mitigate the risk to the city, the developer has provided an irrevocable letter of credit for the amount of \$190,000. The credit will expire after the completion of residences on 31 lots within the Hilltop Ridge first plat. The final cost of the improvement district will be assessed 100% against the improvement district and 0% against the city at large. The proposed duration of the district is 20 years.

Councilmember Shute made a motion to adopt Ordinance No. 2800, an ordinance amending Ordinance No. 2687 of the City of Gardner, Kansas, and assessing the final costs of the improvements for the Hilltop Ridge Phase One

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Offsite Sanitary Sewer and 167<sup>th</sup> Street Special Benefit District on certain lots, pieces, and parcels of land in the City.

Councilmember Deaton Seconded.

With all of the Councilmembers voting in favor of the motion, the Ordinance passed and was assigned Ordinance number 2800.

Shute: Yes  
McNeer: Yes  
Baldwin: Yes  
Deaton: Yes  
Wiehn: Yes

**4. Consider adopting an ordinance amending Ordinance No. 2688 of the City of Gardner, Kansas, and assessing the final costs of the improvements for the Hilltop Ridge Phase One First Plat Internal Improvements Special Benefit District on certain lots, pieces, and parcels of land in the City.**

Finance Director Matt Wolff said this is related to the second benefit district for the Hilltop Ridge residential development. The final costs are now known for the first plat internal improvements, so the purpose of this ordinance is to amend ordinance number 2688 to finalize the special assessments based upon the final cost of the improvements. The city plans to issue general obligation bonds this summer as well to provide permanent financing for the improvements. The final cost of the improvements for this improvement district is \$535,000. The cost of the improvements will be assessed 100% against the improvement district and 0% against the city at large. The proposed term of the district is 20 years.

Councilmember Deaton made a motion to adopt Ordinance No. 2801, an ordinance amending Ordinance No. 2688 of the City of Gardner, Kansas, and assessing the final costs of the improvements for the Hilltop Ridge Phase One First Plat Internal Improvements Special Benefit District on certain lots, pieces, and parcels of land in the City.

Councilmember Wiehn Seconded.

With all of the Councilmembers voting in favor of the motion, the Ordinance passed and was assigned Ordinance number 2801.

McNeer: Yes  
Baldwin: Yes  
Deaton: Yes  
Wiehn: Yes  
Shute: Yes

**5. Consider an ordinance of the City of Gardner, Kansas amending Section 2.10.010 of the Gardner Municipal Code relating to the Governing Body.**

City Administrator Pruetting said this is the time of year we look at pay structures for the employees and participate in a countywide survey to look at salaries for different positions. A lot of cities list mayor and governing body in that survey. I had our senior management analyst look at the pay levels for the governing body and mayor. We realized there was nothing in codes as far as structure. It looks like going back ten years, it was in the budget and then dropped off and disappeared. This will amend the code so that we have a structure for changing the compensation for mayor and council members.

Councilmember Deaton asked if this was to add the council to the pay structure so it will come up every time we look at staff? Pruetting said this can be brought up any time, this gives us structure and authority to do it.

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Councilmember McNeer made a motion to adopt Ordinance No. 2802, an ordinance amending Section 2.10.10 of the Gardner Municipal Code relating to the Governing Body.

Councilmember Deaton Seconded.

With all of the Councilmembers voting in favor of the motion, the Ordinance passed and was assigned Ordinance number 2802.

Baldwin: Yes

Deaton: Yes

Wiehn: Yes

Shute: Yes

McNeer: Yes

**6. Consider a resolution establishing compensation for the Governing Body pursuant to Gardner Municipal Code Section 2.10.010.**

City Administrator Pruetting said the easiest way to determine where compensation should be is by population. We removed Prairie Village and Edgerton out of the list. If you look at the population and the proposal for council pay is 40%. Overland Park offers a straight 40% of the mayor pay for council. So when the mayor salary is adjusted, it automatically adjusts the council pay to 40%.

Shute said we looked at compensation due to a municipality to the west that forced our hands years ago. We have had to address challenges that a lot of municipalities our size haven't had to deal with. It is weird for elected officials to vote on a pay raise, but considering we haven't had a compensation adjustment in over a decade and the fact that the city is now a third larger than I was, I think it's warranted. The mayor's position has become more complex than it was. I am in support of this and this does reflect accurately what we do here.

Deaton asks if we should change the resolution to read the mayor's salary and then council receives 40% so that if the mayor's salary changes, the council changes along with it. Another city's ordinance includes the council president gets 45%. Pruetting said we can make that change to the resolution if that's what is requested.

Baldwin said even places that use volunteers have paid employees. We have large packets that we are going through and researching. I am in support of this because we need an adjustment, even for those who here in the future.

Wiehn said the only problem with having the president get a higher rate, the people are not the ones voting who is going to be president.

Shute says that some of the work that used to be on the mayor has now been spread out and there is more falling on the president, it makes sense to add a small amount to the compensation.

Mcneer said he was surprised when he had money show up in his bank account because the planning commission is non-compensated. Council president and vice president do more than the other council members, so it is reasonable.

Consensus was to amend the resolution to include the council shall receive compensation at 40% of the Mayor's salary with the exception of the Council president who shall be compensated at the rate of 45% of the Mayor's salary.

Councilmember Deaton made a motion to adopt Resolution No. 2143, with noted changes, a resolution establishing compensation for the Governing Body pursuant to Gardner Municipal Code Section 2.10.010.

Councilmember Shute Seconded.

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With all of the Councilmembers voting in favor of the motion, the Resolution passed and was assigned Resolution number 2143.

Deaton: Yes  
Wiehn: Yes  
Shute: Yes  
McNeer: Yes  
Baldwin: Yes

**COUNCIL UPDATES**

Captain Hayes said they have increased foot patrol at the parks. We did offer a conditional offer for a lateral transfer today. I was aware of the concern of the vehicle and our staff has been working through it.

City Administrator said our population has teetered around 25,000. We have the obligation at some point to look at City of the First Class and we have started a list of pros and cons and we'll consult with Ryan and bring something to council for consideration. City Attorney Ryan Denk said the Kansas Budget Office certifies the population of every city in July and is sent to the Secretary of State. There is no timeframe in the statute to certify your population to the governor.

Shute was asked where the number has to come from because there was a survey that came out recently showing that we have already exceeded 25,000. Denk says it has to be census data and it is published yearly. Shute said we will have to look at our ordinances and our charter ordinances since those were drafted as a city of the second class. Denk said if we don't want to change the way we are doing things now, we can use home rule to allow it. Shute says there is one item that we can't home rule out of is wards. Denk said we will have to look into that.

Pruetting said there have been internal discussion on infrastructure special sales taxes and the time on an election if we choose to do that. We are less than a year away from having to do an election. Shute thinks this should be done in an open session. Deaton reminded that our worksessions are public meetings.

McNeer heard positive comments on the assessment on the wind damage we had the other night that had been determined an EF1 tornado. Want to give a shout out to public safety and city staff for everything done.

Wiehn thanks Parks and Recreation for National Trails Day and the nice trip around the greenway.

Shute echoes what McNeer said. We have great electric service here since our lights did not go out during the tornado. I would put our electric people up against any other agency in the region. Had heard citizen concerns about Veterans Park and the vandalism and destruction of property. Bruce said there are cameras out there. Parks and Rec has not received any complaints. Shute said he has seen PD cars out there regularly.

Baldwin wants to point out that the city has done a great job to prepare for storms with tree trimming and moving things underground. We are seeing some of the fruits of the labor from the hard work.

Mayor said he has been contacted and it has been on social media requesting firework discharge dates and times to be adjusted to the 3<sup>rd</sup>, 4<sup>th</sup>, 5<sup>th</sup>. Baldwin said he had responded to the email. Baldwin said he had liked the original idea of sliding dates based on the day of the week, but the council decided to set dates to make it easier for the public to understand. Deaton said years ago, she was on citizens police advisory and made suggestions to make is sliding. However, that meeting had public comment saying it was very confusing. The problem is our firework stands have to close on the 4<sup>th</sup> and people will hoard their fireworks to keep shooting them. Shute said it is set for the 2<sup>nd</sup>, 3<sup>rd</sup>, and 4<sup>th</sup>. Wiehn said everyone will do their best when people are still shooting them all weekend. Pruetting said to keep in mind the expectations. It's an impossible task for the police to ticket that one person they catch when there are 500 other people doing it. There is consensus to keep it the way it is written.

**EXECUTIVE SESSION**

**ADJOURNMENT**

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There being no further business to come before the Council, on a motion duly made by Councilmember McNeer and seconded by Councilmember Deaton the meeting adjourned at 8:00 pm.

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City Clerk



VEND NO	SEQ#	VENDOR NAME	BNK	CHECK/DUE	ACCOUNT	ITEM	CHECK	EFT, EPAY OR
INVOICE	VOUCHER	P.O.		DATE	NO	DESCRIPTION	AMOUNT	HAND-ISSUED
NO	NO	NO						AMOUNT
0099999	00	BERNADETTE PRIVAT						
69975148		002226	00	05/30/2024	001-0000-228.40-00	REFUND DEPOSIT	85.00	
						VENDOR TOTAL *	85.00	
0002420	00	BRENNTAG MID-SOUTH, INC						
BMS672657		002192	00	05/30/2024	521-4220-442.52-13	SODIUM HYDROXIDE	EFT:	2,108.79
						VENDOR TOTAL *	.00	2,108.79
0005293	00	BRIGHTSPEED						
313014430	0524	002193	00	05/30/2024	521-4220-442.40-03	TELEPHONE - WTP	EFT:	352.80
						VENDOR TOTAL *	.00	352.80
0004259	00	CENTRAL SALT, LLC						
PSI24-08379		PI0236 008366	00	05/15/2024	001-3120-431.52-16	BULK DEICING SALT	EFT:	1,532.49
PSI24-08400		PI0237 008366	00	05/15/2024	001-3120-431.52-16	BULK DEICING SALT	EFT:	3,139.64
PSI24-08429		PI0238 008366	00	05/16/2024	001-3120-431.52-16	BULK DEICING SALT	EFT:	1,523.08
						VENDOR TOTAL *	.00	6,195.21
0001842	00	CITY OF OLATHE						
CINV-332		002194	00	05/30/2024	521-4220-442.31-15	LAB FEES - APRIL 2024	EFT:	61.00
						VENDOR TOTAL *	.00	61.00
0001201	00	COMMERCIAL AQUATIC SERVICES, INC						
49446-1		002195	00	05/30/2024	001-6130-461.31-15	EQUIPMENT REPAIR	EFT:	353.59
49682-1		002226	00	05/30/2024	001-6130-461.31-15	TUBING, POLYETHYLENE &	EFT:	7.44
						VENDOR TOTAL *	.00	361.03
0099999	00	CONESTOGA TITLEHOLDER, LLC						
000059593		UT	00	05/24/2024	501-0000-229.00-00	FINAL BILL REFUND	7.30	
						VENDOR TOTAL *	7.30	
0004644	00	CORE & MAIN LP						
U952268		002182	00	05/30/2024	521-4230-442.52-31	8 X 3/4 SADDLE	EFT:	2,360.72
						VENDOR TOTAL *	.00	2,360.72
0005211	00	EASY ICE, LLC						
01291015		002183	00	05/30/2024	603-3150-431.31-15	PREVENTATIVE MAINT-	EFT:	303.53
01291015		002184	00	05/30/2024	603-3150-431.31-15	PREVENTATIVE MAINT-	EFT:	303.53
						VENDOR TOTAL *	.00	607.06
0005226	00	EVCO WHOLESALE FOOD CORP						
0789642		002216	00	05/30/2024	001-6110-461.52-15	CP BASEBALL CONCESSIONS	161.63	
0789642		002217	00	05/30/2024	001-6130-461.52-15	GAC CONCESSIONS	1,481.44	
						VENDOR TOTAL *	1,643.07	
0099999	00	FLEECS, JAMES						
000071399		UT	00	05/24/2024	501-0000-229.00-00	FINAL BILL REFUND	77.78	
						VENDOR TOTAL *	77.78	
0004492	00	FLOWER FARM, THE						

VEND NO INVOICE NO	SEQ# VOUCHER NO	VENDOR NAME P.O. NO	BNK	CHECK/DUE DATE	ACCOUNT NO	ITEM DESCRIPTION	CHECK AMOUNT	EFT, EPAY OR HAND-ISSUED AMOUNT
0004492 34734	00	FLOWER FARM, THE 002196	00	05/30/2024	001-6120-461.43-01	FLOWERS - P&R	502.74	
						VENDOR TOTAL *	502.74	
0099999 000011405	00	FRAZIER, SANDRA UT	00	05/24/2024	501-0000-229.00-00	FINAL BILL REFUND	1,379.34	
						VENDOR TOTAL *	1,379.34	
0003536 616029-6	00	GERKEN RENT-ALL 002197	00	05/30/2024	001-3120-431.44-02	SINK HOLE REPAIR	197.26	
						VENDOR TOTAL *	197.26	
0000181 9127441237 9116797300	00	GRAINGER 002199 002198	00	05/30/2024 05/30/2024	001-6120-461.52-01 521-4220-442.52-20	PEDESTAL GRILL, CANTILEVR WEED KILLER - ROUNDUP	EFT: EFT:	939.68 536.86
						VENDOR TOTAL *	.00	1,476.54
0001840 KRTL0078051	00	GT DISTRIBUTORS INC 002227	00	05/30/2024	001-2120-421.53-02	PATROL BOOTS - FOX	EFT:	100.00
						VENDOR TOTAL *	.00	100.00
0099999 000070965	00	HEINEKEN, TAYLOR UT	00	05/23/2024	501-0000-229.00-00	FINAL BILL REFUND	12.61	
						VENDOR TOTAL *	12.61	
0099999 000071233	00	HENRY, TYLER UT	00	05/23/2024	501-0000-229.00-00	FINAL BILL REFUND	56.40	
						VENDOR TOTAL *	56.40	
0000520 2024 DUES	00	ICMA MEMBERSHIP RENEWALS 002185	00	05/30/2024	001-1120-411.46-02	DUES JUL '24 - JUNE '25	1,200.00	
						VENDOR TOTAL *	1,200.00	
0000658 03-2484 04-1351 08-000921 07-004010 03-0001	00	JOHNSON COUNTY SHERIFF'S OFFICE 002225 002225 002225 002225 002225	00	05/30/2024 05/30/2024 05/30/2024 05/30/2024 05/30/2024	001-0000-207.10-30 001-0000-207.10-30 001-0000-207.10-30 001-0000-207.10-30 001-0000-207.10-30	DAVID L CONNER BRANDON JONES DEAN M MARTIN ARTHUR A ORMSBY NICOLE P BROWN	400.00 400.00 400.00 400.00 400.00	
						VENDOR TOTAL *	2,000.00	
0002760 192869	00	KA-COMM, INC 002227	00	05/30/2024	001-2110-421.43-02	REPAIR SINGLE BAY CHARGER	EFT:	45.00
						VENDOR TOTAL *	.00	45.00
0005231 1955991-5361924002218	00	KANSAS TURNPIKE AUTHORITY 002218	00	05/30/2024	501-4110-441.46-01	TOLL - TRUCK 420	16.50	
						VENDOR TOTAL *	16.50	
0001626	00	KMEA GRDA OPERATING ACCT						

VEND NO INVOICE NO	SEQ# VOUCHER NO	VENDOR NAME P.O. NO	BNK	CHECK/DUE DATE	ACCOUNT NO	ITEM DESCRIPTION	CHECK AMOUNT	EFT, EPAY OR HAND-ISSUED AMOUNT
0001626 GRDA-GD-24-04	00 002227	KMEA GRDA OPERATING ACCT	00	05/30/2024	501-4120-441.41-01	GRDA ELECTRIC	EFT:	227,169.00
						VENDOR TOTAL *	.00	227,169.00
0002489 1760309	00 002227	KPERS	00	05/30/2024	721-0000-202.03-01	053024 PAY PERIOD	CHECK #:	112 55,551.58
						VENDOR TOTAL *	.00	55,551.58
0002490 1760312	00 002227	KPF	00	05/31/2024	721-0000-202.03-02	053024 PAY PERIOD	CHECK #:	113 38,106.97
						VENDOR TOTAL *	.00	38,106.97
0099999 000064421	00 UT	KS DCF LIEAP	00	05/23/2024	501-0000-229.00-00	MANUAL CHECK		81.75
						VENDOR TOTAL *	81.75	
0099999 000064239	00 UT	LEITE, REBECCA	00	05/24/2024	501-0000-229.00-00	FINAL BILL REFUND		57.87
						VENDOR TOTAL *	57.87	
0002809 INV172877	00 002200	LOGIC, INC	00	05/30/2024	521-4220-442.52-12	TOPVIEW ALERT SUPPORT	EFT:	550.00
						VENDOR TOTAL *	.00	550.00
0099999 000070767	00 UT	LYNN, JEANINE	00	05/28/2024	501-0000-229.00-00	FINAL BILL REFUND		9.27
						VENDOR TOTAL *	9.27	
0099999 000073627	00 UT	MARRERO-DIAZ, ELICIO	00	05/23/2024	501-0000-229.00-00	FINAL BILL REFUND		28.45
						VENDOR TOTAL *	28.45	
0099999 000073783	00 UT	MARWAHA, PARAS	00	05/24/2024	501-0000-229.00-00	FINAL BILL REFUND		58.22
						VENDOR TOTAL *	58.22	
0003700 1046619	00 002227	MCANANY VAN CLEAVE & PHILLIPS PA	00	05/30/2024	001-1120-411.31-15	LEGAL SERVICES	EFT:	5,930.50
						VENDOR TOTAL *	.00	5,930.50
0004464 126400-2	00 002201	MID-STATE RENTAL	00	05/30/2024	001-6120-461.44-02	STUMP GRINDER RENTAL	EFT:	135.00
						VENDOR TOTAL *	.00	135.00
0005265 240101700	00 002202	MILITARY TRIBUTE BANNERS	00	05/30/2024	001-6120-461.52-01	HOMETOWN HEROES		446.00
						VENDOR TOTAL *	446.00	
0005296 6298567	00 002226	MISSIONSQUARE RETIREMENT	00	05/30/2024	721-0000-202.03-04	CONTRIBUTIONS	CHECK #:	101 10,282.40

VEND NO INVOICE NO	SEQ# VOUCHER NO	VENDOR NAME P.O. NO	BNK	CHECK/DUE DATE	ACCOUNT NO	ITEM DESCRIPTION	CHECK AMOUNT	EFT, EPAY OR HAND-ISSUED AMOUNT
0005296 6298567	00	MISSIONSQUARE RETIREMENT 002226	00	05/30/2024	721-0000-202.03-14	CONTRIBUTIONS	CHECK #: 101	299.11
						VENDOR TOTAL *	.00	10,581.51
0004896 6210-57	00	MOOSE'S BBQ & CATERING 002203	00	05/30/2024	601-1230-412.46-01	LUNCH ON THE CITY	EFT:	896.00
						VENDOR TOTAL *	.00	896.00
0000142 190249 03 191645 01 192144 01 192385 01	00	OLATHE WINWATER WORKS 002186 002187 002188 002189	00	05/30/2024 05/30/2024 05/30/2024 05/30/2024	521-4230-442.52-12 521-4230-442.52-31 521-4230-442.52-02 521-4230-442.52-31	VALVE BOX WITH LIDS 1" WATER METER NEW TAP MACHINE METER GASKETS	EFT: EFT: EFT: EFT:	2,250.00 2,750.00 4,570.00 62.50
						VENDOR TOTAL *	.00	9,632.50
0000393 496189	00	OLSSON, INC. 002219	00	05/30/2024	501-4120-441.31-15	ON CALL SERVICES-	EFT:	3,055.00
						VENDOR TOTAL *	.00	3,055.00
0099999 000071177	00	OUTLER, PAYTON & LOGAN GREEN UT	00	05/23/2024	501-0000-229.00-00	FINAL BILL REFUND	61.31	
						VENDOR TOTAL *	61.31	
0001569 INV05471425	00	PAYCOR, INC 002226	00	05/29/2024	001-1310-413.31-15	PAYROLL SERVICES	CHECK #: 107	979.69
						VENDOR TOTAL *	.00	979.69
0099999 000072215 000072215	00	PINNACLE CONSTRUCTION CO, INC UT UT	00	05/23/2024 05/24/2024	501-0000-229.00-00 501-0000-229.00-00	FINAL BILL REFUND FINAL BILL REFUND	649.00 16.56	
						VENDOR TOTAL *	665.56	
0005219 1836033	00	POLYDYNE, INC 002204	00	05/30/2024	521-4220-442.52-13	CLARIFLOC C-4410	EFT:	1,206.00
						VENDOR TOTAL *	.00	1,206.00
0099999 000071323	00	PUETT, HELEN UT	00	05/23/2024	501-0000-229.00-00	FINAL BILL REFUND	56.83	
						VENDOR TOTAL *	56.83	
0005456 817000958-24 817000957-24	00	PVS DX INC 002205 002206	00	05/30/2024 05/30/2024	521-4220-442.52-13 521-4220-442.52-13	CHLORINE AMMONIUM SULFATE	EFT: EFT:	2,140.40 2,200.00
						VENDOR TOTAL *	.00	4,340.40
0005099 61071902	00	QUADIEN, INC 002226	00	05/30/2024	602-1340-413.44-02	METER RENTAL 6/19 - 9/18	120.00	
						VENDOR TOTAL *	120.00	
0000198	00	QUALITY REFRIGERATION, INC.						

VEND NO INVOICE NO	SEQ# VOUCHER NO	VENDOR NAME P.O. NO	BNK CHECK/DUE DATE	ACCOUNT NO	ITEM DESCRIPTION	CHECK AMOUNT	EFT, EPAY OR HAND-ISSUED AMOUNT
0000198 15790	00	QUALITY REFRIGERATION, INC. 002224	00 05/30/2024	001-6110-461.52-15	CP ICE MACHINE - START UP	EFT:	425.33
					VENDOR TOTAL *	.00	425.33
0099999 000068065	00	RONK, CARLA UT	00 05/28/2024	501-0000-229.00-00	FINAL BILL REFUND	13.32	
					VENDOR TOTAL *	13.32	
0003304 000314691	00	SAFETY REMEDY INC 002226	00 05/30/2024	001-6120-461.53-02	PPE - SAFETY GLASSES	EFT:	215.76
					VENDOR TOTAL *	.00	215.76
0005380 138657 138617	00	SHAWNEE COPY CENTER 002190 002220	00 05/30/2024 00 05/30/2024	001-1120-411.47-04 501-4110-441.47-02	ADMIN DEPT ENVELOPES BUSINESS CARDS	EFT: EFT:	235.50 92.36
					VENDOR TOTAL *	.00	327.86
0099999 000073501	00	SMITH, RYAN W UT	00 05/24/2024	501-0000-229.00-00	FINAL BILL REFUND	12.64	
					VENDOR TOTAL *	12.64	
0000203 45898	00	SUPERIOR BOWEN ASPHALT, L.L.C. 002191	00 05/30/2024	001-3120-431.52-08	PATCHING	EFT:	129.34
					VENDOR TOTAL *	.00	129.34
0099999 000072513	00	THORNTON, MARISSA UT	00 05/23/2024	501-0000-229.00-00	FINAL BILL REFUND	70.01	
					VENDOR TOTAL *	70.01	
0000407 405699180 405699191 405709484	00	TOMPKINS INDUSTRIES, INC. 002221 002222 002223	00 05/30/2024 00 05/30/2024 00 05/30/2024	501-4120-441.52-12 501-4120-441.52-12 501-4120-441.52-12	OIL FOR ELECTRIC TURBINES OIL FOR ELECTRIC TURBINES HPT CONTROL UPGRADE CT#2	EFT: EFT: EFT:	40.56 194.39 47.62
					VENDOR TOTAL *	.00	282.57
0000366 05252024STM	00	WARDROBE CLEANERS INC. 002227	00 05/30/2024	001-2120-421.42-02	DRY CLEANING	567.50	
					VENDOR TOTAL *	567.50	
0099999 000071057	00	WEIS, JONI UT	00 05/24/2024	501-0000-229.00-00	FINAL BILL REFUND	79.37	
					VENDOR TOTAL *	79.37	
0099999 000073925	00	WILLMS, LYNSI UT	00 05/28/2024	501-0000-229.00-00	FINAL BILL REFUND	30.38	
					VENDOR TOTAL *	30.38	
					HAND ISSUED TOTAL ***		105,219.75
					EFT/EPAY TOTAL ***		353,120.04

VEND NO	SEQ#	VENDOR NAME							
INVOICE		VOUCHER	P.O.	BNK	CHECK/DUE	ACCOUNT	ITEM	CHECK	EFT, EPAY OR
NO		NO	NO		DATE	NO	DESCRIPTION	AMOUNT	HAND-ISSUED
									AMOUNT
0099999	00						TOTAL EXPENDITURES ****	9,631.89	458,339.79
						GRAND TOTAL	*****		467,971.68

VEND NO	SEQ#	VENDOR NAME	INVOICE NO	VOUCHER NO	P.O. NO	BNK	CHECK/DUE DATE	ACCOUNT NO	ITEM DESCRIPTION	CHECK AMOUNT	EFT, EPAY OR HAND-ISSUED AMOUNT
0004340	00	ALL CITY MANAGEMENT SERVICES INC	93697	PI0258	008480	00	05/22/2024	001-2110-421.31-15	SCHOOL CROSSING GUARD	EFT:	3,917.20
VENDOR TOTAL *										.00	3,917.20
0000056	00	AMERICAN EQUIPMENT CO.	50986	002245		00	05/29/2024	531-4320-443.52-12	PUMP SOLENOID	EFT:	94.01
VENDOR TOTAL *										.00	94.01
0001986	00	ANIXTER, INC.	6068786-00	002256		00	06/06/2024	501-4130-441.52-31	CABLE PREP KIT	EFT:	1,525.21
5617754-00			PI0254	008273	00	05/22/2024	501-4130-441.52-31	15KV, 95 KV BIL SOL	EFT:	92,455.64	
6062232-00			PI0261	008583	00	05/24/2024	501-4130-441.52-31	WIRE 4/0 AL 19STR TRI XLP	EFT:	13,175.32	
6046623-12			PI0260	008580	00	05/31/2024	501-4140-441.62-15	ALUMA FORM DEAD END ARM	EFT:	12,848.69	
6046623-14			PI0263	008580	00	06/04/2024	501-4140-441.62-15	WOOD POLE, 50, CLASS 2	EFT:	24,737.50	
VENDOR TOTAL *										.00	144,742.36
0002764	00	APPLIED CONCEPTS	438557	002246		00	05/29/2024	001-2120-421.61-09	RADAR - NEW BUILD #133	EFT:	3,250.00
VENDOR TOTAL *										.00	3,250.00
0004970	00	AQUATIC ECOSYSTEM CONSULTANTS	5960	002247		00	06/06/2024	001-6120-461.31-15	CP POND TREATMENT	EFT:	435.00
6008			002248		00	06/06/2024	001-6120-461.31-15	CP POND TREATMENT	EFT:	677.00	
VENDOR TOTAL *										.00	1,112.00
0004994	00	BENEFITS DIRECT	A026822	006278		00	06/06/2024	001-1120-411.21-01	MONTHLY BILLING	EFT:	50.14
A026822			006277		00	06/06/2024	001-1140-411.31-15	MONTHLY BILLING	EFT:	405.00	
A026822			006279		00	06/06/2024	001-1140-411.21-01	MONTHLY BILLING	EFT:	31.38	
A026822			006280		00	06/06/2024	001-1150-411.21-01	MONTHLY BILLING	EFT:	6.76	
A026822			006282		00	06/06/2024	001-1305-413.21-01	MONTHLY BILLING	EFT:	16.92	
A026822			006283		00	06/06/2024	001-1310-413.21-01	MONTHLY BILLING	EFT:	42.44	
A026822			006285		00	06/06/2024	001-1330-413.21-01	MONTHLY BILLING	EFT:	21.22	
A026822			006287		00	06/06/2024	001-2110-421.21-01	MONTHLY BILLING	EFT:	62.76	
A026822			006288		00	06/06/2024	001-2120-421.21-01	MONTHLY BILLING	EFT:	341.98	
A026822			006289		00	06/06/2024	001-2130-421.21-01	MONTHLY BILLING	EFT:	6.76	
A026822			006290		00	06/06/2024	001-3110-431.21-01	MONTHLY BILLING	EFT:	14.46	
A026822			006292		00	06/06/2024	001-3120-431.21-01	MONTHLY BILLING	EFT:	67.68	
A026822			006293		00	06/06/2024	001-3130-431.21-01	MONTHLY BILLING	EFT:	69.56	
A026822			006303		00	06/06/2024	001-6105-461.21-01	MONTHLY BILLING	EFT:	48.26	
A026822			006304		00	06/06/2024	001-6120-461.21-01	MONTHLY BILLING	EFT:	72.88	
A026822			006305		00	06/06/2024	001-7110-471.21-01	MONTHLY BILLING	EFT:	52.60	
A026822			006306		00	06/06/2024	001-7120-471.21-01	MONTHLY BILLING	EFT:	24.62	
A026822			006295		00	06/06/2024	501-4110-441.21-01	MONTHLY BILLING	EFT:	49.20	
A026822			006296		00	06/06/2024	501-4120-441.21-01	MONTHLY BILLING	EFT:	38.14	
A026822			006297		00	06/06/2024	501-4130-441.21-01	MONTHLY BILLING	EFT:	89.84	
A026822			006298		00	06/06/2024	521-4210-442.21-01	MONTHLY BILLING	EFT:	6.76	
A026822			006299		00	06/06/2024	521-4220-442.21-01	MONTHLY BILLING	EFT:	49.20	
A026822			006300		00	06/06/2024	521-4230-442.21-01	MONTHLY BILLING	EFT:	87.34	
A026822			006301		00	06/06/2024	531-4310-443.21-01	MONTHLY BILLING	EFT:	14.46	

VEND NO	SEQ#	VENDOR NAME	BNK	CHECK/DUE	ACCOUNT	ITEM	CHECK	EFT, EPAY OR
INVOICE	VOUCHER	P.O.		DATE	NO	DESCRIPTION	AMOUNT	HAND-ISSUED
NO	NO	NO						AMOUNT
0004994	00	BENEFITS DIRECT						
A026822	006302		00	06/06/2024	531-4320-443.21-01	MONTHLY BILLING	EFT:	67.06
A026822	006281		00	06/06/2024	601-1230-412.21-01	MONTHLY BILLING	EFT:	14.46
A026822	006286		00	06/06/2024	602-1340-413.21-01	MONTHLY BILLING	EFT:	52.60
A026822	006294		00	06/06/2024	603-3150-431.21-01	MONTHLY BILLING	EFT:	27.08
A026822	006284		00	06/06/2024	604-1320-413.21-01	MONTHLY BILLING	EFT:	44.00
A026822	006291		00	06/06/2024	605-3116-431.21-01	MONTHLY BILLING	EFT:	10.16
A026822	006275		00	06/06/2024	721-0000-202.03-07	MONTHLY BILLING	EFT:	10,381.74
A026822	006276		00	06/06/2024	721-0000-202.03-08	MONTHLY BILLING	EFT:	291.00
						VENDOR TOTAL *	.00	12,558.46
0001405	00	BEST LAWN CARE						
GEC043024	002257		00	06/06/2024	501-4110-441.31-15	MOWING @ ELECTRIC FACILTY	EFT:	1,530.00
GEC053124	002257		00	06/06/2024	501-4110-441.31-15	MOWING @ ELECTRIC FACILTY	EFT:	1,530.00
						VENDOR TOTAL *	.00	3,060.00
0005337	00	BLUE CARDINAL CHEMICAL LLC						
13455	002256		00	06/06/2024	531-4330-443.52-13	DEODORIZER & SEWER SCRUBR	EFT:	3,373.58
						VENDOR TOTAL *	.00	3,373.58
0002420	00	BRENNTAG MID-SOUTH, INC						
BMS675580	002230		00	06/06/2024	521-4220-442.52-13	SODIUM HYDROXIDE	EFT:	1,427.53
BMS679231	002256		00	06/06/2024	521-4220-442.52-13	SODIUM HYDROXIDE	EFT:	1,427.53
						VENDOR TOTAL *	.00	2,855.06
0001984	00	BSN SPORTS, LLC						
925681076	002249		00	06/06/2024	001-6110-461.47-53	MLB CAPS - T-BALL	EFT:	1,091.50
						VENDOR TOTAL *	.00	1,091.50
0001834	00	C & C GROUP						
65260	002254		00	06/06/2024	603-3150-431.43-01	REPLACE RUPTURE BASIN	EFT:	548.25
						VENDOR TOTAL *	.00	548.25
0000429	00	CINTAS FIRE PROTECTION						
5176609247	002257		00	06/06/2024	521-4220-442.31-15	FIRST AID CABINET	EFT:	32.40
						VENDOR TOTAL *	.00	32.40
0001842	00	CITY OF OLATHE						
CINV-331	002256		00	06/06/2024	521-4230-442.31-15	LAB FEES - S. ELM HYDRANT	EFT:	45.00
						VENDOR TOTAL *	.00	45.00
0099999	00	CLAYCOMB, JACOB						
000066737	UT		00	06/05/2024	501-0000-229.00-00	FINAL BILL REFUND	40.86	
						VENDOR TOTAL *	40.86	
0099999	00	COLE, ELLE						
000071397	UT		00	06/05/2024	501-0000-229.00-00	FINAL BILL REFUND	64.80	
						VENDOR TOTAL *	64.80	
0000069	00	COLEMAN EQUIPMENT, INC.						

VEND NO	SEQ#	VENDOR NAME	INVOICE NO	VOUCHER NO	P.O. NO	BNK	CHECK/DUE DATE	ACCOUNT NO	ITEM DESCRIPTION	CHECK AMOUNT	EFT, EPAY OR HAND-ISSUED AMOUNT
0000069	00	COLEMAN EQUIPMENT, INC.									
CREDIT MEMO			002251			00	06/06/2024	001-3120-431.43-02	DOUBLE PAID INVOICE	EFT:	287.81
609662			002250			00	06/06/2024	001-6120-461.43-02	REPAIR AGING EQUIPMENT	EFT:	1,386.10
VENDOR TOTAL *										.00	1,098.29
0004805	00	CROSSLAND HEAVY CONTRACTORS INC									
PAY EST NO 8			PI0252	008379		00	04/30/2024	531-4340-443.62-10	KILL CREEK WWTP EXPANSION	EFT:	187,745.00
VENDOR TOTAL *										.00	187,745.00
0004998	00	DELTA DENTAL OF KANSAS									
1005114202406	006211					00	06/06/2024	001-1120-411.21-01	MONTHLY BILLING	EFT:	226.40
1005114202406	006212					00	06/06/2024	001-1140-411.21-01	MONTHLY BILLING	EFT:	135.94
1005114202406	006213					00	06/06/2024	001-1150-411.21-01	MONTHLY BILLING	EFT:	22.74
1005114202406	006214					00	06/06/2024	001-1305-413.21-01	MONTHLY BILLING	EFT:	79.34
1005114202406	006215					00	06/06/2024	001-1310-413.21-01	MONTHLY BILLING	EFT:	181.42
1005114202406	006217					00	06/06/2024	001-1330-413.21-01	MONTHLY BILLING	EFT:	113.20
1005114202406	006219					00	06/06/2024	001-2110-421.21-01	MONTHLY BILLING	EFT:	249.14
1005114202406	006220					00	06/06/2024	001-2120-421.21-01	MONTHLY BILLING	EFT:	1,324.20
1005114202406	006221					00	06/06/2024	001-2130-421.21-01	MONTHLY BILLING	EFT:	22.74
1005114202406	006222					00	06/06/2024	001-3120-431.21-01	MONTHLY BILLING	EFT:	283.50
1005114202406	006223					00	06/06/2024	001-3130-431.21-01	MONTHLY BILLING	EFT:	238.02
1005114202406	006232					00	06/06/2024	001-6105-461.21-01	MONTHLY BILLING	EFT:	204.16
1005114202406	006233					00	06/06/2024	001-6120-461.21-01	MONTHLY BILLING	EFT:	249.64
1005114202406	006234					00	06/06/2024	001-7110-471.21-01	MONTHLY BILLING	EFT:	158.68
1005114202406	006235					00	06/06/2024	001-7120-471.21-01	MONTHLY BILLING	EFT:	79.34
1005114202406	006225					00	06/06/2024	501-4110-441.21-01	MONTHLY BILLING	EFT:	181.42
1005114202406	006226					00	06/06/2024	501-4120-441.21-01	MONTHLY BILLING	EFT:	158.68
1005114202406	006227					00	06/06/2024	501-4130-441.21-01	MONTHLY BILLING	EFT:	441.68
1005114202406	006228					00	06/06/2024	521-4220-442.21-01	MONTHLY BILLING	EFT:	158.68
1005114202406	006229					00	06/06/2024	521-4230-442.21-01	MONTHLY BILLING	EFT:	306.24
1005114202406	006230					00	06/06/2024	531-4310-443.21-01	MONTHLY BILLING	EFT:	56.60
1005114202406	006231					00	06/06/2024	531-4320-443.21-01	MONTHLY BILLING	EFT:	215.28
1005114202406	006218					00	06/06/2024	602-1340-413.21-01	MONTHLY BILLING	EFT:	169.80
1005114202406	006224					00	06/06/2024	603-3150-431.21-01	MONTHLY BILLING	EFT:	135.94
1005114202406	006216					00	06/06/2024	604-1320-413.21-01	MONTHLY BILLING	EFT:	192.54
1005114202406	006210					00	06/06/2024	721-0000-202.03-08	MONTHLY BILLING	EFT:	5,720.33
VENDOR TOTAL *										.00	11,305.65
0005226	00	EVCO WHOLESALE FOOD CORP									
0790637			002254			00	06/06/2024	001-6130-461.52-15	GAC CONCESSIONS	1,937.98	
VENDOR TOTAL *										1,937.98	
0004946	00	EVERGY									
4469208877	0524002257					00	06/06/2024	521-4220-442.40-05	ELECTRIC @ 14A AIR RD	42.82	
6466308678	0524002232					00	06/06/2024	531-4320-443.40-05	ELECTRIC AT WTP	28.27	
7011930732	0524002233					00	06/06/2024	531-4320-443.40-05	ELECTRIC @ WAVERLY LIFT	19.77	
VENDOR TOTAL *										90.86	
0002956	00	FASTENAL CO.									
KSKA3152677			002257			00	06/06/2024	501-4130-441.52-02	BOLT CUTTER	EFT:	55.24

VEND NO	SEQ#	VENDOR NAME	INVOICE NO	VOUCHER NO	P.O. NO	BNK	CHECK/DUE DATE	ACCOUNT NO	ITEM DESCRIPTION	CHECK AMOUNT	EFT, EPAY OR HAND-ISSUED AMOUNT
0002956	00	FASTENAL CO.	KSKA3152649	002257		00	06/06/2024	501-4130-441.52-02	SOCKETS FOR #401 & #405	EFT:	479.51
VENDOR TOTAL *										.00	534.75
0004000	00	GARCIA, GONZALO A.	FRAME 5 USERS	002255		00	06/06/2024	501-4110-441.46-01	PER DIEM	183.00	
VENDOR TOTAL *										183.00	
0000089	00	GARDNER AUTO BODY	55407CF1	PI0264	008585	00	06/04/2024	001-2110-421.43-05	UNIT #120 PD VEHICLE	17,184.70	
VENDOR TOTAL *										17,184.70	
0000092	00	GEORGE BUTLER ASSOC., INC.	81375	PI0257	008452	00	05/23/2024	531-4340-443.62-10	CEDAR NILES LIFT STATION	44,086.75	
VENDOR TOTAL *										44,086.75	
0000181	00	GRAINGER	9125863648	002258		00	06/06/2024	501-4120-441.52-20	EYE WASH BOTTLE	EFT:	107.04
9127497957				002258		00	06/06/2024	501-4120-441.52-12	CONNECTORS-MALE & FEMALE	EFT:	228.41
9119771948				002234		00	06/06/2024	521-4220-442.52-20	BATTERIES - AA & AAA	EFT:	63.09
9125230012				002235		00	06/06/2024	521-4220-442.52-12	FLANGE - 4 INCH	EFT:	23.89
9126077503				002236		00	06/06/2024	521-4220-442.52-20	FIRST AID KIT &	EFT:	84.77
9129455714				002237		00	06/06/2024	521-4220-442.52-12	ELBOWS & FLANGE GASKETS	EFT:	36.28
9130707988				002238		00	06/06/2024	521-4220-442.52-12	ELBOWS	EFT:	25.85
VENDOR TOTAL *										.00	569.33
0005093	00	GROUP GARDNER, LLC	06052024	CID 002231		00	06/06/2024	108-9100-491.49-05	CID PAYMENT	EFT:	100,387.47
VENDOR TOTAL *										.00	100,387.47
0001840	00	GT DISTRIBUTORS INC	INV1003044	002252		00	06/06/2024	001-2120-421.53-02	UNIFORMS	EFT:	55.20
UNIV0046603				002252		00	06/06/2024	001-2120-421.53-02	ACADEMY UNIFORMS -	EFT:	278.09
VENDOR TOTAL *										.00	333.29
0000013	00	HACH COMPANY	14055210	002258		00	06/06/2024	521-4220-442.52-12	LAB REAGENTS	EFT:	200.54
VENDOR TOTAL *										.00	200.54
0099999	00	HAMILTON, AIDAN	000071305	UT		00	06/05/2024	501-0000-229.00-00	FINAL BILL REFUND	49.48	
VENDOR TOTAL *										49.48	
0004993	00	HARTFORD, THE	069840824213	000188		00	06/06/2024	001-1120-411.21-02	MONTHLY BILLING	EFT:	53.55
069840824213				000189		00	06/06/2024	001-1140-411.21-02	MONTHLY BILLING	EFT:	19.30
069840824213				000190		00	06/06/2024	001-1150-411.21-02	MONTHLY BILLING	EFT:	6.15
069840824213				000192		00	06/06/2024	001-1305-413.21-02	MONTHLY BILLING	EFT:	15.30
069840824213				000193		00	06/06/2024	001-1310-413.21-02	MONTHLY BILLING	EFT:	33.10
069840824213				000195		00	06/06/2024	001-1330-413.21-02	MONTHLY BILLING	EFT:	21.45

VEND NO	SEQ#	VENDOR NAME	INVOICE NO	VOUCHER NO	P.O. NO	BNK	CHECK/DUE DATE	ACCOUNT NO	ITEM DESCRIPTION	CHECK AMOUNT	EFT, EPAY OR HAND-ISSUED AMOUNT
0004993	00	HARTFORD, THE									
069840824213			000197			00	06/06/2024	001-2110-421.21-02	MONTHLY BILLING	EFT:	53.55
069840824213			000198			00	06/06/2024	001-2120-421.21-02	MONTHLY BILLING	EFT:	232.80
069840824213			000199			00	06/06/2024	001-2130-421.21-02	MONTHLY BILLING	EFT:	7.65
069840824213			000200			00	06/06/2024	001-3110-431.21-02	MONTHLY BILLING	EFT:	15.30
069840824213			000202			00	06/06/2024	001-3120-431.21-02	MONTHLY BILLING	EFT:	65.85
069840824213			000203			00	06/06/2024	001-3130-431.21-02	MONTHLY BILLING	EFT:	36.10
069840824213			000214			00	06/06/2024	001-6105-461.21-02	MONTHLY BILLING	EFT:	42.90
069840824213			000215			00	06/06/2024	001-6120-461.21-02	MONTHLY BILLING	EFT:	64.35
069840824213			000216			00	06/06/2024	001-7110-471.21-02	MONTHLY BILLING	EFT:	36.75
069840824213			000217			00	06/06/2024	001-7120-471.21-02	MONTHLY BILLING	EFT:	28.45
069840824213			000205			00	06/06/2024	501-4110-441.21-02	MONTHLY BILLING	EFT:	33.10
069840824213			000206			00	06/06/2024	501-4120-441.21-02	MONTHLY BILLING	EFT:	36.75
069840824213			000207			00	06/06/2024	501-4130-441.21-02	MONTHLY BILLING	EFT:	67.35
069840824213			000208			00	06/06/2024	521-4210-442.21-02	MONTHLY BILLING	EFT:	15.30
069840824213			000209			00	06/06/2024	521-4220-442.21-02	MONTHLY BILLING	EFT:	53.70
069840824213			000210			00	06/06/2024	521-4230-442.21-02	MONTHLY BILLING	EFT:	61.20
069840824213			000211			00	06/06/2024	531-4310-443.21-02	MONTHLY BILLING	EFT:	7.65
069840824213			000212			00	06/06/2024	531-4320-443.21-02	MONTHLY BILLING	EFT:	45.90
069840824213			000213			00	06/06/2024	551-4520-445.21-02	MONTHLY BILLING	EFT:	2.16
069840824213			000191			00	06/06/2024	601-1230-412.21-02	MONTHLY BILLING	EFT:	7.65
069840824213			000196			00	06/06/2024	602-1340-413.21-02	MONTHLY BILLING	EFT:	36.75
069840824213			000204			00	06/06/2024	603-3150-431.21-02	MONTHLY BILLING	EFT:	7.65
069840824213			000194			00	06/06/2024	604-1320-413.21-02	MONTHLY BILLING	EFT:	38.25
069840824213			000201			00	06/06/2024	605-3116-431.21-02	MONTHLY BILLING	EFT:	7.65
									VENDOR TOTAL *	.00	1,153.61
0099999	00	HENDRIX, CHRISTOPHER									
000068639		UT				00	06/05/2024	501-0000-229.00-00	FINAL BILL REFUND	52.38	
									VENDOR TOTAL *	52.38	
0000297	00	HERITAGE-CRYSTAL CLEAN									
18689328			002253			00	06/06/2024	605-3116-431.31-15	PARTS CLEANER	EFT:	448.07
									VENDOR TOTAL *	.00	448.07
0005013	00	HSA BANK									
W542219			002244			00	05/29/2024	001-1140-411.31-15	HSA SERVICE FEE	CHECK #: 131	119.00
									VENDOR TOTAL *	.00	119.00
0001703	00	INDEPENDENT ELECTRIC MACHINERY CO									
KC-HSRI2487			002258			00	06/06/2024	501-4120-441.31-15	ANNUAL HOIST INSPECTION	EFT:	250.00
KC-HSRI2482			002239			00	06/06/2024	521-4220-442.31-15	HOIST INSPECTION	EFT:	795.00
									VENDOR TOTAL *	.00	1,045.00
0005321	00	INSIGHT PUBLIC SAFETY & FORENSIC CO									
1832			002252			00	06/06/2024	001-2110-421.31-15	WELLNESS CHECK	EFT:	400.00
									VENDOR TOTAL *	.00	400.00
0099999	00	JIMMIE W ROGERS									
63439			002255			00	06/06/2024	001-0000-228.30-00	BOND REFUND	125.00	

VEND NO	SEQ#	VENDOR NAME							EFT, EPAY OR
INVOICE	VOUCHER	P.O.	BNK	CHECK/DUE	ACCOUNT	ITEM	CHECK		HAND- ISSUED
NO	NO	NO		DATE	NO	DESCRIPTION	AMOUNT		AMOUNT
0099999	00	JIMMIE W ROGERS							
						VENDOR TOTAL *	125.00		
0000108	00	K.C. BOBCAT INC							
19194053	002252		00	06/06/2024	001-6120-461.43-02	BOBCAT REPAIRS	549.45		
						VENDOR TOTAL *	549.45		
0004118	00	KANSAS BUREAU OF INVESTIGATION							
K23-01249	002258		00	06/06/2024	001-0000-207.10-30	WON RYANG JU	400.00		
K22-00688	002258		00	06/06/2024	001-0000-207.10-30	KAITLYN MARIE COLLINS	400.00		
K23-00376	002258		00	06/06/2024	001-0000-207.10-30	ANTHONY OUBRE-TWEEDIE	400.00		
K22-00083	002258		00	06/06/2024	001-0000-207.10-30	GENARO ZAVALA	400.00		
K22-01141	002258		00	06/06/2024	001-0000-207.10-30	ASHLEY RENAE MCCALLOP	400.00		
						VENDOR TOTAL *	2,000.00		
0002671	00	KANSAS GAS SERVICE							
105962227	0524	002252	00	06/06/2024	001-6120-461.40-04	NATURAL GAS	95.73		
161419073	0524	002258	00	06/06/2024	501-4130-441.40-04	NATURAL GAS	140.63		
						VENDOR TOTAL *	236.36		
0000112	00	KANSAS ONE-CALL SYSTEM, INC.							
4050265	002258		00	06/06/2024	501-4120-441.31-15	LOCATES FOR GAS PIPELINE		EFT:	15.60
4050264	002258		00	06/06/2024	531-4320-443.31-15	LOCATES FOR FIBER OPTIC		EFT:	37.20
						VENDOR TOTAL *	.00		52.80
0000332	00	KANSAS STATE TREASURER							
84368	002259		00	06/07/2024	001-0000-207.10-17	FEB 2024 COURT		CHECK #:	133
84368	002259		00	06/07/2024	001-0000-207.10-13	FEB 2024 COURT		CHECK #:	133
84368	002259		00	06/07/2024	001-0000-207.10-14	FEB 2024 COURT		CHECK #:	133
84368	002259		00	06/07/2024	001-0000-207.10-11	FEB 2024 COURT		CHECK #:	133
84368	002259		00	06/07/2024	001-0000-207.10-12	FEB 2024 COURT		CHECK #:	133
84368	002259		00	06/07/2024	001-0000-207.10-15	FEB 2024 COURT		CHECK #:	133
84368	002259		00	06/07/2024	001-0000-207.10-16	FEB 2024 COURT		CHECK #:	133
						VENDOR TOTAL *	.00		4,869.00
0000245	00	KDHE - TECHNICAL SERVICES SECTION							
OP11399	002258		00	06/06/2024	531-4330-443.46-02	TANNER JOHNSON - OPERATOR	20.00		
						VENDOR TOTAL *	20.00		
0001626	00	KMEA GRDA OPERATING ACCT							
GRDA-GD-24-07	002254		00	06/06/2024	501-4120-441.41-01	KMEA - GRDA 7/2024		EFT:	300,896.00
						VENDOR TOTAL *	.00		300,896.00
0004604	00	LAMP, RYNEARSON & ASSOCIATES							
0323149.01	- 06PI0255	008442	00	05/30/2024	531-4340-443.62-10	WW PARK RELIEF SEWER PROJ	46,101.44		
						VENDOR TOTAL *	46,101.44		
0004811	00	LESTER, JORDYN							
06032024	002252		00	06/06/2024	001-6130-461.52-15	EMPLOYEE REIMBURSEMENT	195.21		
						VENDOR TOTAL *	195.21		
0005186	00	LINDE GAS & EQUIPMENT							

VEND NO INVOICE NO	SEQ# VOUCHER NO	VENDOR NAME P.O. NO	BNK	CHECK/DUE DATE	ACCOUNT NO	ITEM DESCRIPTION	CHECK AMOUNT	EFT, EPAY OR HAND-ISSUED AMOUNT
0005186	00	LINDE GAS & EQUIPMENT						
43284520	002258		00	06/06/2024	501-4120-441.44-02	CYLINDER RENTAL	EFT:	699.74
43275294	002253		00	06/06/2024	605-3116-431.44-02	CYLINDER RENTAL	EFT:	201.54
						VENDOR TOTAL *	.00	901.28
0001368	00	LLOYD HAROLD						
1959	002240		00	06/06/2024	531-4320-443.43-02	PUMP REPAIR & MAINT	EFT:	675.00
						VENDOR TOTAL *	.00	675.00
0004464	00	MID-STATE RENTAL						
126568-2	002258		00	06/06/2024	501-4130-441.44-02	SAFETY CONES RENTED FOR	EFT:	226.62
						VENDOR TOTAL *	.00	226.62
0001382	00	MISSION COMMUNICATIONS, LLC						
1088236	002252		00	06/06/2024	531-4320-443.31-15	LIFT STATION ALARMS	EFT:	626.00
						VENDOR TOTAL *	.00	626.00
0099999	00	MUSICK, MATTHEW						
000071173	UT		00	06/05/2024	501-0000-229.00-00	FINAL BILL REFUND		60.12
						VENDOR TOTAL *	60.12	
0005465	00	OLATHE T-SHIRT & TROPHY						
32464	002252		00	06/06/2024	001-6110-461.47-53	APPAREL - BTS		188.50
						VENDOR TOTAL *	188.50	
0000142	00	OLATHE WINWATER WORKS						
191250 02	002258		00	06/06/2024	521-4230-442.52-31	SADDLES	EFT:	3,060.00
						VENDOR TOTAL *	.00	3,060.00
0000393	00	OLSSON, INC.						
496501	002258		00	06/06/2024	501-4120-441.31-15	TRANSMISSION LINE INSPECT	EFT:	2,131.00
494112	PI0253 008577		00	04/18/2024	501-4120-441.31-15	STEEL POLE INSPECTIONS	EFT:	12,256.75
						VENDOR TOTAL *	.00	14,387.75
0004836	00	PARKIT						
4386	002258		00	06/06/2024	001-6110-461.54-51	DEPOSIT FOR 07/04/2024	EFT:	1,680.00
						VENDOR TOTAL *	.00	1,680.00
0004385	00	POMP'S TIRE SERVICE, INC.						
1180088077	002258		00	06/06/2024	501-4130-441.43-05	FRONT END ALIGNMENT	EFT:	462.45
1180088028	002258		00	06/06/2024	501-4130-441.52-04	NEW TIRES FOR TRK 429	EFT:	1,067.91
1180088375	002253		00	06/06/2024	605-3116-431.52-04	TRUCK #520	EFT:	2,022.32
						VENDOR TOTAL *	.00	3,552.68
0004198	00	PROTECT YOUTH SPORTS						
1169911	002253		00	06/06/2024	001-6110-461.47-53	BACKGROUND CHECKS	EFT:	189.45
						VENDOR TOTAL *	.00	189.45
0005475	00	REVIZE LLC						
18407	PI0262 008586		00	05/22/2024	602-1340-413.47-05	SOFTWARE SUBSCRIPTION	EFT:	33,450.00

VEND NO INVOICE NO	SEQ# VOUCHER NO	VENDOR NAME P.O. NO	BNK	CHECK/DUE DATE	ACCOUNT NO	ITEM DESCRIPTION	CHECK AMOUNT	EFT, EPAY OR HAND-ISSUED AMOUNT
0005475	00	REVIZE LLC						
						VENDOR TOTAL *	.00	33,450.00
0003467	00	ROSE, EVAN						
FRAME 5 USERS	002258		00	06/06/2024	501-4120-441.46-01	PER DIEM	305.00	
						VENDOR TOTAL *	305.00	
0099999	00	SEYMOUR-FESMIRE, ALLISON						
000071211		UT	00	06/05/2024	501-0000-229.00-00	FINAL BILL REFUND	51.78	
						VENDOR TOTAL *	51.78	
0005380	00	SHAWNEE COPY CENTER						
138751	002253		00	06/06/2024	001-2110-421.47-02	CASH APPEARANCE BOND &	EFT:	93.61
138752	002253		00	06/06/2024	001-2110-421.47-02	BUSINESS CARDS	EFT:	55.00
						VENDOR TOTAL *	.00	148.61
0001236	00	SHAWNEE MISSION FORD						
31361	PI0256 008443		00	05/31/2024	001-2120-421.61-09	PD VEHICLE #136	EFT:	49,292.00
31360	PI0259 008523		00	05/31/2024	001-2120-421.61-09	PD VEHICLE #137	EFT:	49,292.00
						VENDOR TOTAL *	.00	98,584.00
0002247	00	SHERWIN WILLIAMS- ACCT 6716-4600-8						
3350-6	002253		00	06/06/2024	001-6120-461.52-01	PAINT - POOL	EFT:	173.97
						VENDOR TOTAL *	.00	173.97
0000161	00	SIGN HERE, INC.						
25624	002258		00	06/06/2024	501-4130-441.52-04	DECALS FOR TRK #401	EFT:	356.89
						VENDOR TOTAL *	.00	356.89
0000553	00	SPECIAL OLYMPICS KANSAS						
863	002254		00	06/06/2024	702-6110-461.54-52	2024 SUMMER GAMES	EFT:	690.00
						VENDOR TOTAL *	.00	690.00
0004785	00	SUMNERONE, INC						
3936572	002258		00	06/06/2024	501-4110-441.43-02	COPIER MAINT PROGRAM	EFT:	58.31
3942296	002258		00	06/06/2024	501-4130-441.43-02	COPIER MAINT PROGRAM	EFT:	22.50
						VENDOR TOTAL *	.00	80.81
0002545	00	SWANK MOTION PICTURES, INC						
BO 2249638	002254		00	06/06/2024	001-6110-461.54-51	WIDESCREEN DVD	EFT:	405.00
						VENDOR TOTAL *	.00	405.00
0000174	00	TAPCO PRODUCTS CO.						
295018	002254		00	06/06/2024	603-3150-431.42-01	MONTHLY BILLING RUGS	EFT:	134.08
295021	002254		00	06/06/2024	603-3150-431.42-01	MONTHLY BILLING RUGS	EFT:	20.55
295015	002254		00	06/06/2024	603-3150-431.42-01	MONTHLY BILLING RUGS	EFT:	20.55
295022	002254		00	06/06/2024	603-3150-431.42-01	MONTHLY BILLING RUGS	EFT:	51.14
295028	002254		00	06/06/2024	603-3150-431.42-01	MONTHLY BILLING RUGS	EFT:	38.54
295029	002254		00	06/06/2024	603-3150-431.42-01	MONTHLY BILLING RUGS	EFT:	59.56
295999	002254		00	06/06/2024	603-3150-431.42-01	MONTHLY BILLING RUGS	EFT:	97.04

VEND NO	SEQ#	VENDOR NAME	BNK	CHECK/DUE	ACCOUNT	ITEM	CHECK	EFT, EPAY OR
INVOICE	VOUCHER	P.O.		DATE	NO	DESCRIPTION	AMOUNT	HAND-ISSUED
NO	NO	NO						AMOUNT
0000174	00	TAPCO PRODUCTS CO.						
295019	002254		00	06/06/2024	603-3150-431.42-01	MONTHLY BILLING RUGS	EFT:	63.60
295017	002254		00	06/06/2024	603-3150-431.42-01	MONTHLY BILLING RUGS	EFT:	193.05
						VENDOR TOTAL *	.00	678.11
0004635	00	TEST SMARTLY LABS						
20374	002255		00	06/06/2024	601-1230-412.31-15	POST OFFER SEASONALS	EFT:	525.00
						VENDOR TOTAL *	.00	525.00
0002055	00	TG TECHNICAL SERVICES						
04597	002258		00	06/06/2024	521-4220-442.31-15	GAS MONITOR CALIBRATION	EFT:	450.00
04598	002241		00	06/06/2024	531-4320-443.31-15	CALIBRATION ON GAS METER	EFT:	195.00
						VENDOR TOTAL *	.00	645.00
0004954	00	TITAN ENVIRONMENTAL SERVICES, INC						
24194ALM	002255		00	06/06/2024	001-3130-431.31-15	115 N CENTER INSPECTION	EFT:	1,295.00
						VENDOR TOTAL *	.00	1,295.00
0003962	00	TRANSLATIONPERFECT.COM						
INV-11760	002255		00	06/06/2024	001-1330-413.31-15	INTERPRETER	EFT:	180.00
INV-12040	002255		00	06/06/2024	001-1330-413.31-15	INTERPRETER	EFT:	193.00
						VENDOR TOTAL *	.00	373.00
0000238	00	USA BLUE BOOK						
INV00369426	002242		00	06/06/2024	521-4220-442.52-12	FLOAT SWITCHES	EFT:	181.06
INV00369523	002243		00	06/06/2024	521-4220-442.52-12	FLOAT SWITCHES	EFT:	107.95
						VENDOR TOTAL *	.00	289.01
0000026	00	USIC LOCATING SERVICES						
661870	002258		00	06/06/2024	501-4120-441.31-15	LOCATES FOR GAS PIPELINE	EFT:	226.60
						VENDOR TOTAL *	.00	226.60
0004226	00	WATCHMEN SECURITY SERVICES						
89425	002258		00	06/06/2024	501-4120-441.31-15	VIDEO SECURITY MONITORING	EFT:	443.96
						VENDOR TOTAL *	.00	443.96
0003221	00	WEX BANK						
97066515	002258		00	06/06/2024	001-0000-341.02-00	REBATES-MISC REVENUES	EFT:	90.56
97066515	002258		00	06/06/2024	001-2110-421.52-09	PD ADMIN FUEL	EFT:	269.61
97066515	002258		00	06/06/2024	001-2120-421.52-09	PD OPERATIONS FUEL	EFT:	5,714.91
97066515	002258		00	06/06/2024	001-2120-421.43-05	PD SERVICE EXPENDITURES	EFT:	3,501.73
97066515	002258		00	06/06/2024	001-3120-431.52-09	STREETS & STORM FUEL	EFT:	2,042.65
97066515	002258		00	06/06/2024	001-3130-431.52-09	PW ADMIN FUEL	EFT:	219.26
97066515	002258		00	06/06/2024	001-6120-461.52-09	P&R FUEL	EFT:	1,700.96
97066515	002258		00	06/06/2024	001-7120-471.52-09	COMM DEV FUEL	EFT:	232.60
97066515	002258		00	06/06/2024	521-4230-442.52-09	FUEL FOR LINE MAINTENANCE	EFT:	178.65
97066515	002258		00	06/06/2024	551-4520-445.52-09	AIRPORT FUEL	EFT:	342.83
97066515	002258		00	06/06/2024	603-3150-431.52-09	BUILDING MAINT FUEL	EFT:	142.58
97066515	002258		00	06/06/2024	605-3116-431.52-09	FLEET FUEL	EFT:	95.44
						VENDOR TOTAL *	.00	14,350.66
0000585	00	ZEP SALES & SERVICE						

VEND NO	SEQ#	VENDOR NAME	BNK	CHECK/DUE	ACCOUNT	ITEM	CHECK	EFT, EPAY OR
INVOICE	VOUCHER	P.O.		DATE	NO	DESCRIPTION	AMOUNT	HAND-ISSUED
NO	NO	NO						AMOUNT
0000585	00	ZEP SALES & SERVICE						
9009796521	002255		00	06/06/2024	605-3116-431.52-20	HAND CLEANER &	EFT:	614.10
						VENDOR TOTAL *	.00	614.10
						HAND ISSUED TOTAL ***		4,988.00
						EFT/EPAY TOTAL ***		961,478.12
						TOTAL EXPENDITURES ****	113,523.67	966,466.12
					GRAND TOTAL *****			1,079,989.79

## COUNCIL ACTION FORM

## CONSENT AGENDA ITEM NO. 3

**MEETING DATE:** JUNE 17, 2024

**STAFF CONTACT:** KELLEN HEADLEE, PUBLIC WORKS DIRECTOR

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**Agenda Item:** Consider authorizing an agreement with JEO Consulting Group for design of the Gardner Traffic Signal Interconnect Project

**Strategic Priority:** Infrastructure and Asset Management; Quality of Life

**Department:** Public Works

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**Staff Recommendation:**

Staff recommends authorizing the Mayor to execute an agreement with JEO Consulting Group for design of the Gardner Traffic Signal Interconnect project.

**Background/Description of Item:**

City Council authorized a City/State agreement for this project at the June 3, 2024 council meeting.

**Financial Impact:**

The agreement with JEO is for an amount not to exceed \$82,410.86. KDOT will pay for 80% of this cost, while the City will pay for the remaining 20% (\$16,482.17). Funding will come from the City's Special Highway Fund.

**Attachments Included:**

- Consulting Agreement

**Suggested Motion:**

Authorize the Mayor to execute an agreement with JEO Consulting Group for design of the Gardner Traffic Signal Interconnect project.

## AGREEMENT FOR PROFESSIONAL SERVICES

This agreement ["Agreement"], is made as of this 17th day of June, 2024 by and between the City of Gardner, Kansas, [hereinafter "City"], and JEO Consulting Group, Inc., [hereinafter referred to as "Consultant"].

### RECITALS

WHEREAS, Consultant represents that it is a duly qualified and licensed civil engineering consultant firm, experienced in the preparation of traffic signal interconnect improvements and related services; and

WHEREAS, in the judgment of the City of Gardner, it is necessary and desirable to employ the services of Consultant for said services.

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual covenants contained herein, the parties hereto agree as follows:

### AGREEMENT

1.0 Term of Agreement.

The term of this Agreement shall be from June 18, 2024 to June 1, 2025 unless a different term is specified within the Scope of Services as described on Exhibit A or unless terminated earlier in accordance with the provisions of Article 2 below. In the event that the services rendered under this Agreement may extend beyond any one budget year, the continuation of this Agreement from year to year is contingent upon the approval of sufficient budgetary authority for the continuation of this Agreement by the City Council in the establishment of its annual budget.

2.0 Termination.

2.1 Termination Without Cause. Notwithstanding any other provision of this Agreement, at any time and without cause, City shall have the right, in its sole discretion, to terminate this Agreement by giving 10 days written notice to Consultant.

2.2 Termination for Cause. Notwithstanding any other provision of this Agreement, should Consultant fail to perform any of its obligations hereunder, within the time and in the manner herein provided, or otherwise violate any of the terms of this Agreement, City may immediately terminate this Agreement by giving Consultant written notice of such termination, stating the reason for termination.

2.3 Delivery of Work Product and Final Payment Upon Termination. In the event of termination, Consultant, within 14 days following the date of termination, shall deliver to City all materials and work product subject to Section 13.1 (Ownership of Documents) and shall submit to City an invoice showing the services performed, hours worked, and copies of receipts for reimbursable expenses up to the date of termination.

- 2.4 Payment Upon Termination. Upon termination of this Agreement by City, the City shall pay Consultant the reasonable value of Services rendered by Consultant prior to termination; provided, however, City shall not in any manner be liable for lost profits that might have been made by Consultant had the Agreement not been terminated or had Consultant completed the Services required by this Agreement. In this regard, Consultant shall furnish to City such financial information as in the judgment of the City is necessary for City to determine the reasonable value of the Services rendered by Consultant. In determining the reasonable value of Services, appropriate consideration shall be given to the defective or deficient nature of the Services rendered. The foregoing is cumulative and does not affect any right or remedy that City may have in law or equity.
- 2.5 Authority to Terminate. The City Council has the authority to terminate this Agreement on behalf of the City. In addition, the City Administrator or Department Director, in consultation with the City Attorney, shall have the authority to terminate this Agreement on behalf of the City.
- 3.0 Scope of Services.
- 3.1 Consultant's Specified Services. The Scope of Services to be performed by Consultant under this Agreement is as described in Exhibit A to the Agreement, attached and incorporated by reference.
- 3.2 Performance Standard. Consultant shall perform all work hereunder in a manner consistent with the level of competency and standard of care normally observed by a person practicing in Consultant's profession. City has relied upon the professional ability and training of Consultant as a material inducement to enter into this Agreement. Consultant hereby agrees to provide all services under this Agreement in accordance with generally accepted professional practices and standards of care, as well as the requirements of applicable federal, state and local laws, it being understood that acceptance of Consultant's work by City shall not operate as a waiver or release of liability. If City determines that any of Consultant's work is not in accordance with such level of competency and standard of care, City, in its sole discretion, shall have the right to do any or all of the following: (a) require Consultant to meet with City to review the quality of work and resolve matters of concern; (b) require Consultant to repeat the work at no additional charge until it is satisfactory; (c) terminate this Agreement pursuant to the provisions of Article 2; or (d) pursue any and all other remedies at law or in equity.
- 3.3 Assigned Personnel.
- 3.3.1 Consultant shall only assign competent personnel to perform work hereunder. In the event that at any time City, in its sole discretion, desires the removal of any person or persons assigned by Consultant to perform work hereunder, Consultant shall remove such person or persons immediately upon receiving written notice from City.
- 3.3.2 With respect to this Agreement, the Consultant shall employ the following key personnel:  
Bruce Wacker - Project Manager/Principal

Pat Byrd - Senior Engineer  
Kentin Redmond - Engineer  
Jenny Cyboron - Administrative Assistant

- 3.3.3 In the event that any of Consultant's personnel assigned to perform services under this Agreement become unavailable due to resignation, sickness or other factors outside of Consultant's control, Consultant shall be responsible for timely provision of adequately qualified replacements.
- 3.3.4 The Consultant shall designate Bruce Wacker / (913) 708-0944, [bwacker@jeo.com](mailto:bwacker@jeo.com) as Principal on the Project. As principal on this project, this person shall be the primary contact with the Project Representative and shall have authority to bind Consultant. So long as the individual named above remains actively employed or retained by Consultant, he/she shall perform the function of principal on the Project, unless otherwise agreed to in writing signed by both parties. The Consultant will supply a direct name, phone number and email and will notify the City if this contact information changes during the contract period.
- 3.3.5 City shall designate Tim McEldowney / (913) 856-0959, [tmceldowney@gardnerkansas.gov](mailto:tmceldowney@gardnerkansas.gov) as the Project Representative to represent the City in coordinating this project with Consultant, with authority to transmit instructions and define policies and decisions of City. The written consent of the Department Director, and if applicable, City Administrator and/or City Council, shall be required to approve any increase in Project cost as defined in Exhibit B.

#### 4.0 Time of Performance.

The services described herein shall be provided during the period described in this Agreement, or in accordance with the schedule, set forth in the Scope of Services.

#### 5.0 Payment.

- 5.1 Payment shall be made by City only for services rendered and upon submission of a payment request upon completion and City approval of the work performed as defined in Exhibit B. In consideration for the full performance of the services set forth in Exhibit A, City agrees to pay Consultant pursuant to rates stated in Exhibit B to this Agreement, attached and incorporated by reference.
- 5.2 Consultant shall bill City monthly for all work performed. The bill submitted by Consultant shall itemize the work for which payment is requested. City agrees to pay Consultant within thirty (30) days of approval. Consultant agrees to submit herewith such financial information as shall be required by City to enable the City to properly report such payments as required by state or federal law.
- 5.3 All invoices should be sent to Tim McEldowney.
- 5.4 Right to Withhold Payment. City may decline to make payment, may withhold funds, and, if necessary, may demand the return of some or all of the amounts previously paid to Consultant, to protect City from loss because of:
- 1) Defective Work not remedied by Consultant nor, in the opinion of City, likely to be remedied by Consultant;

- 2) Claims of third parties against City or City's property;
  - 3) Failure by Consultant to pay Subcontractors or others in a prompt and proper fashion;
  - 4) Evidence that the balance of the Work cannot be completed in accordance with this Agreement for the unpaid balance of the Contract Price;
  - 5) Evidence that the Work will not be completed in the Contract Time required for substantial or final completion;
  - 6) Persistent failure to carry out the Work in accordance with this Agreement;
  - 7) Damage to City or a third party to whom City is, or may be, liable; or
  - 8) Conditions unfavorable for the prosecution of Work, or because of conditions which, in the opinion of the Engineer, warrant such action.
- 5.5 City agrees to pay Consultant an amount not to exceed the sum of \$82,410.86 for performing services detailed in Exhibit A. This not to exceed amount may be increased for additional services as requested by the City and upon execution of a mutually acceptable amendment or change order signed by authorized representatives of City and Consultant.
- 5.6 If a portion of Consultant's statement is disputed by City, the undisputed portion shall be paid by City by the due date. City shall advise Consultant in writing of the basis for any disputed portion of any statement.
- 5.7 See Exhibit B for Schedule of Hourly Billing Rates. These rates are effective for services rendered through the term of this Agreement and are subject to revision thereafter, with no increase in Agreement amount. These rates are applicable to any additional service beyond the scope of services specified in Exhibit A which have been agreed to by the parties through a properly written and executed change order.

#### 6.0 Cash Basis and Budget Laws.

The right of the City to enter into this Agreement is subject to the provisions of the Cash Basis Law (K.S.A. 10-1112 and 10-1113), the Budget Law (K.S.A. 79-2935), and other laws of the State of Kansas. This Agreement shall be construed and interpreted so as to ensure that the City shall at all times stay in conformity with such laws, and as a condition of this Agreement the City reserves the right to unilaterally sever, modify, or terminate this Agreement at any time if, in the opinion of its legal counsel, the Agreement may be deemed to violate the terms of such laws, or if mill levy funds generated are less than anticipated.

#### 7.0 Indemnification.

To the fullest extent permitted by law, with respect to the performance of its obligations in this Contract or implied by law, and whether performed by Consultant or any permitted subcontractors hired by Consultant, the Consultant agrees to indemnify and hold harmless the City, and its agents, servants, and employees from and against any and all claims, damages, and losses arising out of personal injury, death, or property damage, caused by the negligent or intentional acts, errors, or omissions of the Consultant or its subcontractors. Consultant shall also pay for City's reasonable attorneys' fees, expert fees, and costs incurred in the defense of such a claim.

#### 8.0 Insurance.

8.1 The Consultant shall procure and maintain, at its sole expense, throughout the duration of this Agreement, insurance of such types (on an occurrence basis unless otherwise agreed to) and in at least such amounts as required herein (and not less than as required in any bid documents or other contract documents), from an insurance company licensed to do business in the State of Kansas, the following insurance coverages as may be necessary to protect the Consultant and the City and agents of the City against all hazards or risks of loss as hereinafter specified:

- Workers' Compensation and Employer's Liability - Demonstrate compliance with K.S.A. 44-532(b) including maintenance of insurance providing the statutory limits under the Kansas Workers Compensation Act; the Consultant shall also be protected against claims for injury, disease, or death of employees, which, for any reason, may not fall within the provisions of a worker's compensation law. This policy shall include an "all states" endorsement.
- Commercial General Liability for bodily injury and property damage liability claims arising from the injuries to members of the public or damage to property of others arising out of any act or omission of the Consultant or its agents, employees or Subcontractors with limits of not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate. The property damage liability coverage shall contain no exclusion relative to blasting, explosion, and collapse of building or damage to underground property and/or facilities.;
- Commercial Automobile Liability for bodily injury and property damage with limits of not less than \$1,000,000 each accident for all owned, non-owned and hired automobiles.
- Professional Liability - The Consultant shall maintain Professional Liability insurance in an amount not less than \$500,000, and shall provide the City with certification thereof.

8.2 The City shall be named as additional insured on such policies, except Workers' Compensation and Professional Liability. Satisfactory certificates of insurance shall be filed with the City prior to starting any work on this Contract. The certificates shall state that thirty (30) days written notice will be given to the City before any policy coverage thereby is changed or canceled.

8.3 Industry Ratings - The City will only accept coverage from an insurance carrier who offers proof that it:

- 1) Is licensed to do business in the State of Kansas;
  - 2) Carries a Best's policyholder rating of A or better;
- AND
- 3) Carries at least a Class X financial rating.
- OR

Is a company mutually agreed upon by the City and Consultant.

9.0 Conflict of Interest.

Consultant covenants that it presently has no interest and that it will not acquire any interest, direct or indirect, that represents a financial conflict of interest under state law or that would otherwise conflict in any manner or degree with the performance of its services hereunder, including under 31 U.S.C.S. Section 1352. Consultant further covenants that in the performance of this Agreement no person having any such interests shall be employed.

10.0 Nondiscrimination.

Consultant must comply with the Kansas Act Against Discrimination and if applicable, execute a Certificate of Nondiscrimination and Affirmative Action as provided in K.S.A. §44-1030. The Consultant further agrees that the Consultant shall abide by the Kansas Age Discrimination in Employment Act (K.S.A. 44-1111 et seq.) and the applicable provision of the Americans with Disabilities Act (42 U.S.C. 1201 et seq.) as well as all other federal, state and local laws, ordinances and regulations applicable to this project and to furnish any certification required by any federal, state or local governmental agency in connection therewith.

11.0 Facilities and Equipment.

Consultant shall furnish at its own cost and expense all labor, tools, equipment, materials, transportation, and any other accessories, services and facilities required to complete the Project as designated, described in accordance with this Agreement, including any attached exhibits and any addendums to this Agreement. The City expressly denies responsibility for or ownership of any item purchased until the same is delivered to and accepted by the City.

12.0 Accessibility.

Consultant will comply with the Rehabilitation Act of 1973, as amended, Section 504, which prohibits discrimination against handicapped persons in employment services, participation and access to all programs receiving federal financial assistance. Consultant shall also comply with applicable requirements with the Americans with Disabilities Act (ADA), as amended, which is a federal anti-discrimination statute designed to remove barriers which prevent qualified individuals with disabilities from enjoying equal treatment by state and local governments and their agencies in employment practices and accessibility in public services and programs.

13.0 Records, Ownership and Inspection.

13.1 Ownership of Documents.

All documents prepared by Consultant in the performance of this Agreement, although instruments of professional service, are and shall be the property of City, whether the project for which they are made is executed or not. Any reuse of documents prepared by

Contractor/Consultant by the city on other projects not contemplated under this Agreement shall be at the City's sole risk, without liability to Contractor/Consultant.

13.2 Open Records.

In recognition of the City's obligations under the Kansas Open Records Act ("KORA"), Consultant acknowledges that this Agreement along with any reports and/or records provided pursuant to this Agreement are public documents and are subject to disclosure under KORA.

13.3 Maintenance of Records.

Except as otherwise authorized by the City, Consultant shall retain such documentation for a period of three (3) years after receipt of final expenditure report under this contract, unless action, including but not limited to litigation or audit resolution proceedings, necessitate maintenance of records beyond this three (3) year period.

14.0 Independent Contractor.

It is the express intent of the parties that this Contract shall not create an employer-employee relationship. Employees of the Consultant shall not be deemed to be employees of the City and employees of the City shall not be deemed to be employees of the Contractor. The Contractor and the City shall be responsible to their respective employees for all salary and benefits. Neither the Contractor's employees nor the City's employees shall be entitled to any salary, wages, or benefits from the other party, including but not limited to overtime, vacation, retirement benefits, workers' compensation, sick leave or injury leave. Contractor shall also be responsible for maintaining worker's compensation insurance, unemployment insurance for its employees, and for payment of all federal, state, local and any other payroll taxes with respect to its employee's compensation.

15.0 Compliance with Laws.

15.1 The Consultant shall observe and comply with all applicable federal, state, and local laws, regulations, standards, ordinances or codes and shall be in compliance with all applicable licensure and permitting requirements at all times.

15.2 Pursuant to K.S.A. 16-113, if the Consultant does not have a resident agent in the State of Kansas, it shall execute and file "Certificate of Appointment of Process of Agent" with the Clerk of the District Court of Johnson County, Kansas. These forms may be obtained at the Office of the Clerk of the District Court. Consultant shall be responsible for the filing fee. This certificate is pursuant to the General Statutes of Kansas, and shall be filed prior to the formal execution of the Contract Documents. Failure to comply with these requirements shall disqualify the Consultant for the awarding of the Contract.

16.0 Assignment.

Neither party hereto shall assign, delegate, sublet, or transfer any interest in or duty under this Agreement without the prior written consent of the other, and no such transfer shall be of any force or effect whatsoever unless and until the other party shall have so consented. The subcontracting, assignment, delegation or transfer of the Services shall in no way

relieve the Consultant of its primary responsibility for the quality and performance of such Services.

17.0 Confidentiality.

All reports and documents prepared by Consultant in connection with the performance of this Agreement are confidential until released by City to the public. Consultant shall not make any such documents or information available to any individual or organization not employed by Consultant or City without the written consent of City before any such release.

18.0 Notices.

All notices hereunder shall be given in writing and sent as follows:

To City: Tim McEldowney  
120 E. Main Street  
Gardner, KS 66030

To Consultant: Bruce L. Wacker  
7960 W. 135<sup>th</sup> Street, Suite 202  
Overland Park, KS 66223

19.0 Amendments.

19.1 This document represents the entire and integrated agreement between City and Consultant and supersedes all prior negotiations, representations, and agreements, either written or oral.

19.2 This document may be amended only by written instrument, signed by both City and Consultant.

20.0 No Third Party Beneficiaries.

City and Consultant specifically agree that this Agreement is not intended to create any third party beneficiary relationship nor to authorize anyone not a party to this Agreement to maintain a suit for personal injuries or property damage pursuant to the terms or provisions of this Agreement; the duties, obligations and responsibilities of the parties to this Agreement with respect to third parties shall remain as imposed by law.

21.0 Force Majeure.

City shall not be responsible for any delay or failure of performance resulting from fire, flood, other acts of God, vandalism, strike, labor dispute of a third party, domestic or international unrest, delay in receipt of supplies, energy shortage or failure, or any other cause beyond its reasonable control.

22.0 Titles.

The titles in this Agreement are solely for convenience of reference. They are not a part of this Agreement and shall have no effect on its construction or interpretation.

23.0 Negotiations.

City and Consultant agree that disputes relative to the project should first be addressed by negotiations between the parties. If direct negotiations fail to resolve the dispute, the party initiating the claim that is the basis for the dispute shall be free to take such steps as it deems necessary to protect its interests; provided, however, that notwithstanding any such dispute Consultant shall proceed with the work as per this Agreement as if no dispute existed; and provided further that no dispute will be submitted to arbitration without both parties' express written consent.

24.0 Costs and Attorney Fees.

If on account of a continued default or breach by either party of such party's obligations under the terms of this agreement after any notice and opportunity to cure as may be required hereunder, it shall be necessary for the other party to employ one or more attorneys to enforce or defend any of such other party's rights or remedies hereunder, then, in such event, any reasonable amounts incurred by such other party, including but not limited to attorneys' fees, experts' fees and all costs, shall be paid by the breaching or defaulting party.

25.0 Severability.

If any term or portion of this Agreement is held to be invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions of this Agreement shall continue in full force and effect.

26.0 Authority to Enter into Agreement.

Consultant has all requisite power and authority to conduct its business and to execute, deliver, and perform the Agreement. Each party warrants that the individuals who have signed this Agreement have the legal power, right, and authority to make this Agreement and to bind each respective party.

27.0 Incorporation of Appendices.

Exhibit A - Scope of Services and Exhibit B - Fees are attached hereto and made a part hereof as if fully set out herein.

28.0 Entire Agreement.

This Agreement represents the entire agreement between the Parties hereto and any provision not contained herein shall not be binding upon either party, nor have any force or effect.

29.0 Governing Law and Venue.

This Agreement shall be governed by the laws of the State of Kansas and, in the event of litigation, the sole and exclusive venue shall be within the District Court of Johnson County, Kansas.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on this 17th day of June, 2024.

CITY OF GARDNER, KANSAS

CONSULTANT

\_\_\_\_\_  
Todd Winters, Mayor

\_\_\_\_\_  
Bruce L. Wacker, Project Manager/Principal

ATTEST:

\_\_\_\_\_  
Renee Rich, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Ryan Denk, City Attorney

JEO Consulting Group, Inc.  
SCOPE OF SERVICES



***City of Gardner***  
***Traffic Signal Interconnect***  
***KDOT Project Number: 046 N-0796-01***  
***Federal Project Number: CRP-N079(601)***  
***May 20, 2024***

**PROJECT DESCRIPTION:**

The project is for the purpose of providing engineering design services to update traffic signal systems to more efficiently move traffic. The project will include cellular interconnected traffic signals, improved detection and optimized coordinated signal timings at: 1) US-56 and Cedar Niles, 2) US-56 and Old 56, 3) US-56 and Moonlight Road, 4) US-56 and Moonlight Plaza, 5) US-56 and Elm Street, 6) US-56 and Center Street, 7) Moonlight Road and Lincoln Lane, and 8) Moonlight Road and Madison Street. This will all be part of the project that will be referred to as the “Traffic Signal Interconnect Improvements”.

The Consulting Engineer shall furnish and perform the various professional duties and services required for the various tasks of the Project in accordance with the assumptions listed herein.

**1 PHASE 1 – SIGNAL INFRASTRUCTURE IMPROVEMENTS:**

- 1.1 Evaluation of the existing signal infrastructure and provide improvement recommendations for stop-bar detection, wireless network equipment and central signal software for city consideration.
  - 1.1.1 Attend Pre-Design Field Check Meeting with KDOT and City of Gardner.
  - 1.1.2 Field inventory of eight (8) intersections for existing traffic signal cabinet equipment, and current vehicle detection systems. It is assumed that existing service box and conduit condition is adequate and has capacity for installing additional detection cable, if necessary. The City traffic maintenance staff will verify conduit condition as necessary and provide information to JEO staff.
  - 1.1.3 Research vehicle stop bar detection equipment systems and make recommendations for implementation. It is understood that the City currently prefers Wavetronix radar detection. JEO will review the Wavetronix XP21 detector to see if it is applicable for smaller intersections.
  - 1.1.4 Research wireless network system equipment and make recommendations for implementation and location.
  - 1.1.5 Research traffic signal systems and make recommendations for vendor demonstrations and set up meetings. City of Gardner IT staff representation is requested to ensure backhaul security. It is also recommended that other City representatives will attend who may be end users to obtain their feedback.
  - 1.1.6 Prepare intersection base sheets using aerial mapping or traffic signal wiring diagrams based on existing plans provided by the City. Prepare title sheet and detail sheets.
  - 1.1.7 Prepare Field Check plans with bill of materials for each intersection and submit to KDOT and City of Gardner.

JEO Consulting Group, Inc.  
SCOPE OF SERVICES

- 1.1.8 Attend field check meeting.
- 1.2 Research wireless network equipment and central signal software.
  - 1.2.1 Conduct one vendor meeting with up to three separate vendors to allow presentation of their signal system software and equipment demonstrations to City staff members. Assume 2 hours per vendor.
  - 1.2.2 Conduct up to two meetings with City staff, including the Information Technology Department, to finalize the selection of signal system software and address any security issues.
  - 1.2.3 Analyze material from vendor presentations and make recommendations for which system to pursue.
- 1.3 Provide specifications for recommended equipment to include in the procurement documents.
  - 1.3.1 Develop specifications for stop-bar detection equipment.
  - 1.3.2 Develop specifications for wireless network equipment.
  - 1.3.3 Develop specifications for central signal software system.
  - 1.3.4 Develop office check plans showing wiring diagrams and bill of materials for each intersection.
  - 1.3.5 Attend office check meeting with the City of Gardner
- 1.4 PS&E Plan Development
  - 1.4.1 Prepare PS&E plans and submit to KDOT and City of Gardner
  - 1.4.2 Provide technical guidance and support and respond to questions during the equipment bid advertisement period.
  - 1.4.3 Provide technical guidance to the city during the review of bids/proposals and make recommendations for awards.
  - 1.4.4 Provide technical guidance and support to the city as needed while the city hires and manages a networking consultant to install a network to communicate with the central signal software that will be physically located at Gardner City Hall.
  - 1.4.5 Provide a technical memorandum documenting project goals, existing conditions, product research, procurement procedures, and recommendations for the City.
  - 1.4.6 One meeting with the City will be held after the conclusion of Phase 1
- 1.5 Quality Assurance reviews and project management
  - 1.5.1 QA/QC review of information presented to City
  - 1.5.2 Project management, project coordination, budget tracking, scheduling and invoice preparation
- 2 PHASE 2 – SIGNAL TIMING DEVELOPMENT AND IMPLEMENTATION:**
  - 2.1 Collect intersection turning movement counts and Average Annual Daily Traffic (AADT) counts during a typical weekday.
    - 2.1.1 Collect both turning movement counts and AADT counts for a typical 24-hr weekday period with Miovision Scout video data collection units.
    - 2.1.2 Develop time-volume graphs and recommend a time-of-day schedule for up to three peak periods for coordinated signal timing plans.

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SCOPE OF SERVICES

- 2.1.3 Collect existing condition travel time data for the three recommended peak hours of a typical weekday using Tru Traffic software and GPS locating devices immediately before implementation of field equipment. Five travel time runs will be made in each direction (EB and WB) on US-56 and five travel time runs will be made in each direction (NB and SB) on Moonlight Road for each of the three peak hour periods.
- 2.2 Develop optimized signal timing plans using Synchro.
  - 2.2.1 Build existing traffic model based on City-provided signal timing settings and field observations.
  - 2.2.2 Verify existing vehicle clearance times and pedestrian timings and recommend modifications if needed.
  - 2.2.3 Evaluate existing phasing and identify opportunities for improvements.
  - 2.2.4 Develop one timing plan for free operation.
  - 2.2.5 Develop three optimized plans for the three peak hours identified in 2.1.2.
- 2.3 Implementation of timing plans
  - 2.3.1 Implement all new signal timing plans.
  - 2.3.2 Fine-tune adjust signal timing plans as needed to further improve coordination based on field observations. Includes up to three days in the field maximum.
  - 2.3.3 Post-implementation public/staff response to comments (assumes maximum 30-day review/response period)
  - 2.3.4 One meeting with the City will be held after the conclusion of Phase 2
- 2.4 Quality Assurance reviews and project management
  - 2.4.1 QA/QC review of information presented to City
  - 2.4.2 Project management, project coordination, budget tracking, scheduling and invoice preparation

**3 PHASE 3 – POST-IMPLEMENTATION:**

- 3.1 Collect post-implementation travel time data during the same three recommended peak hours collected for the pre-studies.
  - 3.1.1 Collect post-travel time data for the same three recommended peak hours of a typical weekday. Three travel time runs will be made in each direction (EB and WB) on US-56 and three travel time runs will be made in each direction (NB and SB) on Moonlight Road.
  - 3.1.2 Identify improvements to the corridor in terms of measures of effectiveness (MOE's) based on fuel consumption costs, vehicle pollutant emissions, etc. to satisfy KDOT/carbon reduction grant requirements
  - 3.1.3 Calculate annual cost savings and benefit-cost ratios due to equipment upgrades and signal timing improvements based on metrics identified in Task 3.1.2.
  - 3.1.4 Prepare final report of improvements to present to City.
  - 3.1.5 One meeting with the City will be held after the conclusion of Phase 3
- 3.2 Quality Assurance reviews and project management
  - 3.2.1 QA/QC review of information presented to City

JEO Consulting Group, Inc.  
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- 3.2.2 Project management, project coordination, budget tracking, scheduling and invoice preparation

**4 SCHEDULE:**

- 4.1 Notice to Proceed – June 3, 2024
- 4.2 30% Sketch Plans to KDOT – June 29, 2024
- 4.3 Field Check Plans to KDOT – July 31, 2024
- 4.4 Office Check Plans to KDOT – September 6, 2024
- 4.5 PS&E Plans to KDOT – October 7, 2024
- 4.6 Complete Phase 2 – April 21, 2025
- 4.7 Complete Phase 3 – May 30, 2025

**5 OWNER RESPONSIBILITIES:**

- 5.1 Provide existing signal timings, including yellow and all-red signal clearance timings.
- 5.2 Provide timely review of documents or requests for information.
- 5.3 Provide access to traffic signal cabinets to conduct proposed services.
- 5.4 Provide a copy of existing traffic signal plans for each of the subject intersections.
- 5.5 Provide latest City specifications for review.
- 5.6 Make available necessary field crew during field inventory to obtain access to signal equipment.
- 5.7 The City will prepare contract documents, other than equipment specifications as mentioned in 1.4 above and will print all documents for distribution to potential bidders and awarded contractor.
- 5.8 The City will conduct all bidding services.

**6 FEE:**

- 6.1 JEO proposes to provide the services defined above for a fee of \$82,410.86.

**7 PROGRESS PAYMENTS:**

- 7.1 JEO will bill monthly for services completed to date. All invoices are due payable upon receipt and are considered delinquent after 30 days.
- 7.2 A simple status report shall be submitted with each invoice.

**8 EXCLUSIONS**

- 8.1 It is assumed the consultant will not be required to offer any assistance during the bidding phase except answering City questions for clarification purposes.
- 8.2 Public information meetings, utility meetings and bid opening attendance is excluded.



**City of Gardner**  
**Traffic Signal Interconnect**  
**Exhibit B**  
**Schedule of Hourly Billing Rates**  
**May 20,2024**

	Staff Positions	Dept Leader	Project Manager	Sr. Engineer	Engineer	Admin Assistant	Engineer	Engineer	Total Hours	Total Cost
	Hourly Rate		\$76.01	\$73.32	\$36.13	\$28.00				
	Proposed Staff		BW	PB	KR	JC				
<b>Phase 1: Signal Infrastructure Improvements</b>										
<b>1.1 Evaluation of existing signal infrastructure and provide improvement recommendations for stop-bar detection, wireless network equipment and central signal software.</b>										
1.1.1	Attend pre-design field check meeting with KDOT and City of Gardner		2		2				4	\$224
1.1.2	Field inventory of eight (8) intersections for existing traffic signal cabinet equipment		4						4	\$304
1.1.3	Research vehicle stop bar detection equipment systems and make recommendations		4						4	\$304
1.1.4	Research wireless network equipment systems and make recommendations		4						4	\$304
1.1.5	Research signal software systems, make recommendations for and set up vendor meetings		4						4	\$304
1.1.6	Prepare plan base sheets, cover sheet and details		2		16				18	\$730
1.1.7	Prepare field check plans and submit to KDOT and City of Gardner		2		20				22	\$875
1.1.8	Attend field check meeting		2		2				4	\$224
<b>Evaluation of Existing Infrastructure Subtotal</b>		<b>0</b>	<b>24</b>	<b>0</b>	<b>40</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>64</b>	<b>\$3,269</b>
<b>1.2 Research wireless network equipment and central signal software.</b>										
1.2.1	Conduct vendor meetings for presentation of equipment and demonstrations (3 meetings)		6						6	\$456
1.2.2	Conduct meetings with City and IT Dept to address security issues (2 meetings)		3						3	\$228
1.2.3	Analyze material from vendor presentations and make recommendations		8						8	\$608
<b>Wireless Network Equipment Research Subtotal</b>		<b>0</b>	<b>17</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>17</b>	<b>\$1,292</b>
<b>1.3 Provide specifications for recommended equipment to include in the procurement documents.</b>										
1.3.1	Develop specifications for stop-bar detection equipment		2		6				8	\$369
1.3.2	Develop specifications for wireless network equipment		2		6				8	\$369
1.3.3	Develop specifications for central signal software system		2		12				14	\$586
1.3.4	Develop office check plans and submit to KDOT and City of Gardner		4		8				12	\$593
1.3.5	Attend office check meeting with the City of Gardner		2		2				4	\$224
<b>Development of Specifications Subtotal</b>		<b>0</b>	<b>12</b>	<b>0</b>	<b>34</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>46</b>	<b>\$2,141</b>
<b>1.4 PS&amp;E plan development and support during advertisement</b>										
1.4.1	Prepare PS&E plans and submit to KDOT and City of Gardner		2		8				10	\$441
1.4.2	Respond to questions during equipment bid advertisement period		2						2	\$152
1.4.3	Technical guidance to review bids/proposals and make recommendations for awards		2		2				4	\$224
1.4.4	Support City in hiring and managing networking consultant to install central system		8						8	\$608
1.4.5	Provide technical memorandum documenting process, recommendations, etc.		2		12				14	\$586
1.4.6	Meeting with the City of Gardner after Phase 1		2		2				4	\$224
<b>PS&amp;E Plan Development and Adversising Support Subtotal</b>		<b>0</b>	<b>18</b>	<b>0</b>	<b>24</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>42</b>	<b>\$2,235</b>
<b>1.5 Quality assurance reviews and project management</b>										
1.5.1	QA/QC review technical memorandum and plans			3					3	\$220
1.5.2	Project management, coordination, budget tracking, scheduling and invoice preparation		3			3			6	\$312
<b>Quality Assurance Reviews and Project Management Subtotal</b>		<b>0</b>	<b>3</b>	<b>3</b>	<b>0</b>	<b>3</b>	<b>0</b>	<b>0</b>	<b>9</b>	<b>\$532</b>
<b>Phase 1: Signal Infrastructure Improvements Subtotal</b>		<b>0</b>	<b>74</b>	<b>3</b>	<b>98</b>	<b>3</b>	<b>0</b>	<b>0</b>	<b>178</b>	<b>\$9,469</b>
<b>Phase 1: Signal Infrastructure Improvements Fee Summary</b>										
		<b>Labor:</b>		Department Leader @ \$ /hr		\$0.00				
				Project Manager @ \$76.01 /hr		\$5,624.74				
				Sr Engineer @ \$73.32 /hr		\$219.96				
				Engineer @ \$36.13 /hr		\$3,540.74				
				Admin Assistant @ \$28 /hr		\$84.00				
				Engineer @ \$ /hr		\$0.00				
				Engineer @ \$ /hr		\$0.00				
				Direct Labor Costs =		\$9,469.44				
				Salary Related and General Overhead (204.48%) =		\$19,363.11				
				Subtotal =		\$28,832.55				
				Fixed Fee (10%) =		\$2,883.26				
				<b>Phase 1 Total Costs =</b>		<b>\$31,715.81</b>				
				<b>Percent of Fee:</b>		<b>38%</b>				
<b>Phase 2: Signal Timing Development and Implementation</b>										
<b>2.1 Collect intersection turning movement counts and Average Annual Daily Traffic (AADT) counts during a typical weekday and conduct travel time runs.</b>										
2.1.1	AADT and TMC data collection to determine 24-hr typical weekday traffic volumes		2		28				30	\$1,164
2.1.2	Develop time-volume graphs and recommend three peak-hr periods for signal timing plans		2		4				6	\$297
2.1.3	Conduct travel time runs for three peak hour periods on US-56 and Moonlight Road corridors		2	12	6				20	\$1,249
<b>Data Collection Subtotal</b>		<b>0</b>	<b>6</b>	<b>12</b>	<b>38</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>56</b>	<b>\$2,709</b>
<b>2.2 Develop optimized signal timing plans.</b>										
2.2.1	Build existing traffic model		1	4	12				17	\$803
2.2.2	Verify intersection clearance times and pedestrian timings		1	2	8				11	\$512
2.2.3	Evaluation of existing phasing and opportunities for improvements		1	2	8				11	\$512
2.2.4	Develop one timing plan for free operation		1	4	8				13	\$658
2.2.5	Develop three optimized plans for three peak hour periods		2	4	24				30	\$1,312
<b>Optimized Timing Plan Development Subtotal</b>		<b>0</b>	<b>6</b>	<b>16</b>	<b>60</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>82</b>	<b>\$3,797</b>
<b>2.3 Implementation of Timing Plans</b>										
2.3.1	Implement new signal timing plans in field		2	4	4				10	\$590
2.3.2	Fine-tune adjust signal timing plans to improve coordination based on field observations		2	16	16				34	\$1,903
2.3.3	Post-implementation public/staff response to comments (30-day max)		2	6	4				12	\$736
2.3.4	Meeting with the City of Gardner after Phase 2		2		2				4	\$224
<b>Optimized Timing Plan Development Subtotal</b>		<b>0</b>	<b>8</b>	<b>26</b>	<b>26</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>60</b>	<b>\$3,454</b>
<b>2.4 Quality assurance reviews and project management</b>										
2.4.1	QA/QC review survey			3					3	\$220
2.4.2	Project management, coordination, budget tracking, scheduling and invoice preparation		3			3			6	\$312
<b>Quality Assurance Reviews and Project Management Subtotal</b>		<b>0</b>	<b>3</b>	<b>3</b>	<b>0</b>	<b>3</b>	<b>0</b>	<b>0</b>	<b>9</b>	<b>\$532</b>



**City of Gardner**  
**Traffic Signal Interconnect**  
**Exhibit B**  
**Schedule of Hourly Billing Rates**  
**May 20,2024**

Phase 2: Signal Timing Development and Implementation Subtotal										
<b>Phase 2: Signal Timing Development and Implementation Fee Summary</b>										
Labor: Department Leader @ \$ /hr \$0.00										
Project Manager @ \$76.01 /hr \$1,748.23										
Sr Engineer @ \$73.32 /hr \$4,179.24										
Engineer @ \$36.13 /hr \$4,480.12										
Engineer @ \$28 /hr \$84.00										
Engineer @ \$ /hr \$0.00										
Engineer @ \$ /hr \$0.00										
Direct Labor Costs = \$10,491.59										
Salary Related and General Overhead (204.48%) = \$21,453.20										
Subtotal = \$31,944.79										
Fixed Fee (10%) = \$3,194.48										
<b>Phase 2 Total Labor Costs = \$35,139.27</b>										
Expenses: Miovision traffic count processing = \$3,840.00										
<b>Phase 2 Total Costs = \$38,979.27</b>										
Percent of Fee: 47%										
Phase 3: Post-Implementation										
3.1	Collect post-implementation travel time data during the same three recommended peak hours collected for the pre-studies.									
3.1.1	Post-implementation travel time runs for three peak hours on US-56 and Moonlight Road.		6		6				12	\$673
3.1.2	Develop post-implementation MOE's based on fuel consumption, vehicle pollutants, etc.			2	12				14	\$580
3.1.3	Benefit-Cost analysis based on improvement metrics in 3.1.2		1	2	10				13	\$584
3.1.4	Prepare final report of improvements to the City of Gardner		2	2	16				20	\$877
3.1.5	Meeting with the City of Gardner after Phase 3				2				4	\$224
<b>Collect Post-implementation Data Subtotal</b>		<b>0</b>	<b>11</b>	<b>6</b>	<b>46</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>63</b>	<b>\$2,938</b>
3.2	Quality assurance reviews and project management									
3.2.1	QA/QC review survey			3					3	\$220
3.2.2	Project management, coordination, budget tracking, scheduling and invoice preparation		3		4				7	\$340
<b>Quality Assurance Reviews and Project Management Subtotal</b>		<b>0</b>	<b>3</b>	<b>3</b>	<b>0</b>	<b>4</b>	<b>0</b>	<b>0</b>	<b>10</b>	<b>\$560</b>
<b>Phase 3: Post-Implementation Subtotal</b>										
		<b>0</b>	<b>14</b>	<b>9</b>	<b>46</b>	<b>4</b>	<b>0</b>	<b>0</b>	<b>73</b>	<b>\$3,498</b>
<b>Phase 3: Post-Implementation Fee Summary</b>										
Labor: Department Leader @ \$ /hr \$0.00										
Project Manager @ \$76.01 /hr \$1,064.14										
Sr Engineer @ \$73.32 /hr \$659.88										
Engineer @ \$36.13 /hr \$1,661.98										
Engineer @ \$28 /hr \$112.00										
Engineer @ \$ /hr \$0.00										
Engineer @ \$ /hr \$0.00										
Direct Labor Costs: \$3,498.00										
Salary Related and General Overhead (204.48%) = \$7,152.71										
Subtotal = \$10,650.71										
Fixed Fee (10%) = \$1,065.07										
<b>Phase 3 Total Costs = \$11,715.78</b>										
Percent of Fee: 14%										
<b>Total Project Hours</b>										
		<b>0</b>	<b>111</b>	<b>69</b>	<b>268</b>	<b>10</b>	<b>0</b>	<b>0</b>	<b>458</b>	<b>\$23,459</b>
<b>Total Fee Summary for Gardner Traffic Signal Interconnect</b>										
Labor: Department Leader @ \$ /hr \$0.00										
Project Manager @ \$76.01 /hr \$8,437.11										
Sr Engineer @ \$73.32 /hr \$5,059.08										
Engineer @ \$36.13 /hr \$9,682.84										
Engineer @ \$28 /hr \$280.00										
Engineer @ \$ /hr \$0.00										
Engineer @ \$ /hr \$0.00										
Total Direct Labor Costs: \$23,459.03										
Salary Related and General Overhead (204.48%) = \$47,969.02										
Subtotal = \$71,428.05										
Fixed Fee (10%) = \$7,142.81										
<b>Total Estimated Labor &amp; Overhead Costs= \$78,570.86</b>										
Expenses: Expenses: Miovision traffic count processing = \$3,840.00										
<b>Total Fee = \$82,410.86</b>										

# COUNCIL ACTION FORM      PLANNING CONSENT AGENDA ITEM NO. 1

**MEETING DATE:**    JUNE 17, 2024

**STAFF CONTACT:**    DAVE KNOPIK, COMMUNITY DEVELOPMENT DIRECTOR

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**Agenda Item:**            Consider accepting the dedication of right-of-way and easements on the final plat for Cypress Creek 3<sup>rd</sup> Plat

**Strategic Priority:**    Quality of Life, Economic Development and Asset and Infrastructure Management

**Department:**            Community Development

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**Planning Commission Action/Recommendation:**

After review of application 24-302-01 a Final Plat for Cypress Creek 3<sup>rd</sup> Plat, and staff report dated May 22, 2024, the Planning Commission approves the application as proposed and recommends the Governing Body accept the dedication of right-of-way and easements, provided the following conditions are met:

1. The construction plans for any utilities, infrastructure, or public facilities shall meet all technical specifications and public improvement plans shall be submitted and approved prior to the release of the plat for recording;

**Staff Recommendation:**

Staff recommends approval of the final plat for Cypress Creek 3<sup>rd</sup> Plat with the conditions outlined in the Recommended Motion.

**Background/Description of Item:**

The site for the proposed development was annexed into the City of Gardner on June 22, 2021 (Ordinance No. 2708). Currently, the property is not in use. Previously approved applications include rezoning from RUR to RP-2 (Z-21-04), preliminary development plan (PDP-21-02), preliminary plat (PP-21-04), final plat 1<sup>st</sup> phase (FP-22-02), and final plat 2<sup>nd</sup> phase (23-302-04) for Cypress Creek.

**Financial Impact:**

Excise tax is levied with the act of platting the portion of the property in the city. Any of the subject property that has never been a part of a final plat before is therefore subject to paying the excise tax if it has not been paid. This tax is based on the square footage of the plat property, excluding any arterial type right-of-way dedication for streets and parkland dedication.

**Other Impacts:**

*Parks:* The applicant proposes to dedicate a 30' access easement to contain a 10' concrete trail built to City specifications.

**Attachments included:**

- Planning Commission Packet Materials
- Planning Commission Meeting Minutes

**Suggested Motion:**

Accept the dedication of right-of-way and easements on the final plat for Cypress Creek 3<sup>rd</sup> plat (24-302-01)



**Context:**

**Background/History**

Currently the subject property is vacant agricultural land. The property is portion of a larger 97.65 acre plot of land that is bound on the north by 167<sup>th</sup> Street and on the south by Madison Street. Properties located directly to the east and west are single family subdivisions. Phases one and two of Cypress Creek have begun development.

**Surrounding Zoning and Land Use**

Zoning	Use(s)
<b>North of Subject Property</b>	
A (Agriculture) District	Vacant
C-2 (General Business) District	Vacant
<b>East of Subject Property</b>	
RP-2 (Planned Two Family) District	Cypress Creek 4 <sup>th</sup> Phase
<b>South of Subject Property</b>	
RP-2 (Planned Two Family) District	Cypress Creek 1 <sup>st</sup> and 2 <sup>nd</sup> Phases
<b>West of Subject Property</b>	
R-1 (Single Family) District	Austin Reserve
RP-3 (Planned Garden Apartment) District	Vacant

**Utilities / Infrastructure**

**Electric**

Existing electric utilities are located either within or adjacent to the site.

**Water**

Existing water utilities are located either within or adjacent to the site.

**Sanitary Sewer**

Existing sanitary sewer utilities are located either within or adjacent to the site. Sanitary sewer service will be extended throughout the subdivision by a gravity system.

**Roadway Network & Vehicular Access**

Internal road networks within the subject property will connect to 167<sup>th</sup> St to the north, and includes a stub street on the east side to connect to the Cypress Creek 4<sup>th</sup> Phase.

**Review Criteria**

**Final Plat (LDC Section 17.03.020 E1.)**

- a. The layout and design of the final plat is in substantial compliance with the approved preliminary plat considering the number of lots or parcels; the block layout, street designs and access; the open space systems and civic design elements; the infrastructure systems; or other elements of coordinated developments.
- b. The construction plans for any utilities, infrastructure or public facilities shall have been found to meet all technical specifications, or final plat approval shall be conditioned on such plans meeting all technical specifications, before the recording of the final plat.

- c. The phasing and timing of public improvements ensures construction and performance guarantees.
- d. Any deviations in the final plat from the preliminary plat brings the application in further compliance with the Comprehensive Plan and the purposes and intent of this Code.
- e. The recommendations of professional staff, or any other public entity asked to officially review the plat.

## Staff Findings

The proposed development is in substantial compliance with the preliminary plat. The conditions of approval from the preliminary development plan have either been met or will be completed in the 3<sup>rd</sup> phase.

### Comprehensive Plan

The City of Gardner 2014 Comprehensive Plan identifies this parcel for low-density residential future land use, described as “areas primarily consist of detached single family and duplex housing. These “New Residential Growth Areas” include undeveloped land that provides a “clean slate” for future residential development. The Comprehensive Plan addresses these growth areas as having three major components that help to ensure the community’s goals of providing high quality neighborhoods that satisfy demand for a broad type of housing. These goals are; neighborhood character, connectivity, and open space preservation & conservation design. The design and layout the applicant is proposing is consistent with the goals of the Comprehensive Plan.

## Potential Actions

Per Section 17.03.010 (G) of the Gardner Land Development Code, a review body may take the following actions (or recommend the following actions):

1. Approve the application.
2. Approve the application with conditions or modifications.
3. Deny the application.
4. Continue the application to allow further analysis. The continued application shall not be more than 60 days from the original review without consent of the applicant. No application shall be continued more than once by each review body without consent of the applicant.

## Recommended Motion

After review of application 24-302-01 a Final Plat for Cypress Creek 3<sup>rd</sup> Plat, and staff report dated May 22, 2024, the Planning Commission approves the application as proposed and recommends the Governing Body accept the dedication of right-of-way and easements, provided the following condition is met:

1. The construction plans for any utilities, infrastructure, or public facilities shall meet all technical specifications and public improvement plans shall be submitted and approved prior to the release of the plat for recording.

## Attachments

1. Final Plat



## Consent Agenda

1. Standing approval of the minutes as written for the regular meeting on March 25, 2024.
2. Cypress Creek 3rd Plat 24-302-01 Final Plat - Located approximately 1000' west of the intersection of W 167th St and N Poplar Rd.
3. Cypress Creek 4th Plat 24-302-02 Final Plat - Located approximately 250' west of the intersection of W 167<sup>th</sup> and N Poplar Rd.

Motion made to approve the consent agenda.

Motion: Commissioner Jueneman

Second: Commissioner Souza

**Motion carries unanimously 5-0**

Recording of this meeting can be found here:

[https://www.youtube.com/live/pmaIS3swllq?si=ycoq\\_h-hINxCJHKJ](https://www.youtube.com/live/pmaIS3swllq?si=ycoq_h-hINxCJHKJ)

DRAFT

# COUNCIL ACTION FORM      PLANNING CONSENT AGENDA ITEM NO. 2

**MEETING DATE:**    JUNE 17, 2024

**STAFF CONTACT:**    DAVE KNOPIK, COMMUNITY DEVELOPMENT DIRECTOR

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**Agenda Item:**            Consider accepting the dedication of right-of-way and easements on the final plat for Cypress Creek 4<sup>th</sup> Plat

**Strategic Priority:**    Quality of Life, Economic Development and Asset and Infrastructure Management

**Department:**            Community Development

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**Planning Commission Action/Recommendation:**

After review of application 24-302-02 a Final Plat for Cypress Creek 4<sup>th</sup> Plat, and staff report dated May 22, 2024, the Planning Commission approves the application as proposed and recommends the Governing Body accept the dedication of right-of-way and easements, provided the following conditions are met:

1. The construction plans for any utilities, infrastructure, or public facilities shall meet all technical specifications and public improvement plans shall be submitted and approved prior to the release of the plat for recording;

**Staff Recommendation:**

Staff recommends approval of the final plat for Cypress Creek 4<sup>th</sup> Plat with the conditions outlined in the Recommended Motion.

**Background/Description of Item:**

The site for the proposed development was annexed into the City of Gardner on June 22, 2021 (Ordinance No. 2708). Currently, the property is not in use. Previously approved applications include rezoning from RUR to RP-2 (Z-21-04), preliminary development plan (PDP-21-02), preliminary plat (PP-21-04), final plats 1<sup>st</sup> phase (FP-22-02), 2<sup>nd</sup> phase (23-302-04) and 3<sup>rd</sup> phase (24-302-01) for Cypress Creek.

**Financial Impact:**

Excise tax is levied with the act of platting the portion of the property in the city. Any of the subject property that has never been a part of a final plat before is therefore subject to paying the excise tax if it has not been paid. This tax is based on the square footage of the plat property, excluding any arterial type right-of-way dedication for streets and parkland dedication.

**Other Impacts:**

*Parks:* The applicant proposes to dedicate a 30' access easement to contain a 10' concrete trail built to City specifications.

**Attachments included:**

- Planning Commission Packet Materials
- Planning Commission Meeting Minutes

**Suggested Motion:**

Accept the dedication of right-of-way and easements on the final plat for Cypress Creek 4<sup>th</sup> plat (24-302-02)



**Context:**

**Background/History**

Currently the subject property is vacant agricultural land. The property is portion of a larger 97.65 acre plot of land that is bound on the north by 167<sup>th</sup> Street and on the south by Madison Street. Properties located directly to the east and west are single family subdivisions. Phases one and two of Cypress Creek have begun development.

**Surrounding Zoning and Land Use**

Zoning	Use(s)
<b>North of Subject Property</b>	
RP-2 (Planned Two Family) District	Cypress Creek 3 <sup>rd</sup> Phase
<b>East of Subject Property</b>	
R-1 (Single Family) District	Fountain Gate
<b>South of Subject Property</b>	
RP-2 (Planned Two Family) District	Cypress Creek 2 <sup>nd</sup> Phase
R-1 (Single Family) District	Gardner Edgerton High School
<b>West of Subject Property</b>	
RP-2 (Planned Two Family) District	Cypress Creek 2 <sup>nd</sup> and 3 <sup>rd</sup> Phases

**Utilities / Infrastructure**

**Electric**

Existing electric utilities are located either within or adjacent to the site.

**Water**

Existing water utilities are located either within or adjacent to the site.

**Sanitary Sewer**

Existing sanitary sewer utilities are located either within or adjacent to the site. Sanitary sewer service will be extended throughout the subdivision by a gravity system.

**Roadway Network & Vehicular Access**

Internal road networks within the subject property will connect to 167<sup>th</sup> St to the north, and includes a stub street on the west side to connect to the Cypress Creek 3<sup>rd</sup> Phase.

**Review Criteria**

**Final Plat (LDC Section 17.03.020 E1.)**

- a. The layout and design of the final plat is in substantial compliance with the approved preliminary plat considering the number of lots or parcels; the block layout, street designs and access; the open space systems and civic design elements; the infrastructure systems; or other elements of coordinated developments.
- b. The construction plans for any utilities, infrastructure or public facilities shall have been found to meet all technical specifications, or final plat approval shall be conditioned on such plans meeting all technical specifications, before the recording of the final plat.
- c. The phasing and timing of public improvements ensures construction and performance guarantees.

- d. Any deviations in the final plat from the preliminary plat brings the application in further compliance with the Comprehensive Plan and the purposes and intent of this Code.
- e. The recommendations of professional staff, or any other public entity asked to officially review the plat.

## Staff Findings

The proposed development is in substantial compliance with the preliminary plat. The conditions of approval from the preliminary development plan have either been met or will be completed in the 4<sup>th</sup> phase.

### Comprehensive Plan

The City of Gardner 2014 Comprehensive Plan identifies this parcel for low-density residential future land use, described as “areas primarily consist of detached single family and duplex housing. These “New Residential Growth Areas” include undeveloped land that provides a “clean slate” for future residential development. The Comprehensive Plan addresses these growth areas as having three major components that help to ensure the community’s goals of providing high quality neighborhoods that satisfy demand for a broad type of housing. These goals are; neighborhood character, connectivity, and open space preservation & conservation design. The design and layout the applicant is proposing is consistent with the goals of the Comprehensive Plan.

## Potential Actions

Per Section 17.03.010 (G) of the Gardner Land Development Code, a review body may take the following actions (or recommend the following actions):

1. Approve the application.
2. Approve the application with conditions or modifications.
3. Deny the application.
4. Continue the application to allow further analysis. The continued application shall not be more than 60 days from the original review without consent of the applicant. No application shall be continued more than once by each review body without consent of the applicant.

## Recommended Motion

After review of application 24-302-02 a Final Plat for Cypress Creek 4<sup>th</sup> Plat, and staff report dated May 22, 2024, the Planning Commission approves the application as proposed and recommends the Governing Body accept the dedication of right-of-way and easements, provided the following condition is met:

1. The construction plans for any utilities, infrastructure, or public facilities shall meet all technical specifications and public improvement plans shall be submitted and approved prior to the release of the plat for recording.

## Attachments

1. Final Plat



## Consent Agenda

1. Standing approval of the minutes as written for the regular meeting on March 25, 2024.
2. Cypress Creek 3rd Plat 24-302-01 Final Plat - Located approximately 1000' west of the intersection of W 167th St and N Poplar Rd.
3. Cypress Creek 4th Plat 24-302-02 Final Plat - Located approximately 250' west of the intersection of W 167<sup>th</sup> and N Poplar Rd.

Motion made to approve the consent agenda.

Motion: Commissioner Jueneman

Second: Commissioner Souza

**Motion carries unanimously 5-0**

Recording of this meeting can be found here:

[https://www.youtube.com/live/pmaIS3swllq?si=ycoq\\_h-hINxCJHKJ](https://www.youtube.com/live/pmaIS3swllq?si=ycoq_h-hINxCJHKJ)

DRAFT

# COUNCIL ACTION FORM    PLANNING CONSENT AGENDA ITEM NO. 3

**MEETING DATE:**    JUNE 17, 2024

**STAFF CONTACT:**    DAVE KNOPIK, COMMUNITY DEVELOPMENT DIRECTOR

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**Agenda Item:**            Consider accepting the dedication of right-of-way and easements on the final plat for Villas on Grand 1<sup>st</sup> Plat

**Strategic Priority:**    Quality of Life, Economic Development and Asset and Infrastructure Management

**Department:**            Community Development

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**Planning Commission Action/Recommendation:**

After review of application 23-302-05, a Final Development Plan and associated Final Plat for Villas on Grand, and staff report dated May 22, 2024, the Planning Commission approves the Final Development Plan application as proposed and recommends the Governing Body accept the dedication of right-of-way and easements, provided the following conditions are met:

1. Approval of all deviations as proposed by staff in staff report;
2. Provide elevations of the amenity building, subject to staff review and approval;
3. The construction plans for any utilities, infrastructure, or public facilities shall meet all technical specifications and public improvement plans shall be submitted and approved prior to the release of the plat for recording;
4. Prior to recording the final plat, excise tax shall be paid to the City; and
5. The applications shall be reviewed and approved by the Johnson County Airport Commission and the Board of County Commissioners prior to the release of the plat for recording.

**Staff Recommendation:**

Staff recommends approval of the final plat for Villas on Grand 1<sup>st</sup> Plat with the conditions outlined in the Recommended Motion.

**Background/Description of Item:**

The property was annexed in early 2023. The rezoning to RP-2, RP-3 and RP-5 and preliminary development plan for this site was recommended approval by the Planning Commission at their March 27, 2023 meeting and then approved by the Governing Body at their July 17, 2023 meeting (Ordinance 2778).

**Financial Impact:**

Excise tax is levied with the act of platting the portion of the property in the city. Any of the subject property that has never been a part of a final plat before is therefore subject to paying the excise tax if it has not been paid. This tax is based on the square footage of the plat property, excluding any arterial type right-of-way dedication for streets and parkland dedication.

**Other Impacts:**

None

**Attachments included:**

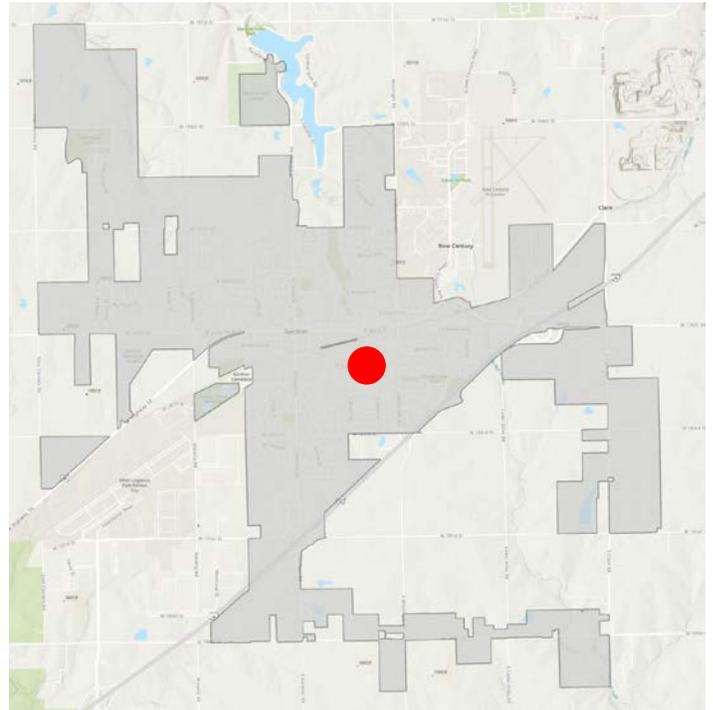
- Planning Commission Packet Materials
- Planning Commission Meeting Minutes

**Suggested Motion:**

Accept the dedication of right-of-way and easements on the final plat for Villas on Grand 1<sup>st</sup> Plat (23-302-05)

**Project Name: Villas on Grand 1<sup>st</sup> Plat**

PROJECT NUMBER	23-302-05
REQUEST	FINAL PLAN, FINAL PLAT
APPLICANT	PAYNE & BROCKWAY PA
OWNER	GRAND STREET DEVELOPMENT LLC
PARCEL ID	CF221425-1009



**Executive Summary**

PRESENT ZONING:	RP-2/RP-3/RP-5
PRESENT LAND USE:	VACANT ROW CROPS
TOTAL SITE AREA:	33.06136 ACRES
EXISTING LOT #:	0
PROPOSED LOT #:	36
PROP BUILDING TYPES:	DETACHED HOUSE
PROP STREET TYPES:	LOCAL ST



**Staff Recommendation**

Staff recommends the Planning Commission recommend approval of application 23-302-05, a Final Development Plan and Final Plat with conditions in the recommended motion.

**Context:**

**Background/History**

The property was annexed in early 2023. The rezoning to RP-2, RP-3 and RP-5 and preliminary development plan for this site was recommended approval by the Planning Commission at their March 27, 2023 meeting and then approved by the Governing Body at their July 17, 2023 meeting (Ordinance 2778).

**Surrounding Zoning and Land Use**

Zoning	Use(s)
<b>North of Subject Property</b>	
ROW (Right of Way)	BNSF Railway
RP-2 (Planned Two-family) District	Vacant
RP-5 (Planned Apartment) District	Vacant
<b>East of Subject Property</b>	
RP-2 (Planned Two-family) District	Two-family residences
R-3 (Garden Apartment) District	Vacant
RP-3 (Planned Garden Apartment) District	Residence at Moonlight
M-2 (General Industry) District	Moonlight Business Park II
<b>South of Subject Property</b>	
R-1 (Single Family) District	Single-family residences, Grand Star Elementary, Trail Ridge Middle School
<b>West of Subject Property</b>	
RP-1 (Single-Family) District	Vacant

**Utilities / Infrastructure**

All utilities are located on the site.

**Roadway Network & Vehicular Access**

The site will be accessed with two locations off Grand St, the first across from Trail Ridge Middle School, and the other at the White Drive roundabout.

**New Century Air Center**

This site is located within 1 mile of the New Century Airport will need to be reviewed and approved by the Johnson County Airport Commission and the Board of County Commissioners.

**Review Criteria**

**Final Plat (LDC Section 17.03.030 E.)**

- a. The layout and design of the final plat is in substantial compliance with the approved preliminary plat considering the number of lots or parcels; the block layout, street designs and access; the open space systems and civic design elements; the infrastructure systems; or other elements of coordinated developments.

- b. The construction plans for any utilities, infrastructure or public facilities shall have been found to meet all technical specifications, or final plat approval shall be conditioned on such plans meeting all technical specifications, before the recording of the final plat.
- c. The phasing and timing of public improvements ensures construction and performance guarantees.
- d. Any deviations in the final plat from the preliminary plat brings the application in further compliance with the Comprehensive Plan and the purposes and intent of this Code.
- e. The recommendations of professional staff, or any other public entity asked to officially review the plat.

### **Final Development Plan (LDC Section 17.03.040 C.)**

1. In general, any final development plan in compliance with all requirements of this Code shall be approved.
2. In making a determination of compliance, or for site plans accompanying any discretionary review or administrative relief, the review body shall consider whether:
  - a. The site is capable of accommodating the buildings, proposed use, access and other site design elements required by the Code and will not negatively impact the function and design of rights-of-way or adjacent property.
  - b. The design and arrangement of buildings and open spaces is consistent with good planning, landscape design and site engineering principles and practices.
  - c. The architecture and building design uses quality materials and the style is appropriate for the context considering the proportion, massing, and scale of different elements of the building.
  - d. The overall design is compatible to the context considering the location and relationships of other buildings, open spaces, natural features or site design elements.
  - e. Whether any additional site-specific conditions are necessary to meet the intent and design objectives of any of the applicable development standards.
3. The application meets the criteria for all other reviews needed to build the project as proposed.
4. The recommendations of professional staff.
5. The final development plan is in substantial compliance with the approved preliminary development plan.

## **Staff Findings**

The proposed development is in substantial compliance with the preliminary plat and preliminary development plan.

### **Deviation Requests**

#### **1. Section 17.07.020 Building Setbacks (Detached House - Neighborhood); Zoning Districts - Building Type & Development Standards; Building Standards (Minimum Setbacks)**

**Standard:** Rear setback for the Detached House - Neighborhood building type (single-family) is 25'

**Proposed:** All rear lot setbacks will be 15'

**Applicant Response:** This deviation is to accommodate a house that might be narrower than what would be designed using the minimum side yard setback yet deeper than what is typically encountered and may contain a covered porch. We don't think limiting it to a handful of lots would be beneficial. The more lots available with the deviation maximizes the developer's ability to market lots with various building footprint opportunities.

**Staff Comment:** *The requested rear yard setback deviation will allow greater diversity of housing styles on the narrow lots within this development. Staff recommends approval of the deviation.*

#### **2. Section 17.07.050 (C.) Access Width Limits; Neighborhood Yard; Design Standards; Frontage Design; Building Standards**

**Standard:** 15%, 20' max. per access point

**Proposed:** 20' max. per access point

**Applicant Response:** A two car driveway is typically 20'. Due to the 55' wide lots, the percentage would be greater than 15%, however 20' max is suitable for this development.

**Staff Comment:** *In the proposed development, the Local Standard Street Type, is being utilized which pairs with the Neighborhood Frontage Type. This frontage type permits access width limits of 15% for the lot width and 20' maximum. However, the subdivision has been platted out to have 55' wide lots and would only allow for only a 7.5' wide driveway. Staff recommends approval of this deviation.*

### **3. Section 17.07.050 (C.) Design and Performance Standards; Neighborhood Yard; Design Standards; Frontage Design; Building Standards**

**Standard:** Allocation of space shall be: 5%-20% hardscape

**Proposed:** Allocation of space shall be 48%

**Applicant Response:** Due to the narrow lot size, a larger percentage of the frontage will be occupied with the two car driveways and sidewalk necessary to access the homes. This is especially true on the lots that front cul-de-sacs.

**Staff Comment:** *A 20' wide driveway with a 55' wide lot requires greater hardscape than what is allowed in the Neighborhood Yard frontage. Staff recommends approval of this deviation.*

### **4. Section 17.07.050 (C.) Design and Performance Standards; Neighborhood Yard; Design Standards; Frontage Design; Building Standards**

**Standard:** All buildings shall have a direct sidewalk connection at least 4' wide between the sidewalk and the front entry feature

**Proposed:** All buildings shall have a direct sidewalk connection at least 4' wide between the driveway and front entry feature

**Applicant Response:** This request would allow easy access from the driveway to the front entry of the home, which promotes parking in the driveway instead of the street. Additionally impervious surface would be decreased, which would decrease the amount of runoff from the site, as well as allow more area for landscaping.

**Staff Comment:** *The intent of this standard is to promote walkability and a pedestrian-oriented framework as experienced from the public realm to the front door of the house. The applicant is proposing a sidewalk from the front of the house to the driveway. Having any walkway helps to maintain that visual connection, and therefore staff supports this deviation.*

### **5. Section 17.07.05.040 Specific Building Type Standards, Detached House – Neighborhood, Design and Performance Standards (Garage Limits)**

**Standard:** 25% of façade if front-loaded; up to 45% if set back 15'+ from front building line; not limits if side-loaded, rear or detached

**Proposed:** 47%

**Applicant Response:** 47% of the front façade allows for a standard 16-foot wide garage door which is needed for a two-car garage. 47% also would allow for a 3-car garage. By code (25%) maximum garage door width of only 13.75 feet would be allowed, therefore only single car garages could be built. The development plan is to provide detached single-family homes with a 2-car garage or possibly 3-car garage. This also helps with keeping cars from parking on the street.

**Staff Comment:** *Based on similar previously approved deviations of this type, staff recommends approval of a deviation to allow for 47% garage limits for the detached house – neighborhood lots. For those lots that meet the min. lot size, min. width, and all setbacks, (beside the requested rear lot*

setback deviation) of a detached house – suburban lot, then the suburban lot standards of the LDC may be applied. Only certain corner and cul-de-sac lots will be able to meet these requirements, and a house with a three car garage, which is allowed on a suburban lot, is therefore limited to such lots. Staff will review the building elevations during plot plan review, and variations to garage doors, enhanced garage doors, garage doors with windows, and/or increased landscaping may be required to ensure that the increased garage limits do not adversely affect the streetscape.

**6. Section 17.09.020 (C.2 Table 9-2) Internal Sidewalk Widths; Block and Lot Access; Access & Parking Standards**

**Standard:** 8' along any parking with vehicle overhangs

**Proposed:** 6'

**Applicant Response:** We are requesting a deviation to the sidewalk width, from 8ft to 6ft, adjoining the parking spaced/private drives like what has recently been granted with other projects in the city.

**Staff Comment:** *In this phase, this reduced size should only be needed along the parking for the amenity area. Staff does not have an issue with the reduction of size as long as these sidewalks conform to current ADA standards. The Staff recommends approval of the deviation.*

**7. Section 17.09.020 (C.2 Table 9-2) Internal Sidewalk Widths; Block and Lot Access; Access & Parking Standards**

**Standard:** 8' for a primary route between the street or parking area and the building entrance

**Proposed:** 6'

**Applicant Response:** We are requesting a deviation from the 8ft sidewalk width to a 6ft minimum sidewalk width between the street or parking area to the building entrance.

**Staff Comment:** *In this phase, this reduced size should also only be needed along the parking for the amenity area. Staff recommends approval of the deviation.*

**8. Section 17.09.040 Parking Lot Design; Parking Lot Design; Access & Parking Standards**

**Standard:** Residential parking setbacks shall be 25', except parking permitted in driveways of detached houses, duplexes, or row houses shall not count as a parking lot

**Proposed:** Parking/Amenities setback of 15' for the pool tract, located at the intersection of 178<sup>th</sup> Street and White Drive

**Applicant Response:** The reduction keeps it consistent with the common and open space tract setbacks. The deviation further allows for more space to accommodate the proposed community amenities.

**Staff Comment:** *Due to the residential zoning district, the parking lot for the amenity area would have a 25' setback. With the detached house – neighborhood lots and the pinwheel 4-plexes across the street having reduced setbacks, having this large of a setback is unnecessary. Staff recommends approval of the deviation.*

**9. Section 17.07.020 Building Setbacks (Garden Apartment building type); Zoning Districts - Building Type & Development Standards; Building Standards**

**Standard:** Front yard setback for the Garden Apartment building type (the 4-plex pinwheel quads/duplex) is 25' - 50', side yard setback is 7' minimum, and rear yard setback is 25' minimum

**Proposed:** All exterior lot setbacks of 3' for the Garden Apartment building type in the RP-3 zoning district

**Applicant Response:** This deviation allows for the increase of the common open space, limiting direct property ownership lending to a look and feel of a maintenance provided community. Most of the buildings within their property envelope are 20' or more from the public street rights-of-way. The improvements to each building outside of the property envelope will be allocated to each individual unit within the building by a limited common element. The limited common elements are defined more on the plan, including a detail of the anticipated limited common elements.

**Staff Comment:** *The applicant has proposed 3' exterior setbacks for the Garden Apartment building type in the RP-3 zoning district, reducing the building envelope to just around the building. This request is to maximize the amount of open space for the development, limit property ownership, and offer the look and feel of a maintenance free community. Staff is supportive of this deviation request, because this option could be beneficial to empty-nesters or older individuals who would like to continue home ownership without yard maintenance. This proposed option addresses one of the goals of the Comprehensive Plan, which is to provide several housing options catering to different age levels and needs in an integrative community.*

#### **10. Section 17.07.020 Building Coverage (Garden Apartment building type); Zoning Districts - Building Type & Development Standards; Building Standards (Building Coverage)**

**Standard:** Building Coverage for the Garden Apartment building type (the 4-plex pinwheel quads/duplex) 40%

**Proposed:** 76%

**Applicant Response:** This deviation is needed for the same reasons as the reduced setbacks deviation.

**Staff Comment:** *Staff is supportive of this deviation request.*

### **Potential Actions**

Per Section 17.03.010 (G) of the Gardner Land Development Code, a review body may take the following actions (or recommend the following actions):

1. Approve the application.
2. Approve the application with conditions or modifications.
3. Deny the application.
4. Continue the application to allow further analysis. The continued application shall not be more than 60 days from the original review without consent of the applicant. No application shall be continued more than once by each review body without consent of the applicant.

### **Recommended Motion**

After review of application 23-302-05, a Final Development Plan and associated Final Plat for Villas on Grand, and staff report dated May 22, 2024, the Planning Commission approves the Final Development Plan application as proposed and recommends the Governing Body accept the dedication of right-of-way and easements, provided the following conditions are met:

1. Approval of all deviations as proposed by staff in staff report;
2. Provide elevations of the amenity building, subject to staff review and approval;
3. The construction plans for any utilities, infrastructure, or public facilities shall meet all technical specifications and public improvement plans shall be submitted and approved prior to the release of the plat for recording;
4. Prior to recording the final plat, excise tax shall be paid to the City; and
5. The applications shall be reviewed and approved by the Johnson County Airport Commission and the Board of County Commissioners prior to the release of the plat for recording.

## Attachments

1. Final Development Plan
2. Final Plat

# VILLAS ON GRAND, 1ST PLAT

## LEGAL DESCRIPTION:

PART OF THE NORTH 1/2 OF SECTION 25, T14S, R22E OF THE SIXTH PRINCIPAL MERIDIAN, IN THE CITY OF GARDNER, JOHNSON COUNTY, KANSAS, PREPARED BY GERALD L. CONN, P.S. NO. 1128, OCTOBER 25, 2023, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF THE NW 1/4 OF SECTION 25, T14S, R22E OF THE SIXTH PRINCIPAL MERIDIAN, IN THE CITY OF GARDNER, JOHNSON COUNTY, KANSAS; THENCE N 88°15'23" E ALONG THE SOUTH LINE OF SAID NW 1/4, SAID LINE ALSO BEING THE NORTH LINE OF PLUM CREEK ESTATES, A SUBDIVISION IN THE CITY OF GARDNER, JOHNSON COUNTY, KANSAS, SAID LINE ALSO BEING THE SOUTH LINE OF LOT 1, BIGELOW PLACE, A SUBDIVISION IN THE CITY OF GARDNER, JOHNSON COUNTY, KANSAS, A DISTANCE OF 231.00 FEET TO THE SOUTHWEST CORNER OF SAID LOT 1; THENCE N 01°59'17" W ALONG THE EAST LINE OF SAID BIGELOW PLACE AND ALONG THE EAST LINE OF LOT 2, BIGELOW'S SUBDIVISION, A SUBDIVISION IN THE CITY OF GARDNER, JOHNSON COUNTY, KANSAS, SAID LINE ALSO BEING 231.00 FEET EAST AND PARALLEL WITH THE WEST LINE OF SAID NW 1/4, A DISTANCE OF 1,325.49 FEET TO A POINT ON THE NORTH LINE OF THE SW 1/4 OF SAID NW 1/4, SAID LINE ALSO BEING THE SOUTH LINE OF THE TOWN OF GARDNER, JOHNSON COUNTY, KANSAS; THENCE N 88°18'48" E ALONG THE NORTH LINE OF THE SW 1/4 OF SAID NW 1/4 AND ALONG THE SOUTH LINE OF SAID TOWN OF GARDNER, A DISTANCE OF 1,094.81 FEET TO THE SOUTHWEST CORNER OF THE NE 1/4 OF SAID NW 1/4, SAID CORNER ALSO BEING THE SOUTHWEST CORNER OF SAID TOWN OF GARDNER; THENCE N 02°04'14" W ALONG THE WEST LINE OF THE NE 1/4 OF SAID NW 1/4, SAID LINE ALSO BEING THE EAST LINE OF SAID TOWN OF GARDNER, A DISTANCE OF 413.04 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF THE BNSF RAILROAD AS NOW ESTABLISHED; THENCE N 75°25'45" E ALONG THE SOUTHERLY RIGHT-OF-WAY LINE OF SAID BNSF RAILROAD, A DISTANCE OF 583.84 FEET TO THE TRUE POINT OF BEGINNING; THENCE CONTINUING N 75°25'45" E ALONG THE SOUTHERLY RIGHT-OF-WAY LINE OF SAID BNSF RAILROAD, A DISTANCE OF 718.05 FEET; THENCE S 14°42'19" E A DISTANCE OF 94.85 FEET; THENCE S 58°40'52" W A DISTANCE OF 118.31 FEET; THENCE S 10°10'00" W A DISTANCE OF 222.51 FEET; THENCE S 03°53'35" W A DISTANCE OF 79.79 FEET; THENCE S 21°00'42" W A DISTANCE OF 103.24 FEET; THENCE S 16°18'19" W A DISTANCE OF 292.69 FEET; THENCE S 73°41'41" E A DISTANCE OF 130.00 FEET; THENCE S 72°04'45" E A DISTANCE OF 50.02 FEET; THENCE S 73°41'41" E A DISTANCE OF 142.27 FEET; THENCE N 12°17'01" E A DISTANCE OF 10.53 FEET; THENCE N 10°27'24" E A DISTANCE OF 81.24 FEET TO A POINT ON THE WEST LINE OF THE NE 1/4 OF SAID SECTION 25, T14S, R22E; THENCE CONTINUING N 10°27'24" E A DISTANCE OF 74.07 FEET; THENCE N 88°18'29" E A DISTANCE OF 154.11 FEET; THENCE S 84°47'54" E A DISTANCE OF 110.83 FEET; THENCE S 69°12'01" E A DISTANCE OF 74.93 FEET; THENCE S 02°14'16" E A DISTANCE OF 289.62 FEET; THENCE SOUTHEASTERLY, ON A CURVE TO THE RIGHT HAVING AN INITIAL TANGENT BEARING OF S 77°42'59" E AND A RADIUS OF 525.00 FEET, FOR A DISTANCE OF 219.83 FEET; THENCE S 53°43'30" E A DISTANCE OF 153.70 FEET; THENCE N 36°18'30" E A DISTANCE OF 50.49 FEET; THENCE S 54°53'01" E A DISTANCE OF 41.61 FEET; THENCE SOUTHEASTERLY, ON A CURVE TO THE LEFT HAVING A RADIUS OF 91.00 FEET, FOR A DISTANCE OF 37.28 FEET; THENCE S 78°21'24" E A DISTANCE OF 57.17 FEET; THENCE SOUTHEASTERLY, ON A CURVE TO THE RIGHT A RADIUS OF 59.00 FEET, FOR A DISTANCE OF 25.36 FEET; THENCE S 53°43'30" E A DISTANCE OF 68.05 FEET; THENCE S 73°21'55" E A DISTANCE OF 86.04 FEET; THENCE S 53°43'30" E A DISTANCE OF 35.74 FEET; THENCE N 87°45'44" E A DISTANCE OF 44.43 FEET; THENCE NORTHEASTERLY, ON A CURVE TO THE RIGHT HAVING AN INITIAL TANGENT BEARING OF N 02°14'16" W AND A RADIUS OF 50.00 FEET, FOR A DISTANCE OF 111.32 FEET; THENCE N 35°19'38" E A DISTANCE OF 25.59 FEET; THENCE N 87°58'35" E A DISTANCE OF 177.92 FEET TO A POINT ON THE WEST LINE OF LOT 1, MOONLIGHT APARTMENTS IV, A SUBDIVISION IN THE CITY OF GARDNER, JOHNSON COUNTY, KANSAS; THENCE S 02°04'49" E ALONG THE WEST LINE OF SAID LOT 1, A DISTANCE OF 659.55 FEET TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF GRAND STREET, AS PLATTED; THENCE WESTERLY, ALONG THE NORTHERLY RIGHT-OF-WAY LINE OF SAID GRAND STREET, ON A CURVE TO THE RIGHT HAVING AN INITIAL TANGENT BEARING OF N 85°07'09" W AND A RADIUS OF 570.00 FEET, FOR A DISTANCE OF 176.54 FEET; THENCE NORTHWESTERLY, CONTINUING ALONG THE NORTHERLY RIGHT-OF-WAY LINE OF SAID GRAND STREET, ON A CURVE TO THE RIGHT HAVING AN INITIAL TANGENT BEARING OF N 67°22'25" W AND A RADIUS OF 86.00 FEET, FOR A DISTANCE OF 86.89 FEET; THENCE NORTHWESTERLY CONTINUING ALONG THE NORTHERLY RIGHT-OF-WAY LINE OF SAID GRAND STREET, ON A CURVE TO THE LEFT HAVING AN INITIAL TANGENT BEARING OF N 09°28'58" W AND A RADIUS OF 95.00 FEET, FOR A DISTANCE OF 156.50 FEET; THENCE WESTERLY, CONTINUING ALONG THE NORTHERLY RIGHT-OF-WAY LINE OF SAID GRAND STREET, ON A CURVE TO THE RIGHT HAVING AN INITIAL TANGENT BEARING OF S 76°07'57" W AND A RADIUS OF 86.00 FEET, FOR A DISTANCE OF 75.26 FEET; THENCE N 53°43'31" W CONTINUING ALONG THE NORTHERLY RIGHT-OF-WAY LINE OF SAID GRAND STREET, A DISTANCE OF 536.01 FEET; THENCE NORTHWESTERLY, CONTINUING ALONG THE NORTHERLY RIGHT-OF-WAY LINE OF SAID GRAND STREET, ON A CURVE TO THE LEFT HAVING A RADIUS OF 1,454.00 FEET, FOR A DISTANCE OF 565.13 FEET TO A POINT ON THE EAST LINE OF SAID NW 1/4; THENCE NORTHWESTERLY AND WESTERLY, CONTINUING ALONG THE NORTHERLY RIGHT-OF-WAY LINE OF SAID GRAND STREET, ON A CURVE TO THE LEFT HAVING AN INITIAL TANGENT BEARING OF N 75°59'40" W AND A RADIUS OF 1,454.00 FEET, FOR A DISTANCE OF 591.84 FEET; THENCE N 09°27'26" W A DISTANCE OF 52.55 FEET; THENCE N 11°18'29" E A DISTANCE OF 95.00 FEET; THENCE N 05°11'14" E A DISTANCE OF 203.97 FEET; THENCE N 51°51'12" W A DISTANCE OF 158.29 FEET; THENCE N 75°21'10" W A DISTANCE OF 95.61 FEET; THENCE N 01°57'58" W A DISTANCE OF 525.41 FEET TO THE TRUE POINT OF BEGINNING, CONTAINING 26.40674 ACRES, MORE OR LESS, OF WHICH 13.01014 ACRES MORE OR LESS, LIES WITHIN THE NW 1/4 AND 13.39960 ACRES MORE OR LESS, LIES WITHIN THE NE 1/4.

REVISIONS			
NO.	DATE	DESCRIPTION	BY
1	12/08/23	CITY COMMENTS	CTA
2	12/21/23	CITY COMMENTS	CTA

### PROJECT SUMMARY:

EXISTING ZONING:	RP-2/RP-3
PROPOSED AREA:	26.41 ACRES/1,150,277.6 SQ.FT.
PROPOSED LOTS:	35
PROPOSED UNITS:	63
PROPOSED DENSITY:	1.33 LOTS PER ACRE (AVG.)
PROPOSED DENSITY:	2.39 UNITS PER ACRE (AVG.)
PROPOSED TRACTS:	7

<b>PROPOSED SETBACKS</b>	
FRONT SETBACKS CODE RP-2	10'-35'
FRONT SETBACKS PROVIDED RP-2	25'
SIDE SETBACKS CODE RP-2	10'
SIDE SETBACKS PROVIDED RP-2	20'
REAR YARD CODE RP-2	5' MINIMUM
REAR YARD PROVIDED RP-2	5' MINIMUM
REAR YARD CODE RP-2	25' MINIMUM
REAR YARD PROVIDED RP-2	15' MINIMUM

FRONT SETBACKS CODE RP-3	25'-50'
FRONT SETBACKS PROVIDED RP-3	15'
SIDE SETBACKS CODE RP-3	20'
SIDE SETBACKS PROVIDED RP-3	15'
SIDEYARD CODE RP-3	7' MINIMUM
SIDEYARD PROVIDED RP-3	3' MINIMUM (BUILDING LOT)
REAR YARD CODE RP-3	25'
REAR YARD PROVIDED RP-3	15'

PROPOSED STREET TYPES:	LOCAL-STANDARD
PROPOSED BUILDING TYPES:	SINGLE, TWO & FOUR FAMILY HOMES

PROPOSED OPEN AND CIVIC SPACE TYPE:	NATURAL AND TRAIL/GREENWAY
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OPEN SPACE REQ. BASED ON 15% OF SITE	3.96 ACRES
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OPEN SPACE PROVIDED:	14.75 ACRES OR 56% OF THE SITE
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<b>RP-2</b>	
AREA:	16.91 ACRES
LOTS:	25
DENSITY LOTS:	1.48 LOTS PER ACRE
LOT SIZES (AVG.):	55'x130'
LOT AREAS (AVG.):	8,723.9 SQ.FT.
BUILDING TYPE:	DETACHED HOUSE-NEIGHBORHOOD
FRONTAGE TYPE:	NEIGHBORHOOD YARD

<b>RP-3 MULTI-FAMILY</b>	
AREA:	6.88 ACRES
LOTS:	10
UNITS:	38
DENSITY LOTS:	1.45 LOTS PER ACRE
DENSITY UNITS:	5.52 UNITS PER ACRE
LOT SIZES (AVG.):	91'x136'
LOT AREAS (AVG.):	11,760.0 SQ.FT.
BUILDING TYPE:	GARDEN APARTMENT
FRONTAGE TYPE:	TERRACE

- DENOTES PROPOSED BUILDINGS
- DENOTES FUTURE DETENTION BASIN
- DENOTES PROPOSED CURB
- DENOTES PROPOSED PUBLIC CONCRETE SIDEWALK
- DENOTES PROPOSED ASPHALT SIDEWALK
- DENOTES PROPOSED STORM
- DENOTES PROPOSED SANITARY
- DENOTES PROPOSED WATERLINE
- DENOTES PROPOSED SANITARY STUB
- DENOTES PROPOSED WATERLINE
- DENOTES PROPOSED FIRE HYDRANT
- DENOTES PROPOSED WATER METER
- DENOTES PROPOSED LIGHT POLE
- DENOTES EXISTING CURB
- DENOTES EXISTING SIDEWALK
- DENOTES EXISTING STORM
- DENOTES EXISTING SANITARY
- DENOTES EXISTING WATERLINE

Prepared By: Payne & Brockway Engineers, P.A.  
P. O. Box 128  
Olathe, Kansas 66051  
913-782-4800

Developed By: Grand Street Development, LLC  
c/o Mike Brock, Member  
920 E Warren Street  
Gardner, Kansas 66630  
913-712-8440

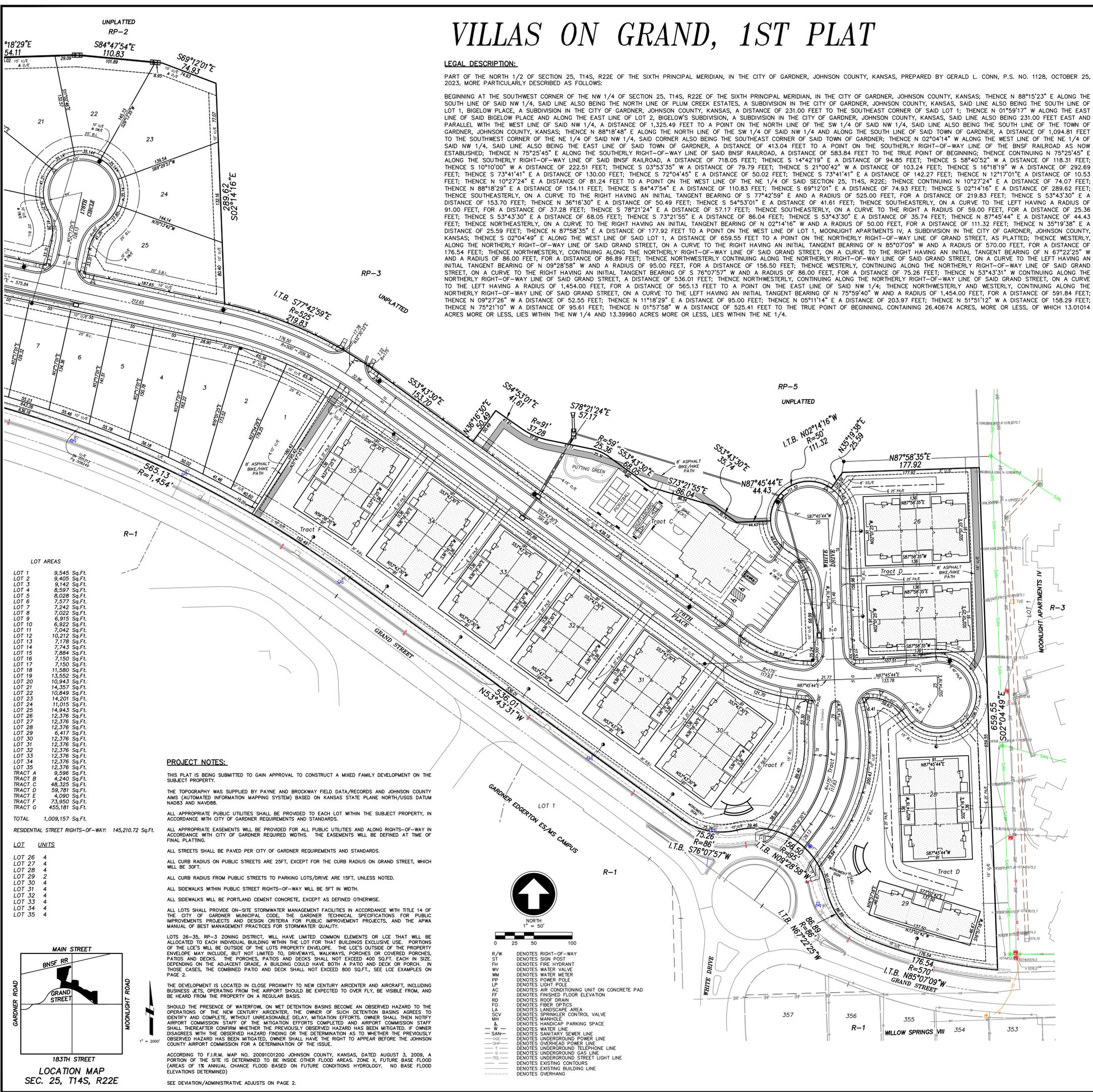
Date Prepared: November 10, 2023

### PLANNED FINAL DEVELOPMENT PLAN

VILLAS ON GRAND, 1ST PLAT  
PT. N 1/2, SEC. 25, T14S, R22E

**Payne & Brockway P.A.**  
Civil Engineers & Land Surveyors  
426 South Kansas Ave. Olathe, Kansas 66051  
Ph: 913.782.4800 Fax: 913.782.0907  
www.Payne-Brockway.com

DATE	SCALE	SHEET	OF
11/10/23	1"=50'	1	6



LOT	UNITS
LOT 1	4
LOT 2	4
LOT 3	4
LOT 4	4
LOT 5	4
LOT 6	4
LOT 7	4
LOT 8	4
LOT 9	4
LOT 10	4
LOT 11	4
LOT 12	4
LOT 13	4
LOT 14	4
LOT 15	4
LOT 16	4
LOT 17	4
LOT 18	4
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LOT 27	4
LOT 28	4
LOT 29	4
LOT 30	4
LOT 31	4
LOT 32	4
LOT 33	4
LOT 34	4
LOT 35	4

LOT	UNITS
LOT 26	4
LOT 27	4
LOT 28	4
LOT 29	4
LOT 30	4
LOT 31	4
LOT 32	4
LOT 33	4
LOT 34	4
LOT 35	4

### PROJECT NOTES:

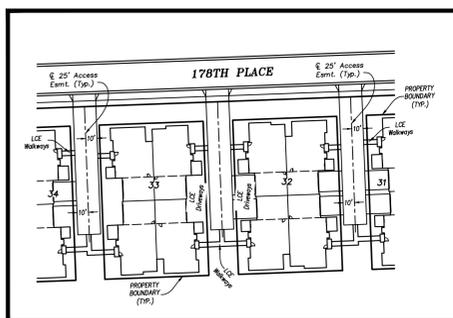
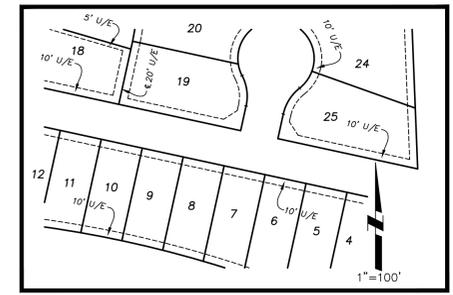
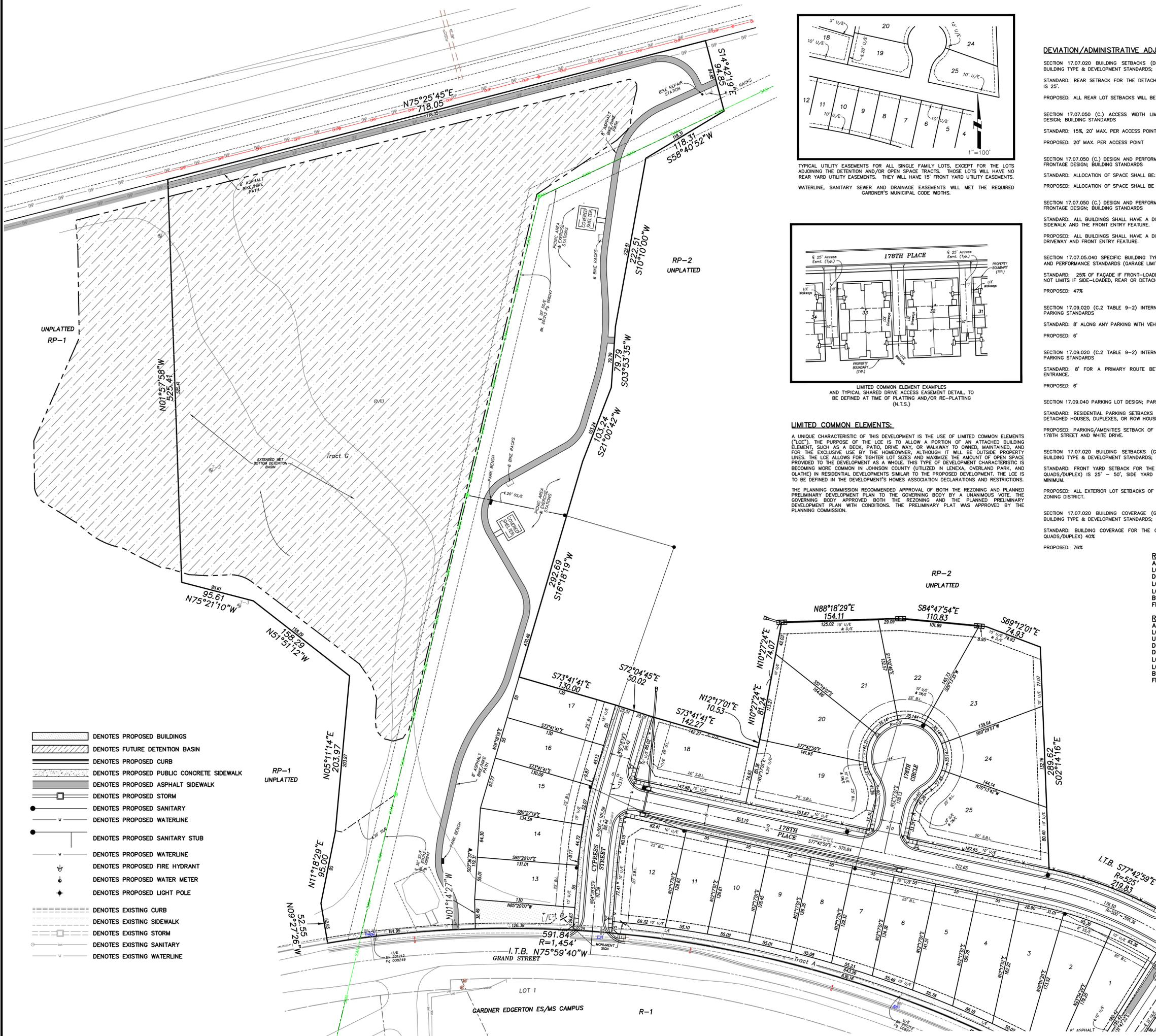
- THIS PLAT IS BEING SUBMITTED TO GAIN APPROVAL TO CONSTRUCT A MIXED FAMILY DEVELOPMENT ON THE SUBJECT PROPERTY.
- THE TOPOGRAPHY WAS SUPPLIED BY PAYNE AND BROCKWAY FIELD DATA/RECORDS AND JOHNSON COUNTY AIMS (AUTOMATED INFORMATION MAPPING SYSTEM) BASED ON KANSAS STATE PLANE NORTH/VISUS DATUM NAD83 AND NAVD88.
- ALL APPROPRIATE PUBLIC UTILITIES SHALL BE PROVIDED TO EACH LOT WITHIN THE SUBJECT PROPERTY, IN ACCORDANCE WITH CITY OF GARDNER REQUIREMENTS AND STANDARDS.
- ALL APPROPRIATE EASEMENTS WILL BE PROVIDED FOR ALL PUBLIC UTILITIES AND ALONG RIGHTS-OF-WAY IN ACCORDANCE WITH CITY OF GARDNER REQUIRED WIDTHS. THE EASEMENTS WILL BE DEFINED AT TIME OF FINAL PLATTING.
- ALL STREETS SHALL BE PAVED PER CITY OF GARDNER REQUIREMENTS AND STANDARDS.
- ALL CURB RADIUS ON PUBLIC STREETS ARE 25FT, EXCEPT FOR THE CURB RADIUS ON GRAND STREET, WHICH WILL BE 30FT.
- ALL CURB RADIUS FROM PUBLIC STREETS TO PARKING LOTS/DRIVE ARE 15FT, UNLESS NOTED.
- ALL SIDEWALKS WITHIN PUBLIC STREET RIGHTS-OF-WAY WILL BE 5FT IN WIDTH.
- ALL SIDEWALKS WILL BE PORTLAND CEMENT CONCRETE, EXCEPT AS DEFINED OTHERWISE.
- ALL LOTS SHALL PROVIDE ON-SITE STORMWATER MANAGEMENT FACILITIES IN ACCORDANCE WITH TITLE 14 OF THE CITY OF GARDNER MUNICIPAL CODE, THE GARDNER TECHNICAL SPECIFICATIONS FOR PUBLIC IMPROVEMENTS PROJECTS AND DESIGN CRITERIA FOR PUBLIC IMPROVEMENT PROJECTS, AND THE APWA MANUAL OF BEST MANAGEMENT PRACTICES FOR STORMWATER QUALITY.
- LOTS 26-35, RP-3 ZONING DISTRICT, WILL HAVE LIMITED COMMON ELEMENTS OR LCE THAT WILL BE ALLOCATED TO EACH INDIVIDUAL BUILDING WITHIN THE LOT FOR THAT BUILDING EXCLUSIVE USE. PORTIONS OF THE LCE'S WILL BE OUTSIDE OF THE LOTS PROPERTY ENVELOPE. THE LCE'S OUTSIDE OF THE PROPERTY ENVELOPE MAY INCLUDE, BUT NOT LIMITED TO, DRIVEWAYS, WALKWAYS, PORCHES OR COVERED PORCHES, PATIOS AND DECKS. THE PORCHES, PATIOS AND DECKS SHALL NOT EXCEED 400 SQ.FT. EACH IN SIZE. DEPENDING ON THE ADJACENT GRADE, A BUILDING COULD HAVE BOTH A PATIO AND DECK OR PORCH. IN THOSE CASES, THE COMBINED PATIO AND DECK SHALL NOT EXCEED 800 SQ.FT.. SEE LCE EXAMPLES ON PAGE 2.
- THE DEVELOPMENT IS LOCATED IN CLOSE PROXIMITY TO NEW CENTURY AIRCENTER AND AIRCRAFT, INCLUDING BUSINESS JETS, OPERATING FROM THE AIRPORT SHOULD BE EXPECTED TO OVER FLY, BE VISIBLE FROM, AND BE HEARD FROM THE PROPERTY ON A REGULAR BASIS.
- SHOULD THE PRESENCE OF WATERFOAM ON WET DETENTION BASINS BECOME AN OBSERVED HAZARD TO THE OPERATIONS OF THE NEW CENTURY AIRCENTER, THE OWNER OF SUCH DETENTION BASINS AGREES TO IDENTIFY AND COMPLETE, WITHOUT UNREASONABLE DELAY, MITIGATION EFFORTS. OWNER SHALL THEN NOTIFY AIRPORT COMMISSION STAFF OF THE MITIGATION EFFORTS COMPLETED AND AIRPORT COMMISSION STAFF SHALL THEREAFTER CONFIRM WHETHER THE PREVIOUSLY OBSERVED HAZARD HAS BEEN MITIGATED. IF OWNER DISAGREES WITH THE OBSERVED HAZARD FINDING OR THE DETERMINATION AS TO WHETHER THE PREVIOUSLY OBSERVED HAZARD HAS BEEN MITIGATED, OWNER SHALL HAVE THE RIGHT TO APPEAR BEFORE THE JOHNSON COUNTY AIRPORT COMMISSION FOR A DETERMINATION OF THE ISSUE.
- ACCORDING TO F.I.R.M. MAP NO. 2009100120G JOHNSON COUNTY, KANSAS, DATED AUGUST 3, 2009, A PORTION OF THE SITE IS DETERMINED TO BE INSIDE OTHER FLOOD AREAS, ZONE X, FUTURE BASE FLOOD (AREAS OF 1% ANNUAL CHANCE FLOOD BASED ON FUTURE CONDITIONS HYDROLOGY. NO BASE FLOOD ELEVATIONS DETERMINED).
- SEE DEVIATION/ADMINISTRATIVE ADJUSTS ON PAGE 2.

- |     |   |
|-----|---|
| R/W | DENOTES RIGHT-OF-WAY                          |
| ST  | DENOTES SIGN POST                             |
| FH  | DENOTES FIRE HYDRANT                          |
| WV  | DENOTES WATER VALVE                           |
| WM  | DENOTES WATER METER                           |
| PP  | DENOTES POWER POLE                            |
| LP  | DENOTES LIGHT POLE                            |
| AC  | DENOTES AIR CONDITIONING UNIT ON CONCRETE PAD |
| FF  | DENOTES FINISHED FLOOR ELEVATION              |
| RD  | DENOTES ROOF DRAIN                            |
| FO  | DENOTES FIBER OPTICS                          |
| LD  | DENOTES LANDSCAPE AREA                        |
| SCV | DENOTES SPRINKLER CONTROL VALVE               |
| MH  | DENOTES MANHOLE                               |
| LA  | DENOTES LANDSCAPE PARKING SPACE               |
| W   | DENOTES WATER LINE                            |
| SAN | DENOTES SANITARY SEWER LINE                   |
| UG  | DENOTES UNDERGROUND POWER LINE                |
| OT  | DENOTES OVERHEAD POWER LINE                   |
| UT  | DENOTES UNDERGROUND TELEPHONE LINE            |
| G   | DENOTES UNDERGROUND GAS LINE                  |
| TL  | DENOTES UNDERGROUND STREET LIGHT LINE         |
| EL  | DENOTES EXISTING CONTOURS                     |
| BL  | DENOTES EXISTING BUILDING LINE                |
| OH  | DENOTES OVERHANG                              |

183TH STREET  
LOCATION MAP  
SEC. 25, T14S, R22E

# VILLAS ON GRAND, 1ST PLAT

REVISIONS			
NO.	DATE	DESCRIPTION	BY
1	12/08/23	CITY COMMENTS	CTA
2	12/21/23	CITY COMMENTS	CTA



**DEVIATION/ADMINISTRATIVE ADJUSTMENT:**

SECTION 17.07.020 BUILDING SETBACKS (DETACHED HOUSE - NEIGHBORHOOD); ZONING DISTRICTS - BUILDING TYPE & DEVELOPMENT STANDARDS; BUILDING STANDARDS (MINIMUM SETBACKS)

STANDARD: REAR SETBACK FOR THE DETACHED HOUSE - NEIGHBORHOOD BUILDING TYPE (SINGLE-FAMILY) IS 25'.

PROPOSED: ALL REAR LOT SETBACKS WILL BE 15'

SECTION 17.07.050 (C.) ACCESS WIDTH LIMITS; NEIGHBORHOOD YARD; DESIGN STANDARDS; FRONTAGE DESIGN; BUILDING STANDARDS

STANDARD: 15% 20' MAX. PER ACCESS POINT

PROPOSED: 20' MAX. PER ACCESS POINT

SECTION 17.07.050 (C.) DESIGN AND PERFORMANCE STANDARDS; NEIGHBORHOOD YARD; DESIGN STANDARDS; FRONTAGE DESIGN; BUILDING STANDARDS

STANDARD: ALLOCATION OF SPACE SHALL BE: 5%-20% HARDSCAPE

PROPOSED: ALLOCATION OF SPACE SHALL BE 62%

SECTION 17.07.050 (C.) DESIGN AND PERFORMANCE STANDARDS; NEIGHBORHOOD YARD; DESIGN STANDARDS; FRONTAGE DESIGN; BUILDING STANDARDS

STANDARD: ALL BUILDINGS SHALL HAVE A DIRECT SIDEWALK CONNECTION AT LEAST 4' WIDE BETWEEN THE SIDEWALK AND THE FRONT ENTRY FEATURE.

PROPOSED: ALL BUILDINGS SHALL HAVE A DIRECT SIDEWALK CONNECTION AT LEAST 4' WIDE BETWEEN THE DRIVEWAY AND FRONT ENTRY FEATURE.

SECTION 17.07.05.040 SPECIFIC BUILDING TYPE STANDARDS, DETACHED HOUSE - NEIGHBORHOOD, DESIGN AND PERFORMANCE STANDARDS (GARAGE LIMITS)

STANDARD: 25% OF FAÇADE IF FRONT-LOADED; UP TO 45% IF SET BACK 15'+ FROM FRONT BUILDING LINE; NOT LIMITS IF SIDE-LOADED, REAR OR DETACHED.

PROPOSED: 47%

SECTION 17.09.020 (C.2 TABLE 9-2) INTERNAL SIDEWALK WIDTHS; BLOCK AND LOT ACCESS; ACCESS & PARKING STANDARDS

STANDARD: 8' ALONG ANY PARKING WITH VEHICLE OVERHANGS.

PROPOSED: 6'

SECTION 17.09.020 (C.2 TABLE 9-2) INTERNAL SIDEWALK WIDTHS; BLOCK AND LOT ACCESS; ACCESS & PARKING STANDARDS

STANDARD: 8' FOR A PRIMARY ROUTE BETWEEN THE STREET OR PARKING AREA AND THE BUILDING ENTRANCE.

PROPOSED: 6'

SECTION 17.09.040 PARKING LOT DESIGN; PARKING LOT DESIGN; ACCESS & PARKING STANDARDS

STANDARD: RESIDENTIAL PARKING SETBACKS SHALL BE 25', EXCEPT PARKING PERMITTED IN DRIVEWAYS OF DETACHED HOUSES, DUPLEXES, OR ROW HOUSES SHALL NOT COUNT AS A PARKING LOT.

PROPOSED: PARKING/AMENITIES SETBACK OF 15' FOR THE POOL TRACT, LOCATED AT THE INTERSECTION OF 178TH STREET AND WHITE DRIVE.

SECTION 17.07.020 BUILDING SETBACKS (GARDEN APARTMENT BUILDING TYPE); ZONING DISTRICTS - BUILDING TYPE & DEVELOPMENT STANDARDS; BUILDING STANDARDS

STANDARD: FRONT YARD SETBACK FOR THE GARDEN APARTMENT BUILDING TYPE (THE 4-PLEX PINWHEEL QUADS/DUPLEX) IS 25' - 50', SIDE YARD SETBACK IS 7' MINIMUM, AND REAR YARD SETBACK IS 25' MINIMUM.

PROPOSED: ALL EXTERIOR LOT SETBACKS OF 3' FOR THE GARDEN APARTMENT BUILDING TYPE IN THE RP-3 ZONING DISTRICT.

SECTION 17.07.020 BUILDING COVERAGE (GARDEN APARTMENT BUILDING TYPE); ZONING DISTRICTS - BUILDING TYPE & DEVELOPMENT STANDARDS; BUILDING STANDARDS (BUILDING COVERAGE)

STANDARD: BUILDING COVERAGE FOR THE GARDEN APARTMENT BUILDING TYPE (THE 4-PLEX PINWHEEL QUADS/DUPLEX) 40%

PROPOSED: 76%

**LIMITED COMMON ELEMENTS:**

A UNIQUE CHARACTERISTIC OF THIS DEVELOPMENT IS THE USE OF LIMITED COMMON ELEMENTS ("LCE"). THE PURPOSE OF THE LCE IS TO ALLOW A PORTION OF AN ATTACHED BUILDING ELEMENT, SUCH AS A DECK, PATIO, DRIVE WAY, OR WALKWAY TO OWNED, MAINTAINED, AND FOR THE EXCLUSIVE USE BY THE HOMEOWNER, ALTHOUGH IT WILL BE OUTSIDE PROPERTY LINES. THE LCE ALLOWS FOR TIGHTER LOT SIZES AND MAXIMIZE THE AMOUNT OF OPEN SPACE PROVIDED TO THE DEVELOPMENT AS A WHOLE. THIS TYPE OF DEVELOPMENT CHARACTERISTIC IS BECOMING MORE COMMON IN JOHNSON COUNTY (UTILIZED IN LENEXA, OVERLAND PARK, AND OLATHE) IN RESIDENTIAL DEVELOPMENTS SIMILAR TO THE PROPOSED DEVELOPMENT. THE LCE IS TO BE DEFINED IN THE DEVELOPMENT'S HOMES ASSOCIATION DECLARATIONS AND RESTRICTIONS.

THE PLANNING COMMISSION RECOMMENDED APPROVAL OF BOTH THE REZONING AND PLANNED PRELIMINARY DEVELOPMENT PLAN TO THE GOVERNING BODY BY A UNANIMOUS VOTE. THE GOVERNING BODY APPROVED BOTH THE REZONING AND THE PLANNED PRELIMINARY DEVELOPMENT PLAN WITH CONDITIONS. THE PRELIMINARY PLAN WAS APPROVED BY THE PLANNING COMMISSION.

RP-2	RP-3 MULTI-FAMILY
AREA:	6.88 ACRES
LOTS:	10
DENSITY LOTS:	1.45 LOTS PER ACRE
LOT SIZES (AVG.):	5.52 UNITS PER ACRE
LOT AREAS (AVG.):	91'x136'
BUILDING TYPE:	GARDEN APARTMENT TERRACE
FRONTAGE TYPE:	

- DENOTES PROPOSED BUILDINGS
- DENOTES FUTURE DETENTION BASIN
- DENOTES PROPOSED CURB
- DENOTES PROPOSED PUBLIC CONCRETE SIDEWALK
- DENOTES PROPOSED ASPHALT SIDEWALK
- DENOTES PROPOSED STORM
- DENOTES PROPOSED SANITARY
- DENOTES PROPOSED WATERLINE
- DENOTES PROPOSED SANITARY STUB
- DENOTES PROPOSED WATERLINE
- DENOTES PROPOSED FIRE HYDRANT
- DENOTES PROPOSED WATER METER
- DENOTES PROPOSED LIGHT POLE
- DENOTES EXISTING CURB
- DENOTES EXISTING SIDEWALK
- DENOTES EXISTING STORM
- DENOTES EXISTING SANITARY
- DENOTES EXISTING WATERLINE

**LEGEND**

NORTH  
1" = 50'

0 25 50 100

R/W DENOTES RIGHT-OF-WAY  
ST DENOTES SIGN POST  
FH DENOTES FIRE HYDRANT  
WV DENOTES WATER VALVE  
WM DENOTES WATER METER  
PP DENOTES POWER POLE  
LP DENOTES LIGHT POLE  
AC DENOTES AIR CONDITIONING UNIT ON CONCRETE PAD  
FF DENOTES FINISHED FLOOR ELEVATION  
RD DENOTES ROOF DRAIN  
FO DENOTES FIBER OPTICS  
LA DENOTES LANDSCAPE AREA  
SCV DENOTES SPRINKLER CONTROL VALVE  
MH DENOTES MANHOLE  
H DENOTES HANDICAP PARKING SPACE  
W DENOTES WATER LINE  
S-W DENOTES SANITARY SEWER LINE  
U DENOTES UNDERGROUND POWER LINE  
OHP DENOTES OVERHEAD POWER LINE  
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G DENOTES UNDERGROUND GAS LINE  
L DENOTES UNDERGROUND STREET LIGHT LINE  
TEL DENOTES EXISTING TELEPHONE  
D DENOTES EXISTING CONTOURS  
D DENOTES EXISTING BUILDING LINE  
D DENOTES OVERHANG

**PLANNED FINAL DEVELOPMENT PLAN**

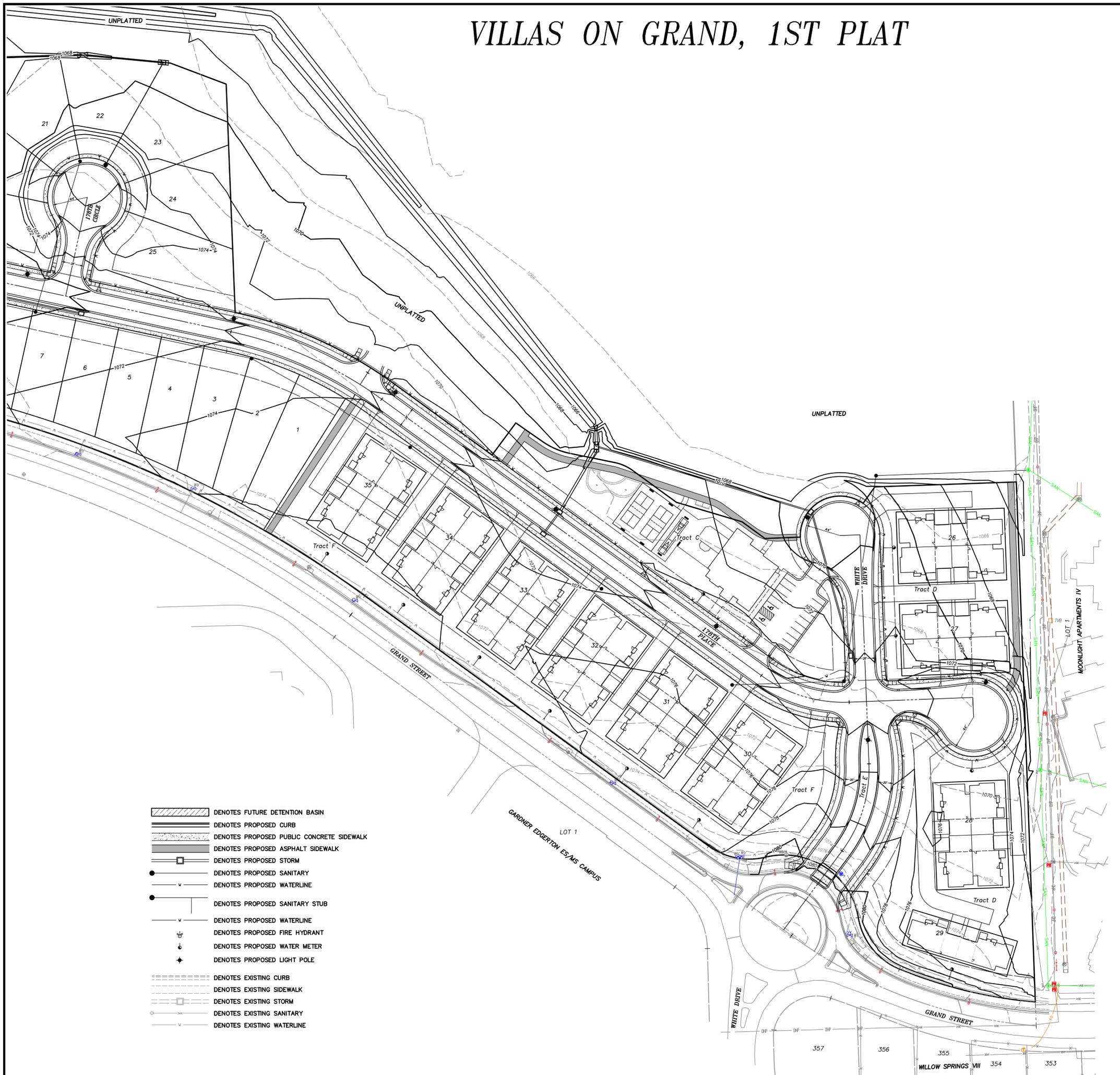
VILLAS ON GRAND, 1ST PLAT  
PT. N 1/2, SEC. 25, T14S, R22E

**Payne & Brockway P.A.**  
Civil Engineers & Land Surveyors  
426 South Kansas Ave. Olathe, Kansas 66061  
Ph: 913.782.4800 Fax: 913.782.0907  
www.Payne-Brockway.com

DATE: 11/10/23 SCALE: 1"=50' SHEET 2 OF 6

# VILLAS ON GRAND, 1ST PLAT

REVISIONS			
NO.	DATE	DESCRIPTION	BY
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2	12/21/23	CITY COMMENTS	CTA



- DENOTES FUTURE DETENTION BASIN
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NORTH  
1" = 50'

0 25 50 100

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- UGM DENOTES UNDERGROUND METER
- UGT DENOTES UNDERGROUND TELEPHONE LINE
- UGG DENOTES UNDERGROUND GAS LINE
- TCL DENOTES UNDERGROUND STREET LIGHT LINE
- EXC DENOTES EXISTING CONTOURS
- EXB DENOTES EXISTING BUILDING LINE
- OVH DENOTES OVERHANG

PLANNED FINAL DEVELOPMENT PLAN  
GRADING PLAN

VILLAS ON GRAND, 1ST PLAT  
PT. N 1/2, SEC. 25, T14S, R22E

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# VILLAS ON GRAND, 1ST PLAT

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- DENOTES FUTURE DETENTION BASIN
- DENOTES PROPOSED CURB
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NORTH  
1" = 50'



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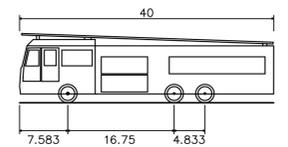
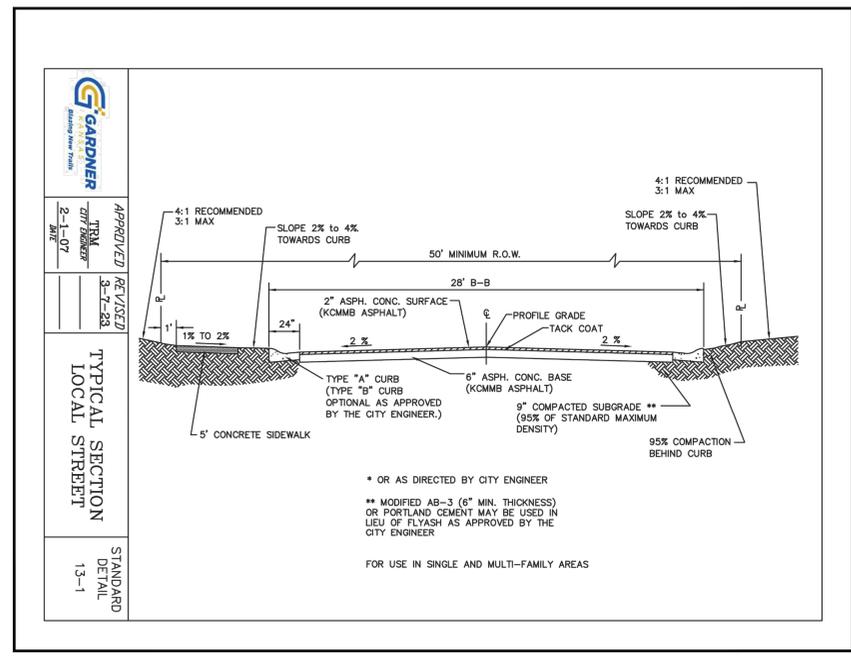
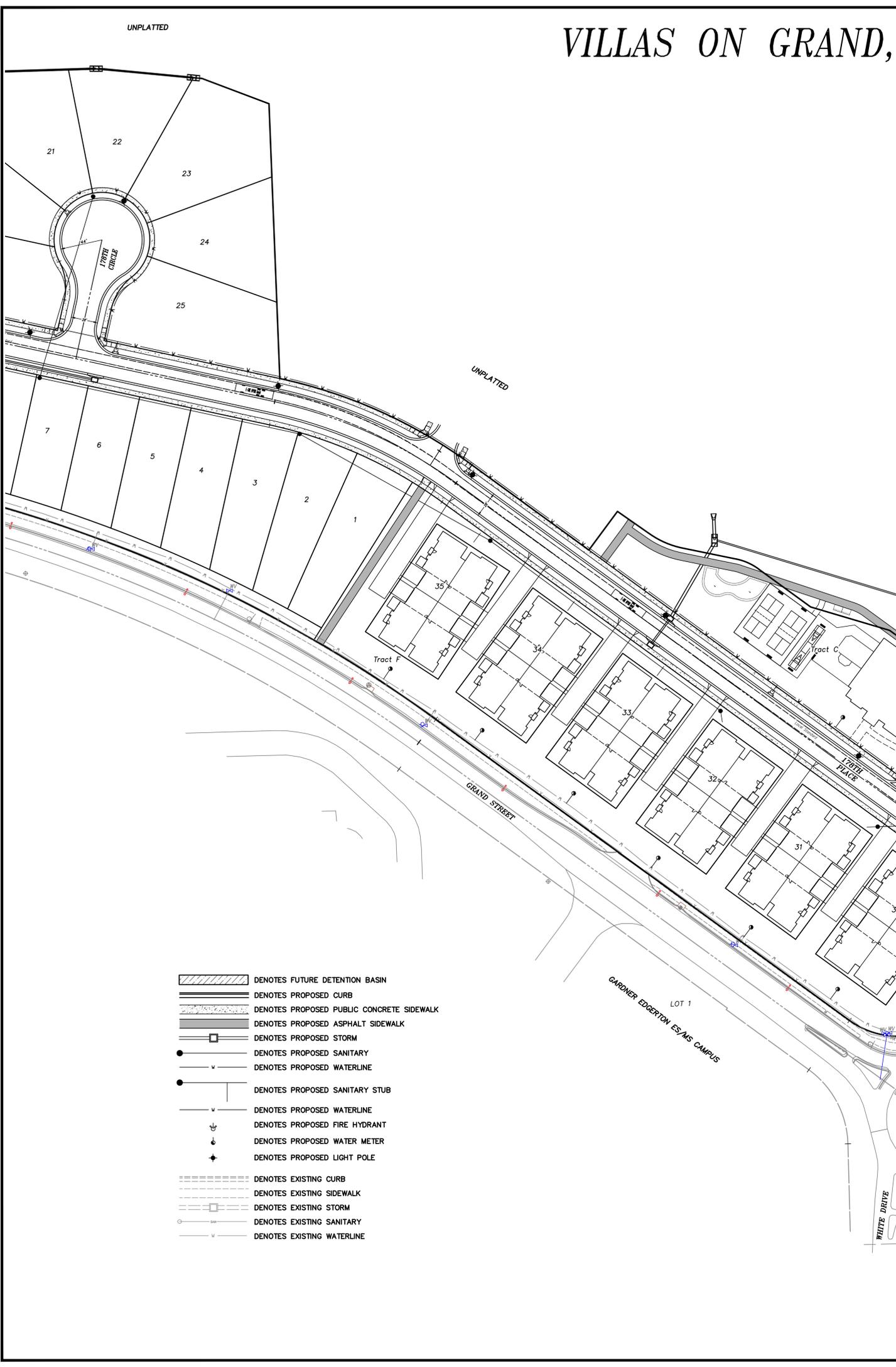
## PLANNED FINAL DEVELOPMENT PLAN GRADING PLAN

VILLAS ON GRAND, 1ST PLAT  
PT. N 1/2, SEC. 25, T14S, R22E

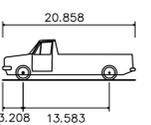
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# VILLAS ON GRAND, 1ST PLAT

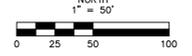
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**E-ONE HP100 Aerial**  
 Overall Length 40.000ft  
 Overall Width 8.333ft  
 Overall Body Height 11.000ft  
 Min Body Ground Clearance 1.393ft  
 Track Width 8.333ft  
 Lock-to-lock time 6.00s  
 Max Wheel Angle 45.00°



**F-150 SuperCab 4x4 STYLESIDE 8' Box**  
 Overall Length 20.858ft  
 Overall Width 6.575ft



- R/W DENOTES RIGHT-OF-WAY
- ST DENOTES SIGN POST
- FH DENOTES FIRE HYDRANT
- WV DENOTES WATER VALVE
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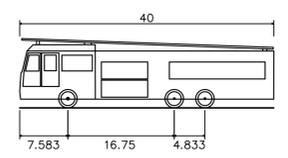
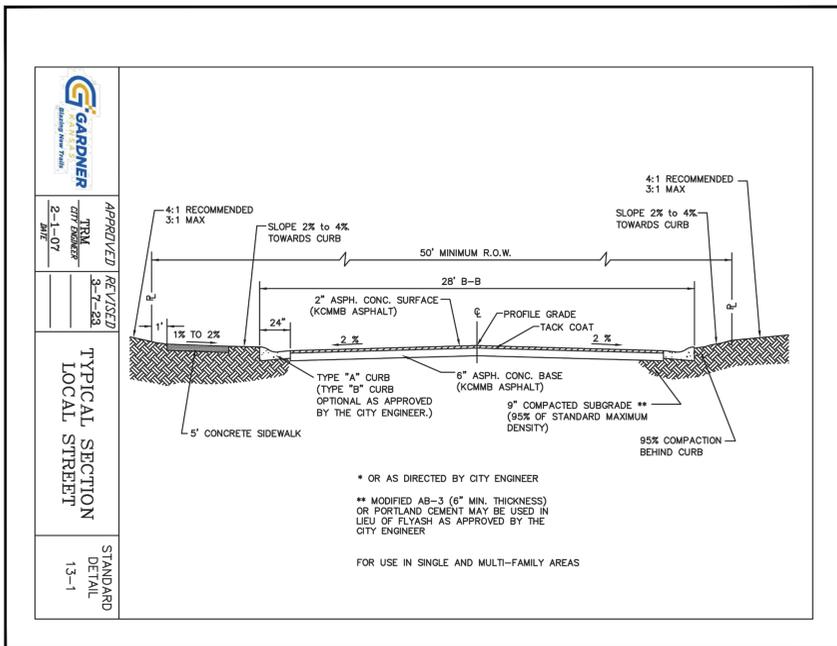
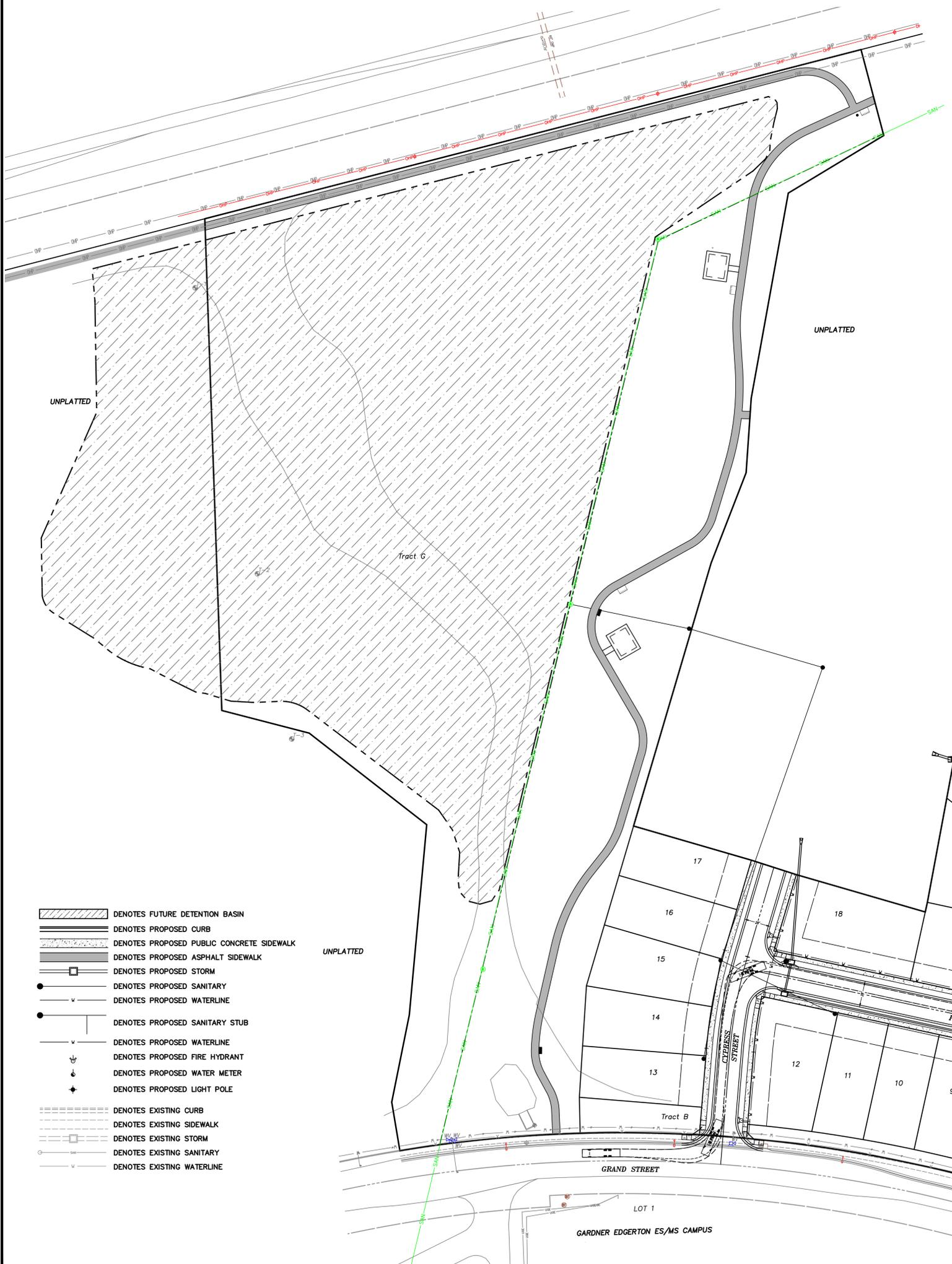
**PLANNED FINAL DEVELOPMENT PLAN  
 VEHICULAR TRACKING PLAN**

VILLAS ON GRAND, 1ST PLAT  
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# VILLAS ON GRAND, 1ST PLAT

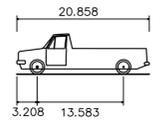
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**E-ONE HP100 Aerial**

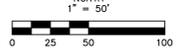
Overall Length 40.00ft  
 Overall Width 8.33ft  
 Overall Body Height 11.00ft  
 Min Body Ground Clearance 1.39ft  
 Track Width 8.33ft  
 Lock-to-lock time 6.00s  
 Max Wheel Angle 45.00°

N.T.S.



**F-150 SuperCab 4x4 STYLESIDE 8' Box**

Overall Length 20.85ft  
 Overall Width 6.57ft



- R/W DENOTES RIGHT-OF-WAY
- ST DENOTES SIGN POST
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**PLANNED FINAL DEVELOPMENT PLAN  
VEHICULAR TRACKING PLAN**

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## Regular Agenda

1. Villas on Grand 23-302-05 Final Development Plan & Final Plat – Located north of the intersection of E Grand St. and White Dr.

### Staff Presentation

Robert Case, Principal Planner presented information regarding the Villas on Grand. The site is approximately 33 acres and this is the first phase of a senior living community and being developed into 36 lots. This will include twenty-five single family villa homes, one duplex unit and 36 fourplex units. There is approximately 14.75 acres of open space to include a clubhouse, pickle ball court, and walking trails. The fourplex units will be developed into a condo-type development and the single-family villas will be on the west side of the development. Elevations are not typically requested for single family homes as it allows for more diversification in the single-family units, but we do for those that have more units within it. Plot plans will come in before building permits and will be checked for compliance to the code. Since this is a diverse multi-unit development, there are a lot of deviations. Staff recommends approval of all deviations.

Staff findings include: the site is capable of accommodating the building, use and other site design elements; the design and arrangement of the building is consistent with good planning and landscaping design; the architecture and building design uses quality materials and the style is appropriate for the context; and the plan is in substantial compliance with code. Staff recommends approval of application 23-302-05 and recommended changing the last recommendation to “may be reviewed” rather than “shall be reviewed.” There are conflicting maps for the one-mile radius around the New Century Airport so this may not need to go before the Airport Board and Board of County Commissioners.

### Applicant Presentation

Todd Allenbrand, Payne & Brockway, 426 S. Kansas Ave. said the patience staff has shown and the help given to this point has been appreciated, and they are comfortable with and agree with the staff report.

Commissioner Jueneman said he likes that the development is walkable. It is similar to developments in a few other cities.

Chair Ham asked if there are going to be any code revisions for the smaller lots to not have to include so many deviations in the future. Knopick replies that these deviations are decided upon based on code, and that over the next year, staff may review the code sections that cause the most deviation requests. Developers have had issues meeting the code requirements for the smaller lots without deviations being granted.

### Commission Discussion

Commissioner Souza commented that a lot of deviations can be worrisome. He asked about the rear setback request from 25 to 15 feet.

Todd Allenbrand responded that the lots are generally 55-feet wide, so they can accommodate a 45-foot-wide house. To get the square footage that they want on the market, the house tends to be a little deeper. A popular addition is a lanai which becomes an enclosed portion of the house and extends farther back. It can cause it to be over the 25-foot building line. The deviation will provide 10 foot of flexibility if needed.

Commissioner Souza asked about the hardscapes being increased to 48%.

Todd Allenbrand said it is meant to cover the cul-de-sac lots, but it technically covers all of the lots since they didn't request deviations specifically for cul-de-sac lots. They cannot meet the hardscape frontage because of the shape of the lot.

Commissioner Souza asked about the sidewalks being changed from 8 feet to 6 feet.

Todd said it is for head-in parking in the clubhouse area or in the future for the senior living area. Similar requests have been granted in other parts of the city. As long as the vehicles parking meet the minimum requirement for ADA, which is 3-feet it would be ok, unless someone backs in a truck, then it may not meet the requirement.

Commissioner Jueneman commented that he liked that this is walkable and closer together and something varied for the city rather than just grass that you don't want to take care of.

Todd said it is to make it feel more open. There are several places in other cities that are very similar to this plan.

Chair Ham asked if there are going to be any code revisions for the smaller lots to not have to include so many deviations in the future.

Director Knopick replied that the deviations are decided upon based on code, and that over the next year, staff may review the code sections that cause the most deviation requests. Developers have had issues meeting the code requirements for the smaller lots without deviations being granted. When working through a planned development scenario, the code provides the ability to make deviations and there may be tradeoffs made to help create a better development for the city.

### **Motion:**

**After review of application 23-302-05 a Final Development Plan and associated Final Plat for Villas on Grand, and staff report dated May 22, 2024, the Planning Commission approves the Final Development Plan application as proposed and recommends the Governing Body accept the dedication of Right-of-way and easements, provided the following conditions are met:**

- 1. Approval of all deviations as proposed by staff in staff report;**
- 2. Provide elevations of the amenity building, subject to staff review and approval;**
- 3. The construction plans for any utilities, infrastructure, or public facilities shall meet all technical specifications and public improvement plans shall be submitted and approved prior to the release of the plat for recording;**
- 4. Prior to recording the final plat, excise tax shall be paid to the City; and,**
- 5. The applications may shall be reviewed and approved by the Johnson County Airport Commission and the Board of County Commissioners prior to the release of the plat for recording.**

Motion was made to approve including the change in language on condition 5.

Motion: Commissioner Combs

Second: Commissioner Souza

**Motion carries unanimously 5-0**

Recording of this meeting can be found here:

[https://www.youtube.com/live/pmalS3swllq?si=ycoq\\_h-hlNxCJHKJ](https://www.youtube.com/live/pmalS3swllq?si=ycoq_h-hlNxCJHKJ)

# COUNCIL ACTION FORM      PLANNING CONSENT AGENDA ITEM NO. 4

**MEETING DATE:**    JUNE 17, 2024

**STAFF CONTACT:**    DAVE KNOPIK, COMMUNITY DEVELOPMENT DIRECTOR

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**Agenda Item:**            Consider accepting the dedication of right-of-way and easements on the final plat for Grand Mission Estates 1<sup>st</sup> Plat

**Strategic Priority:**    Quality of Life, Economic Development and Asset and Infrastructure Management

**Department:**            Community Development

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**Planning Commission Action/Recommendation:**

After review of application 23-302-06, a Final Development Plan and associated Final Plat for Grand Mission Estates, and staff report dated May 22, 2024, the Planning Commission approves the applications as proposed and recommends the Governing Body accept the dedication of right-of-way and easements, provided the following conditions are met:

1. The construction plans for any utilities, infrastructure, or public facilities shall meet all technical specifications and public improvement plans shall be submitted and approved prior to the release of the plat for recording;
2. Prior to recording the final plat, excise tax shall be paid to the City; and
3. The applications may be required to be reviewed and approved by the Johnson County Airport Commission and the Board of County Commissioners prior to the release of the plat for recording.

**Staff Recommendation:**

Staff recommends approval of the final plat for Grand Mission Estates 1<sup>st</sup> Plat with the conditions outlined in the Recommended Motion.

**Background/Description of Item:**

The property was annexed in early 2023. The rezoning to RP-1 and preliminary development plan for this site was recommended approval by the Planning Commission at their March 27, 2023 meeting and then approved by the Governing Body at their July 17, 2023 meeting (Ordinance 2778).

**Financial Impact:**

Excise tax is levied with the act of platting the portion of the property in the city. Any of the subject property that has never been a part of a final plat before is therefore subject to paying the excise tax if it has not been paid. This tax is based on the square footage of the plat property, excluding any arterial type right-of-way dedication for streets and parkland dedication.

**Other Impacts:**

None

**Attachments included:**

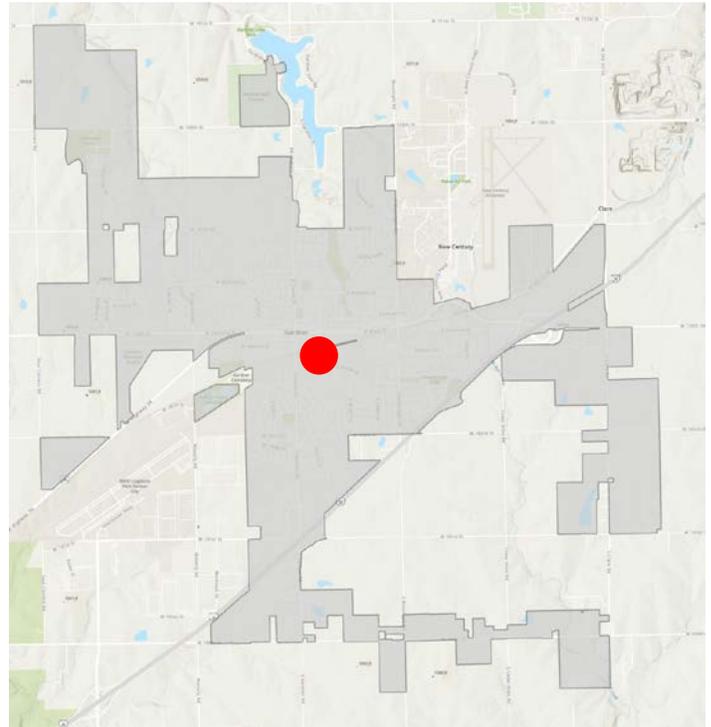
- Planning Commission Packet Materials
- Planning Commission Meeting Minutes

**Suggested Motion:**

Accept the dedication of right-of-way and easements on the final plat for Grand Mission Estates  
1<sup>st</sup> Plat (23-302-06)

**Project Name: Grand Mission Estates 1<sup>st</sup> Plat**

PROJECT NUMBER	23-302-06
REQUEST	FINAL PLAN FINAL PLAT
APPLICANT	PAYNE & BROCKWAY PA
OWNER	GRAND STREET DEVELOPMENT LLC
PARCEL ID	CF221425-1005



**Executive Summary**

PRESENT ZONING:	RP-1
PRESENT LAND USE:	VACANT ROW CROPS
TOTAL SITE AREA:	15.61546 ACRES
EXISTING LOT #:	0
PROPOSED LOT #:	29
PROP BUILDING TYPES:	DETACHED HOUSE
PROP STREET TYPES:	LOCAL ST



**Staff Recommendation**

Staff recommends the Planning Commission recommend approval of 23-302-06 with conditions in the recommended motion.

**Context:**

**Background/History**

The property was annexed in early 2023. The rezoning to RP-1 and preliminary development plan for this site was recommended approval by the Planning Commission at their March 27, 2023 meeting and then approved by the Governing Body at their July 17, 2023 meeting (Ordinance 2778).

**Surrounding Zoning and Land Use**

Zoning	Use(s)
<b>North of Subject Property</b>	
R-2 (Two-family) District	Two-family residences
R-5 (Apartment) District	Single-family residences
<b>East of Subject Property</b>	
RP-2 (Planned Two-family) District	Two-family residences
<b>South of Subject Property</b>	
R-1 (Single Family) District	Single-family residences, Grand Star Elementary, Trail Ridge Middle School
<b>West of Subject Property</b>	
R-1 (Single-Family) District	Single-family residences
RP-5 (Apartment) District	Single-family residence, ROW

**Utilities / Infrastructure**

All utilities are located on the site.

**Roadway Network & Vehicular Access**

The site will be accessed with two locations off Grand St, the first across from Trail Ridge Middle School, and the other at the White Drive roundabout.

**New Century Air Center**

This site is located within 1 mile of the New Century Airport will need to be reviewed and approved by the Johnson County Airport Commission and the Board of County Commissioners.

**Review Criteria**

**Final Plat (LDC Section 17.03.030 E.)**

- a. The layout and design of the final plat is in substantial compliance with the approved preliminary plat considering the number of lots or parcels; the block layout, street designs and access; the open space systems and civic design elements; the infrastructure systems; or other elements of coordinated developments.
- b. The construction plans for any utilities, infrastructure or public facilities shall have been found to meet all technical specifications, or final plat approval shall be conditioned on such plans meeting all technical specifications, before the recording of the final plat.
- c. The phasing and timing of public improvements ensures construction and performance guarantees.
- d. Any deviations in the final plat from the preliminary plat brings the application in further compliance with the Comprehensive Plan and the purposes and intent of this Code.

- e. The recommendations of professional staff, or any other public entity asked to officially review the plat.

### **Final Development Plan (LDC Section 17.03.040 C.)**

1. In general, any final development plan in compliance with all requirements of this Code shall be approved.
2. In making a determination of compliance, or for site plans accompanying any discretionary review or administrative relief, the review body shall consider whether:
  - a. The site is capable of accommodating the buildings, proposed use, access and other site design elements required by the Code and will not negatively impact the function and design of rights-of-way or adjacent property.
  - b. The design and arrangement of buildings and open spaces is consistent with good planning, landscape design and site engineering principles and practices.
  - c. The architecture and building design uses quality materials and the style is appropriate for the context considering the proportion, massing, and scale of different elements of the building.
  - d. The overall design is compatible to the context considering the location and relationships of other buildings, open spaces, natural features or site design elements.
  - e. Whether any additional site-specific conditions are necessary to meet the intent and design objectives of any of the applicable development standards.
3. The application meets the criteria for all other reviews needed to build the project as proposed.
4. The recommendations of professional staff.
5. The final development plan is in substantial compliance with the approved preliminary development plan.

## **Staff Findings**

The proposed development is in substantial compliance with the preliminary plat and preliminary development plan.

### **Deviation Requests**

There are no deviation requests.

## **Potential Actions**

Per Section 17.03.010 (G) of the Gardner Land Development Code, a review body may take the following actions (or recommend the following actions):

1. Approve the application.
2. Approve the application with conditions or modifications.
3. Deny the application.
4. Continue the application to allow further analysis. The continued application shall not be more than 60 days from the original review without consent of the applicant. No application shall be continued more than once by each review body without consent of the applicant.

## **Recommended Motion**

After review of application 23-302-06, a Final Development Plan and associated Final Plat for Grand Mission Estates, and staff report dated May 22, 2024, the Planning Commission approves the applications as proposed and recommends the Governing Body accept the dedication of right-of-way and easements, provided the following conditions are met:

1. The construction plans for any utilities, infrastructure, or public facilities shall meet all technical specifications and public improvement plans shall be submitted and approved prior to the release of the plat for recording;
2. Prior to recording the final plat, excise tax shall be paid to the City; and

3. The applications shall be reviewed and approved by the Johnson County Airport Commission and the Board of County Commissioners prior to the release of the plat for recording.

## **Attachments**

1. Final Development Plan
2. Final Plat

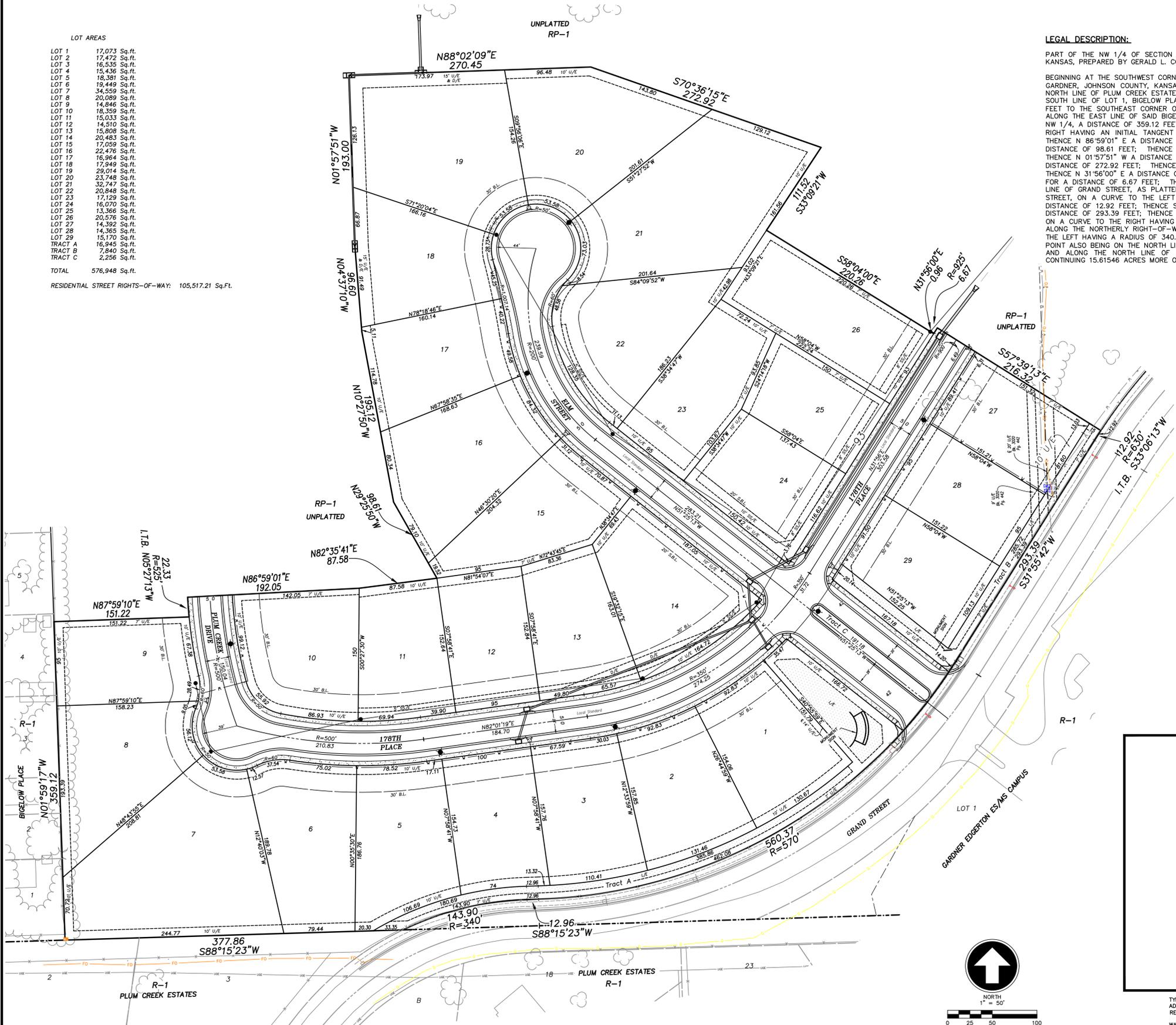
# GRAND MISSION ESTATES, 1ST PLAT

REVISIONS			
NO.	DATE	DESCRIPTION	BY
1	12/07/23	CITY COMMENTS	CTA

**LOT AREAS**

LOT 1	17,073 Sq.ft.
LOT 2	17,472 Sq.ft.
LOT 3	16,535 Sq.ft.
LOT 4	15,436 Sq.ft.
LOT 5	18,381 Sq.ft.
LOT 6	19,449 Sq.ft.
LOT 7	34,559 Sq.ft.
LOT 8	20,089 Sq.ft.
LOT 9	14,846 Sq.ft.
LOT 10	18,359 Sq.ft.
LOT 11	15,033 Sq.ft.
LOT 12	14,510 Sq.ft.
LOT 13	15,808 Sq.ft.
LOT 14	20,483 Sq.ft.
LOT 15	17,059 Sq.ft.
LOT 16	22,476 Sq.ft.
LOT 17	16,964 Sq.ft.
LOT 18	17,949 Sq.ft.
LOT 19	29,014 Sq.ft.
LOT 20	23,748 Sq.ft.
LOT 21	32,747 Sq.ft.
LOT 22	20,848 Sq.ft.
LOT 23	17,129 Sq.ft.
LOT 24	16,070 Sq.ft.
LOT 25	13,366 Sq.ft.
LOT 26	20,576 Sq.ft.
LOT 27	14,392 Sq.ft.
LOT 28	14,365 Sq.ft.
LOT 29	15,170 Sq.ft.
TRACT A	16,945 Sq.ft.
TRACT B	7,840 Sq.ft.
TRACT C	2,256 Sq.ft.
<b>TOTAL</b>	<b>576,948 Sq.ft.</b>

RESIDENTIAL STREET RIGHTS-OF-WAY: 105,517.21 Sq.Ft.



**LEGAL DESCRIPTION:**

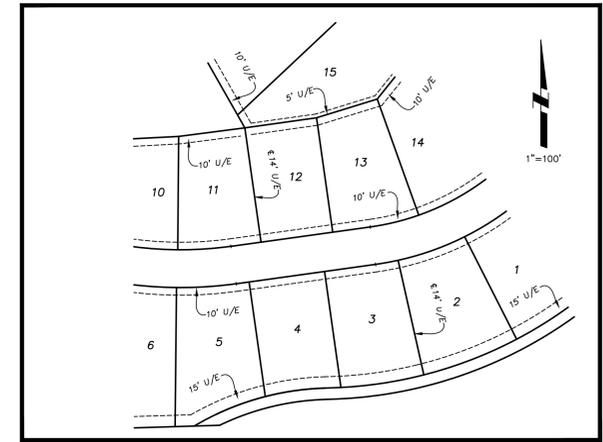
PART OF THE NW 1/4 OF SECTION 25, T14S, R22E OF THE SIXTH PRINCIPAL MERIDIAN, IN THE CITY OF GARDNER, JOHNSON COUNTY, KANSAS, PREPARED BY GERALD L. CONN, P.S. NO. 1128, AUGUST 7, 2023, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF THE NW 1/4 OF SECTION 25, T14S, R22E OF THE SIXTH PRINCIPAL MERIDIAN, IN THE CITY OF GARDNER, JOHNSON COUNTY, KANSAS; THENCE N 88°15'23" E ALONG THE SOUTH LINE OF SAID NW 1/4, SAID LINE ALSO BEING THE NORTH LINE OF CITY CREEK ESTATES, A SUBDIVISION IN THE CITY OF GARDNER, JOHNSON COUNTY, KANSAS, SAID LINE ALSO BEING THE SOUTH LINE OF LOT 1, BIGELOW PLACE, A SUBDIVISION IN THE CITY OF GARDNER, JOHNSON COUNTY, KANSAS, A DISTANCE OF 231.00 FEET TO THE SOUTHWEST CORNER OF SAID LOT 1, SAID CORNER ALSO BEING THE TRUE POINT OF BEGINNING; THENCE N 01°59'17" W ALONG THE EAST LINE OF SAID BIGELOW PLACE, SAID LINE ALSO BEING 231.00 FEET EAST AND PARALLEL WITH THE WEST LINE OF SAID NW 1/4, A DISTANCE OF 359.12 FEET; THENCE N 87°59'10" E A DISTANCE OF 151.22 FEET; THENCE NORTHERLY, ON A CURVE TO THE RIGHT HAVING AN INITIAL TANGENT BEARING OF N 05°27'13" W AND A RADIUS OF 525.00 FEET, FOR A DISTANCE OF 22.33 FEET; THENCE N 86°59'01" E A DISTANCE OF 192.05 FEET; THENCE N 82°35'41" E A DISTANCE OF 87.58 FEET; THENCE N 29°25'50" W A DISTANCE OF 98.61 FEET; THENCE N 10°27'50" W A DISTANCE OF 195.12 FEET; THENCE N 04°37'10" W A DISTANCE OF 96.60 FEET; THENCE N 01°57'51" W A DISTANCE OF 193.00 FEET; THENCE N 88°02'09" E A DISTANCE OF 270.45 FEET; THENCE S 70°36'15" E A DISTANCE OF 272.92 FEET; THENCE S 33°09'21" W A DISTANCE OF 111.52 FEET; THENCE S 58°04'00" E A DISTANCE OF 925.00 FEET; THENCE N 31°56'00" E A DISTANCE OF 0.96 FEET; THENCE NORTHEASTERLY ON A CURVE TO THE RIGHT AND A RADIUS OF 925.00 FEET, FOR A DISTANCE OF 6.67 FEET; THENCE S 57°39'13" E A DISTANCE OF 216.32 FEET TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF GRAND STREET, AS PLATTED; THENCE SOUTHWEST, CONTINUING ALONG THE NORTHERLY RIGHT-OF-WAY LINE OF SAID GRAND STREET, ON A CURVE TO THE LEFT HAVING AN INITIAL TANGENT BEARING OF S 33°06'13" W AND A RADIUS OF 630.00 FEET, FOR A DISTANCE OF 12.92 FEET; THENCE S 31°55'42" W CONTINUING ALONG THE NORTHERLY RIGHT-OF-WAY LINE OF SAID GRAND STREET, A DISTANCE OF 293.39 FEET; THENCE SOUTHWESTERLY, CONTINUING ALONG THE NORTHERLY RIGHT-OF-WAY LINE OF SAID GRAND STREET, ON A CURVE TO THE RIGHT HAVING A RADIUS OF 570.00 FEET, FOR A DISTANCE OF 560.37 FEET; THENCE S 88°15'23" W CONTINUING ALONG THE NORTHERLY RIGHT-OF-WAY LINE OF SAID GRAND STREET, A DISTANCE OF 12.96 FEET; THENCE WESTERLY, ON A CURVE TO THE LEFT HAVING A RADIUS OF 340.00 FEET, FOR A DISTANCE OF 143.90 FEET TO A POINT ON THE SOUTH LINE OF SAID NW 1/4, SAID POINT ALSO BEING ON THE NORTH LINE OF SAID PLUM CREEK ESTATES; THENCE S 88°15'23" W ALONG THE SOUTH LINE OF SAID NW 1/4, AND ALONG THE NORTH LINE OF SAID PLUM CREEK ESTATES, A DISTANCE OF 377.86 FEET TO THE TRUE POINT OF BEGINNING, CONTINUING 15.61546 ACRES MORE OR LESS.

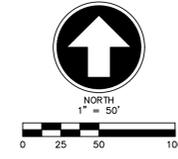
**PROJECT SUMMARY:**

EXISTING ZONING:	RP-1
PROPOSED AREA:	15.62 ACRES/680,209.6 SQ.FT.
PROPOSED LOTS:	29
PROPOSED DENSITY:	1.86 LOTS PER ACRE
PROPOSED TRACTS:	3
<b>PROPOSED SETBACKS</b>	
FRONT SETBACKS	30'
SIDE SETBACKS	20'
REAR SETBACKS	7' MINIMUM
REAR YARD	25' MINIMUM
<b>PROPOSED STREET TYPES:</b>	
PROPOSED FRONTAGE TYPES:	LOCAL-STANDARD
PROPOSED BUILDING TYPES:	SUBURBAN YARD DETACHED HOUSE-SUBURBAN
<b>OPEN SPACE REQ. BASED ON 10% OF SITE</b>	
OPEN SPACE PROVIDED:	1.56 ACRES 0.62 ACRES OR 4% OF THE SITE

- DENOTES PROPOSED CURB
- DENOTES PROPOSED PUBLIC CONCRETE SIDEWALK
- DENOTES PROPOSED STORM
- DENOTES PROPOSED SANITARY
- DENOTES PROPOSED WATERLINE
- DENOTES PROPOSED SANITARY STUB
- DENOTES PROPOSED WATERLINE
- DENOTES PROPOSED FIRE HYDRANT
- DENOTES PROPOSED WATER METER
- DENOTES PROPOSED LIGHT POLE
- DENOTES EXISTING CURB
- DENOTES EXISTING SIDEWALK
- DENOTES EXISTING STORM
- DENOTES EXISTING SANITARY
- DENOTES EXISTING WATERLINE



TYPICAL UTILITY EASEMENTS FOR ALL SINGLE FAMILY LOTS, EXCEPT FOR THE LOTS ADJOINING THE DETENTION AND/OR OPEN SPACE TRACTS. THOSE LOTS WILL HAVE NO REAR YARD UTILITY EASEMENTS. THEY WILL HAVE 15' FRONT YARD UTILITY EASEMENTS. WATERLINE, SANITARY SEWER AND DRAINAGE EASEMENTS WILL MET THE REQUIRED GARDNER'S MUNICIPAL CODE WIDTHS.



- R/W DENOTES RIGHT-OF-WAY
- ST DENOTES SIGN POST
- FH DENOTES FIRE HYDRANT
- WV DENOTES WATER VALVE
- WM DENOTES WATER METER
- PP DENOTES POWER POLE
- LP DENOTES LIGHT POLE
- AC DENOTES AIR CONDITIONING UNIT ON CONCRETE PAD
- FF DENOTES FINISHED FLOOR ELEVATION
- FO DENOTES FIBER OPTICS
- SCV DENOTES SPRINKLER CONTROL VALVE
- LA DENOTES LANDSCAPE AREA
- MD DENOTES MANHOLE
- HP DENOTES HANDICAP PARKING SPACE
- W DENOTES WATER LINE
- SAN DENOTES SANITARY SEWER LINE
- UGS DENOTES UNDERGROUND POWER LINE
- OP DENOTES OVERHEAD POWER LINE
- T DENOTES UNDERGROUND TELEPHONE LINE
- G DENOTES UNDERGROUND GAS LINE
- TL DENOTES UNDERGROUND STREET LIGHT LINE
- EX DENOTES EXISTING CONTOURS
- BL DENOTES EXISTING BUILDING LINE
- OH DENOTES OVERHANG

**PROJECT NOTES:**

THIS PLAT IS BEING SUBMITTED TO GAIN APPROVAL TO CONSTRUCT A SINGLE FAMILY DEVELOPMENT ON THE SUBJECT PROPERTY.

THE TOPOGRAPHY WAS SUPPLIED BY PAYNE AND BROCKWAY FIELD DATA/RECORDS AND JOHNSON COUNTY AIMS (AUTOMATED INFORMATION MAPPING SYSTEM) BASED ON KANSAS STATE PLANE NORTH/USGS DATUM NAD83 AND NAVD83.

ALL APPROPRIATE PUBLIC UTILITIES SHALL BE PROVIDED TO EACH LOT WITHIN THE SUBJECT PROPERTY, IN ACCORDANCE WITH CITY OF GARDNER REQUIREMENTS AND STANDARDS.

ALL APPROPRIATE EASEMENTS WILL BE PROVIDED FOR ALL PUBLIC UTILITIES AND ALONG RIGHTS-OF-WAY IN ACCORDANCE WITH CITY OF GARDNER REQUIREMENTS AND STANDARDS. THE EASEMENTS WILL BE DEFINED AT TIME OF FINAL PLATTING.

ALL STREETS SHALL BE PAVED PER CITY OF GARDNER REQUIREMENTS AND STANDARDS.

ALL CURB RADIUS ON PUBLIC STREETS ARE 25FT, EXCEPT FOR THE CURB RADIUS ON GRAND STREET, WHICH WILL BE 30FT.

ALL SIDEWALKS WITHIN PUBLIC STREET RIGHTS-OF-WAY WILL BE 5FT IN WIDTH.

ALL SIDEWALKS WILL BE PORTLAND CEMENT CONCRETE, EXCEPT AS DEFINED OTHERWISE.

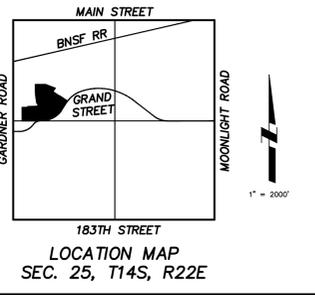
ALL LOTS SHALL PROVIDE ON-SITE STORMWATER MANAGEMENT FACILITIES IN ACCORDANCE WITH TITLE 14 OF THE CITY OF GARDNER MUNICIPAL CODE, THE GARDNER TECHNICAL SPECIFICATIONS FOR PUBLIC IMPROVEMENTS PROJECTS AND DESIGN CRITERIA FOR PUBLIC IMPROVEMENT PROJECTS, AND THE APWA MANUAL OF BEST MANAGEMENT PRACTICES FOR STORMWATER QUALITY.

THE DEVELOPMENT IS LOCATED IN CLOSE PROXIMITY TO NEW CENTURY AIRCENTER AND AIRCRAFT, INCLUDING BUSINESS JETS, OPERATING FROM THE AIRPORT SHOULD BE EXPECTED TO OVER FLY, BE VISIBLE FROM, AND BE HEARD FROM THE PROPERTY ON A REGULAR BASIS.

SHOULD THE PRESENCE OF WATERFOAM ON WET DETENTION BASINS BECOME AN OBSERVED HAZARD TO THE OPERATIONS OF THE NEW CENTURY AIRCENTER, THE OWNER OF SUCH DETENTION BASINS AGREES TO IDENTIFY AND COMPLETE, WITHOUT UNREASONABLE DELAY, MITIGATION EFFORTS. OWNER SHALL THEN NOTIFY AIRPORT COMMISSION STAFF OF THE MITIGATION EFFORTS COMPLETED AND AIRPORT COMMISSION STAFF SHALL THEREAFTER CONFIRM WHETHER THE PREVIOUSLY OBSERVED HAZARD HAS BEEN MITIGATED. IF OWNER DISAGREES WITH THE OBSERVED HAZARD FINDING OR THE DETERMINATION AS TO WHETHER THE PREVIOUSLY OBSERVED HAZARD HAS BEEN MITIGATED, OWNER SHALL HAVE THE RIGHT TO APPEAR BEFORE THE JOHNSON COUNTY AIRPORT COMMISSION FOR A DETERMINATION OF THE ISSUE.

ACCORDING TO F.I.R.M. MAP NO. 200910120G JOHNSON COUNTY, KANSAS, DATED AUGUST 3, 2009, A PORTION OF THE SITE IS DETERMINED TO BE INSIDE OTHER FLOOD AREAS, ZONE X, FUTURE BASE FLOOD (AREAS OF 1% ANNUAL CHANCE FLOOD BASED ON FUTURE CONDITIONS HYDROLOGY, NO BASE FLOOD ELEVATIONS DETERMINED)

NO DEVIATION/ADMINISTRATIVE ADJUSTS ARE BEING REQUESTED WITH THIS PHASE.



**PLANNED FINAL DEVELOPMENT PLAN**

GRAND MISSION ESTATES, 1ST PLAT  
PT. NE 1/4, SEC. 25, T14S, R22E

Prepared By: Payne & Brockway Engineers, P.A.  
P. O. Box 128  
Olathe, Kansas 66051  
913-782-4800

Developed By: Grand Street Development, LLC  
c/o Mike Brock, Member  
920 E. Warren Street  
Gardner, Kansas 66030  
913-712-8440

Date Prepared: November 10, 2023

**Payne & Brockway P.A.**  
Civil Engineers & Land Surveyors  
426 South Kansas Ave. Olathe, Kansas 66051  
Ph: 913.782.4800 Fax: 913.782.0907  
www.Payne-Brockway.com

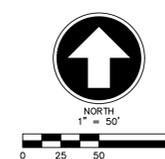
DATE	SCALE	SHEET	OF
11/10/23	1"=50'	1	3

# GRAND MISSION ESTATES, 1ST PLAT

REVISIONS			
NO.	DATE	DESCRIPTION	BY
1	12/07/23	CITY COMMENTS	CTA



- DENOTES PROPOSED CURB
- DENOTES PROPOSED PUBLIC CONCRETE SIDEWALK
- DENOTES PROPOSED STORM
- DENOTES PROPOSED SANITARY
- v— DENOTES PROPOSED WATERLINE
- DENOTES PROPOSED SANITARY STUB
- v— DENOTES PROPOSED WATERLINE
- FH— DENOTES PROPOSED FIRE HYDRANT
- W— DENOTES PROPOSED WATER METER
- L— DENOTES PROPOSED LIGHT POLE
- DENOTES EXISTING CURB
- DENOTES EXISTING SIDEWALK
- DENOTES EXISTING STORM
- DENOTES EXISTING SANITARY
- v— DENOTES EXISTING WATERLINE



- R/W DENOTES RIGHT-OF-WAY
- ST DENOTES SIGN POST
- FH DENOTES FIRE HYDRANT
- WV DENOTES WATER VALVE
- WM DENOTES WATER METER
- PP DENOTES POWER POLE
- LP DENOTES LIGHT POLE
- AC DENOTES AIR CONDITIONING UNIT ON CONCRETE PAD
- FF DENOTES FINISHED FLOOR ELEVATION
- RD DENOTES ROOF DRAIN
- FO DENOTES FIBER OPTICS
- LA DENOTES LANDSCAPE AREA
- SCV DENOTES SPRINKLER CONTROL VALVE
- MH DENOTES MANHOLE
- A DENOTES HANDICAP PARKING SPACE
- W DENOTES WATER LINE
- SAN DENOTES SANITARY SEWER LINE
- UGP DENOTES UNDERGROUND POWER LINE
- OSP DENOTES OVERHEAD POWER LINE
- T DENOTES UNDERGROUND TELEPHONE LINE
- UGL DENOTES UNDERGROUND GAS LINE
- G DENOTES UNDERGROUND STREET LIGHT LINE
- TCL DENOTES EXISTING CONTOURS
- DENOTES EXISTING BUILDING LINE
- DENOTES OVERHANG

PLANNED FINAL DEVELOPMENT PLAN  
 GRAND MISSION ESTATES, 1ST PLAT  
 PT. NE 1/4, SEC. 25, T14S, R22E

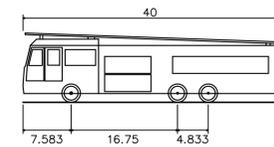
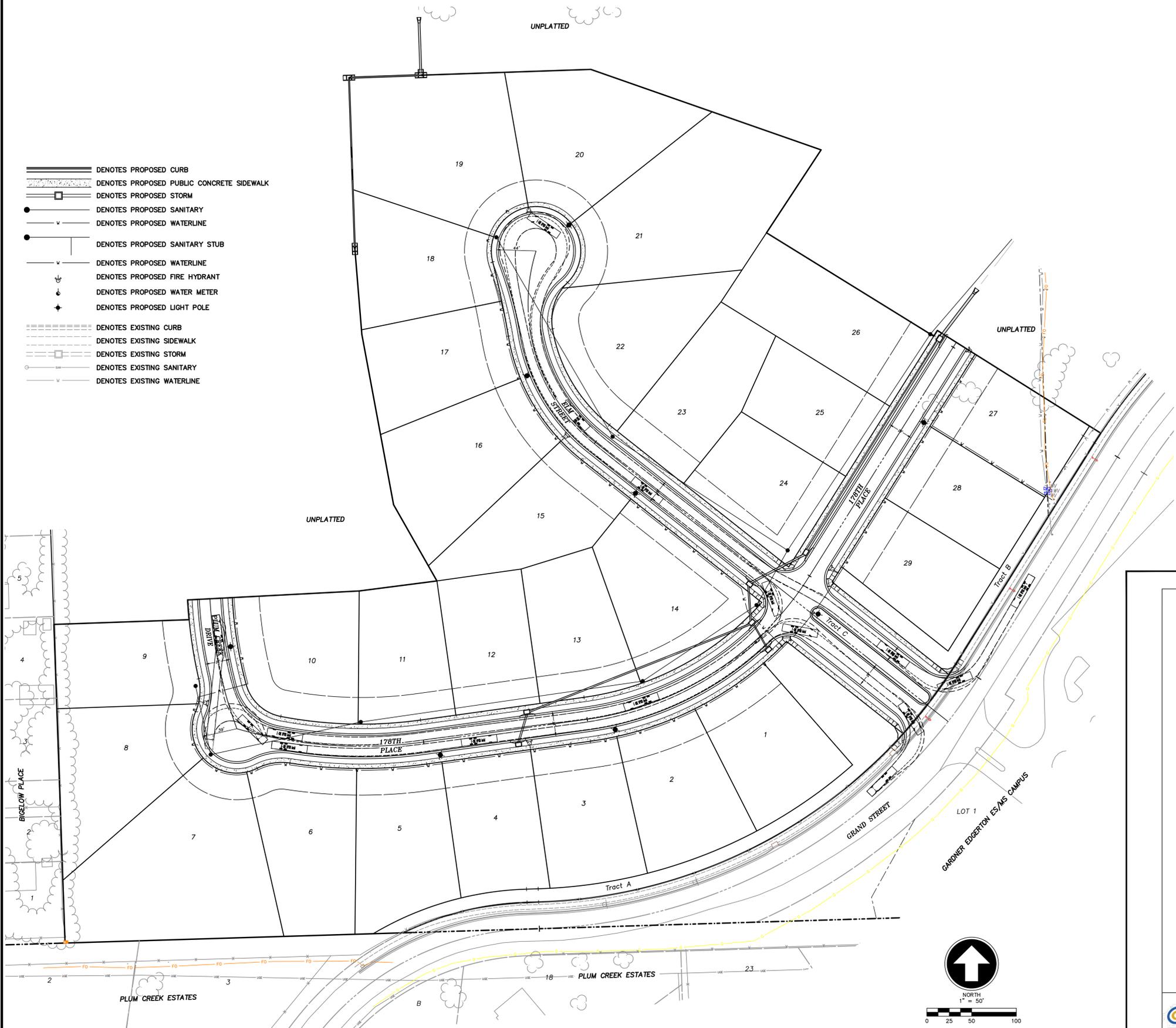
**Payne & Brockway P.A.**  
 Civil Engineers & Land Surveyors  
 426 South Kansas Ave. Olathe, Kansas 66061  
 Ph: 913.782.4800 Fax: 913.782.0907  
 www.Payne-Brockway.com

DATE: 11/10/23 SCALE: 1"=50' SHEET 2 OF 3

# GRAND MISSION ESTATES, 1ST PLAT

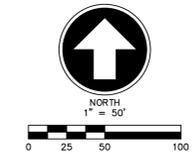
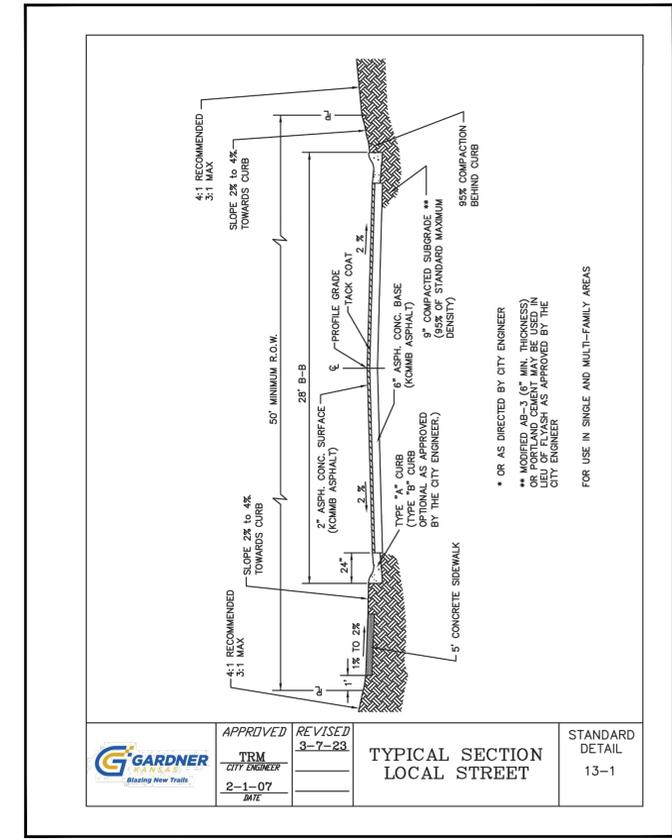
REVISIONS			
NO.	DATE	DESCRIPTION	BY
1	12/07/23	CITY COMMENTS	CTA

- DENOTES PROPOSED CURB
- DENOTES PROPOSED PUBLIC CONCRETE SIDEWALK
- DENOTES PROPOSED STORM
- DENOTES PROPOSED SANITARY
- DENOTES PROPOSED WATERLINE
- DENOTES PROPOSED SANITARY STUB
- DENOTES PROPOSED WATERLINE
- DENOTES PROPOSED FIRE HYDRANT
- DENOTES PROPOSED WATER METER
- DENOTES PROPOSED LIGHT POLE
- DENOTES EXISTING CURB
- DENOTES EXISTING SIDEWALK
- DENOTES EXISTING STORM
- DENOTES EXISTING SANITARY
- DENOTES EXISTING WATERLINE



**E-ONE HP100 Aerial**  
 Overall Length 40.000ft  
 Overall Width 8.333ft  
 Overall Body Height 11.000ft  
 Min Body Ground Clearance 1.393ft  
 Track Width 8.333ft  
 Lock-to-lock time 6.00s  
 Max Wheel Angle 45.00°

N.T.S.



- R/W DENOTES RIGHT-OF-WAY
- ST DENOTES SIGN POST
- FH DENOTES FIRE HYDRANT
- WV DENOTES WATER VALVE
- WM DENOTES WATER METER
- PP DENOTES POWER POLE
- LP DENOTES LIGHT POLE
- AC DENOTES AIR CONDITIONING UNIT ON CONCRETE PAD
- FF DENOTES FINISHED FLOOR ELEVATION
- RD DENOTES ROOF DRAIN
- FO DENOTES FIBER OPTICS
- LA DENOTES LANDSCAPE AREA
- SCV DENOTES SPRINKLER CONTROL VALVE
- MH DENOTES MANHOLE
- HP DENOTES HANDICAP PARKING SPACE
- W DENOTES WATER LINE
- SAN DENOTES SANITARY SEWER LINE
- UP DENOTES UNDERGROUND POWER LINE
- OP DENOTES OVERHEAD POWER LINE
- T DENOTES UNDERGROUND TELEPHONE LINE
- G DENOTES UNDERGROUND GAS LINE
- SL DENOTES UNDERGROUND STREET LIGHT LINE
- TEL DENOTES UNDERGROUND TELEPHONE LINE
- DENOTES EXISTING CONTOURS
- DENOTES EXISTING BUILDING LINE
- DENOTES OVERHANG

	APPROVED	REVISED	TYPICAL SECTION LOCAL STREET	STANDARD DETAIL 13-1
	TRM CITY ENGINEER	9-7-23		
	2-1-07			

**PLANNED FINAL DEVELOPMENT PLAN**  
 GRAND MISSION ESTATES, 1ST PLAT  
 PT. NE 1/4, SEC. 25, T14S, R22E

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DATE 11/10/23 SCALE 1"=50' SHEET 3 OF 3

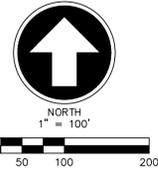
REVISIONS			
NO.	DATE	DESCRIPTION	BY
1	8/07/23	completed	CTA
2	8/31/23	city comments	CTA
3	11/08/23	city comments	CTA
4	12/07/23	city comments	CTA

# FINAL PLAT OF GRAND MISSION ESTATES, 1ST PLAT

## Part of the NW 1/4, SEC. 25, T14S, R22E

Part of the NW 1/4 of Section 25, T14S, R22E of the Sixth Principal Meridian, in the City of Gardner, Johnson County, Kansas, prepared by Gerald L. Conn, P.S. No. 1128, August 7, 2023, more particularly described as follows:

Beginning at the Southwest corner of the NW 1/4 of Section 25, T14S, R22E of the Sixth Principal Meridian, in the City of Gardner, Johnson County, Kansas; thence N 88°15'23" E along the South line of said NW 1/4, said line also being the North line of Plum Creek Estates, a subdivision in the City of Gardner, Johnson County, Kansas, said line also being the South line of Lot 1, Bigelow Place, a subdivision in the City of Gardner, Johnson County, Kansas, a distance of 231.00 feet to the Southeast corner of said Lot 1, said corner also being the TRUE POINT OF BEGINNING; thence N 01°59'17" W along the East line of said Bigelow Place, said line also being 231.00 feet East and parallel with the West line of said NW 1/4, a distance of 359.12 feet; thence N 87°59'10" E a distance of 151.22 feet; thence Northerly, on a curve to the right having an initial tangent bearing of N 05°27'13" W and a radius of 525.00 feet, for a distance of 22.33 feet; thence N 86°59'01" E a distance of 192.05 feet; thence N 82°35'41" E a distance of 87.58 feet; thence N 29°25'50" W a distance of 98.61 feet; thence N 10°27'50" W a distance of 195.12 feet; thence N 04°37'10" W a distance of 96.60 feet; thence N 01°57'51" W a distance of 193.00 feet; thence N 88°02'09" E a distance of 270.45 feet; thence S 70°36'15" E a distance of 272.92 feet; thence S 33°09'21" W a distance of 111.52 feet; thence S 58°04'00" E a distance of 220.26 feet; thence N 31°56'00" E a distance of 0.96 feet; thence Northeasterly on a curve to the right and a radius of 925.00 feet, for a distance of 6.67 feet; thence S 57°39'13" E a distance of 216.32 feet to a point on the Northerly right-of-way line of Grand Street, as platted; thence Southwest, continuing along the Northerly right-of-way line of said Grand Street, on a curve to the left having an initial tangent bearing of S 33°06'13" W and a radius of 630.00 feet, for a distance of 12.92 feet; thence S 31°55'42" W continuing along the Northerly right-of-way line of said Grand Street, a distance of 293.39 feet; thence Southwesterly, continuing along the Northerly right-of-way line of said Grand Street, on a curve to the right having a radius of 570.00 feet, for a distance of 560.37 feet; thence S 88°15'23" W continuing along the Northerly right-of-way line of said Grand Street, a distance of 12.96 feet; thence Westerly, on a curve to the left having a radius of 340.00 feet, for a distance of 143.90 feet to a point on the South line of said NW 1/4, said point also being on the North line of said Plum Creek Estates; thence S 88°15'23" W along the South line of said NW 1/4, and along the North line of said Plum Creek Estates, a distance of 377.86 feet to the TRUE POINT OF BEGINNING, continuing 15.61546 acres more or less.



LEGEND:

- DENOTES 1/2" REBAR SET W/P&B PLASTIC CAP CLS-49
- DENOTES 1/2" REBAR FOUND W/P&B PLASTIC CAP CLS-49 (UNLESS NOTED)
- U/E DENOTES UTILITY EASEMENT
- SS/E DENOTES SANITARY SEWER EASEMENT
- D/E DENOTES DRAINAGE EASEMENT
- WL/E DENOTES WATERLINE EASEMENT
- SW/E DENOTES SIDEWALK EASEMENT
- P DENOTES PLATTED
- L/E DENOTES LANDSCAPE EASEMENT
- DENOTES LIMITS OF NO ACCESS

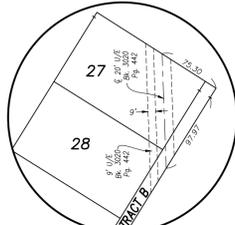
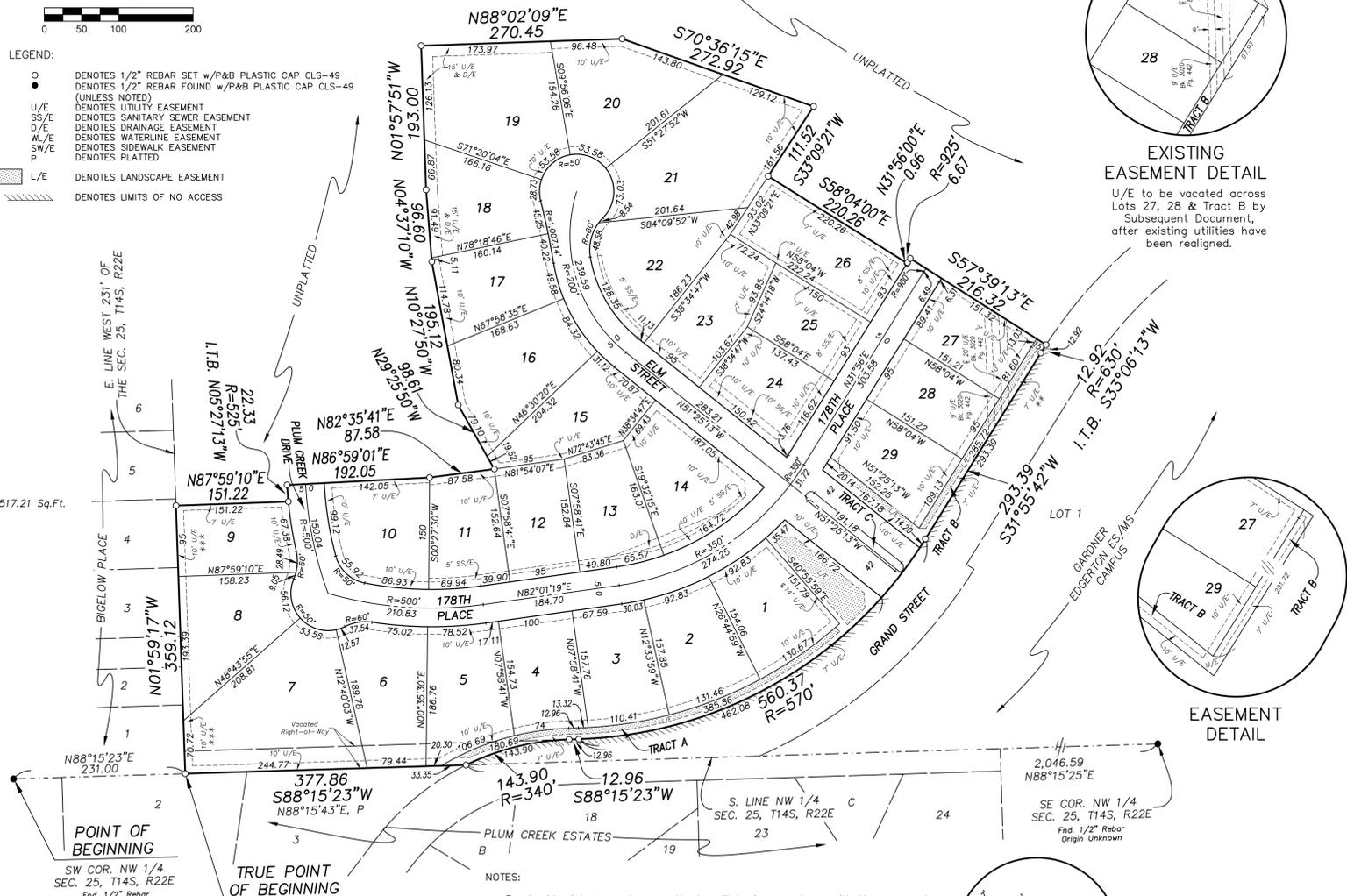
**LOT AREAS**

LOT 1	17,073 Sq.ft.
LOT 2	17,472 Sq.ft.
LOT 3	16,535 Sq.ft.
LOT 4	15,436 Sq.ft.
LOT 5	18,381 Sq.ft.
LOT 6	19,449 Sq.ft.
LOT 7	34,559 Sq.ft.
LOT 8	20,089 Sq.ft.
LOT 9	14,846 Sq.ft.
LOT 10	18,359 Sq.ft.
LOT 11	15,033 Sq.ft.
LOT 12	14,510 Sq.ft.
LOT 13	15,808 Sq.ft.
LOT 14	20,483 Sq.ft.
LOT 15	17,059 Sq.ft.
LOT 16	22,476 Sq.ft.
LOT 17	16,964 Sq.ft.
LOT 18	17,949 Sq.ft.
LOT 19	29,014 Sq.ft.
LOT 20	23,748 Sq.ft.
LOT 21	32,747 Sq.ft.
LOT 22	20,848 Sq.ft.
LOT 23	17,129 Sq.ft.
LOT 24	16,070 Sq.ft.
LOT 25	13,366 Sq.ft.
LOT 26	20,576 Sq.ft.
LOT 27	14,392 Sq.ft.
LOT 28	14,365 Sq.ft.
LOT 29	15,170 Sq.ft.
TRACT A	16,945 Sq.ft.
TRACT B	7,840 Sq.ft.
TRACT C	2,256 Sq.ft.
<b>TOTAL</b>	<b>576,948 Sq.ft.</b>

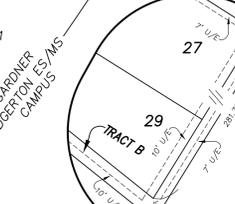
RESIDENTIAL STREET RIGHTS-OF-WAY: 105,517.21 Sq.ft.

\*\* = including on Existing U/E to City of Gardner, Johnson County, Kansas Book 201212, Page 008249

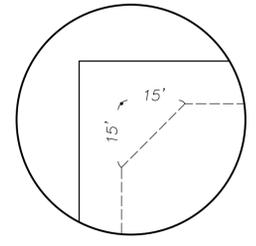
\*\*\* = including on Existing 4' W.E.G. Dial Telephone Co. Easement Misc. Bk. 156, Pg. 424



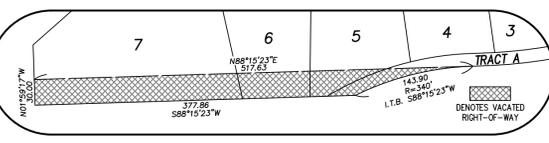
**EXISTING EASEMENT DETAIL**  
U/E to be vacated across Lots 27, 28 & Tract B by Subsequent Document, after existing utilities have been realigned.



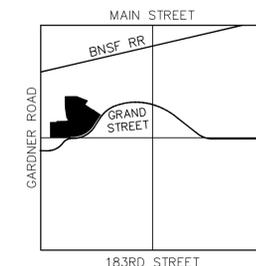
**EASEMENT DETAIL**



TYPICAL CORNER LOT EASEMENT DETAIL



EXISTING RIGHT-OF-WAY DETAIL



LOCATION MAP  
SEC. 25, T14S, R22E

**NOTES:**  
Front, side, interior and rear setbacks will be in accordance with the approved Rezoning, Planned Preliminary Development Plan and Preliminary Plat. The setback information can be obtained by contacting the City of Gardner Community Development Department referencing City Case Numbers Z-22-11, PDP-22-11 and PP-22-07 respectively.

The basis for bearings on this plat is the South line of the NW 1/4 as established by a previous plat GARDNER EDGERTON ES/MS CAMPUS, Book 201304, Page 002175.

In approving this Plat by the City of Gardner and recording this Plat with the Office of the Register of Deeds, the Road Right-of-Way that lies within Lots 5 through 7 and Tract A is hereby now vacated.

All lots shall provide on-site stormwater management facilities in accordance with Title 14 of the City of Gardner Municipal Code, the Gardner Technical Specifications for Public Improvements Projects and Design Criteria for Public Improvements Projects, and the APWA Manual of Best Management Practices for stormwater quality.

The subdivision is located in close proximity to New Century AirCenter and aircraft, including business jets, operating from the airport should be expected to over fly, be visible from, and be heard from the property on a regular basis.

Should the presence of waterfowl on wet detention basins become an observed hazard to the operations of the New Century AirCenter, the owner of such detention basins agrees to identify and complete, without unreasonable delay, mitigation efforts. Owner shall then notify Airport Commission staff of the mitigation efforts completed and Airport Commission staff shall thereafter confirm whether the previously observed hazard has been mitigated. If owner disagrees with the observed hazard finding or the determination as to whether the previously observed hazard has been mitigated, owner shall have the right to appear before the Johnson County Airport Commission for a determination of the issue.

Tract A and Tract B shall have No Direct Vehicular Access to Grand Street.

Based on fieldwork and final engineering design, the exact location of easements are subject to change prior to the plat recording.

According to F.I.R.M. Map No. 20091C0120C Johnson County, Kansas, dated August 3, 2009 this entire site is determined to be outside the 100-year floodplain.

$$3,896.12' (\text{plat boundary distance}) / 0.0077' (\text{closing distance}) = \text{unadjusted error of closure } 1 \text{ in } 505,990.91$$

The undersigned proprietors of the above described tract of land have caused the same to be subdivided in the manner as shown on the accompanying plat, which subdivision and plat shall hereafter be known as "GRAND MISSION ESTATES, 1ST PLAT".

The undersigned proprietors of said property shown on this plat do hereby dedicate for public use and public ways and thoroughfares, all parcels and parts of land indicated on said plat as streets, terraces, places, roads, drives, lanes, parkways, avenues and alleys not heretofore dedicated. Where prior easement rights have been granted to any person, utility or corporation on said parts of the land so dedicated, and any pipes, lines, poles and wires, conduits, ducts or cables heretofore installed thereupon and therein are required to be relocated, in accordance with proposed improvements as now set forth, the undersigned proprietors hereby absolve and agree to indemnify the City of Gardner from any expense incident to the relocation of any such existing utility installations within said prior easement.

An easement or license to enter upon, locate, construct, use and maintain or authorize the location, construction or maintenance and use of conduits, water, gas, sewer pipes, power lines, drainage facilities, poles, wires, irrigation systems, ducts and cables, and similar facilities, upon, over and under these areas outlined and designated on this plat as "Utility Easement" or "U/E" is hereby granted to the City of Gardner with subordinate use of the same by other governmental entities and public utilities as may be authorized by state law to use such easement for said purposes. Utility easements shall be kept clear of obstructions that impair the strength or interfere with the use and/or maintenance of public utilities located within the easement.

An easement or license to enter upon, locate, construct, use and maintain or authorize the location, construction, maintenance or use of conduits, surface drainage facilities, subsurface drainage facilities, and similar facilities, upon, over and through those areas outlined and designated on this plat as "Drainage Easement" or "D/E" is hereby granted to the City of Gardner. Drainage easements shall be kept clear of obstructions that impair the strength or interfere with the use and/or maintenance of storm drainage facilities.

An easement or license is hereby dedicated to the City of Gardner to enter upon, locate, construct and maintain or authorize the location, construction or maintenance and use of conduits, sewer pipes, manholes, etc., upon, over, and across those areas outlined and designated on this plat as "Sanitary Sewer Easement" or "SS/E".

An easement is hereby granted and reserved by the undersigned proprietor of the above described land unto itself and the Grand Mission Estates Homes Association to enter upon, plant, replace, replant, mow, clip, trim, spray, chemically treat, repair, and otherwise maintain, and to authorize any such maintenance, of any and all grass, trees, shrubs, plants and other landscaping and all fences and monuments installed by the undersigned proprietor and by the Grand Mission Estates Homes Association upon, over, or under those areas outlined and designated on this plat as "Landscape Easement" or "L/E".

Tracts A and B shall be owned and maintained by the Grand Mission Estates Homes Association. The tracts are intended to be used for landscaping, monuments, fencing, private open space, and/or Homes Association Amenities.

Tract C shall be dedicated by separate instrument to the Grand Mission Estates Homes Association, which shall be responsible for all maintenance of said tract. Said tract is intended to be used for landscaping, monuments, and/or Homes Association Amenities.

An easement or license is hereby dedicated to the City of Gardner to enter upon, locate, construct, and maintain or authorize the location, construction, or maintenance and use of conduits, sewer pipes, surface drainage facilities, etc. upon, over, and across those areas outlined and designated on this plat as Tract C.

The use of all lots in this subdivision shall hereafter be subject to the restrictions which will be executed as a separate instrument of writing and will be recorded in the Office of the Register of Deeds of Johnson County, Kansas, said restrictions will thereby be made a part of the dedication of this plat as though fully set forth herein.

The undersigned proprietors of the above described tract of land hereby consent and agree that the Board of County Commissioners of Johnson County, Kansas, and the City of Gardner, Johnson County, Kansas, shall have the power to release such land proposed to be dedicated for public ways and thoroughfares or parts thereof, for public use, and Tracts A, B, and C from the lien and effect of any special assessments and that the amount of the unpaid special assessments on such land dedicated shall become and remain a lien on the remainder of this land fronting or abutting on said dedicated public way or thoroughfare.

IN TESTIMONY WHEREOF, the undersigned proprietors have caused this instrument to be executed this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

GRAND STREET DEVELOPMENT, LLC  
\_\_\_\_\_  
MIKE BROCK, Member

STATE OF \_\_\_\_\_ KANSAS )  
COUNTY OF \_\_\_\_\_ JOHNSON ) SS

BE IT REMEMBERED, that on this \_\_\_\_\_ day of \_\_\_\_\_, 2024, before me a Notary Public in and for said County and State, came MIKE BROCK, Member of GRAND STREET DEVELOPMENT, LLC, who is personally known to me to be the same person who executed the foregoing instrument of writing on behalf of said Corporation, and he duly acknowledged the execution of the same to be the act and deed of said Corporation.

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

\_\_\_\_\_  
Notary Public My Appointment Expires: \_\_\_\_\_

APPROVED by the Planning Commission of the City of Gardner, Kansas, on this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

By \_\_\_\_\_  
STEVE McNEER, Chair

APPROVED by the Governing Body of the City of Gardner, Kansas, on this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

By \_\_\_\_\_ ATTEST \_\_\_\_\_  
TODD WINTERS, Mayor SHARON ROSE, City Clerk

I hereby certify that on September 7, 2022, I or someone under my direct supervision completed a field survey of the above described tract of land and this is an accurate and true plat of said survey, on this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

Gerald L. Conn  
Kansas P.S. No. 1128

Prepared By: Payne & Brockway Engineers, P.A.  
P.O. Box 128  
Olathe, Kansas 66051  
913-782-4800

Developed By: Grand Street Development, LLC  
c/o Mike Brock, Member  
920 E Warren Street  
Gardner, Kansas 66030  
913-712-8440

Date Prepared: August 7, 2023

TITLE INFORMATION FURNISHED BY  
FIRST AMERICAN TITLE INSURANCE COMPANY  
COMMITMENT No. 2499778  
DATED JUNE 28, 2022

GRAND MISSION ESTATES  
1ST PLAT  
SEC. 25, T14S, R22E  
JOHNSON COUNTY, KANSAS

**Payne & Brockway P.A.**  
CIVIL ENGINEERS & LAND SURVEYORS  
426 SOUTH KANSAS AVE. OLATHE, KANSAS 66061  
PH: 913-782-4800 FAX: 913-782-0907  
WWW.PAYNE-BROCKWAY.COM

## Regular Agenda

### 2. Grand Mission Estates 23-302-06 Final Development Plan & Final Plat – Located north of E Grand St. and Grand Star Elementary

#### Staff Presentation

Robert Case, Principal Planner said it is part of the Grand Street Development and is a larger lot development. It consists of 15.6 acres of single family housing. 29 lots and 3 tracts. It is generally in compliance with the preliminary development plan. The final plat is in substantial compliance with the preliminary plat. Due to being within one mile of the airport.

#### Applicant Presentation

Todd Allenbrand is present.

Combs asks to view aerial of plat. The parcel identified also has another parcel marked on the map. Staff confirmed both parcels are under the same ownership.

#### Commission Discussion

Chair Ham opened it up for discussion. There were no questions or discussion.

#### Motion:

**After review of application 23-302-06 a Final Development Plan and associated Final Plat for Grand Mission Estates, and staff report dated May 22, 2024, the Planning Commission approves the applications as proposed and recommends the Governing Body accept the dedication of right-of-way and easements, provided the following conditions are met:**

- 1. The construction plans for any utilities, infrastructure, or public facilities shall meet all technical specifications and public improvement plans shall be submitted and approved prior to the release of the plat for recording;**
- 2. Prior to recording the final plat, excise tax shall be paid to the City; and**
- 3. The applications may shall be reviewed and approved by the Johnson County Airport Commission and the Board of County Commissioners prior to the release of the plat for recording.**

Motion was made to include changing the wording in condition 3.

Motion: Commissioner Jueneman

Second: Commissioner Vonderschmidt

Motion carries unanimously 5-0 motion

Recording of this meeting can be found here:

[https://www.youtube.com/live/pmalS3swllq?si=ycoq\\_h-hlNxCJHKJ](https://www.youtube.com/live/pmalS3swllq?si=ycoq_h-hlNxCJHKJ)

**COUNCIL ACTION FORM                      COMMITTEE RECOMMENDATION NO. 1**  
**MEETING DATE:    JUNE 17, 2024**  
**STAFF CONTACT:   DAVE KNOPIK, COMMUNITY DEVELOPMENT DIRECTOR**

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**Agenda Item:**                      Consider approving a conditional use permit for Nice Ice Baby at 312 W Main Street.

**Strategic Priority:**    Economic Development

**Department:**                      Community Development

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**Planning Commission Recommendation:**

After review of application 24-305-01, a Conditional Use Permit for Nice Ice Baby at 312 W Main St, and staff report dated May 22, 2024, the Planning Commission recommends approval of the application as proposed, with the following conditions:

1. The Conditional Use permit shall expire on December 31, 2029;
2. The applicant shall be required to submit a Temporary Use Permit application to be reviewed and approved January 1st of each calendar year. Failure to meet all applicable regulations, obtain required licenses / permits etc. or receipt of complaints regarding this use of property could be reason for reconsideration and potential revocation of this Conditional Use Permit and subsequent Temporary Use Permit(s);
3. All utility connections must meet the standards and specifications of the Utilities Department and all applicable Building Codes;
4. Hours of operation shall occur between 1 p.m. and 8 p.m. daily between the months of May and August;
5. Traffic shall not interfere with the normal operation of adjacent roadways or pedestrian activity in the public rights-of-way;
6. Trash dumpsters, equipment storage, and mechanical areas must be appropriately enclosed / screened / secured per city regulations;
7. A physical barrier shall be provided that separates the picnic table / seating area from vehicle circulation lanes and parking spots;
8. Trash receptacles shall be provided near the food truck and the picnic table / seating area;
9. Any signage and lighting is subject to further review and approval by the City prior to installation. The site plan for this Conditional Use Permit does not indicate any signage or lighting;
10. Any on-site changes from that differ from the layout depicted in the site plan provided as part of this Conditional Use Permit are subject to the review and approval of the City staff and/or the Planning Commission. Failure to submit a site plan and support materials for such changes may be cause for reconsideration and revocation of this Conditional Use Permit and subsequent Temporary Use Permit(s);
11. This Conditional Use Permit is issued to the property owner and mobile food / beverage vendor at this location only as identified through the application and review process. Any change in property ownership and/or mobile food and beverage vendor will require a resubmittal of updated information to the Community Development Department at the City

of Gardner and may require an application for and consideration of a replacement Conditional Use Permit and subsequent Temporary Use Permit(s);

12. The property cannot be used for the storage or parking of any equipment, vehicles, trailers, etc. that are not directly associated with or accessory to the daily business operations / functions of the mobile food and beverage use identified with this Conditional Use Permit; and
13. Any further development of the property is limited to the parameters of this Conditional Use Permit and subject all applicable regulations and policies of the City of Gardner.

**Staff Recommendation:**

Staff recommended the Planning Commission recommend approval of 24-305-01, a Conditional Use Permit for Nice Ice Baby at 312 W Main St with the conditions in the recommended motion.

**Background/Description of Item:**

312 W Main St is zoned C-1 (Central Business) District. It currently has a residential building on it but is not used as a residence. It also had a building to the east that was used as a restaurant. It has since been demolished, with the concrete foundation remaining. In 2023, Arsyia Hibachi food truck obtained a temporary use permit to operate on the site, however when they applied for a CUP to allow their food truck to be permanently located on the site, it was recommended for denial by the Planning Commission and after concerns from the Governing Body, the application was withdrawn. The mobile food text amendments make it necessary for food trucks that hook up to utilities or stay on-site when not in operation to have a conditional use permit.

**ACTIONS**

Per Section 17.03.030 (D) of the *Gardner Land Development Code*, the Governing Body may:

1. Adopt such recommendation by ordinance, (simple majority vote)
2. Override the Planning Commission's recommendation by at least a two-thirds vote of the membership of the Governing Body, or
3. Return such recommendation to the Planning Commission with a statement specifying the basis for the Governing Body's failure to approve or disapprove. If the Governing Body returns the Planning Commission's recommendation, the Planning Commission after considering the same may resubmit its original recommendation giving the reasons therefor or submit new and amended recommendations. Upon the receipt of such recommendation, the Governing Body by a simple majority may adopt or may revise or amend and adopt such recommendation by ordinance or it need take no further action thereon. If the Planning Commission fails to deliver its recommendation to the Governing Body following the Planning Commission's next regular meeting after receipt of the Governing Body's report, the Governing Body shall consider such course of inaction on the part of the Planning Commission as a resubmission of the original recommendation and proceed accordingly.

**Financial Impact:**

None at this time.

**Other Impacts:**

None

**Attachments included:**

- Ordinance 2803

- Planning Commission Meeting Minutes
- Planning Commission packet

**Suggested Motion:**

Adopt Ordinance No. 2803 approving conditional use permit 24-305-01 as recommended by the Planning Commission.

**ORDINANCE NO. 2803**

**AN ORDINANCE APPROVING A CONDITIONAL USE PERMIT ON CERTAIN LANDS LOCATED IN THE CITY OF GARDNER, KANSAS, UNDER THE AUTHORITY GRANTED BY TITLE 17 OF THE MUNICIPAL CODE OF THE CITY OF GARDNER, KANSAS (24-305-01).**

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

**SECTION ONE:** That having received a recommendation from the Planning Commission on May 28, 2024, and proper notice having been given and hearing held as provided by law and under the authority of and subject to the provisions of the Gardner, Kansas, Land Development Code, a Conditional Use Permit is issued on lands legally described as follows:

Lot A, except the north 75' thereof, SUBURBAN HOMES, a subdivision in the City of Gardner, Johnson County, Kansas

**CASE NO. 24-305-01**

A Conditional Use Permit to allow for a food truck in the C-1 (Central Business) zoning district, located on the north side of W. Main Street approximately 150' west of North Pine Street with the following conditions:

1. The Conditional Use permit shall expire on December 31, 2029;
2. The applicant shall be required to submit a Temporary Use Permit application to be reviewed and approved January 1st of each calendar year. Failure to meet all applicable regulations, obtain required licenses / permits etc. or receipt of complaints regarding this use of property could be reason for reconsideration and potential revocation of this Conditional Use Permit and subsequent Temporary Use Permit(s);
3. All utility connections must meet the standards and specifications of the Utilities Department and all applicable Building Codes;
4. Hours of operation shall occur between 1 p.m. and 8 p.m. daily between the months of May and August;
5. Traffic shall not interfere with the normal operation of adjacent roadways or pedestrian activity in the public rights-of-way;
6. Trash dumpsters, equipment storage, and mechanical areas must be appropriately enclosed / screened / secured per city regulations;
7. A physical barrier shall be provided that separates the picnic table / seating area from vehicle circulation lanes and parking spots;
8. Trash receptacles shall be provided near the food truck and the picnic table / seating area;
9. Any signage and lighting is subject to further review and approval by the City prior to installation. The site plan for this Conditional Use Permit does not indicate any signage or lighting;
10. Any on-site changes from that differ from the layout depicted in the site plan provided as part of this Conditional Use Permit are subject to the review and approval of the City staff

and/or the Planning Commission. Failure to submit a site plan and support materials for such changes may be cause for reconsideration and revocation of this Conditional Use Permit and subsequent Temporary Use Permit(s);

11. This Conditional Use Permit is issued to the property owner and mobile food / beverage vendor at this location only as identified through the application and review process. Any change in property ownership and/or mobile food and beverage vendor will require a resubmittal of updated information to the Community Development Department at the City of Gardner and may require an application for and consideration of a replacement Conditional Use Permit and subsequent Temporary Use Permit(s);
12. The property cannot be used for the storage or parking of any equipment, vehicles, trailers, etc. that are not directly associated with or accessory to the daily business operations / functions of the mobile food and beverage use identified with this Conditional Use Permit; and
13. Any further development of the property is limited to the parameters of this Conditional Use Permit and subject all applicable regulations and policies of the City of Gardner.

**SECTION TWO:** That this Ordinance shall take effect and be in force from and after its adoption by the Governing Body and publication in the official City Newspaper.

APPROVED and ADOPTED this 17<sup>th</sup> day of June, 2024.

(SEAL)

CITY OF GARDNER, KANSAS

Attest:

\_\_\_\_\_  
Todd Winter, Mayor

\_\_\_\_\_  
Renee Rich, City Clerk

## Regular Agenda

### 3. Nice Ice Baby 24-305-01 Conditional Use Permit (Public Hearing) – Located at 312 W. Main St.

#### Staff Presentation

Jesse Hunter, Planner said this is 250 feet from Pine Street and is zoned C-1, but is surrounded by residential. There is one house located next to this property, but it is not occupied. Future planning has this being zoned mixed-use. This is for a CUP and the trailer will stay on the property when not used. The use is seasonal. There are 13 conditions.

#### Applicant Presentation

Justin Smith, 18525 Juniper Street, said Nice Ice Baby has been in Gardner before. It was across the street which is now owned by Transport Brewery. The previous owner shuttered the business while looking for a new location and then sold it. We have found this location to fit our needs.

#### Public Hearing

Steve Warren 322 W. Main adjacent to where the business will be located. As a neighbor in a residential area, this owner came to all of the neighbors prior to asking for this location. They have made us aware of everything that is going on. Of any business that could be included in this neighborhood, this one is ok.

#### Motion made to close the public hearing.

Motion: Commissioner Jueneman  
Second: Commissioner Souza  
Motion carries unanimously 5-0

#### Commission Discussion

Commissioner Souza welcomes Nice Ice Baby back to Gardner. Jueneman asked if there are any plans to have lighting on the property. Applicant says there is some lighting on the building. No overhead lights planned due to the hours not being necessary for lighting. Knopick confirms the applicant would have to come back if there are any changes made to the original plan. Jueneman is glad to hear the applicant has worked with the neighbors to put this plan in place. Ham appreciates the applicant working with the neighbors to get their input.

#### Motion:

**After review of application 24-305-01, a Conditional Use Permit for Nice Ice Baby at 312 W Main St, and staff report dated May 22, 2024, the Planning Commission recommends approval of the application as proposed, with the following conditions:**

- 1. The Conditional Use permit shall expire on December 31, 2029;**
- 2. The applicant shall be required to submit a Temporary Use Permit application to be reviewed and approved January 1st of each calendar year. Failure to meet all applicable regulations, obtain required licenses / permits etc. or receipt of complaints regarding this use of property could be reason for reconsideration and potential revocation of this Conditional Use Permit and subsequent Temporary Use Permit(s);**
- 3. All utility connections must meet the standards and specifications of the Utilities Department and all applicable Building Codes; 3 Gardner Planning Commission Regular Agenda Item No. 3 Meeting Date: May 28, 2024**

4. Hours of operation shall occur between 1 p.m. and 8 p.m. daily between the months of May and August;
5. Traffic shall not interfere with the normal operation of adjacent roadways or pedestrian activity in the public rights-of-way;
6. Trash dumpsters, equipment storage, and mechanical areas must be appropriately enclosed / screened / secured per city regulations;
7. A physical barrier shall be provided that separates the picnic table / seating area from vehicle circulation lanes and parking spots;
8. Trash receptacles shall be provided near the food truck and the picnic table / seating area;
9. Any signage and lighting is subject to further review and approval by the City prior to installation. The site plan for this Conditional Use Permit does not indicate any signage or lighting;
10. Any on-site changes from that differ from the layout depicted in the site plan provided as part of this Conditional Use Permit are subject to the review and approval of the City staff and/or the Planning Commission. Failure to submit a site plan and support materials for such changes may be cause for reconsideration and revocation of this Conditional Use Permit and subsequent Temporary Use Permit(s);
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12. The property cannot be used for the storage or parking of any equipment, vehicles, trailers, etc. that are not directly associated with or accessory to the daily business operations / functions of the mobile food and beverage use identified with this Conditional Use Permit; and
13. Any further development of the property is limited to the parameters of this Conditional Use Permit and subject all applicable regulations and policies of the City of Gardner.

Motion: Commissioner Combs

Second: Commissioner Jueneman

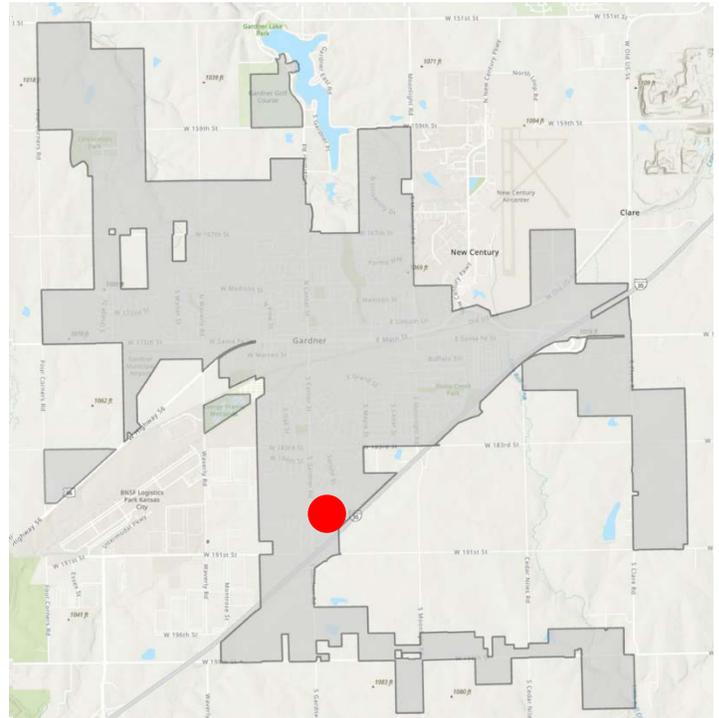
Motion carries unanimously 5-0

Recording of this meeting can be found here:

[https://www.youtube.com/live/pmalS3swllq?si=ycoq\\_h-hlNxCJHKJ](https://www.youtube.com/live/pmalS3swllq?si=ycoq_h-hlNxCJHKJ)

## Project Name: Nice Ice Baby

PROJECT NUMBER	24-305-01
REQUEST	CONDITIONAL USE PERMIT
APPLICANT	NICE ICE BABY
OWNER	H. H. KLEMP
ADDRESS	312 W MAIN ST
PARCEL ID	CP84000000 000A



## Executive Summary:

PRESENT ZONING:	C-1
PRESENT LAND USE:	VACANT
PROPOSED LAND USE:	CONDITIONAL USE PERMIT FOR A SEASONAL FOOD TRACK
TOTAL SITE AREA:	0.38 ACRES



## Staff Recommendation

Staff recommends the Planning Commission recommend approval of 24-305-01, a Conditional Use Permit for Nice Ice Baby at 312 W Main St with the conditions in the recommended motion.

**Context:**

**Background/History**

312 W Main St is zoned C-1 (Central Business) District. It currently has a residential building on it but is not used as a residence. It also had a building to the east that was used as a restaurant. It has since been demolished, with the concrete foundation remaining. In 2023, Arsyia Hibachi food truck obtained a temporary use permit to operate on the site, however when they applied for a CUP to allow their food truck to be permanently located on the site, it was recommended for denial by the Planning Commission and after concerns from the Governing Body, the application was withdrawn. The mobile food text amendments make it necessary for food trucks that hook up to utilities or stay on-site when not in operation to have a conditional use permit.

**Surrounding Zoning and Land Use**

Zoning	Use(s)
<b>North of Subject Property</b>	
R-2 (Two-Family) District	Single-family residences
<b>East of Subject Property</b>	
R-2 (Two-Family) District	Single-family residences
<b>South of Subject Property</b>	
R-1 (Single-Family) District	Single-family residences
<b>West of Subject Property</b>	
R-2 (Two-Family) District	Single-family residences

**Review Criteria**

**Conditional Use Permit (LDC Section 17.03.050 B.)**

1. The application furthers the intent of the proposed zoning district and does not conflict with the intent of any abutting districts.
2. Compliance of any proposed development with the requirements of this Code.
3. Whether any additional site-specific conditions are necessary to meet the purposes and intent of this Code and the intent or design objectives of any applicable subsections of this Code.
4. The impact on the public realm, including the design and functions of streetscapes and relationships of building and site elements to the streetscape.
5. The adequacy of drainage, utilities and other public facilities.
6. Compatibility with the character of the area in terms of building scale, building form, landscape and site design.
7. Compatibility with the area in terms of operating characteristics such as hours of operation, visible and audible impacts, traffic patterns, intensity of use as proposed or foreseeable, and other potential impacts on adjacent property.
8. The application will not prevent development and use of the neighboring property in accordance with the applicable development regulations.
9. The long range plans applicable to the site and surrounding area are not negatively impacted considering the permanence of the proposed use, the permanence of existing uses in the area, and any changes in character occurring in the area.
10. The recommendations of professional staff.

## Staff Findings

The application furthers the intent of the zoning district by providing a food and beverage use which would be allowed in the C-1 zoning district. The site is surrounded by residential zoning designation and corresponding land use. The proposed use may conflict with the intent of adjacent districts; however, the proposed use complies with the Land Development Code and the specific standards applicable to food and beverages – mobile uses. The proposed use does not have an impact on the public realm with regard to design and functions of streetscapes and relationships of the building and site elements to the streetscape. The general business operations and hours are compatible with other commercial uses typically allowed in the C-1 district; however, it may negatively impact nearby residential houses. The application, if approved, will not prevent development or the use of neighboring property in accordance with applicable development regulations. Long range plans applicable to the site and surrounding area are not negatively impacted by the proposed use, the permanence of existing uses in the area, and any changes in character occurring in the area. Due to the unusual nature of a mobile trailer being utilized on a site permanently or semi-permanently, there are a significant number of recommended conditions of approval to ensure that all regulatory standards will be met through the duration of the Conditional Use Permit.

## Timeframe

Staff recommends a five year time limit, that it only be operated 4 months out of the calendar year and with the requirement that the applicant submit a temporary use permit to be approved at the beginning of each year. This is to ensure that all license requirements are kept up to date. This would also allow staff to require the conditional use permit to appear before the Planning Commission and Governing Body again before the Conditional Use expires if the use has been determined to be a nuisance to nearby properties.

## Potential Actions

Per Section 17.03.010 (G) of the Gardner Land Development Code, a review body may take the following actions (or recommend the following actions):

1. Approve the application.
2. Approve the application with conditions or modifications.
3. Deny the application.
4. Continue the application to allow further analysis. The continued application shall not be more than 60 days from the original review without consent of the applicant. No application shall be continued more than once by each review body without consent of the applicant.

## Recommended Motion

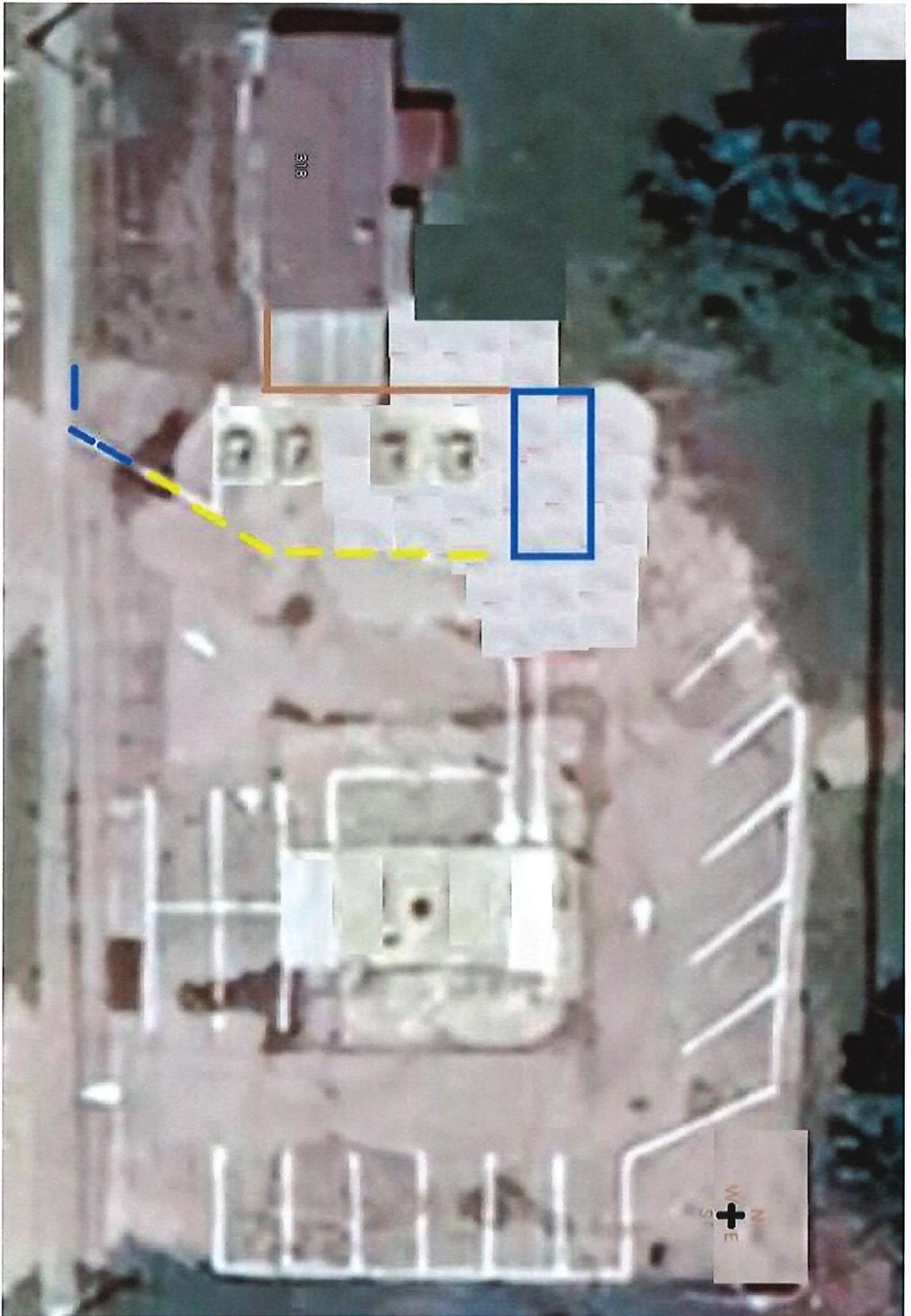
After review of application 24-305-01, a Conditional Use Permit for Nice Ice Baby at 312 W Main St, and staff report dated May 22, 2024, the Planning Commission recommends approval of the application as proposed, with the following conditions:

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2. The applicant shall be required to submit a Temporary Use Permit application to be reviewed and approved January 1st of each calendar year. Failure to meet all applicable regulations, obtain required licenses / permits etc. or receipt of complaints regarding this use of property could be reason for reconsideration and potential revocation of this Conditional Use Permit and subsequent Temporary Use Permit(s);
3. All utility connections must meet the standards and specifications of the Utilities Department and all applicable Building Codes;

4. Hours of operation shall occur between 1 p.m. and 8 p.m. daily between the months of May and August;
5. Traffic shall not interfere with the normal operation of adjacent roadways or pedestrian activity in the public rights-of-way;
6. Trash dumpsters, equipment storage, and mechanical areas must be appropriately enclosed / screened / secured per city regulations;
7. A physical barrier shall be provided that separates the picnic table / seating area from vehicle circulation lanes and parking spots;
8. Trash receptacles shall be provided near the food truck and the picnic table / seating area;
9. Any signage and lighting is subject to further review and approval by the City prior to installation. The site plan for this Conditional Use Permit does not indicate any signage or lighting;
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12. The property cannot be used for the storage or parking of any equipment, vehicles, trailers, etc. that are not directly associated with or accessory to the daily business operations / functions of the mobile food and beverage use identified with this Conditional Use Permit; and
13. Any further development of the property is limited to the parameters of this Conditional Use Permit and subject all applicable regulations and policies of the City of Gardner.

## Attachments

1. Site Plan





Nice Ice Baby II LLC  
**NOW OPEN**

Ice Cream Menu

Vanilla	1.50
Chocolate	1.50
Strawberry	1.50
Blueberry	1.50
Raspberry	1.50
Lemon	1.50
Lime	1.50
Orange	1.50
Pineapple	1.50
Apple	1.50
Cherry	1.50
Peach	1.50
Plum	1.50
Apricot	1.50
Blackberry	1.50
Rosehip	1.50
Blackberry Cheesecake	2.00
Blueberry Cheesecake	2.00
Raspberry Cheesecake	2.00
Lemon Cheesecake	2.00
Lime Cheesecake	2.00
Orange Cheesecake	2.00
Pineapple Cheesecake	2.00
Apple Cheesecake	2.00
Cherry Cheesecake	2.00
Peach Cheesecake	2.00
Plum Cheesecake	2.00
Apricot Cheesecake	2.00
Blackberry Cheesecake	2.00
Rosehip Cheesecake	2.00
Blackberry Cheesecake	2.00
Blueberry Cheesecake	2.00
Raspberry Cheesecake	2.00
Lemon Cheesecake	2.00
Lime Cheesecake	2.00
Orange Cheesecake	2.00
Pineapple Cheesecake	2.00
Apple Cheesecake	2.00
Cherry Cheesecake	2.00
Peach Cheesecake	2.00
Plum Cheesecake	2.00
Apricot Cheesecake	2.00
Blackberry Cheesecake	2.00
Rosehip Cheesecake	2.00

# COUNCIL ACTION FORM

# NEW BUSINESS ITEM NO. 1

**MEETING DATE:** JUNE 17, 2024

**STAFF CONTACT:** JIM PRUETTING, CITY ADMINISTRATOR

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**Agenda Item:** Consider an ordinance of the City of Gardner, Kansas amending Section 114.2 of the “Standard Traffic Ordinance for Kansas Cities: Edition of 2023” relating to the operation of work-site utility vehicles, golf carts or micro utility trucks on city streets.

**Strategic Priority:** Quality of Life

**Department:** Administration

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**Staff Recommendation:**

Adopt an ordinance amending Ordinance 2789 of the “STANDARD TRAFFIC ORDINANCE FOR KANSAS CITIES: EDITION OF 2023” amending Section 114.2 relating to the operation of work-site utility vehicles, golf carts or micro utility trucks on city streets.

**Background/Description of Item:**

The city routinely gets inquiries in the spring about allowing golf carts on certain city streets. At the May 5<sup>th</sup> city council meeting there was consensus amongst the governing body to have staff bring options back to the council for consideration. For reference, staff identified several Johnson County cities that allow golf carts to be operated on city streets under the conditions listed in the attached document.

The proposed ordinance amends the “Standard Traffic Ordinance for Kansas Cities: Edition of 2023” to allow for limited use of golf carts on city streets.

**Attachments:**

- Ordinance No. 2804
- JoCo Cities Golf Cart Rules
- Gardner Speed Limit Map

**Suggested Motion:**

Adopt Ordinance No. 2804, an ordinance amending Section 114.2 of the “Standard Traffic Ordinance for Kansas Cities: Edition of 2023”.

## JoCo Cities Golf Cart Rules

### Speed Limit Posted:

- |          |               |
|----------|---------------|
| • 25 MPH | • Spring Hill |
|          | • Shawnee     |
|          | • Lenexa      |
| <hr/>    |               |
| • 30 MPH | • Olathe      |
|          | • Desoto      |

### Insurance Required:

- Yes, all cities require insurance for golf carts

### City Registration:

- |       |                    |
|-------|--------------------|
| • Yes | • Desoto - \$35/yr |
| • No  | • Olathe           |
|       | • Spring Hill      |
|       | • Shawnee          |
|       | • Lenexa           |

### Slow Vehicle Emblem:

- |       |               |
|-------|---------------|
| • Yes | • Olathe      |
|       | • Spring Hill |
| <hr/> |               |
| • No  | • Desoto      |
|       | • Shawnee     |
|       | • Lenexa      |

### Legal Lights:

- All city's codes read:
  - "The golf cart shall only be operated on any city street, alley or road during the hours between sunrise and sunset, unless equipped with lights as required by state and local law for motorcycles, except that electric turn signals and multiple-beam road lighting equipment shall not be required."

### Driver's License Required:

- Yes, all cities require operators of golf carts to have a valid driver's license

### Number of passengers allowed:

- |                                |               |
|--------------------------------|---------------|
| • # of factory seats installed | • Olathe      |
|                                | • Shawnee     |
|                                | • Lenexa      |
| <hr/>                          |               |
| • 4                            | • Desoto      |
| <hr/>                          |               |
| • 6                            | • Spring Hill |

**ORDINANCE NO. 2804**

**AN ORDINANCE AMENDING ORDINANCE NO. 2789 INCORPORATING BY REFERENCE THE “STANDARD TRAFFIC ORDINANCE FOR KANSAS CITIES: EDITION OF 2023” AND ALL ACTS SUPPLEMENTARY AND AMENDATORY THERETO, PREPARED AND PUBLISHED IN BOOKLET FORM BY THE LEAGUE OF KANSAS MUNICIPALITIES BY AMENDING SECTION 114.2 OF THE STANDARD TRAFFIC ORDINANCE RELATING TO THE OPERATION OF WORK-SITE UTILITY VEHICLES, GOLF CARTS OR MICRO UTILITY TRUCKS, UNDER THE PROVISIONS OF K.S.A. 12-3009 THROUGH 12-3012 AND K.S.A. 12-3301 AND 12-3302.**

WHEREAS, the Governing Body of the City adopted Ordinance No. 2789 providing for the incorporation by reference of the Standard Traffic Ordinance for Kansas Cities: Edition 2023, subject to certain deletions, omissions, changes and additions on December 18, 2023;

WHEREAS, the Governing Body of the City now desires to amend Section 114.2 of the Standard Traffic Ordinance for Kansas Cities: Edition 2023 as provided for herein;

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF GARDNER, KANSAS;

**SECTION ONE:** That Section Three of Ordinance No. 2789 amending Chapter 10.10 is amended to state as follows: That Ordinance 2761, as amended, is repealed and Chapter 10.10 is amended to read as follows:

CHAPTER 10.10            Local Traffic Regulations

10.10.010    AMENDMENTS TO STANDARD TRAFFIC ORDINANCE – PENALTIES.

The Governing Body of the City of Gardner, Kansas, on the basis of an engineering and traffic investigation conducted by the Police Department of the City of Gardner, Kansas, and adopted by the Governing Body of the City of Gardner, Kansas, pursuant to its authority under K.S.A. 8-1560, K.S.A. 8-2002 and all acts supplemental and amendatory thereto hereby deems it advisable to add Section 29.1, add Section 30 (b)(1)(C) and (D), add Section 33 (d), add Section 83.1, add Section 85.1, add Section 85.2, add Section 106 (a)(4), and replace Section 114.2 and replace Section 175.1 with Section 175.2 of said standard code adopted in GMC 10.05.010 to read as follows:

A.        SECTION 29.1. Careless Driving

- (a) Any person who shall operate or halt any vehicle in such a manner as to indicate a careless or heedless disregard for the rights or the safety of others or in such manner as to endanger or to be likely to endanger any person and/or personal property, is guilty of careless driving.
- (b) This offense shall be considered a traffic infraction.

B.        SECTION 30(b)(1). Driving Under the Influence of Intoxicating Liquor or Drugs; Penalties.

(b) Driving under the influence is:

(1) An Ordinance Violation,

(A) On a first conviction of a violation of this section, the person convicted shall be sentenced to not less than 48 consecutive hours nor more than six months' imprisonment, or in the court's discretion 100 hours of public service, and fined not less than \$750 nor more than \$1,000. The person convicted shall serve at least 48 consecutive hours' imprisonment or 100 hours of public service either before or as a condition of any grant of probation or suspension, reduction of sentence or

parole. The court may place the person convicted under a house arrest program to serve the remainder of the sentence only after such person has served 48 consecutive hours' imprisonment;

(B) On a second conviction of a violation of this section the person convicted shall be sentenced to not less than 90 days nor more than one year's imprisonment and fined not less than \$1,250 nor more than \$1,750. The person convicted shall serve at least five consecutive days' imprisonment before the person is granted probation, suspension or reduction of sentence or parole or is otherwise released. The five days' imprisonment mandated by this subsection may be served in a work release program only after such person has served 48 consecutive hours' imprisonment, provided such work release program requires such person to return to confinement at the end of each day in the work release program. The person convicted, if placed into a work release program, shall serve a minimum of 120 hours of confinement. Such 120 hours of confinement shall be a period of at least 48 consecutive hours of imprisonment followed by confinement hours at the end of and continuing to the beginning of the offender's work day. The court may place the person convicted under a house arrest program to serve the five days' imprisonment mandated by this subsection only after such person has served 48 consecutive hours' imprisonment. The person convicted, if placed under house arrest, shall be monitored by an electronic monitoring device, which verifies the offender's location. The offender shall serve a minimum of 120 hours of confinement within the boundaries of the offender's residence. Any exceptions to remaining within the boundaries of the residence provided for in the house arrest agreement shall not be counted as part of 120 hours;

(C) On a third conviction of a violation of this Section, a person shall be sentenced to not less than 90 days nor more than one year's imprisonment and fined not less than \$1,750.00 nor more than \$2,500.00. The person convicted shall not be eligible for release on probation, suspension or reduction of sentence or parole until the person has served at least 90 days' imprisonment. The 90 days' imprisonment mandated by this subsection may be served in a work release program only after such person has served 48 consecutive hours' imprisonment, provided such work release program requires such person to return to confinement at the end of each day in the work release program. The person convicted, if placed into a work release program, shall serve a minimum of 2,160 hours of confinement. Such 2,160 hours of confinement shall be a period of at least 48 consecutive hours of imprisonment followed by confinement hours at the end of and continuing to the beginning of the offender's work day. The court may place the person convicted under a house arrest program pursuant to K.S.A. 21-6609, and amendments thereto, to serve the 90 days' imprisonment mandated by this subsection only after such person has served 48 consecutive hours' imprisonment. The person convicted, if placed under house arrest, shall be monitored by an electronic monitoring device, which verifies the offender's location. The offender shall serve a minimum of 2,160 hours of confinement within the boundaries of the offender's residence. Any exceptions to remaining within the boundaries of the offender's residence provided for in the house arrest agreement shall not be counted as part of the 2,160 hours.

(D) In addition, prior to sentencing for any conviction pursuant to subsection (b)(1)(A) or (b)(1)(B), the court shall order the person to participate in an alcohol and drug evaluation conducted by a provider in accordance with K.S.A. 8-1008, and amendments thereto. The person shall be required to follow any recommendation made by the provider after such evaluation, unless otherwise ordered by the court.

SECTION 30(b)(2)

(2) In addition, prior to sentencing for any conviction pursuant to subsection (b)(1)(A) or (b)(1)(B), the court shall order the person to participate in an alcohol and drug evaluation conducted by a provider in accordance with K.S.A. 8-1008, and amendments thereto. The person shall be required to follow any recommendation made by the provider after such evaluation, unless otherwise ordered by the court.

C. SECTION 33(a)(1) Maximum Speed Limits

(a)(1) Deleted.

SECTION 33(d). Maximum Speed Limits

(d) Except when a special hazard exists that requires lower speed for compliance with Section 32, the limits specified in this section or established as hereinafter authorized shall be the maximum lawful speeds, and no persons shall drive a vehicle at a speed in excess of such maximum limits.

1. 25 miles per hour on any street or highway unless posted otherwise;
2. 20 miles per hour in any park unless posted otherwise; and
3. School zones shall have reduced limits as posted while school is in session.

Whenever it is determined on the basis of an engineering and traffic investigation that any speed limit posted is greater or less than is reasonable or safe under the conditions found to exist, the Governing Body shall declare and determine a reasonable and safe speed limit and cause appropriate signs to be erected as set forth in the Gardner Speed Limit Map maintained by the City Engineer.

D. SECTION 83.1. Vehicle Idling Prohibited

1. Definitions.

**IDLE**—The motor vehicle operating mode consisting of a nonleaded, throttled engine speed at the revolutions per minute specified by the manufacturer.

**MOTOR VEHICLE**—any on road, self-propelled vehicle that is required to be registered and have a license plate by the Department of Motor Vehicles.

**PERSON**—Corporations, companies, associates, societies, firms, partnerships, and joint-stock companies as well as individuals, and shall also include all political subdivisions of this state or any agencies or instrumentalists thereof.

**PUBLIC AND PRIVATE PROPERTY**—All real estate within the City, including Inter alia, public and private parking lots, on which a motor vehicle may be physically located except for the public streets and highways within the city.

**RESTRICTED IDLING ZONES**—Areas within City limits that are considered moderate to high emission zones.

2. Idling Prohibited; Motor Vehicles.

- A. No person shall cause, suffer, allow or permit the engine of a motor vehicle to idle for more than ten (10) consecutive minutes if the vehicle is within one of the designated areas of limited idling zones that include:

1. Any City parking lot or city property,
2. Any City owned or operated park area including but not limited to the municipal golf course,
3. Pick-up or drop-off areas on all school property, parking lots, and commercial delivery/loading zones,
4. Commercial and Industrial delivery zones, including but not limited to private drives or area leading to the delivery zone.

B. Subsection A of this section shall not apply to the following:

1. Emergency vehicles,
2. RV's, school buses, other modes of public transit, and charter buses,
3. Temperatures below 32 degrees and in excess of 85 degrees per the National Oceanic and Atmospheric Administration (NOAA).

C. Upon conviction of a first offense of this section, the defendant shall be fined not less than \$50.00 nor more than \$1,000.00. Upon conviction for a second offense, within a twenty-four (24) month period, the defendant shall be fined not less than \$100.00 nor more than \$1,000.00. Upon conviction of a third offense of this section, within a twenty-four (24) month period, the defendant shall be fined not less than \$250.00 nor more than \$1,000.00. No portion of any minimum fine assessed pursuant to this section shall be suspended nor shall the defendant be placed on parole from any portion of the penalty assessed.

E. SECTION 85.1. Parking In Certain Designated Areas Prohibited

- (a) No person shall park, stop, or operate a motor vehicle in or on any private or public parking area or lot that is posted with notice of prohibited parking signs posted as provided herein.
- (b) The provisions of this section shall not be applicable to any parking lot or area unless the following signage is clearly and properly posted at all entrances to said parking areas or lots, to-wit:

NOTICE

*Pursuant to City of Gardner Standard Traffic Ordinance Section 85.1, no parking, stopping, or operation of a motor vehicle is permitted in this parking area or lot during the hours of \_\_\_\_\_ to \_\_\_\_\_. Conviction of a violation of this section shall result in a minimum fine of \$100.00.*

- (c) The provisions of this section shall not apply to individuals conducting business or working on the premises of building served by the posted parking areas or lots.
- (d) Upon conviction of a first offense of this section, the defendant shall be fined not less than \$100.00 nor more than \$1,000.00. Upon conviction for a second offense, within any given twelve-month period, the defendant shall be fined not less than \$250.00 and not more than \$1,000.00. Upon conviction of a third offense of this section during any twenty-four month period, the defendant shall be fined not less than \$500.00 nor more than \$1,000.00. No portion of any minimum fine assessed pursuant to this section shall be suspended nor shall the defendant be placed on parole from any portion of the penalty assessed.

F. SECTION 85.2. Parking Restrictions in Residential Zoning Districts.

(a) No person shall park any motor vehicle other than an operable passenger car; passenger van with rear side windows and rear passenger seats; pickup truck not modified with aerial buckets or platforms (e.g. "cherry pickers"), welding equipment, and mechanical lifts or arms designed to assist in loading and unloading freight, or motorcycle; on any street or alley within a residential zoning district except when necessary for loading and unloading or within the performance of a service, and construction vehicles while being used in connection with construction or maintenance authorized by the City or upon property in the block the vehicle is parked.

(b) Passenger car, passenger van, pickup truck, or motorcycle means a vehicle licensed for use on public streets; designed primarily for the transportation of people as opposed to equipment, freight, or other vehicles; and sold primarily to individuals for personal use.

(c) Trailers attached or detached from a passenger car, passenger van, pickup truck, or motorcycle are not allowed.

(d) Upon conviction of a first offense of this section, the defendant shall be fined not less than \$100.00 nor more than \$1,000.00. Upon conviction for a second offense, within any given twelve-month period, the defendant shall be fined not less than \$250.00 and not more than \$1,000.00. Upon conviction of a third offense of this section during any twenty-four-month period, the defendant shall be fined not less than \$500.00 nor more than \$1,000.00.

G. SECTION 114.2: Unlawful Operation of Work-Site Utility Vehicle, Golf Cart or Micro Utility Truck.

(a) No work-site utility vehicle, golf cart, or micro utility truck shall be operated on any public highway, street, or road unless:

1. The speed limit on such road is 25 miles per hour or less;
2. The work-site utility vehicle, golf cart, or micro utility truck is equipped with lights as required by state and local law for motorcycles except that electric turn signals and multiple-beam road lighting equipment shall not be required;
3. The operator of the work-site utility vehicle, golf cart, or micro utility truck has a valid driver's license; and
4. The owner must maintain insurance for the work-site utility vehicle, golf cart, or micro utility truck in the same amounts set forth for motor vehicles in section (e) of K.S.A. 40-3107.

(b) Work-site utility vehicles, golf carts, and micro utility trucks shall not be operated in a careless, reckless, or negligent manner.

(c) It shall be unlawful for any person to operate a work-site utility vehicle, golf cart, or micro utility truck:

1. On any interstate highway, federal highway, or state highway, unless engaged in agricultural purposes and pursuant to the conditions listed in K.S.A. 8-15,100 and K.S.A. 8-15,109; or
2. on any sidewalk, recreational path, trail, or any location normally used for pedestrian traffic.

(d) The number of occupants allowed on a work-site utility vehicle, golf cart, or micro utility truck shall be limited to the number of seats factory installed. Bench seats shall be limited to three (3) people.

(e) The provisions of this section shall not prohibit a work-site utility vehicle, golf cart or micro utility truck from crossing a federal or state highway or a public highway, street, or road with a posted speed limit greater than 25 miles per hour.

- (f) The provisions of this section shall not prohibit the operation of any authorized work-site utility vehicle, golf cart or micro utility truck in the course of authorized duties within the city by a fire department, law enforcement agency, parks department, public works or municipal services department. The operation of a work-site utility vehicle, golf cart or micro utility truck is authorized within the city on private property with the consent of the property owner.

H. SECTION 135.1 Electric-Assisted Scooters, Traffic Law Application

(d) A person riding an electric assisted scooter shall not be required to maintain: (1) vehicle liability insurance coverage; (2) a driver's license; (3) vehicle registration; (4) a certificate of title; or (5) a license plate. An electric-assisted scooter shall not be considered a motor vehicle.

(e) It shall be unlawful for any person to operate an electric-assisted scooter at a speed in excess of seventeen (17) miles per hour.

(f) It shall be unlawful for any person to operate an electric-assisted scooter on a street with a posted speed limit greater than thirty-five (35) miles per hour.

I. SECTION 175.1 Compression Release Engine Braking System.

(a) It shall be unlawful for the driver of any motor vehicle to use or cause to be used or operated any compression release engine braking system; provided, however, that such brakes may be used in an emergency situation where the use of an engine braking mechanical exhaust device is necessary for the protection of persons or property.

(b) Upon conviction of a first offense of this section, the defendant shall be mandated to appear in court and shall be fined not less than \$250.00 nor more than \$1,000. Upon conviction of a second offense of this section, within a twenty-four (24) month period, the defendant shall be mandated to appear in court and shall be fined not less than \$350.00 nor more than \$1,000. Upon conviction of a third offense of this section, within a twenty-four (24) month period, the defendant shall be mandated to appear in court and shall be fined not less than \$500.00 nor more than \$1,000. No portion of any minimum fine assessed pursuant to this section shall be suspended nor shall the defendant be placed on parole from any portion of the penalty assessed.

(c) Definition: Compression Release Engine Braking System. A hydraulically operated device that converts a power producing diesel engine into a power absorbing retarding mechanism. (K.S.A. Supp 8-1761).

10.10.020 INVALIDITY IN PART. If any section, subsection, sentence, clause or phrase of this Chapter is for any reason held to be invalid by any court of competent jurisdiction such decision shall not affect the validity of the remaining portions of this Chapter.

10.10.030 PENALTY FOR SCHEDULED FINES. The fine for violation of an ordinance traffic infraction or any other traffic offense for which the municipal judge establishes a fine in a fine schedule shall not be less than \$10.00 nor more than \$2,500.00. A person tried and convicted for violation of an ordinance traffic infraction or other traffic offense for which a fine has been established in a schedule of fines shall pay a fine fixed by the court not to exceed \$2,500.00.

10.10.040 CONFLICTING ORDINANCES. Where this chapter conflicts with any other state or federal ordinance, statute, or regulation, the most restrictive ordinance, statute, or regulation shall apply. All local ordinances, or parts of local ordinances, in conflict herewith be and the same are hereby repealed.

**SECTION TWO:** This ordinance shall take effect and be in force from and after its publication as provided by law.

PASSED and APPROVED this 17<sup>th</sup> day of June, 2024.

(SEAL)

CITY OF GARDNER, KANSAS

\_\_\_\_\_  
Todd Winters, Mayor

Attest:

\_\_\_\_\_  
Renee Rich, City Clerk

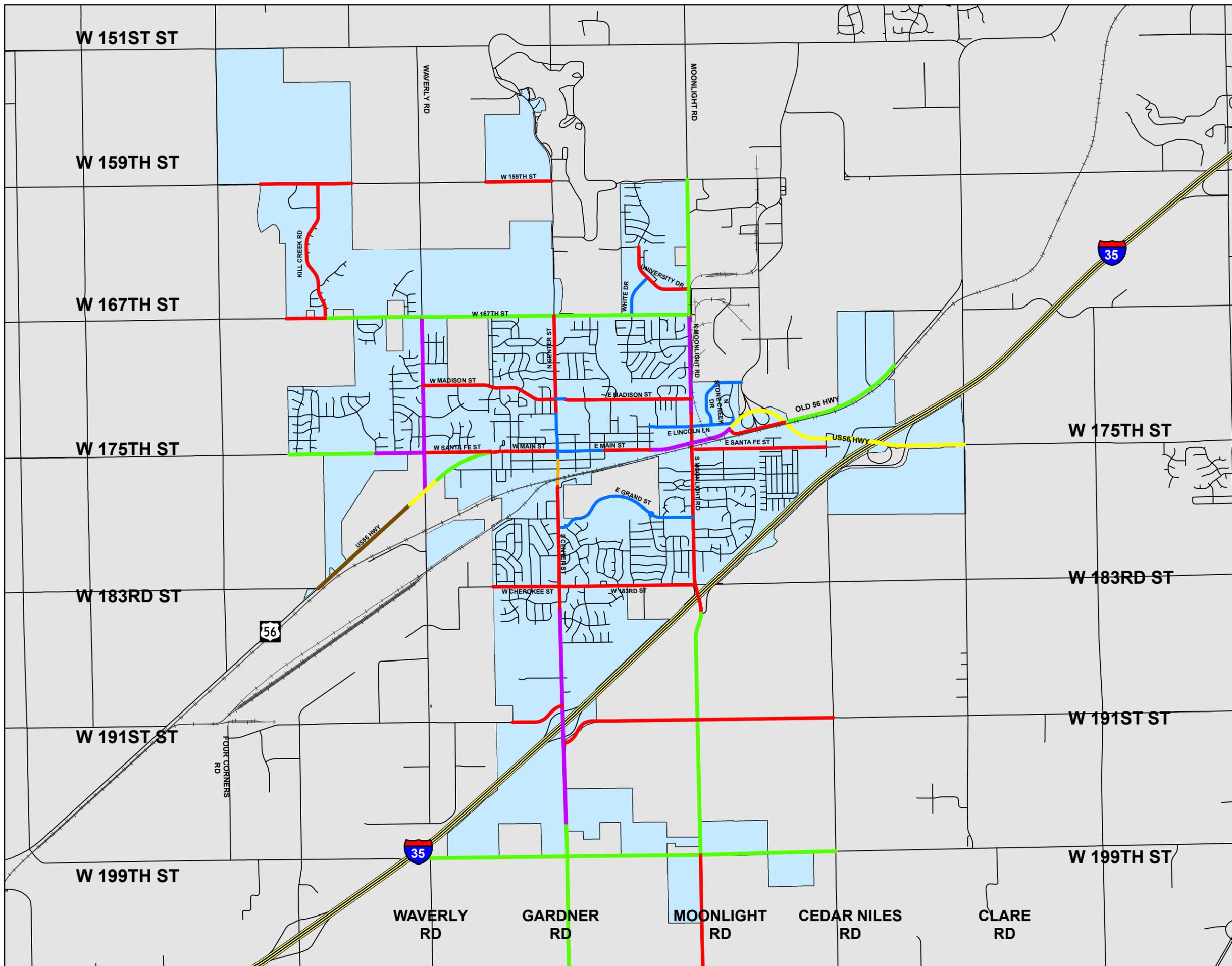
Approved as to form:

\_\_\_\_\_  
Ryan B. Denk, City Attorney

# City of Gardner

## Posted Speed Limits

### Arterial and Collector Streets



**Posted Speed Limit**

 25 MPH	 45 MPH
 30 MPH	 50 MPH
 35 MPH	 60 MPH
 40 MPH	 70 MPH (I-35)

 25 MPH Residential (Inside City Limits)  
 No Speed Limit Data on certain Roads (Private Streets/Outside City Limits)  
 Railroad
  City of Gardner



# COUNCIL ACTION FORM

# NEW BUSINESS ITEM NO. 2

MEETING DATE: JUNE 17, 2024

STAFF CONTACT: MATTHEW WOLFF, FINANCE DIRECTOR

**Agenda Item:** Consider approving adjustments to the city's contribution strategy for health insurance

**Strategic Priority:** Fiscal Stewardship

**Department:** Administration/Finance

**Staff Recommendation:**

Approve adjustments to the city's contribution strategy for health insurance.

**Background/Description of Item:**

On April 1, 2024, the City Council held a work session to discuss health insurance. CBIZ, the City's employee benefits consultant and broker, provided a presentation covering the prior plan year, reporting and financials and 2024 medical marketing results.

On April 15, 2024, the City Council authorized the City Administrator to execute an agreement with Gravie and the city's contributions to a Health Reimbursement Arrangement (HRA), Health Savings Accounts (HSA), vision, and dental, and life insurance programs.

CBIZ and City worked together to develop the contribution strategy assuming employees elect a Gold QHDHP and enroll the same dependents currently enrolled. During the onset of enrollment, it was brought to our attention that unknown variables may result in an employee moving from Family to Employee + Spouse coverage. The approved contribution for Employee + Spouse for anyone under age 49 creates a significant and unreasonable financial strain. Employees are also seeing increases in deductibles and out-of-pocket maximums. Increasing the City's contribution to Health Savings Accounts will help provide additional assistance.

CBIZ and staff are recommending the follow adjustments to the city's contribution strategy:

Proposed Contribution Strategy				
	Employee Only	Employee + Spouse	Employee + Child(ren)	Family
< 29	\$ 468.00	<del>\$540.00</del> <b>\$600.00</b>	\$ 765.00	\$ 1,053.90
30-39	\$ 630.00	<del>\$675.00</del> <b>\$900.00</b>	\$ 1,206.90	\$ 1,831.50
40-49	\$ 662.00	<del>\$749.70</del> <b>\$1,400.00</b>	\$ 1,260.00	\$ 2,282.40
50-59	\$ 1,054.00	\$ 1,771.20	\$ 1,527.30	\$ 2,454.30
60+	\$ 1,214.00	\$ 2,081.70	\$ 1,912.50	\$ 2,610.00
HSA	<del>\$1500</del> <b>\$1600</b>	<del>\$3,000</del> <b>\$3,200</b>	<del>\$3,000</del> <b>\$3,200</b>	<del>\$3,000</del> <b>\$3,200</b>

**Financial Impact:**

The estimated cost for the employee + spouse contribution adjustment is \$3,991. The estimated cost of the increase in HSA contributions is \$14,000. The total estimated cost for all recommended changes is \$17,991.

**Suggested Motion:**

Approve adjustments to the city's contributions to the health insurance program.

# COUNCIL ACTION FORM

# NEW BUSINESS ITEM No. 3

**MEETING DATE:** JUNE 17, 2024

**STAFF CONTACT:** JEFFREY LEMIRE, UTILITIES MANAGER

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**Agenda Item:** Consider awarding the Progressive Design Build Phase II construction services contract to the Crossland Heavy Contractors, Inc. for the Kill Creek Water Resource Recovery Facility Expansion, CIP Project No WW8012.

**Strategic Priority:** Infrastructure and Asset Management

**Department:** Utilities – Wastewater Division

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## **Staff Recommendation:**

Staff recommends that the City Council authorize the City Administrator to execute the construction services contract Phase II of a Progressive Design Build Contract with Crossland Heavy Contractors, Inc. not to exceed \$39,450,000.

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

On February 14, 2023, the Utilities Department advertised a Request for Qualifications for Progressive Design-Build Services for the Kill Creek Water Resource Recovery Facility Expansion Project. On March 29, 2023, Statements of Qualifications from four (4) design build teams were received and reviewed. The four (4) design build teams were: Crossland Heavy Contractors-Black & Veatch; Goodwin Brothers-CMT; Burns & McDonnell-CAS Construction, and Ross Construction-Lamp Rynearson.

On July 6, 2023, the Utility Advisory Commission approved a recommendation to the City Council to award a Progressive Design Build Phase 1 Contract to Crossland Heavy Contractors, Inc. for the preliminary design of the Kill Creek Water Resource Recovery Facility Expansion Project, CIP Project No WW8012.

On July 17, 2023, City Council authorized the City Administrator to execute an Engineering Services Contract for Phase I of a Progressive Design Build Contract with Crossland Heavy Contractors, Inc. in an amount not to exceed \$1,291,000.00.

On April 15, 2024 City staff, Crossland and Black & Veatch staff presented City Council with a project and budget update as part of the Finance Department presentation. This presentation presented the process City staff and the design build team had used to design and estimate the cost of the Phase II Construction Services contract.

The Kill Creek Water Resource Recovery Facility Expansion Progressive Design Construction Project will consist of but not be limited to; adding an additional 2.5 MGD capacity to the facility, another train of two treatment basins, two sedimentation basins, a sludge thickener, two digester basins, sludge pumping and screw press, UV system, resolve operation, equipment upgrades, code compliance and safety issues within the existing treatment facility. The project will also

include site planning, design, and construction of all necessary site infrastructure necessary for this project.

**Financial Impact:**

Funding for the project is available from Wastewater Fund 2023 Adopted Budget, \$39,450,000.

**Attachments included:**

Crossland Heavy Contractors, Inc. and Black & Veatch Phase II Guaranteed Maximum Price (GMP) proposal.

DBIA Contract Document #535 Standard Form of Conditions of Contract Between Owner and Design-Builder

**Suggested Motion:**

Authorize the City Administrator to execute the Progressive Design Build Phase II construction services contract to the Crossland Heavy Contractors, Inc. for the Kill Creek Water Resource Recovery Facility Expansion, CIP Project No WW8012., in the amount of \$39,450,000.



# Progressive Design-Build Agreement for Water and Wastewater Projects

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This **AGREEMENT** is made as of the \_\_\_\_\_ day of \_\_\_\_\_ in the year of 2024, by and between the following parties, for services in connection with the Project identified below:

**OWNER:**

City of Gardner, Kansas  
120 East Main Street  
Gardner, KS 66030

**DESIGN-BUILDER:**

Crossland Heavy Contractors  
3252 Roanoke Road  
Kansas City, MO 64111

**PROJECT:**

Kill Creek WRRF Expansion Design-Build Project  
32101 159<sup>th</sup> Street  
Gardner, KS 66030

In consideration of the mutual covenants and obligations contained herein, Owner and Design-Builder agree as set forth herein.

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## **Article 1**

### **General**

- 1.1 Duty to Cooperate. Owner and Design-Builder commit at all times to cooperate fully with each other, and proceed on the basis of trust and good faith to permit each party to realize the benefits afforded under this Agreement.
- 1.2 Definitions. Terms, words and phrases used in this Agreement shall have the meanings given them in DBIA Document No. 535, *Standard Form of General Conditions of Contract Between Owner and Design-Builder* (2010 Edition) ("General Conditions of Contract").
- 1.3 Design Services. Design-Builder shall, consistent with applicable state licensing laws, provide design services, including architectural, engineering, and other design professional services required by this Agreement. Such design services shall be provided through qualified, licensed design professionals who are either (i) employed by Design-Builder, or (ii) procured by Design-Builder from independent sources. Nothing in this Agreement is intended to create any legal or contractual relationship between Owner and any independent design professional.

## **Article 2**

### **Design-Builder's Services and Responsibilities**

- 2.1 General Services.
  - 2.1.1 Owner shall provide Design-Builder with Owner's Project Criteria describing Owner's program requirements and objectives for the Project as set forth in Exhibit A. Owner's Project Criteria shall include Owner's use, space, price, time, site, performance, and expandability requirements. Owner's Project Criteria may include conceptual documents, design specifications, design performance specifications, and other technical materials and requirements prepared by or for Owner. The Project Criteria shall specifically include compliance with all Environmental Protection Agency and Kansas Department of Health and Environment permitting criteria and licensure requirements.
  - 2.1.2 If Owner's Project Criteria have not been developed prior to the execution of this Agreement, Design-Builder will assist Owner in developing Owner's Project Criteria, with such service deemed to be an additional service for which additional compensation shall be paid by Owner to Design-Builder. If Owner has developed Owner's Project Criteria prior to executing this Agreement, Design-Builder shall review and prepare a written evaluation of such criteria, including recommendations to Owner for different and innovative approaches to the design and construction of the Project. The parties shall meet to discuss Design-Builder's written evaluation of Owner's Project Criteria and agree upon what revisions, if any, should be made to such criteria.
- 2.2 Phased Services.
  - 2.2.1 Phase 1 Services. The parties have previously entered into a written agreement providing for the delivery of Phase 1 Services. Design-Builder shall perform the services of design, pricing, and other services for the Project based on Owner's Project Criteria, as may be revised in accordance with Section 2.1 hereof, as set forth in Exhibit B, Scope of Services, and as further detailed in the Phase 1 agreement between the parties. Design-Builder shall perform such services to the level of completion required for Design-Builder and Owner to establish the Contract Price for Phase 2, as set forth in Section 2.3 below. The Contract Price for Phase 2 shall be developed during Phase 1 on an "open-book" basis. Design-Builder's Compensation for Phase 1 Services is set forth in Section 7.0 herein. The level of completion required for Phase 1 Services is defined in Exhibit B, Scope of Services (either as a percentage of design completion or by defined deliverables).

2.2.2 Phase 2 Services. Design-Builder's Phase 2 services shall consist of the completion of design services for the Project, the procurement of all materials and equipment for the Project, the performance of construction services for the Project, the start-up, testing, and commissioning of the Project, and the provision of warranty services, all as further described in the Contract Price Amendment. Upon receipt of Design-Builder's proposed Contract Price for Phase 2, Owner may proceed as set forth in Article 2.3.

2.3 Proposal. Upon completion of the Phase 1 Services and any other Basis of Design Documents upon which the parties may agree, Design-Builder shall submit a proposal to Owner (the "Proposal") for the completion of the design and construction for the Project for the Contract Price, which may be based on Lump Sum or Design-Builder's Fee and Cost of the Work with an option for a Guaranteed Maximum Price (GMP).

2.3.1 The Proposal shall include the following unless the parties mutually agree otherwise:

2.3.1.1 The Contract Price that may be based on a Lump Sum or Design-Builder's Fee and Cost of the Work, with an option for a GMP, which shall be the sum of:

- i. Design-Builder's Fee as defined in Section 7.4.1 hereof;
- ii. The estimated Cost of the Work as defined in Section 7.5 hereof, inclusive of any Design-Builder's Contingency as defined in Section 7.6.2 hereof; and
- iii. If applicable, any prices established under Section 7.1.3 hereof;

2.3.1.2 The Basis of Design Documents, which may include, by way of example, Owner's Project Criteria, which are set forth in detail and are attached to the Proposal;

2.3.1.3 A list of the assumptions and clarifications made by Design-Builder in the preparation of the Proposal, which list is intended to supplement the information contained in the drawings and specifications and is specifically included as part of the Basis of Design Documents;

2.3.1.4 The Scheduled Substantial Completion Date upon which the Proposal is based, to the extent said date has not already been established under Section 6.2.1 hereof, and a schedule upon which the Scheduled Substantial Completion Date is based and a Project Schedule for the Work;

2.3.1.5 If applicable, a list of Allowance Items, Allowance Values, and a statement of their basis;

2.3.1.6 If applicable, a schedule of alternate prices;

2.3.1.7 If applicable, a schedule of unit prices;

2.3.1.8 If applicable, a statement of Additional Services which may be performed but which are not included in the Proposal, and which, if performed, shall be the basis for an increase in the Contract Price and/or Contract Time(s);

2.3.1.9 If applicable, a Savings provision;

2.3.1.10 If applicable, Performance Incentives;

2.3.1.11 The time limit for acceptance of the Proposal; and

2.3.1.12 An Owner's permit list, a list detailing the permits and governmental approvals that Owner will bear responsibility to obtain.

## 2.3.2 Review and Adjustment to Proposal.

2.3.2.1 After submission of the Proposal, Design-Builder and Owner shall meet to discuss and review the Proposal. If Owner has any comments regarding the Proposal, or finds any inconsistencies or inaccuracies in the information presented, it shall promptly give written notice to Design-Builder of such comments or findings. If appropriate, Design-Builder shall, upon receipt of Owner's notice, make appropriate adjustments to the Proposal.

2.3.2.2 Acceptance of Proposal. If Owner accepts the Proposal, as may be amended by Design-Builder, the Contract Price and its basis shall be set forth in an amendment to this Agreement, when mutually agreed between the parties (Contract Price Amendment). Once the parties have agreed upon the Contract Price and Owner has issued a Notice to Proceed with Phase 2, Design-Builder shall perform the Phase 2 Services, all as further described in the Contract Price Amendment, as it may be revised.

2.3.2.3 Failure to Accept the Proposal. If Owner rejects the Proposal, or fails to notify Design-Builder in writing on or before the date specified in the Proposal that it accepts the Proposal, the Proposal shall be deemed withdrawn and of no effect. In such event, Owner and Design-Builder shall meet and confer as to how the Project will proceed, with Owner having the following options:

i. Owner may suggest modifications to the Proposal, whereupon, if such modifications are accepted in writing by Design-Builder, the Proposal shall be deemed accepted and the parties shall proceed in accordance with Section 2.3.2.3 above;

ii. Owner may authorize Design-Builder to continue to proceed with the Work on the basis of reimbursement as provided in Section 7.1.2 hereof without a Contract Price, in which case all references in this Agreement to the Contract Price shall not be applicable; or

iii. Owner may terminate this Agreement for convenience in accordance with Article 9 hereof; provided, however, in this event, Design-Builder shall not be entitled to the payment provided for in Section 9.2 hereof.

If Owner fails to exercise any of the above options, Design-Builder shall have the right to 2.3.2.4 (a) suspend performance of Work in accordance with Section 11.3.1 of the General Conditions of Contract, provided, however, that in such event Design-Builder shall not be entitled to the payment provided for in Section 9.2 hereof, or (b) may give written notice to Owner that it considers this Agreement completed. If Owner fails to exercise any of the options under Section 2.3.2.4 within ten (10) days of receipt of Design-Builder's notice, then this Agreement shall be deemed completed. If Owner terminates the relationship with Design-Builder under Section 2.3.2.4(iii), or if this Agreement is deemed completed under this paragraph, then Design-Builder shall have no further liability or obligations to Owner under this Agreement.

## **Article 3**

### **Contract Documents**

3.1 The Contract Documents are comprised of the following:

3.1.1 All written modifications, amendments, minor changes, and Change Orders to this Agreement issued in accordance with DBIA Document No. 535, *Standard Form of General Conditions of Contract Agreement Between Owner and Design-Builder* (2010 Edition) (“General Conditions of Contract”);

3.1.2 The Contract Price Amendment referenced in Section 2.3.2.3 herein or the Proposal accepted by Owner in accordance with Section 2.3 herein.

3.1.3 This Agreement, including all exhibits (List for example, performance standard requirements, performance incentive arrangements, markup exhibits, allowances, unit prices, or exhibit detailing offsite reimbursable personnel) but excluding, if applicable, the Contract Price Amendment;

3.1.4 The General Conditions of Contract;

3.1.5 Construction Documents prepared and approved in accordance with Section 2.4 of the General Conditions of Contract;

3.1.6 Exhibit B, Scope of Services; and

3.1.7 The following other documents, if any:

## **Article 4**

### **Interpretation and Intent**

4.1 Design-Builder and Owner, at the time of acceptance of the Proposal by Owner in accordance with Section 2.3 hereof, shall carefully review all the Contract Documents, including the various documents comprising the Basis of Design Documents for any conflicts or ambiguities. Design-Builder and Owner will discuss and resolve any identified conflicts or ambiguities prior to execution of the Agreement, or if applicable, prior to Owner’s acceptance of the Proposal.

4.2 The Contract Documents are intended to permit the parties to complete the Work and all obligations required by the Contract Documents within the Contract Time(s) for the Contract Price. The Contract Documents are intended to be complementary and interpreted in harmony so as to avoid conflict, with words and phrases interpreted in a manner consistent with construction and design industry standards. In the event inconsistencies, conflicts, or ambiguities between or among the Contract Documents are discovered after Owner’s acceptance of the Proposal, Design-Builder and Owner shall attempt to resolve any ambiguity, conflict, or inconsistency informally, recognizing that the Contract Documents shall take precedence in the order in which they are listed in Section 3.1 hereof.

4.3 Terms, words, and phrases used in the Contract Documents, including this Agreement, shall have the meanings given them in the General Conditions of Contract.

4.4 If Owner’s Project Criteria contain design specifications: (a) Design-Builder is entitled to reasonably rely on the accuracy of the information represented in the design specifications and their compatibility with other information set forth in Owner’s Project Criteria, including any design performance specifications; and (b) Design-Builder shall be entitled to an adjustment in its Contract Price and/or Contract Time(s) to the extent Design-Builder’s cost and/or time of performance have been adversely impacted by such inaccurate design specification.

4.5 The Contract Documents form the entire agreement between Owner and Design-Builder and by incorporation herein are as fully binding on the parties as if repeated herein. No oral representations or other agreements have been made by the parties except as specifically stated in the Contract Documents.

## **Article 5**

### **Ownership of Work Product**

#### 5.1 Work Product.

5.1.1 All drawings, specifications, test reports, and other materials and work products which are prepared or furnished by the Owner prior to this Agreement, or for the performance thereof, shall remain the Owner's sole property. The Owner shall make available to Design-Builder the copies of such materials as necessary for Design-Builder to perform the work.

5.1.2 All drawings, specifications, test reports, and other materials and work products, including computer aided drawings, designs, and other data filed on electronic media that will be prepared or furnished by Design-Builder (and Design-Builder's independent professional associates and subcontractors) under this Agreement shall become the sole property of the Owner for use on the Project only. At the conclusion of the Project, and at such times identified on Exhibit B, Scope of Services , Design- Builder shall give Owner all materials obtained or produced in the course of performing the work. Provided, however, that in the event the Project is terminated for convenience, such materials shall be returned to the Design-Builder.

5.1.3 The reuse or modification of any document prepared or furnished by Design-Builder shall be at Owner's sole risk and without liability or legal exposure to Design-Builder.

## Article 6

### Contract Time

6.1 Date of Commencement. The Work shall commence on the date of the Owner's Issuance of Owner's Notice to Proceed for Phase 2 Services ("Date of Commencement") if the Proposal is accepted and the Contract Price Amendment is amended to this Agreement unless the parties mutually agree otherwise in writing.

6.2 Substantial Completion and Final Completion.

6.2.1 Substantial Completion of the entire Work shall be achieved no later than the milestones listed in 6.2.2 after the Date of Commencement ("Scheduled Substantial Completion Date").

The parties agree that the definition for Substantial Completion set forth in Section 1.2.18 of the General Conditions of Contract is hereby modified to read as follows:

"*Substantial Completion* is the date on which the Work, or an agreed upon portion of the Work, is sufficiently complete in accordance with the Contract Documents so that Owner can occupy and use the Project or a portion thereof for its intended purposes, provided, however, that Substantial Completion shall be deemed to have been achieved no later than the date of issuance of a Temporary Certificate of Occupancy issued by the local building official, if a Temporary Certificate of Occupancy is applicable to the Project."

6.2.2 Interim milestones and/or Substantial Completion of identified portions of the Work shall be achieved as follows: ("Scheduled Interim Milestone Dates") for portions of the Work with different scheduled dates for Substantial Completion.):

Milestone Tied to Liquidated Damage's

- Substantial Completion Date: 09/30/2026
- Final Completion Date: 10/31/2026

Intermediate Milestones: not tied to liquidated damages or penalties:

- 60% Design Documents: 10/03/2024
- 90% Design Documents: 1/10/2025
- 100% Design Documents: 1/31/2025
- Basin Excavation Complete: 3/31/2025
- Concrete Structures Complete: 3/31/2026
- Equipment on Site: 3/31/2026
- Electrical Generator Onsite: 5/31/2026

6.2.2 Final Completion of the Work or identified portions of the Work shall be achieved in accordance with the time requirements identified within the Contract Documents. Final Completion is the date when all Work is complete pursuant to the definition of Final Completion set forth in Section 1.2.7 of the General Conditions of Contract.

6.2.3 All of the dates set forth in this Article 6 ("Contract Time(s)") shall be subject to adjustment in accordance with the General Conditions of Contract.

6.3 Time is of the Essence. Owner and Design-Builder mutually agree that time is of the essence with respect to the dates and times set forth in the Contract Documents.

6.4 Liquidated Damages. Design-Builder understands that if Substantial Completion is not attained by the Scheduled Substantial Completion Date, Owner will suffer damages which are difficult to determine and accurately specify. Design-Builder agrees that if Substantial Completion is not attained by the milestones listed in 6.2.2 after the Scheduled Substantial Completion Date (the "LD Date"), Design-Builder

shall pay Owner Two Thousand Five Hundred Dollars (\$ 2500) as liquidated damages for each day that Substantial Completion extends beyond the LDDate.

6.5 Any liquidated damages assessed pursuant to this Agreement shall be in lieu of all liability for any and all extra costs, losses, expenses, claims, penalties, and any other damages, whether special or consequential, and of whatsoever nature, incurred by Owner which are occasioned by any delay in achieving Substantial Completion, Interim Milestone Dates (if any) or Final Completion.

In addition to Design-Builder's right to a time extension for those events set forth in Section 8.2.1 of the General Conditions of Contract, Design-Builder shall also be entitled to seek an appropriate adjustment of the Contract Price for those events set forth in Section 8.2.1 of the General Conditions of Contract.

Design Builder shall be entitled to seek the direct costs and expenses Design-Builder can demonstrate it has reasonably actually incurred as a result of such event.

## **Article 7**

### **Contract Price**

Contract Price.

7.1.1 For Phase 2 Services, Owner shall pay Design-Builder in accordance with Article 7 of the General Conditions of Contract a contract price ("Contract Price") equal to the Lump Sum amount set forth in Section 7.2 hereof or in the Contract Price Amendment, or equal to the Design-Builder's Fee (as defined in Section 7.4 hereof) plus the Cost of the Work (as defined in Section 7.5 hereof), subject to any GMP established in Section 7.6 hereof or as set forth in the Contract Price Amendment and any adjustments made in accordance with the General Conditions of Contract.

7.2 Lump Sum. Owner shall pay Design-Builder in accordance with Article 6 of the General Conditions of Contract the sum of Thirty Nine Million Four Hundred and Fifty Thousand Dollars (\$39,450,000.00) ("Contract Price") for the Work for Phase 2 Services, subject to adjustments made in accordance with the General Conditions of Contract. Unless otherwise provided in the Contract Documents, the Contract Price is deemed to include all sales, use, consumer and other taxes mandated by applicable Legal Requirements.

7.3 Not Used

7.4 Not Used

7.5 Cost of the Work.

7.5.1 The term Cost of the Work shall mean costs reasonably incurred by Design-Builder in the proper performance of the Work. The Cost of the Work shall include only the following:

7.5.1.1 Wages of direct employees of Design-Builder performing the Work at the Site or, with Owner's agreement, at locations off the Site, provided, however, that the costs for those employees of Design-Builder performing design services shall be calculated on the basis of prevailing market rates for design professionals performing such services or, if applicable, those rates as indicated in the Design-Builders Personnel Hourly Rate Schedule identified as Exhibit C to this Agreement.

7.5.1.2 Wages or portion of salaries of Design-Builder's supervisory and administrative personnel engaged in the performance of the Work and who are located at the Site or working off- Site to assist in the production or transportation of material and equipment necessary for the Work, the cost for those services charged at the hourly rate as indicated in the Design-Builders Personnel Hourly Rate Schedule identified as Exhibit C to this Agreement..

7.5.1.3 Costs incurred by Design-Builder for employee benefits, premiums, taxes, insurance, contributions and assessments required by law, collective bargaining agreements, or which are customarily paid by Design-Builder, to the extent such costs are based on wages and salaries paid to employees of Design-Builder covered under Sections 7.5.1.1 through 7.5.1.3 hereof.

7.5.1.4 The reasonable portion of the cost of travel, accommodations and meals for Design-Builder's personnel necessarily and directly incurred in connection with the performance of the Work.

7.5.1.5 Payments properly made by Design-Builder to Subcontractors and Design Consultants for performance of portions of the Work, including any insurance and bond premiums incurred by Subcontractors and Design Consultants.

7.5.1.6 Costs incurred by Design-Builder in repairing or correcting defective, damaged or nonconforming Work (including any warranty or corrective Work performed after Substantial Completion), provided that such Work was beyond the reasonable control of Design-Builder, or caused by the ordinary mistakes or inadvertence, and not the negligence, of Design-Builder or those working by or through Design-Builder. If the costs associated with such Work are recoverable from insurance, Subcontractors or Design Consultants, Design-Builder shall exercise best efforts to obtain recovery from the appropriate source and provide a credit to Owner if recovery is obtained.

7.5.1.7 Costs, including transportation, inspection, testing, storage, and handling of materials, equipment, and supplies incorporated or reasonably used in completing the Work.

7.5.1.8 Costs less salvage value of materials, supplies, temporary facilities, machinery, equipment and hand tools not customarily owned by the workers that are not fully consumed in the performance of the Work and which remain the property of Design- Builder, including the costs of transporting, inspecting, testing, handling, installing, maintaining, dismantling, and removing such items.

7.5.1.9 Costs of removal of debris and waste from the Site.

7.5.1.10 The reasonable costs and expenses incurred in establishing, operating and demobilizing the Site office, including the cost of facsimile transmissions, long-distance telephone calls, postage and express delivery charges, telephone service, photocopying, and reasonable petty cash expenses.

7.5.1.11 Rental charges and the costs of transportation, installation, minor repairs and replacements, dismantling and removal of temporary facilities, machinery, equipment and hand tools not customarily owned by the workers, which are provided by Design-Builder

at the Site, whether rented from Design-Builder or others, and incurred in the performance of the Work.

7.5.1.12 Premiums for insurance and bonds required by this Agreement or the performance of the Work.

7.5.1.13 All fuel and utility costs incurred in the performance of the Work.

7.5.1.14 Sales, use, or similar taxes, tariffs, or duties incurred in the performance of the Work.

7.5.1.15 Costs for permits, royalties, licenses, tests and inspections incurred by Design-Builder as a requirement of the Contract Documents.

7.5.1.16 Deposits which are lost due to the actions of the Owner.

7.5.1.17 Costs incurred in preventing damage, injury, or loss in case of an emergency affecting the safety of persons and property, except to the extent such emergency was caused in whole or in part by the negligence of Design-Builder.

7.5.1.18 Accounting and data processing costs related to the Work.

7.5.1.19 Other costs reasonably and properly incurred in the performance of the Work to the extent approved in writing by Owner.

7.5.2 Non-Reimbursable Costs. The following shall be excluded from the Cost of the Work:

7.5.2.1 Compensation for Design-Builder's personnel stationed at Design-Builder's principal or branch offices, except as provided for in Sections 7.5.1.1, 7.5.1.2, and 7.5.1.3 hereof.

7.5.2.2 Overhead and general expenses, except as provided for in Section 7.5.1 hereof, or which may be recoverable for changes to the Work.

7.5.2.3 The cost of Design-Builder's capital used in the performance of the Work.

7.5.2.4 If the parties have agreed on a GMP, costs that would cause the GMP, as adjusted in accordance with the Contract Documents, to be exceeded.

7.6 The Guaranteed Maximum Price.

7.6.1 Design-Builder guarantees that it shall not exceed the GMP of Thirty Nine Million Four Hundred and Fifty Thousand Dollars (\$39,450,000.00 ). Documents used as a basis for the GMP shall be identified in the Contract Price Amendment to this Agreement. Design-Builder does not guarantee any specific line item provided as part of the GMP, and has the sole discretion to apply payment due to overruns in one line item to savings due to underruns in any other line item. Design-Builder agrees, however, that it will be responsible for paying all costs of completing the Work which exceed the GMP, as adjusted in accordance with the Contract Documents.

7.6.2 The GMP includes a Contingency, which is available for Design-Builder's exclusive use for unanticipated costs it has incurred that are not the basis for a Change Order under the Contract Documents. By way of example, and not as a limitation, such costs may include: (a) trade buy-out differentials; (b) overtime or acceleration; (c) escalation of materials; (d) correction of defective, damaged or nonconforming Work, design errors or omissions, however caused; (e) Subcontractor defaults; or (f) those events under Section 8.2.2 of the General Conditions of Contract that result in an extension of the Contract Time but do not result in an increase in the Contract Price. The Contingency is not available to Owner for any reason, including changes in scope or any other item which would enable Design-Builder to increase the GMP under the Contract Documents. Design-Builder shall provide Owner notice of all anticipated charges against the Contingency, and shall provide Owner as part of the monthly status report required by Section 2.1.2 of the General Conditions of Contract an accounting of the Contingency, including all reasonably foreseen uses or potential uses of the Contingency in the upcoming three (3) months. Design-Builder agrees that with respect to any expenditure from the Contingency relating to a Subcontractor default or an event for which insurance or bond may provide reimbursement, Design-Builder will in good faith exercise reasonable steps to obtain performance from the Subcontractor and/or recovery from any surety or insurance company. Design-Builder agrees that if Design-Builder is subsequently reimbursed for said costs, then said recovery will be credited back to the Contingency.

7.6.3 Savings.

7.6.3.1 If the sum of the actual Cost of the Work and Design-Builder's Fee (and, if applicable, any prices established under Section 7.1.3 hereof) is less than the GMP, as such GMP may have been adjusted over the course of the Project, the difference ("Savings") shall be shared as follows:



One Hundred percent (100%) to Owner.

7.6.3.2 Savings shall be calculated and paid as part of Final Payment under Section 8.4 hereof, with the understanding that to the extent Design-Builder incurs costs after Final Completion which would have been payable to Design-Builder as a Cost of the Work, the parties shall recalculate the Savings in light of the costs so incurred, and Design-Builder shall be paid by Owner accordingly.

7.7 Allowance Items and Allowance Values.

7.7.1 Any and all Allowance Items, as well as their corresponding Allowance Values, are set forth in the Contract Price Amendment or the Proposal.

7.7.2 Design-Builder and Owner have worked together to review the Allowance Items and Allowance Values based on design information then available to determine that the Allowance Values constitute reasonable estimates for the Allowance Items. Design-Builder and Owner will continue working closely together during the preparation of the design to develop Construction Documents consistent with the Allowance Values. Nothing herein is intended in any way to constitute a guarantee by Design-Builder that the Allowance Item in question can be performed for the Allowance Value.

7.7.3 No work shall be performed on any Allowance Item without Design-Builder first obtaining in writing advanced authorization to proceed from Owner. Owner agrees that if Design-Builder is not provided written authorization to proceed by the date set forth in the Project schedule, due to

no fault of Design-Builder, Design-Builder may be entitled to an adjustment of the Contract Time(s) and Contract Price.

7.7.4 The Allowance Value includes the direct cost of labor, materials, equipment, transportation, taxes, and insurance associated with the applicable Allowance Item. All other costs, including design fees, Design-Builder's overall project management and general conditions costs, overhead and Fee, are deemed to be included in the original Contract Price, and are not subject to adjustment notwithstanding the actual amount of the Allowance Item.

7.7.5 Whenever the actual costs for an Allowance Item is more than or less than the stated Allowance Value, the Contract Price shall be adjusted accordingly by Change Order, subject to Section 7.7.4. The amount of the Change Order shall reflect the difference between actual costs incurred by Design-Builder for the particular Allowance Item and the Allowance Value.

## **Article 8**

### **Procedure for Payment**

8.1 Payment for Preliminary Services. Design-Builder and Owner agree upon the following method for partial and final payment to Design-Builder for the services hereunder: *(Insert terms.)*

8.2 Contract Price Progress Payments.

8.2.1 Design-Builder shall submit to Owner on the (First) day of each month, beginning with the first month after the Date of Commencement, Design-Builder's Application for Payment in accordance with Article 6 of the General Conditions of Contract.

8.2.2 Owner shall make payment within thirty (30) days after Owner's receipt of each properly submitted and accurate Application for Payment in accordance with Article 6 of the General Conditions of Contract, but in each case less the total of payments previously made, and less amounts properly withheld under Section 6.3 of the General Conditions of Contract.

8.2.3 If Design-Builder's Fee under Section 7.4 hereof is a fixed amount, the amount of Design-Builder's Fee to be included in Design-Builder's monthly Application for Payment and paid by Owner shall be proportional to the percentage of the Work completed, less payments previously made on account of Design-Builder's Fee.

8.3 Retainage on Progress Payments.

8.3.1 Owner will retain Ten percent (10 %) of each Application for Payment provided, however, that when fifty percent (50%) of the Work has been satisfactorily completed by Design-Builder and Design-Builder is otherwise in compliance with its contractual obligations, Owner will not retain any additional retention amounts from Design-Builder's subsequent Applications for Payment. Owner will also reasonably consider reducing retainage for Subcontractors completing their work early in the Project.

8.3.2 Within thirty (30) days after Substantial Completion of the entire Work or, if applicable, any portion of the Work, pursuant to Section 6.6 of the General Conditions of Contract, Owner shall release to Design-Builder all retained amounts relating, as applicable, to the entire Work or completed portion of the Work, less an amount equal to: (a) the reasonable value of all remaining or incomplete items of Work as noted in the Certificate of Substantial Completion; and (b) all other amounts Owner is entitled to withhold pursuant to Section 6.3 of the General Conditions of Contract.

8.4 Final Payment. Design-Builder shall submit its Final Application for Payment to Owner in accordance with Section 6.7 of the General Conditions of Contract. Owner shall make payment on Design-Builder's properly submitted and accurate Final Application for Payment (less any amount the parties may have agreed to set aside for warranty work) within thirty (30) days after Owner's receipt of the Final Application for Payment, provided that: (a) Design-Builder has satisfied the requirements for final payment set forth in Section 6.7.2 of the General Conditions of Contract.

8.5 Record Keeping and Finance Controls. Design-Builder acknowledges that this Agreement is to be administered on an "open book" arrangement relative to Costs of the Work. Design-Builder shall keep full and detailed accounts and exercise such controls as may be necessary for proper financial management, using accounting and control systems in accordance with generally accepted accounting principles and as may be provided in the Contract Documents. During the performance of the Work and for a period of three (3) years after Final Payment, Owner and Owner's accountants shall be afforded access to, and the right to audit from time to time, upon reasonable notice, Design-Builder's records, books, correspondence, receipts, subcontracts, purchase orders, vouchers, memoranda, and other data relating to the Work, all of which Design-Builder shall preserve for a period of three (3) years after Final Payment. Such inspection shall take place at Design-Builder's offices during normal business hours unless another location and time is agreed to by the parties. Any multipliers or markups agreed to by the Owner and Design-Builder as part of this Agreement are only subject to audit to confirm that such multiplier or markup has been charged in accordance with this Agreement, but the composition of such multiplier or markup is not subject to audit. Any lump sum agreed to by the Owner and Design-Builder as part of this Agreement is not subject to audit.

## **Article 9**

### **Termination for Convenience**

9.1 Upon ten (10) days' written notice to Design-Builder, Owner may, for its convenience and without cause, elect to terminate this Agreement. In such event, Owner shall pay Design-Builder for the following:

9.1.1 All services performed and Work executed and for proven loss, cost, or expense in connection with the services and Work;

9.1.2 The reasonable costs and expenses attributable to such termination, including demobilization costs and amounts due in settlement of terminated contracts with Subcontractors and Design Consultants; and

9.1.3 The fair and reasonable sums for overhead and profit on the sum of items 9.1.1 and 9.1.2 above.

9.2 In addition to the amounts set forth in Section 9.1 above, Design-Builder shall be entitled to receive one of the following as applicable:

9.2.1 If Owner terminates this Agreement prior to commencement of construction, Design-Builder shall be paid for the remaining balance of the cost of time and material.

9.3 If Owner terminates this Agreement pursuant to Section 9.1 above and proceeds to design and construct the Project through its employees, agents or third parties, Owner's rights to use the Work Product shall be as set forth in Section 5.3 hereof. Such rights may not be transferred or assigned to others without Design-Builder's express written consent and such third parties' agreement to the terms of Article 5.

## **Article 10**

### **Representatives of the Parties**

#### 10.1 Owner's Representatives.

10.1.1 Owner designates the individual listed below as its Senior Representative ("Owner Senior Representative"), which individual has the authority and responsibility for avoiding and resolving disputes under Section 10.2.3 of the General Conditions of Contract: *(Identify individual's name, title, address, and telephone numbers.)*

10.1.2 Owner designates the individual listed below as its Owner's Representative, which individual has the authority and responsibility set forth in Section 3.4 of the General Conditions of Contract: *(Identify individual's name, title, address, and telephone numbers.)*

#### 10.2 Design-Builder's Representatives.

10.2.1 Design-Builder designates the individual listed below as its Senior Representative ("Design-Builder's Senior Representative"), which individual has the authority and responsibility for avoiding and resolving disputes under Section 10.2.3 of the General Conditions of Contract: *(Identify individual's name, title, address, and telephone numbers.)*

10.2.2 Design-Builder designates the individual listed below as its Design-Builder's Representative, which individual has the authority and responsibility set forth in Section 2.1.1 of the General Conditions of Contract: *(Identify individual's name, title, address, and telephone numbers.)*

## **Article 11**

### **Bonds and Insurance**

11.1 Insurance. Design-Builder and Owner shall procure the insurance coverages set forth in the Insurance Exhibit attached hereto and in accordance with Article 5 of the General Conditions of Contract.

11.2 Bonds and Other Performance Security. Design-Builder shall provide the following performance bond and labor and material payment bond or other performance security:

Performance Bond.

Required                       Not Required

Payment Bond.

Required                       Not Required

## Article 12

### **Other Provisions**

12.1 Other provisions, if any, are as follows: SRF Construction Contract Provisions

12.1.1 Notwithstanding Section 2.3.1 of the General Conditions of Contract, if the parties agree upon specific performance standards in the Basis of Design Documents, the design professional services shall be performed to achieve such standards for the applicable/specified Work.

12.1.2 Any claims, disputes, or controversies between the parties arising out of or related to the Agreement, or the breach thereof, which have not been resolved in accordance with the procedures set forth in Section 10.2 of the General Conditions of Contract shall be resolved through legal proceedings in the District Court of Johnson County, Kansas which shall be the sole and exclusive venue for resolution of any such claims, disputes or controversies.

12.1.3 Licensing Requirements

12.1.3.1 The Design-Builder must be authorized to do business in the State of Kansas. If the Design-Builder is a corporation organized outside the State of Kansas it shall review it's authorization with the State of Kansas and if necessary file the required documentation with the State of Kansas in order to receive authorization to do business in the State of Kansas. The Design-Builder, if organized outside the State of Kansas, must furnish evidence to the Owner of their authority to do business in the State of Kansas. Such evidence must be furnished to the Owner prior to any Contract award.

12.1.3.2 The Design-Builder and all sub-contractors performing design and construction work on this project shall meet all licensing requirements of the City of Gardner for the work which they intend to perform.

12.1.4 Appointment of Process Agent

The Design-Builder, if not a resident of the State of Kansas, shall appoint a Process Agent being a resident of the State of Kansas. The Design-Builder shall submit with the GMP Proposal(s) the Appointment of Process Agent form as provided in Exhibit D to this Agreement. The Process Agent form will be filed with the Clerk of the District Court of the County in which the work is to be performed, as provided by law.

12.1.5 Non-Collusive Affidavit

The Design-Builder shall submit with the GMP Proposal(s) the Non-Collusive Affidavit as provide in Exhibit E to this Agreement.

12.1.6 Tax Exemption

12.1.6.1 All applicable taxes, sales, consumer, use and other similar taxes, imposed by any taxing authority, on materials, equipment or supplies to be incorporated in the work, shall be tax exempt.

12.1.6.2 Owner will provide the Design-Builder with the proper certificates and documentation needed to purchase material, equipment and supplies on a tax exempt basis (as is more particularly described in Section 12.1.6.3 below). The Design-Builder shall be required to furnish taxing authorities with such documentation, as may be required.

12.1.6.3 Pursuant to KSA 79-3606, both services and materials for this project are exempt from the Kansas Retailers' Sales Tax and the Kansas Compensating Tax. Within fifteen (15) days after the date of Contract approval, Owner will provide a Kansas Sales tax exemption certificate number to the Design-Builder. The Design-Builder and each Subcontractor or repairman must furnish the exemption certificate number to each supplier on Kansas Sales Tax Division Form STD 74. The exemption certificate number shall be placed on all invoices for material to be incorporated in the work. Design-Builder shall assume full responsibility for its failure to comply with its obligations in this section and shall pay all legally assessed penalties for improper use of the certificate number.

During the performance of this Agreement, the Design-Builder agrees that:

12.1.7.1 Design-Builder shall observe the provisions of the Kansas Act Against Discrimination (K.S.A. 44-1001 et seq.) and shall not discriminate against any person in the performance of work under the present contract because of race, religion, color, sex, disability, national origin, ancestry or age;

12.1.7.2 In all solicitations or advertisements for employees, the Design-Builder shall include the phrase, "equal opportunity employer," or a similar phrase to be approved by the commission;

12.1.7.3 If the Design-Builder fails to comply with the manner in which the Design-Builder reports to the commission in accordance with the provisions of K.S.A. 44-1031 and amendments thereto, the Design-Builder shall be deemed to have breached the present contract and it may be canceled, terminated or suspended, in whole or in part, by the City without penalty;

12.1.7.4 If the Design-Builder is found guilty of a violation of the Kansas Act Against Discrimination under a decision or order of the commission which has become final,

- i. The Design-Builder shall be deemed to have breached the present contract and it may be canceled, terminated or suspended, in whole or in part, by the contracting agency; and
- ii. The Design-Builder shall include the provisions of subsections (a) through (d) in every subcontract or purchase order so that such provisions will be binding upon such subcontractor or vendor.
- iii. The provisions of this section shall not apply to a contract entered into by the City with Design-Builder if:
- iv. Design-Builder employs fewer than four employees during the term of such contract; or
- v. Design-Builder's contract with the City total \$10,000 or less in aggregate.

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

#### 12.1.7 No Third Party Beneficiaries

Nothing contained herein shall create a contractual relationship with, or any rights in favor of, any third party.

#### 12.1.8 Independent Contractor

The Design-Builder is an independent contractor and as such is not an agent or employee of the City.

#### 12.1.9 Covenant Against Contingent Fees

Design-Builder warrants that he/she has not employed or retained any company or person, other than a bona fide employee working for Consultant, to solicit or secure this Agreement, and that he/she has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission,

percentage, brokerage fee, gifts, or any other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, City may terminate this Agreement without liability or may, in its discretion, deduct from the Contract Price or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.

#### 12.1.10 Compliance with Laws

Design-Builder shall abide by all applicable federal, state and local laws, ordinances and regulations applicable to the Work or the Project at the time Services are rendered, including but not limited to The Kansas Fairness in Public Construction Contract Act, K.S.A. 16-1901 et seq. Design-Builder shall secure all occupational and professional licenses and permits from public and private sources necessary for the fulfillment of his/her obligations under this Agreement.

#### 12.1.11 Titles, Subheads, and Capitalization

Title and subheadings as used herein are provided only as a matter of convenience and shall have no legal bearing on the interpretation of any provision of this Agreement. Some terms are capitalized throughout this Agreement but the use of or failure to use capitals shall have no legal bearing on the interpretation of such terms.

#### 12.1.13 Severability Clause

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

#### 12.1.14 Bidding Procedure, Subcontractor and Supplier Selection

12.1.14.1 For the purposes of this section, the term "Related Party" shall mean a parent, subsidiary, affiliate, or other entity having common ownership or management with the Design-Builder; any entity in which a stockholder in, or management employee of, the Design-Builder owns any interest in excess of ten percent in the aggregate; or and person or entity which has the right to control the business or affairs of the Design-Builder. The term Related Party includes any member of the immediate family of any person identified above.

12.1.14.2 At a time agreed upon by both the Design-Builder and Owner, the Design-Builder shall furnish in writing to the Owner a list of the names of Subcontractors and/or material and equipment suppliers, organized by specific trade, which the Design-Builder proposes to solicit bids for the Work required of the project. Except to the extent that Design-Builder and Owner Agree Otherwise, the Design-Builder shall make reasonable efforts to obtain no less than three (3) bids for each of the scopes of work and/or material and equipment required for the Work of the project. The Owner shall have the right to make suggested additions to or deletions from the list of bidders. The Design- Builder shall clearly identify in writing if any of the proposed Subcontractors and/or material and equipment suppliers which the Design-Builder proposes to obtain bids from is considered a Related Party. The Design-Builder shall not be prohibited from obtaining bids for work and/or material and equipment from a Related Party. However, except to the extent that Design-Builder and Owner agree Otherwise, the Design- Builder shall also obtain bids from no less than two other Subcontractors and suppliers for the same work, material, and/or equipment as is being proposed by a Related Party. Additionally, the Design-Builder shall identify in writing to the Owner all work which will be self-performed by the Design-Builder's personnel, and all material and equipment which will be provided directly by the Design-Builder. If Design-Builder has price agreements in place with preferred suppliers for materials and/or equipment required for this project, and if Design-Builder intends to utilize the preferred supplier for providing the materials and/or equipment required for this project, the Design-Builder shall identify such materials and/or equipment to the Owner. Additionally, unless Owner has designated or required use of the preferred supplier(s), the Design-Builder shall provide documentation to the satisfaction of the Owner demonstrating the pricing of the materials and/or equipment from the preferred supplier is competitive in price with the same

or substantially the same product as may be provided by another supplier.

12.1.14.3 Except to the extent that Design-Builder and Owner Agree Otherwise, the Design-Builder shall obtain bids from Subcontractors and/or suppliers of material and equipment for the Work required of the project. The Design-Builder shall prepare a tabulation of all bids received, and shall identify the Subcontractors and/or material and equipment suppliers which the Design-Builder recommends be awarded the work. The Design-Builder shall deliver to the Owner, for the Owner's review, a copy of the tabulation of all bids received. If so requested by the Owner, the Design-Builder shall submit to the Owner a copy of any and/or all bids received. The Owner and Design-Builder shall then review the tabulation of bids and confirm which bids will be accepted.

12.1.14.4 The Design-Builder shall not contract with any Subcontractor or supplier which the Owner has made a reasonable objection, and the Design-Builder shall not be required to contract with any Subcontractor or supplier to whom the Design-Builder has made a reasonable objection.

#### 12.1.15 Owner's Project Criteria

All Work completed by the Construction Manager under the terms of this Agreement shall be warranted by the Construction Manager for a period of two 2 years unless otherwise specifically stated in the Contract Documents to be warranted for a longer period of time, including any extended warranty or special warranty period if specified in the Contract Documents. The commencement of the warranty period is the date of Substantial Completion, unless specifically stated otherwise.

#### 12.2 Listing of Exhibits and documents incorporated herein:

Exhibit A – Owner's Project Criteria

Exhibit B – Scope of Services

Exhibit C – Design-Builder Personnel Hourly Rate Schedule

~~Exhibit D – Designation of Process Agent~~

Exhibit E – Non-Collusive Affidavit

Exhibit F – Insurance Exhibit

~~Exhibit G – SRF Construction Contract Provisions~~

Exhibit H – Fee Table

DBIA Document No. 535, Standard Form of General Conditions of Contract Between Owner and Design-Builder (2010 Edition) ("General Conditions of Contract")  
Contract Price Amendment, if any.

**Article 13**

**Limitation of Liability**

In executing this Agreement, Owner and Design-Builder each individually represents that it has the necessary financial resources to fulfill its obligations under this Agreement, and each has the necessary corporate approvals to execute this Agreement, and perform the services described herein.

**OWNER:**

**City of Gardner, Kansas**

\_\_\_\_\_  
*(Name of Owner)*

\_\_\_\_\_  
*(Signature)*

\_\_\_\_\_  
*(Printed Name)*

\_\_\_\_\_  
*(Title)*

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

**DESIGN-BUILDER:**

**Crossland Heavy Contractors, Inc.**

\_\_\_\_\_  
*(Name of Design-Builder)*

\_\_\_\_\_  
*(Signature)*

\_\_\_\_\_  
*(Printed Name)*

\_\_\_\_\_  
*(Title)*

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

CORPORATE RESOLUTION

BE IT RESOLVED: that at the monthly meeting of the Board of Directors of Crossland Heavy Contractors, Inc., held on the 27th day of October 2023, the Board of Directors did, by unanimous decision, authorize Mark Sell, Chris Walters, Justin Lillie, Dan Thompson, Erick Lowe or Ivan Crossland, Jr. to sign on behalf of said Corporation all documents and papers pertaining to the business of said Corporation.

All documents signed by Mark Sell, Chris Walters, Justin Lillie, Dan Thompson, Erick Lowe or Ivan Crossland, Jr. on behalf of Crossland Heavy Contractors, Inc. shall be legally binding on Crossland Heavy Contractors, Inc. and their successors and assigns.

  
Dan Thompson, President

**ATTEST**  
Holly Rhodes, Secretary

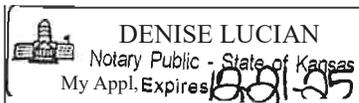
State of Kansas, County of Cherokee:

Before me, the undersigned Notary Public in and for the County and State aforesaid, personally appeared Dan Thompson, President of Crossland Heavy Contractors, Inc. a corporation duly organized and existing in the State of Kansas, and he acknowledged the same on behalf of said Corporation.

In witness thereof I have set my hand and affixed my seal this \_\_\_\_\_ day of \_\_\_\_\_ 2023.

  
Notary Public

My Commission Expires: (            -



## **Exhibit A – Owner’s Project Criteria**

Please refer to the Basis of Design Report Dated June 7th, 2024 by Black and Veatch

## **Exhibit B - Scope of Services**

Please reference the GMP proposal submitted by Crossland Heavy Contractors, Inc. on June 11th, 2024

**Exhibit C – Design-Builder Personnel Hourly Rate Schedule**

**EXHIBIT C - DESIGN-BUILDER PERSONNEL HOURLY RATE SCHEDULE**



COMPANY	KILL CREEK WRRF D/B IMPROVEMENTS	Delivery Method: DESIGN-BUILD	
	ROLE	RATE	UNIT
CHC	Project Executive	\$ 160.00	HR
CHC	Project Manager	\$ 140.00	HR
CHC	Assistant Project Manager	\$ 100.00	HR
CHC	Pre-Construction Manager	\$ 140.00	HR
CHC	Lead Estimator	\$ 125.00	HR
CHC	Procurement Manager	\$ 100.00	HR
CHC	Project Superintendent	\$ 140.00	HR
CHC	Assistant Superintendent	\$ 100.00	HR
CHC	Field Engineer	\$ 85.00	HR
CHC	Contract Administrator	\$ 75.00	HR
BV	Project Director	\$ 400.00	HR
BV	Process Director	\$ 275.00	HR
BV	Discipline Director/Quality Control/Senior Engineer	\$ 235.00	HR
BV	Project Manager	\$ 165.00	HR
BV	Project Control Specialist	\$ 116.00	HR
BV	Project Finances	\$ 235.00	HR
BV	Engineering Manager	\$ 235.00	HR
BV	Geotechnical Engineer	\$ 162.00	HR
BV	Civil Engineer	\$ 175.00	HR
BV	Structural Engineer	\$ 175.00	HR
BV	Architect	\$ 165.00	HR
BV	Mechanical Engineer	\$ 175.00	HR
BV	Chemical Engineer	\$ 168.00	HR
BV	Electrical Engineer	\$ 155.00	HR
BV	I&C Engineer	\$ 190.00	HR
BV	Process Engineer	\$ 210.00	HR
BV	CAD Coordinator	\$ 160.00	HR
BV	Senior CAD Technician	\$ 135.00	HR
BV	CAD Technician	\$ 128.00	HR

**Exhibit E – Non-Collusive Affidavit**



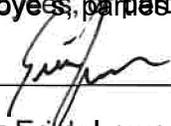
NONCOLLUSION AFFIDAVIT OF PRIME BIDDER

PROJECT # \_\_\_\_\_

STATE OF Kansas )  
COUNTY OF Johnson )

Erick Lowe, being first duly sworn deposes and says that:

- (1) He is an authorized representative of Crossland Heavy Contractors, the Bidder that has submitted the attached Bid;
- (2) He is fully informed respecting the preparation and contents of the attached Bid and of all pertinent circumstances respecting such Bid;
- (3) Such Bid is genuine and is not a collusive or sham bid;
- (4) Neither the said Bidder nor any of its officers, partners, owners, agents, representatives, employees of parties in interest, including this affiant, has in any way colluded, conspired, connived, or agreed, directly or indirectly with any other Bidder, firm or person to submit a collusive or sham Bid in connection with the Contract for which the attached Bid has been submitted or to refrain from bidding in connection with such contract, or has in any manner, directly or indirectly, sought by agreement or collusion or communication or conference with any other Bidder, firm or person to fix the price or prices or cost element of the Bid price or the Bid price of any other Bidder, or to secure through any collusion, conspiracy, connivance or unlawful agreement any advantage against the City of Gardner, KS or any person interested in the proposed Contract;
- (5) The price or prices quoted in the attached Bid are fair and proper and are not tainted by any collusion, conspiracy, connivance or unlawful agreement on the part of the Bidder or any of its agents, representatives, owners, employees, parties in interest, including this affiant.

By: 

Name: Erick Lowe

Title: Kansas City Division Manager

Bidder: Crossland Heavy Contractors

Subscribed and sworn to before me this 11th day of June, 2024 by \_\_\_\_\_

\_\_\_\_\_  
(Signature of Notary Public)

(seal, if any)

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

## **Exhibit F – Insurance Exhibit**



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

6/6/2024

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

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

<b>PRODUCER</b> IMA, Inc. - Kansas City 11350 Switzer Rd Suite 200 Overland Park KS 66210  License#: PC-1210733	<b>CONTACT NAME:</b> IMA Wichita Team <b>PHONE:</b> 316-267-9221 <b>(A/C, No, Ext):</b> <b>FAX:</b> <b>(A/C, No):</b> <b>E-MAIL:</b> certs@imacorp.com <b>ADDRESS:</b>													
	<table border="1"> <thead> <tr> <th>INSURER(S) AFFORDING COVERAGE</th> <th>NAIC #</th> </tr> </thead> <tbody> <tr> <td><b>INSURER A:</b> Zurich American Insurance Company</td> <td>16535</td> </tr> <tr> <td><b>INSURER B:</b> American Guarantee and Liability Insurance</td> <td>26247</td> </tr> <tr> <td><b>INSURER C:</b> Arch Insurance Company</td> <td>11150</td> </tr> <tr> <td><b>INSURER D:</b> *Starr Indemnity &amp; Liability Company</td> <td>38318</td> </tr> <tr> <td><b>INSURER E:</b></td> <td></td> </tr> <tr> <td><b>INSURER F:</b></td> <td></td> </tr> </tbody> </table>	INSURER(S) AFFORDING COVERAGE	NAIC #	<b>INSURER A:</b> Zurich American Insurance Company	16535	<b>INSURER B:</b> American Guarantee and Liability Insurance	26247	<b>INSURER C:</b> Arch Insurance Company	11150	<b>INSURER D:</b> *Starr Indemnity & Liability Company	38318	<b>INSURER E:</b>		<b>INSURER F:</b>
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<b>INSURER E:</b>														
<b>INSURER F:</b>														
<b>INSURED</b> Crossland Heavy Contractors, Inc. PO Box 45 833 S. East Avenue Columbus KS 66725  CROSCON-03														

**COVERAGES**

CERTIFICATE NUMBER: 129133468

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	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input checked="" type="checkbox"/> LOC <input type="checkbox"/> OTHER:			GLO859600804	4/30/2024	4/30/2025	EACH OCCURRENCE \$5,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$2,000,000 MED EXP (Any one person) \$15,000 PERSONAL & ADV INJURY \$5,000,000 GENERAL AGGREGATE \$10,000,000 PRODUCTS - COMP/OP AGG \$10,000,000 \$
A	<b>AUTOMOBILE LIABILITY</b> <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY			BAP859615304	4/30/2024	4/30/2025	COMBINED SINGLE LIMIT (Ea accident) \$5,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
B	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$0			AUC425515003	4/30/2024	4/30/2025	EACH OCCURRENCE \$10,000,000 AGGREGATE \$10,000,000 \$
A	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below Y/N <input type="checkbox"/> N/A			WC859600704	4/30/2024	4/30/2025	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$2,000,000 E.L. DISEASE - EA EMPLOYEE \$2,000,000 E.L. DISEASE - POLICY LIMIT \$2,000,000
C	2nd Layer Excess Liability			UXP300009002	4/30/2024	4/30/2025	Ea Occur \$15,000,000 Agg \$15,000,000
D	3rd Layer Excess Liability			1000588349241	4/30/2024	4/30/2025	Ea Occur \$15,000,000 Agg \$15,000,000

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

RE: Insurance qualification for Kill Creek Wastewater System Improvements. Additional coverages are available at the request of Crossland Heavy Contractors, Inc.

**CERTIFICATE HOLDER****CANCELLATION**

The City of Gardner, Kansas  
 120 E. Main St  
 Gardner KS 66030

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

AUTHORIZED REPRESENTATIVE

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June 6, 2024

Zurich Insurance Company

7045 College Blvd

Overland Park, KS 66211

RE: Crossland Construction Company, Inc. and Crossland Heavy Contractors, Inc.  
Policy Term: 4/30/2024-4/30/2025

To Whom It May Concern,

Crossland Construction Company, Inc. has been a Zurich client since April 2020 and is in good standing. It is Zurich's intent to continue our relationship with Crossland Construction Company, Inc. subject to the normal underwriting process.

Sincerely,

*Robin Toler*

Robin Toler

Underwriter-Construction Casualty

**Exhibit H – Fee Table**

**EXHIBIT H - FEE TABLE**



COMPANY	KILL CREEK WRRF D/B IMPROVEMENTS	
	ROLE	PERCENTAGES
CHC	GENERAL CONDITIONS	7.25%
CHC	BONDS AND INSURANCE	1.50%
CHC	CONSTRUCTION MANAGEMENT FEE	6.00%

# Standard Form of General Conditions of Contract Between Owner and Design-Builder

**Document No. 535**

Second Edition, 2010

© Design-Build Institute of America  
Washington, D.C.





## Design-Build Institute of America - Contract Documents

### LICENSE AGREEMENT

By using the DBIA Contract Documents, you agree to and are bound by the terms of this License Agreement.

- 1. License.** The Design-Build Institute of America ("DBIA") provides DBIA Contract Documents and licenses their use worldwide. You acknowledge that DBIA Contract Documents are protected by the copyright laws of the United States. You have a limited nonexclusive license to: (a) Use DBIA Contract Documents on any number of machines owned, leased or rented by your company or organization; (b) Use DBIA Contract Documents in printed form for bona fide contract purposes; and (c) Copy DBIA Contract Documents into any machine-readable or printed form for backup or modification purposes in support of your permitted use.
- 2. User Responsibility.** You assume sole responsibility for the selection of specific documents or portions thereof to achieve your intended results, and for the installation, use, and results obtained from the DBIA Contract Documents. You acknowledge that you understand that the text of the DBIA Contract Documents has important legal consequences and that consultation with an attorney is recommended with respect to use or modification of the text. You will not represent that any of the contract documents you generate from DBIA Contract Documents are DBIA documents unless (a) the document text is used without alteration or (b) all additions and changes to, and deletions from, the text are clearly shown.
- 3. Copies.** You may not use, copy, modify, or transfer DBIA Contract Documents, or any copy, modification or merged portion, in whole or in part, except as expressly provided for in this license. Reproduction of DBIA Contract Documents in printed or machine-readable format for resale or educational purposes is expressly prohibited. You will reproduce and include DBIA's copyright notice on any printed or machine-readable copy, modification, or portion merged into another document or program.
- 4. Transfers.** You may not transfer possession of any copy, modification or merged portion of DBIA Contract Documents to another party, except that a party with whom you are contracting may receive and use such transferred material solely for purposes of its contract with you. You may not sublicense, assign, or transfer this license except as expressly provided in this Agreement, and any attempt to do so is void.
- 5. Term.** The license is effective for one year from the date of purchase. DBIA may elect to terminate it earlier, by written notice to you, if you fail to comply with any term or condition of this Agreement.
- 6. Limited Warranty.** DBIA warrants the electronic files or other media by which DBIA Contract Documents are furnished to be free from defects in materials and workmanship under normal use during the Term. There is no other warranty of any kind, expressed or implied, including, but not limited to the implied warranties of merchantability and fitness for a particular purpose. Some states do not allow the exclusion of implied warranties, so the above exclusion may not apply to you. This warranty gives you specific legal rights and you may also have other rights which vary from state to state. DBIA does not warrant that the DBIA Contract Documents will meet your requirements or that the operation of DBIA Contract Documents will be uninterrupted or error free.
- 7. Limitations of Remedies.** DBIA's entire liability and your exclusive remedy shall be: the replacement of any document not meeting DBIA's "Limited Warranty" which is returned to DBIA with a copy of your receipt, or at DBIA's election, your money will be refunded. In no event will DBIA be liable to you for any damages, including any lost profits, lost savings or other incidental or consequential damages arising out of the use or inability to use DBIA Contract Documents even if DBIA has been advised of the possibility of such damages, or for any claim by any other party. Some states do not allow the limitation or exclusion of liability for incidental or consequential damages, so the above limitation or exclusion may not apply to you.
- 8. Acknowledgement.** You acknowledge that you have read this agreement, understand it and agree to be bound by its terms and conditions and that it will be governed by the laws of the District of Columbia. You further agree that it is the complete and exclusive statement of your agreement with DBIA which supersedes any proposal or prior agreement, oral or written, and any other communications between the parties relating to the subject matter of this agreement.

# INSTRUCTIONS

For DBIA Document No. 535 Standard Form of General Conditions of Contract Between Owner and Design-Builder (2010 Edition)

## General Instructions

No.	Subject	Instruction
1.	Standard Forms	Standard form contracts have long served an important function in the United States and international construction markets. The common purpose of these forms is to provide an economical and convenient way for parties to contract for design and construction services. As standard forms gain acceptance and are used with increased frequency, parties are able to enter into contracts with greater certainty as to their rights and responsibilities.
2.	DBIA Standard Form Contract Documents	Since its formation in 1993, the Design-Build Institute of America (DBIA) has regularly evaluated the needs of owners, design-builders, and other parties to the design-build process in preparation for developing its own contract forms. Consistent with DBIA's mission of promulgating best design-build practices, DBIA believes that the design-build contract should reflect a balanced approach to risk that considers the legitimate interests of all parties to the design-build process. DBIA's Standard Form Contract Documents reflect a modern risk allocation approach, allocating each risk to the party best equipped to manage and minimize that risk, with the goal of promoting best design-build practices.
3.	Use of Non-DBIA Documents	To avoid inconsistencies among documents used for the same project, DBIA's Standard Form Contract Documents should not be used in conjunction with non-DBIA documents unless the non-DBIA documents are appropriately modified on the advice of legal counsel. Moreover, care should also be taken when using different editions of the DBIA Standard Form Document on the same project to ensure consistency.
4.	Legal Consequences	DBIA Standard Form Contract Documents are legally binding contracts with important legal consequences. Contracting parties are advised and encouraged to seek legal counsel in completing or modifying these Documents.
5.	Reproduction	DBIA hereby grants to purchasers a limited license to reproduce its Documents consistent with the License Agreement accompanying these Documents. At least two original versions of the Agreement should be signed by the parties. Any other reproduction of DBIA Documents is strictly prohibited.
6.	Modifications	<p>Effective contracting is accomplished when the parties give specific thought to their contracting goals and then tailor the contract to meet the unique needs of the project and the design-build team. For that reason, these Documents may require modification for various purposes including, for example, to comply with local codes and laws, or to add special terms. DBIA's latest revisions to its Documents provide the parties an opportunity to customize their contractual relationship by selecting various optional contract clauses that may better reflect the unique needs and risks associated with the project.</p> <p>Any modifications to these Documents should be initialed by the parties. At no time should a document be re-typed in its entirety. Re-creating the document violates copyright laws and destroys one of the advantages of standard forms-familiarity with the terms.</p>
7.	Execution	It is good practice to execute two original copies of the Agreement. Only persons authorized to sign for the contracting parties may execute the Agreement.

## Specific Instructions

Section	Title	Instruction
General	Purpose of This Document	<p>The General Conditions of Contract provide the terms and conditions under which the Work of the Project will be performed.</p> <p>This document accompanies DBIA Document No. 545 as has been modified by the parties and entered into contemporaneous with these General Conditions (each referred to herein generally as "Agreement"). To the extent that there are any conflicts between the modified DBIA Document No. 545 and this DBIA Document No. 535, the terms of the parties modified DBIA Document No. 545 shall prevail and control.</p>
General	Checklist	<p>The following Sections reference documents that are to be attached to the Agreement:</p> <p>Section 3.5.1 Owner's Permit List            Article 5 Insurance and Bonds            Section 9.4.2 Unit Prices</p>
2.1.3	Schedule	The parties are encouraged, if possible, to agree to a schedule for the execution of the Work upon execution of the Agreement or upon establishing the GMP.
2.2.1	Design Professional Services	The parties should be aware that in addition to requiring compliance with state licensing laws for design professionals, some states also require that the design professional have a corporate professional license.
2.3.1	Standard of Care for Design Professional's Services	Design-Builder's obligation is to deliver a design that meets prevailing industry standards. However, DBIA has provided the parties at Article 11 of the Agreement an optional provision whereby if Owner can identify specific performance standards that can be objectively measured, Design-Builder is obligated to design the Project to satisfy these standards if this optional provision is selected. To avoid any confusion and to ensure that the parties fully understand what their obligations are, the specific performance standards should be clearly identified and should be able to be objectively measured. The Design-Builder should recognize that this is a heightened standard of care that has insurance ramifications that should be discussed with the Design-Builder's insurance advisor.
3.5.1	Government Approvals and Permits	Design-Builder is responsible for obtaining all necessary permits, approvals and licenses, except to the extent specific permits, approvals, and licenses are set forth in an Owner's Permit List, which must be attached as an exhibit to the Agreement. The parties, prior to execution of the Agreement, should discuss which permits, approvals and licenses need to be obtained for the Project and which party is in the best position to do so.
5.1.1	Design-Builder's Insurance Requirements	Design-Builder is obligated to provide insurance coverage from insurance carriers that meet the criteria set forth in the Insurance Exhibit attached to Section 10.1 of the Agreement.
5.1.2	Exclusions to Design-Build	Parties are advised that their standard insurance policies may contain exclusions for the design-build delivery method. This Section 5.1.2 requires that any such exclusions be deleted from the policy.
5.2	Owner's Insurance Requirements	Owner, in addition to providing the insurance set forth in this Section and Section 5.3, is also obligated to procure the insurance coverages for the amounts and consistent with the terms set forth in the Insurance Exhibit made part of the Agreement.
5.4	Bonds and Other Performance Security	Design-Builder is only obligated to provide bonds or other forms of performance security to the extent called for in Section 10.2 of the Agreement.

<b>Section</b>	<b>Title</b>	<b>Instruction</b>
8.2.2	Compensability for Force Majeure Events	The parties are provided the option in the Agreement of negotiating whether the Design-Builder is entitled to compensation for Force Majeure Events.
9.4.1	Contract Price Adjustments	Unit prices, if established, shall be attached pursuant to Article 2 of the Agreement.
9.4.3	Payment/ Performance of Disputed Services	When Owner disputes Design-Builder's entitlement to a change order or disagrees with Design-Builder regarding the scope of Work, and nevertheless expects Design-Builder to perform the services, Design-Builder's cash flow and ability to complete the Work will be hampered if Owner fails to pay Design-Builder for the disputed services. This Section provides a balanced approach whereby Design-Builder is required to perform the services, but Owner is required to pay fifty percent (50%) of Design-Builder's reasonable estimated direct costs of performing such services until the dispute is settled. By so doing, Owner does not forfeit its right to deny total responsibility for payment, and Design-Builder does not give up its right to demand full payment. The dispute shall be resolved according to Article 10.
Article 10	Contract Adjustments and Disputes	DBIA endorses the use of partnering, negotiation, mediation and arbitration for the prevention and resolution of disputes. The General Conditions of Contract provides for the parties' Representatives and Senior Representatives to attempt to negotiate the dispute or disagreement. If this attempt fails, the dispute shall be submitted to mandatory, non-binding mediation. Any dispute that cannot be resolved by mediation shall then be submitted to binding arbitration, unless the parties elect in the Agreement to submit their dispute to a court of competent jurisdiction.
10.3.4	Arbitration	The prevailing party in any arbitration shall receive reasonable attorneys' fees from the other party. DBIA supports this "loser pays" provision to encourage parties to negotiate or mediate their differences and to minimize the number of frivolous disputes.
10.4	Duty to Continue Performance	Pending the resolution of any dispute or disagreement, both Owner and Design-Builder shall continue to perform their respective duties under the Contract Documents, unless the parties provide otherwise in the Contract Documents.
10.5	Consequential Damages	DBIA believes that it is inappropriate for either Owner or Design-Builder to be responsible to the other for consequential damages arising from the Project. This limitation on consequential damages in no way restricts, however, the payment of liquidated damages, if any, under Article 5 of the Agreement.
11.4	Design-Builder's Right to Terminate for Cause	If Design-Builder properly terminates the Agreement for cause, it shall recover from Owner in the same way as if Owner had terminated the Agreement for convenience under Article 8 of the Agreement. Owner shall pay to Design-Builder its costs, reasonable overhead and profit on the costs, and an additional payment based on a percentage of the remaining balance of the Contract Price, all as more fully set forth in Article 8 of the Agreement.
Article 12	Electronic Data	Design-Builder and Owner shall agree on the software and format for the transmission of Electronic Data. Ownership of Work Product in electronic form is governed by Article 4 of the Agreement. The transmitting party disclaims all warranties with respect to the media transmitting the Electronic Data, but nothing in this Article is intended to negate duties with respect to the standard of care in creating the Electronic Data.

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# Article 1

## General

### 1.1 Mutual Obligations

**1.1.1** *Owner and Design-Builder* commit at all times to cooperate fully with each other, and proceed on the basis of trust and good faith, to permit each party to realize the benefits afforded under the Contract Documents.

### 1.2 Basic Definitions

**1.2.1** *Agreement* refers to the executed contract between Owner and Design-Builder under the modified DBIA Document No. 545, Progressive Design-Build Agreement for Water and Wastewater Projects (2016 Edition).

**1.2.2** *Basis of Design Documents* are as follows: For DBIA Document No. 545 Progressive Design-Build Agreement for Water and Wastewater Projects (2016 Edition)

**1.2.3** *Construction Documents* are the documents, consisting of Drawings and Specifications, to be prepared or assembled by the Design-Builder consistent with the Basis of Design Documents unless a deviation from the Basis of Design Documents is specifically set forth in a Change Order executed by both the Owner and Design-Builder, as part of the design review process contemplated by Section 2.4 of these General Conditions of Contract.

**1.2.4** *Day or Days* shall mean calendar days unless otherwise specifically noted in the Contract Documents.

**1.2.5** *Design-Build Team* is comprised of the Design-Builder, the Design Consultant, and key Subcontractors identified by the Design-Builder.

**1.2.6** *Design Consultant* is a qualified, licensed design professional who is not an employee of Design-Builder, but is retained by Design-Builder, or employed or retained by anyone under contract with Design-Builder, to furnish design services required under the Contract Documents. A Design Sub-Consultant is a qualified, licensed design professional who is not an employee of the Design Consultant, but is retained by the Design Consultant or employed or retained by anyone under contract to Design Consultant, to furnish design services required under the Contract Documents.

**1.2.7** *Final Completion* is the date on which all Work is complete in accordance with the Contract Documents, including but not limited to, any items identified in the punch list prepared under Section 6.6.1 and the submission of all documents set forth in Section 6.7.2.

**1.2.8** *Force Majeure Events* are those events that are beyond the control of both Design-Builder and Owner, including the events of war, floods, labor disputes, earthquakes, epidemics, adverse weather conditions not reasonably anticipated, and other acts of God.

**1.2.9** *General Conditions of Contract* refer to this DBIA Document No. 535, *Standard Form of General Conditions of Contract Between Owner and Design-Builder* (2010 Edition).

**1.2.10** *GMP Exhibit* means that exhibit attached to DBIA Document No. 545, Progressive Design-Build Agreement for Water and Wastewater Projects (2016 Edition), which exhibit will have been agreed upon by Owner and Design-Builder prior to the execution of the Agreement.

**1.2.11** *GMP Proposal* means that proposal developed by Design-Builder in accordance with Section 7.6 of DBIA Document No. 545, Progressive Design-Build Agreement for Water and Wastewater Projects (2016 Edition).

**1.2.12 Hazardous Conditions** are any materials, wastes, substances and chemicals deemed to be hazardous under applicable Legal Requirements, or the handling, storage, remediation, or disposal of which are regulated by applicable Legal Requirements.

**1.2.13 Legal Requirements** are all applicable federal, state and local laws, codes, ordinances, rules, regulations, orders and decrees of any government or quasi-government entity having jurisdiction over the Project or Site, the practices involved in the Project or Site, or any Work.

**1.2.14 Owner's Project Criteria** are developed by or for Owner to describe Owner's program requirements and objectives for the Project, including use, space, price, time, site and expandability requirements, as well as submittal requirements and other requirements governing Design-Builder's performance of the Work. Owner's Project Criteria may include conceptual documents, design criteria, design performance specifications, design specifications, and LEED® or other sustainable design criteria and other Project-specific technical materials and requirements.

**1.2.15 Site** is the land or premises on which the Project is located.

**1.2.16 Subcontractor** is any person or entity retained by Design-Builder as an independent contractor to perform a portion of the Work and shall include materialmen and suppliers.

**1.2.17 Sub-Subcontractor** is any person or entity retained by a Subcontractor as an independent contractor to perform any portion of a Subcontractor's Work and shall include materialmen and suppliers.

**1.2.18 Substantial Completion or Substantially Complete** means the date on which the Work, or an agreed upon portion of the Work, is sufficiently complete in accordance with the Contract Documents so that Owner can occupy and use the Project or a portion thereof for its intended purposes.

**1.2.19 Work** is comprised of all Design-Builder's design, construction and other services required by the Contract Documents, including procuring and furnishing all materials, equipment, services and labor reasonably inferable from the Contract Documents.

## **Article 2**

### **Design-Builder's Services and Responsibilities**

#### **2.1 General Services.**

**2.1.1** Design-Builder's Representative shall be reasonably available to Owner and shall have the necessary expertise and experience required to supervise the Work. Design-Builder's Representative shall communicate regularly with Owner and shall be vested with the authority to act on behalf of Design-Builder. Design-Builder's Representative may be replaced only with the mutual agreement of Owner and Design-Builder.

**2.1.2** Design-Builder shall provide Owner with a monthly status report detailing the progress of the Work, including (i) whether the Work is proceeding according to schedule, (ii) whether discrepancies, conflicts, or ambiguities exist in the Contract Documents that require resolution, (iii) whether health and safety issues exist in connection with the Work; (iv) status of the contingency account to the extent provided for in the Standard Form of Agreement Between Owner and Design-Builder - Cost Plus Fee with an Option for a Guaranteed Maximum Price; and (v) other items that require resolution so as not to jeopardize Design-Builder's ability to complete the Work for the Contract Price and within the Contract Time(s).

**2.1.3** Unless a schedule for the execution of the Work has been attached to the Agreement as

an exhibit at the time the Agreement is executed, Design-Builder shall prepare and submit, at least three (3) days prior to the meeting contemplated by Section 2.1.4 hereof, a schedule for the execution of the Work for Owner's review and response. The schedule shall indicate the dates for the start and completion of the various stages of Work, including the dates when Owner information and approvals are required to enable Design-Builder to achieve the Contract Time(s). The schedule shall be revised as required by conditions and progress of the Work, but such revisions shall not relieve Design-Builder of its obligations to complete the Work within the Contract Time(s), as such dates may be adjusted in accordance with the Contract Documents. Owner's review of, and response to, the schedule shall not be construed as relieving Design-Builder of its complete and exclusive control over the means, methods, sequences and techniques for executing the Work.

**2.1.4** The parties will meet within seven (7) days after execution of the Agreement to discuss issues affecting the administration of the Work and to implement the necessary procedures, including those relating to submittals and payment, to facilitate the ability of the parties to perform their obligations under the Contract Documents.

## **2.2 Design Professional Services.**

**2.2.1** Design-Builder shall, consistent with applicable state licensing laws, provide through qualified, licensed design professionals employed by Design-Builder, or procured from qualified, independent licensed Design Consultants, the necessary design services, including architectural, engineering and other design professional services, for the preparation of the required drawings, specifications and other design submittals to permit Design-Builder to complete the Work consistent with the Contract Documents. Nothing in the Contract Documents is intended or deemed to create any legal or contractual relationship between Owner and any Design Consultant.

## **2.3 Standard of Care for Design Professional Services.**

**2.3.1** The standard of care for all design professional services performed to execute the Work shall be the care and skill ordinarily used by members of the design profession practicing under similar conditions at the same time and locality of the Project.

## **2.4 Design Development Services.**

**2.4.1** Design-Builder and Owner shall, consistent with any applicable provision of the Contract Documents, agree upon any interim design submissions that Owner may wish to review, which interim design submissions may include design criteria, drawings, diagrams and specifications setting forth the Project requirements. Interim design submissions shall be consistent with the Basis of Design Documents, as the Basis of Design Documents may have been changed through the design process set forth in this Section 2.4.1. On or about the time of the scheduled submissions, Design-Builder and Owner shall meet and confer about the submissions, with Design-Builder identifying during such meetings, among other things, the evolution of the design and any changes to the Basis of Design Documents, or, if applicable, previously submitted design submissions. Changes to the Basis of Design Documents, including those that are deemed minor changes under Section 9.3.1, shall be processed in accordance with Article 9. Minutes of the meetings, including a full listing of all changes, will be maintained by Design-Builder and provided to all attendees for review. Following the design review meeting, Owner shall review and approve the interim design submissions and meeting minutes in a time that is consistent with the turnaround times set forth in Design-Builder's schedule.

**2.4.2** Design-Builder shall submit to Owner Construction Documents setting forth in detail drawings and specifications describing the requirements for construction of the Work. The Construction Documents shall be consistent with the latest set of interim design submissions, as such submissions may have been modified in a design review meeting and recorded in the meetings minutes. The parties shall have a design review meeting to discuss, and Owner shall review and approve, the Construction Documents in accordance with the procedures set forth in Section 2.4.1 above. Design-Builder shall proceed with construction in accordance with the

approved Construction Documents and shall submit one set of approved Construction Documents to Owner prior to commencement of construction.

**2.4.3** Owner's review and approval of interim design submissions, meeting minutes, and the Construction Documents is for the purpose of mutually establishing a conformed set of Contract Documents compatible with the requirements of the Work. Neither Owner's review nor approval of any interim design submissions, meeting minutes, and Construction Documents shall be deemed to transfer any design liability from Design-Builder to Owner.

**2.4.4** To the extent not prohibited by the Contract Documents or Legal Requirements, Design-Builder may prepare interim design submissions and Construction Documents for a portion of the Work to permit construction to proceed on that portion of the Work prior to completion of the Construction Documents for the entire Work.

## **2.5 Legal Requirements.**

**2.5.1** Design-Builder shall perform the Work in accordance with all Legal Requirements and shall provide all notices applicable to the Work as required by the Legal Requirements.

**2.5.2** The Contract Price and/or Contract Time(s) shall be adjusted to compensate Design-Builder for the effects of any changes in the Legal Requirements enacted after the date of the Agreement affecting the performance of the Work, or if a Guaranteed Maximum Price is established after the date of the Agreement, the date the parties agree upon the Guaranteed Maximum Price. Such effects may include, without limitation, revisions Design-Builder is required to make to the Construction Documents because of changes in Legal Requirements.

## **2.6 Government Approvals and Permits.**

**2.6.1** Except as identified in an Owner's Permit List attached as an exhibit to the Agreement, Design-Builder shall obtain and pay for all necessary permits, approvals, licenses, government charges and inspection fees required for the prosecution of the Work by any government or quasi-government entity having jurisdiction over the Project.

**2.6.2** Design-Builder shall provide reasonable assistance to Owner in obtaining those permits, approvals and licenses that are Owner's responsibility.

## **2.7 Design-Builder's Construction Phase Services.**

**2.7.1** Unless otherwise provided in the Contract Documents to be the responsibility of Owner or a separate contractor, Design-Builder shall provide through itself or Subcontractors the necessary supervision, labor, inspection, testing, start-up, material, equipment, machinery, temporary utilities and other temporary facilities to permit Design-Builder to complete construction of the Project consistent with the Contract Documents.

**2.7.2** Design-Builder shall perform all construction activities efficiently and with the requisite expertise, skill and competence to satisfy the requirements of the Contract Documents. Design-Builder shall at all times exercise complete and exclusive control over the means, methods, sequences and techniques of construction.

**2.7.3** Design-Builder shall employ only Subcontractors who are duly licensed and qualified to perform the Work consistent with the Contract Documents. Owner may reasonably object to Design-Builder's selection of any Subcontractor, provided that the Contract Price and/or Contract Time(s) shall be adjusted to the extent that Owner's decision impacts Design-Builder's cost and/or time of performance.

**2.7.4** Design-Builder assumes responsibility to Owner for the proper performance of the Work of Subcontractors and any acts and omissions in connection with such performance. Nothing in the

Contract Documents is intended or deemed to create any legal or contractual relationship between Owner and any Subcontractor or Sub-Subcontractor, including but not limited to any third-party beneficiary rights.

**2.7.5** Design-Builder shall coordinate the activities of all Subcontractors. If Owner performs other work on the Project or at the Site with separate contractors under Owner's control, Design-Builder agrees to reasonably cooperate and coordinate its activities with those of such separate contractors so that the Project can be completed in an orderly and coordinated manner without unreasonable disruption.

**2.7.6** Design-Builder shall keep the Site reasonably free from debris, trash and construction wastes to permit Design-Builder to perform its construction services efficiently, safely and without interfering with the use of adjacent land areas. Upon Substantial Completion of the Work, or a portion of the Work, Design-Builder shall remove all debris, trash, construction wastes, materials, equipment, machinery and tools arising from the Work or applicable portions thereof to permit Owner to occupy the Project or a portion of the Project for its intended use.

## **2.8 Design-Builder's Responsibility for Project Safety.**

**2.8.1** Design-Builder recognizes the importance of performing the Work in a safe manner so as to prevent damage, injury or loss to (i) all individuals at the Site, whether working or visiting, (ii) the Work, including materials and equipment incorporated into the Work or stored on-Site or off-Site, and (iii) all other property at the Site or adjacent thereto. Design-Builder assumes responsibility for implementing and monitoring all safety precautions and programs related to the performance of the Work. Design-Builder shall, prior to commencing construction, designate a Safety Representative with the necessary qualifications and experience to supervise the implementation and monitoring of all safety precautions and programs related to the Work. Unless otherwise required by the Contract Documents, Design-Builder's Safety Representative shall be an individual stationed at the Site who may have responsibilities on the Project in addition to safety. The Safety Representative shall make routine daily inspections of the Site and shall hold weekly safety meetings with Design-Builder's personnel, Subcontractors and others as applicable.

**2.8.2** Design-Builder and Subcontractors shall comply with all Legal Requirements relating to safety, as well as any Owner-specific safety requirements set forth in the Contract Documents, provided that such Owner-specific requirements do not violate any applicable Legal Requirement. Design-Builder will immediately report in writing any safety-related injury, loss, damage or accident arising from the Work to Owner's Representative and, to the extent mandated by Legal Requirements, to all government or quasi-government authorities having jurisdiction over safety-related matters involving the Project or the Work.

**2.8.3** Design-Builder's responsibility for safety under this Section 2.8 is not intended in any way to relieve Subcontractors and Sub-Subcontractors of their own contractual and legal obligations and responsibility for (i) complying with all Legal Requirements, including those related to health and safety matters, and (ii) taking all necessary measures to implement and monitor all safety precautions and programs to guard against injuries, losses, damages or accidents resulting from their performance of the Work.

## **2.9 Design-Builder's Warranty.**

**2.9.1** Design-Builder warrants to Owner that the construction, including all materials and equipment furnished as part of the construction, shall be new unless otherwise specified in the Contract Documents, of good quality, in conformance with the Contract Documents and free of defects in materials and workmanship. Design-Builder's warranty obligation excludes defects caused by abuse, alterations, or failure to maintain the Work in a commercially reasonable manner. Nothing in this warranty is intended to limit any manufacturer's warranty which provides Owner with greater warranty rights than set forth in this Section 2.9 or the Contract Documents. Design-Builder will provide Owner with all manufacturers' warranties upon Substantial Completion.

## **2.10 Correction of Defective Work.**

**2.10.1** Design-Builder agrees to correct any Work that is found to not be in conformance with the Contract Documents, including that part of the Work subject to Section 2.9 hereof, within a period of one year from the date of Substantial Completion of the Work or any portion of the Work, or within such longer period to the extent required by any specific warranty included in the Contract Documents.

**2.10.2** Design-Builder shall, within seven (7) days of receipt of written notice from Owner that the Work is not in conformance with the Contract Documents, take meaningful steps to commence correction of such nonconforming Work, including the correction, removal or replacement of the nonconforming Work and any damage caused to other parts of the Work affected by the nonconforming Work. If Design-Builder fails to commence the necessary steps within such seven (7) day period, Owner, in addition to any other remedies provided under the Contract Documents, may provide Design-Builder with written notice that Owner will commence correction of such nonconforming Work with its own forces. If Owner does perform such corrective Work, Design-Builder shall be responsible for all reasonable costs incurred by Owner in performing such correction. If the nonconforming Work creates an emergency requiring an immediate response, the seven (7) day period identified herein shall be deemed inapplicable.

**2.10.3** The one-year period referenced in Section 2.10.1 above applies only to Design-Builder's obligation to correct nonconforming Work and is not intended to constitute a period of limitations for any other rights or remedies Owner may have regarding Design-Builder's other obligations under the Contract Documents.

## **Article 3**

### **Owner's Services and Responsibilities**

#### **3.1 Duty to Cooperate.**

**3.1.1** Owner shall, throughout the performance of the Work, cooperate with Design-Builder and perform its responsibilities, obligations and services in a timely manner to facilitate Design-Builder's timely and efficient performance of the Work and so as not to delay or interfere with Design-Builder's performance of its obligations under the Contract Documents.

**3.1.2** Owner shall provide timely reviews and approvals of interim design submissions and Construction Documents consistent with the turnaround times set forth in Design-Builder's schedule.

**3.1.3** Owner shall give Design-Builder timely notice of any Work that Owner notices to be defective or not in compliance with the Contract Documents.

#### **3.2 Furnishing of Services and Information.**

**3.2.1** Unless expressly stated to the contrary in the Contract Documents, Owner shall provide, at its own cost and expense, for Design-Builder's information and use the following, all of which Design-Builder is entitled to rely upon in performing the Work:

**3.2.1.1** Surveys describing the property, boundaries, topography and reference points for use during construction, including existing service and utility lines;

**3.2.1.2** Geotechnical studies describing subsurface conditions, and other surveys describing other latent or concealed physical conditions at the Site;

**3.2.1.3** Temporary and permanent easements, zoning and other requirements and encumbrances affecting land use, or necessary to permit the proper design and construction of the Project and enable Design-Builder to perform the Work;

**3.2.1.4** A legal description of the Site;

**3.2.1.5** To the extent available, record drawings of any existing structures at the Site; and

**3.2.1.6** To the extent available, environmental studies, reports and impact statements describing the environmental conditions, including Hazardous Conditions, in existence at the Site.

**3.2.2** Owner is responsible for securing and executing all necessary agreements with adjacent land or property owners that are necessary to enable Design-Builder to perform the Work. Owner is further responsible for all costs, including attorneys' fees, incurred in securing these necessary agreements.

### **3.3 Financial Information.**

**3.3.1** At Design-Builder's request, Owner shall promptly furnish reasonable evidence satisfactory to Design-Builder that Owner has adequate funds available and committed to fulfill all of Owner's contractual obligations under the Contract Documents. If Owner fails to furnish such financial information in a timely manner, Design-Builder may stop Work under Section 11.3 hereof or exercise any other right permitted under the Contract Documents.

**3.3.2** Design-Builder shall cooperate with the reasonable requirements of Owner's lenders or other financial sources. Notwithstanding the preceding sentence, after execution of the Agreement Design-Builder shall have no obligation to execute for Owner or Owner's lenders or other financial sources any documents or agreements that require Design-Builder to assume obligations or responsibilities greater than those existing obligations Design-Builder has under the Contract Documents.

### **3.4 Owner's Representative.**

**3.4.1** Owner's Representative shall be responsible for providing Owner-supplied information and approvals in a timely manner to permit Design-Builder to fulfill its obligations under the Contract Documents. Owner's Representative shall also provide Design-Builder with prompt notice if it observes any failure on the part of Design-Builder to fulfill its contractual obligations, including any errors, omissions or defects in the performance of the Work. Owner's Representative shall communicate regularly with Design-Builder and shall be vested with the authority to act on behalf of Owner.

### **3.5 Government Approvals and Permits.**

**3.5.1** Owner shall obtain and pay for all necessary permits, approvals, licenses, government charges and inspection fees set forth in the Owner's Permit List attached as an exhibit to the Agreement.

**3.5.2** Owner shall provide reasonable assistance to Design-Builder in obtaining those permits, approvals and licenses that are Design-Builder's responsibility.

### **3.6 Owner's Separate Contractors.**

**3.6.1** Owner is responsible for all work performed on the Project or at the Site by separate contractors under Owner's control. Owner shall contractually require its separate contractors to cooperate with, and coordinate their activities so as not to interfere with, Design-Builder in order to enable Design-Builder to timely complete the Work consistent with the Contract Documents.

## Article 4

### **Hazardous Conditions and Differing Site Conditions**

#### **4.1 Hazardous Conditions.**

**4.1.1** Unless otherwise expressly provided in the Contract Documents to be part of the Work, Design-Builder is not responsible for any Hazardous Conditions encountered at the Site. Upon encountering any Hazardous Conditions, Design-Builder will stop Work immediately in the affected area and duly notify Owner and, if required by Legal Requirements, all government or quasi-government entities with jurisdiction over the Project or Site.

**4.1.2** Upon receiving notice of the presence of suspected Hazardous Conditions, Owner shall take the necessary measures required to ensure that the Hazardous Conditions are remediated or rendered harmless. Such necessary measures shall include Owner retaining qualified independent experts to (i) ascertain whether Hazardous Conditions have actually been encountered, and, if they have been encountered, (ii) prescribe the remedial measures that Owner must take either to remove the Hazardous Conditions or render the Hazardous Conditions harmless.

**4.1.3** Design-Builder shall be obligated to resume Work at the affected area of the Project only after Owner's expert provides it with written certification that (i) the Hazardous Conditions have been removed or rendered harmless and (ii) all necessary approvals have been obtained from all government and quasi-government entities having jurisdiction over the Project or Site.

**4.1.4** Design-Builder will be entitled, in accordance with these General Conditions of Contract, to an adjustment in its Contract Price and/or Contract Time(s) to the extent Design-Builder's cost and/or time of performance have been adversely impacted by the presence of Hazardous Conditions.

**4.1.5** To the fullest extent permitted by law, Owner shall indemnify, defend and hold harmless Design-Builder, Design Consultants, Subcontractors, anyone employed directly or indirectly by any of them, and their officers, directors, employees and agents, from and against any and all claims, losses, damages, liabilities and expenses, including attorneys' fees and expenses, arising out of or resulting from the presence, removal or remediation of Hazardous Conditions at the Site.

**4.1.6** Notwithstanding the preceding provisions of this Section 4.1, Owner is not responsible for Hazardous Conditions introduced to the Site by Design-Builder, Subcontractors or anyone for whose acts they may be liable. To the fullest extent permitted by law, Design-Builder shall indemnify, defend and hold harmless Owner and Owner's officers, directors, employees and agents from and against all claims, losses, damages, liabilities and expenses, including attorneys' fees and expenses, arising out of or resulting from those Hazardous Conditions introduced to the Site by Design-Builder, Subcontractors or anyone for whose acts they may be liable.

#### **4.2 Differing Site Conditions.**

**4.2.1** Concealed or latent physical conditions or subsurface conditions at the Site that (i) materially differ from the conditions indicated in the Contract Documents or (ii) are of an unusual nature, differing materially from the conditions ordinarily encountered and generally recognized as inherent in the Work are collectively referred to herein as "Differing Site Conditions." If Design-Builder encounters a Differing Site Condition, Design-Builder will be entitled to an adjustment in the Contract Price and/or Contract Time(s) to the extent Design-Builder's cost and/or time of performance are adversely impacted by the Differing Site Condition.

**4.2.2** Upon encountering a Differing Site Condition, Design-Builder shall provide prompt written

notice to Owner of such condition, which notice shall not be later than fourteen (14) days after such condition has been encountered. Design-Builder shall, to the extent reasonably possible, provide such notice before the Differing Site Condition has been substantially disturbed or altered.

## **Article 5**

### **Insurance and Bonds**

#### **5.1 Design-Builder's Insurance Requirements.**

**5.1.1** Design-Builder is responsible for procuring and maintaining the insurance for the coverage amounts all as set forth in the Insurance Exhibit to the Agreement. Coverage shall be secured from insurance companies authorized to do business in the state in which the Project is located, and with a minimum rating set forth in the Agreement.

**5.1.2** Design-Builder's insurance shall specifically delete any design-build or similar exclusions that could compromise coverages because of the design-build delivery of the Project.

**5.1.3** Prior to commencing any construction services hereunder, Design-Builder shall provide Owner with certificates evidencing that (i) all insurance obligations required by the Contract Documents are in full force and in effect and will remain in effect for the duration required by the Contract Documents and (ii) no insurance coverage will be canceled, renewal refused, or materially changed unless at least thirty (30) days prior written notice is given to Owner. If any of the foregoing insurance coverages are required to remain in force after final payment are reasonably available, an additional certificate evidencing continuation of such coverage shall be submitted with the Final Application for Payment. If any information concerning reduction of coverage is not furnished by the insurer, it shall be furnished by the Design-Builder with reasonable promptness according to the Design-Builder's information and belief.

#### **5.2 Owner's Liability Insurance.**

**5.2.1** Owner shall procure and maintain from insurance companies authorized to do business in the state in which the Project is located such liability insurance as set forth in the Insurance Exhibit to the Agreement to protect Owner from claims which may arise from the performance of Owner's obligations under the Contract Documents or Owner's conduct during the course of the Project.

#### **5.3 Owner's Property Insurance.**

**5.3.1** Unless otherwise provided in the Contract Documents, Owner shall procure and maintain from insurance companies authorized to do business in the state in which the Project is located property insurance upon the entire Project to the full insurable value of the Project, including professional fees, overtime premiums and all other expenses incurred to replace or repair the insured property. The property insurance obtained by Owner shall be the broadest coverage commercially available, and shall include as additional insureds the interests of Owner, Design-Builder, Design Consultants and Subcontractors of any tier. Such insurance shall include but not be limited to the perils of fire and extended coverage, theft, vandalism, malicious mischief, collapse, flood, earthquake, debris removal and other perils or causes of loss as called for in the Contract Documents. The property insurance shall include physical loss or damage to the Work, including materials and equipment in transit, at the Site or at another location as may be indicated in Design-Builder's Application for Payment and approved by Owner. The Owner is responsible for the payment of any deductibles under the insurance required by this Section 5.3.1.

**5.3.2** Unless the Contract Documents provide otherwise, Owner shall procure and maintain boiler and machinery insurance that will include the interests of Owner, Design-Builder, Design Consultants, and Subcontractors of any tier. The Owner is responsible for the payment of any

deductibles under the insurance required by this Section 5.3.2.

**5.3.3** Prior to Design-Builder commencing any Work, Owner shall provide Design-Builder with certificates evidencing that (i) all Owner's insurance obligations required by the Contract Documents are in full force and in effect and will remain in effect until Design-Builder has completed all of the Work and has received final payment from Owner and (ii) no insurance coverage will be canceled, renewal refused, or materially changed unless at least thirty (30) days prior written notice is given to Design-Builder. Owner's property insurance shall not lapse or be canceled if Owner occupies a portion of the Work pursuant to Section 6.6.3 hereof. Owner shall provide Design-Builder with the necessary endorsements from the insurance company prior to occupying a portion of the Work.

**5.3.4** Any loss covered under Owner's property insurance shall be adjusted with Owner and Design-Builder and made payable to both of them as trustees for the insureds as their interests may appear, subject to any applicable mortgage clause. All insurance proceeds received as a result of any loss will be placed in a separate account and distributed in accordance with such agreement as the interested parties may reach. Any disagreement concerning the distribution of any proceeds will be resolved in accordance with Article 10 hereof.

**5.3.5** Owner and Design-Builder waive against each other and Owner's separate contractors, Design Consultants, Subcontractors, agents and employees of each and all of them, all damages covered by property insurance provided herein, except such rights as they may have to the proceeds of such insurance. Design-Builder and Owner shall, where appropriate, require similar waivers of subrogation from Owner's separate contractors, Design Consultants and Subcontractors and shall require each of them to include similar waivers in their contracts. These waivers of subrogation shall not contain any restriction or limitation that will impair the full and complete extent of its applicability to any person or entity unless agreed to in writing prior to the execution of this Agreement.

## **5.4 Bonds and Other Performance Security.**

**5.4.1** If Owner requires Design-Builder to obtain performance and labor and material payment bonds, or other forms of performance security, the amount, form and other conditions of such security shall be as set forth in the Agreement.

**5.4.2** All bonds furnished by Design-Builder shall be in a form satisfactory to Owner. The surety shall be a company qualified and registered to conduct business in the state in which the Project is located.

## **Article 6**

### **Payment**

#### **6.1 Schedule of Values.**

**6.1.1** Unless required by the Owner upon execution of this Agreement, within ten (10) days of execution of the Agreement, Design-Builder shall submit for Owner's review and approval a schedule of values for all of the Work. The Schedule of Values will (i) subdivide the Work into its respective parts, (ii) include values for all items comprising the Work and (iii) serve as the basis for monthly progress payments made to Design-Builder throughout the Work.

**6.1.2** The Owner will timely review and approve the schedule of values so as not to delay the submission of the Design-Builder's first application for payment. The Owner and Design-Builder shall timely resolve any differences so as not to delay the Design-Builder's submission of its first application for payment.

#### **6.2 Monthly Progress Payments.**

**6.2.1** On or before the date established in the Agreement, Design-Builder shall submit for Owner's review and approval its Application for Payment requesting payment for all Work performed as of the date of the Application for Payment. The Application for Payment shall be accompanied by all supporting documentation required by the Contract Documents and/or established at the meeting required by Section 2.1.4 hereof.

**6.2.2** The Application for Payment may request payment for equipment and materials not yet incorporated into the Project, provided that (i) Owner is satisfied that the equipment and materials are suitably stored at either the Site or another acceptable location, (ii) the equipment and materials are protected by suitable insurance and (iii) upon payment, Owner will receive the equipment and materials free and clear of all liens and encumbrances.

**6.2.3** All discounts offered by Subcontractor, Sub-Subcontractors and suppliers to Design-Builder for early payment shall accrue one hundred percent to Design-Builder to the extent Design-Builder advances payment. Unless Owner advances payment to Design-Builder specifically to receive the discount, Design-Builder may include in its Application for Payment the full undiscounted cost of the item for which payment is sought.

**6.2.4** The Application for Payment shall constitute Design-Builder's representation that the Work described herein has been performed consistent with the Contract Documents, has progressed to the point indicated in the Application for Payment, and that title to all Work will pass to Owner free and clear of all claims, liens, encumbrances, and security interests upon the incorporation of the Work into the Project, or upon Design-Builder's receipt of payment, whichever occurs earlier.

### **6.3 Withholding of Payments.**

**6.3.1** On or before the date established in the Agreement, Owner shall pay Design-Builder all amounts properly due. If Owner determines that Design-Builder is not entitled to all or part of an Application for Payment as a result of Design-Builder's failure to meet its obligations hereunder, it will notify Design-Builder in writing at least five (5) days prior to the date payment is due. The notice shall indicate the specific amounts Owner intends to withhold, the reasons and contractual basis for the withholding, and the specific measures Design-Builder must take to rectify Owner's concerns. Design-Builder and Owner will attempt to resolve Owner's concerns prior to the date payment is due. If the parties cannot resolve such concerns, Design-Builder may pursue its rights under the Contract Documents, including those under Article 10 hereof.

**6.3.2** Notwithstanding anything to the contrary in the Contract Documents, Owner shall pay Design-Builder all undisputed amounts in an Application for Payment within the times required by the Agreement.

### **6.4 Right to Stop Work and Interest.**

**6.4.1** If Owner fails to pay timely Design-Builder any amount that becomes due, Design-Builder, in addition to all other remedies provided in the Contract Documents, may stop Work pursuant to Section 11.3 hereof. All payments due and unpaid shall bear interest at the rate set forth in the Agreement.

### **6.5 Design-Builder's Payment Obligations.**

**6.5.1** Design-Builder will pay Design Consultants and Subcontractors, in accordance with its contractual obligations to such parties, all the amounts Design-Builder has received from Owner on account of their work. Design-Builder will impose similar requirements on Design Consultants and Subcontractors to pay those parties with whom they have contracted. Design-Builder will indemnify and defend Owner against any claims for payment and mechanic's liens as set forth in Section 7.3 hereof.

## **6.6 Substantial Completion.**

**6.6.1** Design-Builder shall notify Owner when it believes the Work, or to the extent permitted in the Contract Documents, a portion of the Work, is Substantially Complete. Within five (5) days of Owner's receipt of Design-Builder's notice, Owner and Design-Builder will jointly inspect such Work to verify that it is Substantially Complete in accordance with the requirements of the Contract Documents. If such Work is Substantially Complete, Owner shall prepare and issue a Certificate of Substantial Completion that will set forth (i) the date of Substantial Completion of the Work or portion thereof, (ii) the remaining items of Work that have to be completed before final payment, (iii) provisions (to the extent not already provided in the Contract Documents) establishing Owner's and Design-Builder's responsibility for the Project's security, maintenance, utilities and insurance pending final payment, and (iv) an acknowledgment that warranties commence to run on the date of Substantial Completion, except as may otherwise be noted in the Certificate of Substantial Completion.

**6.6.2** Upon Substantial Completion of the entire Work or, if applicable, any portion of the Work, Owner shall release to Design-Builder all retained amounts relating, as applicable, to the entire Work or completed portion of the Work, less an amount equal to the reasonable value of all remaining or incomplete items of Work as noted in the Certificate of Substantial Completion.

**6.6.3** Owner, at its option, may use a portion of the Work which has been determined to be Substantially Complete, provided, however, that (i) a Certificate of Substantial Completion has been issued for the portion of Work addressing the items set forth in Section 6.6.1 above, (ii) Design-Builder and Owner have obtained the consent of their sureties and insurers, and to the extent applicable, the appropriate government authorities having jurisdiction over the Project, and (iii) Owner and Design-Builder agree that Owner's use or occupancy will not interfere with Design-Builder's completion of the remaining Work.

## **6.7 Final Payment.**

**6.7.1** After receipt of a Final Application for Payment from Design-Builder, Owner shall make final payment by the time required in the Agreement, provided that Design-Builder has achieved Final Completion.

**6.7.2** At the time of submission of its Final Application for Payment, Design-Builder shall provide the following information:

**6.7.2.1** An affidavit that there are no claims, obligations or liens outstanding or unsatisfied for labor, services, material, equipment, taxes or other items performed, furnished or incurred for or in connection with the Work which will in any way affect Owner's interests;

**6.7.2.2** A general release executed by Design-Builder waiving, upon receipt of final payment by Design-Builder, all claims, except those claims previously made in writing to Owner and remaining unsettled at the time of final payment;

**6.7.2.3** Consent of Design-Builder's surety, if any, to final payment;

**6.7.2.4** All operating manuals, warranties and other deliverables required by the Contract Documents; and

**6.7.2.5** Certificates of insurance confirming that required coverages will remain in effect consistent with the requirements of the Contract Documents.

**6.7.3** Upon making final payment, Owner waives all claims against Design-Builder except claims relating to (i) Design-Builder's failure to satisfy its payment obligations, if such failure affects Owner's interests, (ii) Design-Builder's failure to complete the Work consistent with the Contract

Documents, including defects appearing after Substantial Completion and (iii) the terms of any special warranties required by the Contract Documents.

**6.7.4** Deficiencies in the Work discovered after Substantial Completion, whether or not such deficiencies would have been included on the Punch List if discovered earlier, shall be deemed warranty Work. Such deficiencies shall be corrected by Design-Builder under Sections 2.9 and 2.10 herein, and shall not be a reason to withhold final payment from Design-Builder, provided, however, that Owner shall be entitled to withhold from the Final Payment the reasonable value of completion of such deficient work until such work is completed.

## **Article 7**

### **Indemnification**

#### **7.1 Patent and Copyright Infringement.**

**7.1.1** Design-Builder shall defend any action or proceeding brought against Owner based on any claim that the Work, or any part thereof, or the operation or use of the Work or any part thereof, constitutes infringement of any United States patent or copyright, now or hereafter issued. Owner shall give prompt written notice to Design-Builder of any such action or proceeding and will reasonably provide authority, information and assistance in the defense of same. Design-Builder shall indemnify and hold harmless Owner from and against all damages and costs, including but not limited to attorneys' fees and expenses awarded against Owner or Design-Builder in any such action or proceeding. Design-Builder agrees to keep Owner informed of all developments in the defense of such actions.

**7.1.2** If Owner is enjoined from the operation or use of the Work, or any part thereof, as the result of any patent or copyright suit, claim, or proceeding, Design-Builder shall at its sole expense take reasonable steps to procure the right to operate or use the Work. If Design-Builder cannot so procure such right within a reasonable time, Design-Builder shall promptly, at Design-Builder's option and at Design-Builder's expense, (i) modify the Work so as to avoid infringement of any such patent or copyright or (ii) replace said Work with Work that does not infringe or violate any such patent or copyright.

**7.1.3** Sections 7.1.1 and 7.1.2 above shall not be applicable to any suit, claim or proceeding based on infringement or violation of a patent or copyright (i) relating solely to a particular process or product of a particular manufacturer specified by Owner and not offered or recommended by Design-Builder to Owner or (ii) arising from modifications to the Work by Owner or its agents after acceptance of the Work. If the suit, claim or proceeding is based upon events set forth in the preceding sentence, Owner shall defend, indemnify and hold harmless Design-Builder to the same extent Design-Builder is obligated to defend, indemnify and hold harmless Owner in Section 7.1.1 above.

**7.1.4** The obligations set forth in this Section 7.1 shall constitute the sole agreement between the parties relating to liability for infringement of violation of any patent or copyright.

#### **7.2 Tax Claim Indemnification.**

**7.2.1** If, in accordance with Owner's direction, an exemption for all or part of the Work is claimed for taxes, Owner shall indemnify, defend and hold harmless Design-Builder from and against any liability, penalty, interest, fine, tax assessment, attorneys' fees or other expenses or costs incurred by Design-Builder as a result of any action taken by Design-Builder in accordance with Owner's directive. Owner shall furnish Design-Builder with any applicable tax exemption certificates necessary to obtain such exemption, upon which Design-Builder may rely.

### **7.3 Payment Claim Indemnification.**

**7.3.1** Provided that Owner is not in breach of its contractual obligation to make payments to Design-Builder for the Work, Design-Builder shall indemnify, defend and hold harmless Owner from any claims or mechanic's liens brought against Owner or against the Project as a result of the failure of Design-Builder, or those for whose acts it is responsible, to pay for any services, materials, labor, equipment, taxes or other items or obligations furnished or incurred for or in connection with the Work. Within three (3) days of receiving written notice from Owner that such a claim or mechanic's lien has been filed, Design-Builder shall commence to take the steps necessary to discharge said claim or lien, including, if necessary, the furnishing of a mechanic's lien bond. If Design-Builder fails to do so, Owner will have the right to discharge the claim or lien and hold Design-Builder liable for costs and expenses incurred, including attorneys' fees.

### **7.4 Design-Builder's General Indemnification.**

**7.4.1** Design-Builder, to the fullest extent permitted by law, shall indemnify, hold harmless and defend Owner, its officers, directors, and employees from and against claims, losses, damages, liabilities, including attorneys' fees and expenses, for bodily injury, sickness or death, and property damage or destruction (other than to the Work itself) to the extent resulting from the negligent acts or omissions of Design-Builder, Design Consultants, Subcontractors, anyone employed directly or indirectly by any of them or anyone for whose acts any of them may be liable.

**7.4.2** If an employee of Design-Builder, Design Consultants, Subcontractors, anyone employed directly or indirectly by any of them or anyone for whose acts any of them may be liable has a claim against Owner, its officers, directors, employees, or agents, Design-Builder's indemnity obligation set forth in Section 7.4.1 above shall not be limited by any limitation on the amount of damages, compensation or benefits payable by or for Design-Builder, Design Consultants, Subcontractors, or other entity under any employee benefit acts, including workers' compensation or disability acts.

### **7.5 Owner's General Indemnification.**

**7.5.1** Owner, to the fullest extent permitted by law, shall indemnify, hold harmless and defend Design-Builder and any of Design-Builder's officers, directors, and employees, from and against claims, losses, damages, liabilities, including attorneys' fees and expenses, for bodily injury, sickness or death, and property damage or destruction (other than to the Work itself) to the extent resulting from the negligent acts or omissions of Owner's separate contractors or anyone for whose acts any of them may be liable.

## **Article 8**

### **Time**

#### **8.1 Obligation to Achieve the Contract Times.**

**8.1.1** Design-Builder agrees that it will commence performance of the Work and achieve the Contract Time(s) in accordance with Article 5 of the Agreement.

#### **8.2 Delays to the Work.**

**8.2.1** If Design-Builder is delayed in the performance of the Work due to acts, omissions, conditions, events, or circumstances beyond its control and due to no fault of its own or those for whom Design-Builder is responsible, the Contract Time(s) for performance shall be reasonably extended by Change Order. By way of example, events that will entitle Design-Builder to an extension of the Contract Time(s) include acts or omissions of Owner or anyone under Owner's

control (including separate contractors), changes in the Work, Differing Site Conditions, Hazardous Conditions, and Force Majeure Events.

**8.2.2** In addition to Design-Builder's right to a time extension for those events set forth in Section 8.2.1 above, Design-Builder shall also be entitled to an appropriate adjustment of the Contract Price provided, however, that the Contract Price shall not be adjusted for Force Majeure Events unless otherwise provided in the Agreement.

## **Article 9**

### **Changes to the Contract Price and Time**

#### **9.1 Change Orders.**

**9.1.1** A Change Order is a written instrument issued after execution of the Agreement signed by Owner and Design-Builder, stating their agreement upon all of the following:

**9.1.1.1** The scope of the change in the Work;

**9.1.1.2** The amount of the adjustment to the Contract Price; and

**9.1.1.3** The extent of the adjustment to the Contract Time(s).

**9.1.2** All changes in the Work authorized by applicable Change Order shall be performed under the applicable conditions of the Contract Documents. Owner and Design-Builder shall negotiate in good faith and as expeditiously as possible the appropriate adjustments for such changes.

**9.1.3** If Owner requests a proposal for a change in the Work from Design-Builder and subsequently elects not to proceed with the change, a Change Order shall be issued to reimburse Design-Builder for reasonable costs incurred for estimating services, design services and services involved in the preparation of proposed revisions to the Contract Documents.

#### **9.2 Work Change Directives.**

**9.2.1** A Work Change Directive is a written order prepared and signed by Owner directing a change in the Work prior to agreement on an adjustment in the Contract Price and/or the Contract Time(s).

**9.2.2** Owner and Design-Builder shall negotiate in good faith and as expeditiously as possible the appropriate adjustments for the Work Change Directive. Upon reaching an agreement, the parties shall prepare and execute an appropriate Change Order reflecting the terms of the agreement.

#### **9.3 Minor Changes in the Work.**

**9.3.1** Minor changes in the Work do not involve an adjustment in the Contract Price and/or Contract Time(s) and do not materially and adversely affect the Work, including the design, quality, performance and workmanship required by the Contract Documents. Design-Builder may make minor changes in the Work consistent with the intent of the Contract Documents, provided, however, that Design-Builder shall promptly inform Owner, in writing, of any such changes and record such changes on the documents maintained by Design-Builder.

#### **9.4 Contract Price Adjustments.**

**9.4.1** The increase or decrease in Contract Price resulting from a change in the Work shall be determined by one or more of the following methods:

**9.4.1.1** Unit prices set forth in the Agreement or as subsequently agreed to between the parties;

**9.4.1.2** A mutually accepted lump sum, properly itemized and supported by sufficient substantiating data to permit evaluation by Owner;

**9.4.1.3** Costs, fees and any other markups set forth in the Agreement; or

**9.4.1.4** If an increase or decrease cannot be agreed to as set forth in items 9.4.1.1 through 9.4.1.3 above and Owner issues a Work Change Directive, the cost of the change of the Work shall be determined by the reasonable expense and savings in the performance of the Work resulting from the change, including a reasonable overhead and profit, as may be set forth in the Agreement.

**9.4.2** If unit prices are set forth in the Contract Documents or are subsequently agreed to by the parties, but application of such unit prices will cause substantial inequity to Owner or Design-Builder because of differences in the character or quantity of such unit items as originally contemplated, such unit prices shall be equitably adjusted.

**9.4.3** If Owner and Design-Builder disagree upon whether Design-Builder is entitled to be paid for any services required by Owner, or if there are any other disagreements over the scope of Work or proposed changes to the Work, Owner and Design-Builder shall resolve the disagreement pursuant to Article 10 hereof. As part of the negotiation process, Design-Builder shall furnish Owner with a good faith estimate of the costs to perform the disputed services in accordance with Owner's interpretations. If the parties are unable to agree and Owner expects Design-Builder to perform the services in accordance with Owner's interpretations, Design-Builder shall proceed to perform the disputed services, conditioned upon Owner issuing a written order to Design-Builder (i) directing Design-Builder to proceed and (ii) specifying Owner's interpretation of the services that are to be performed. If this occurs, Design-Builder shall be entitled to submit in its Applications for Payment an amount equal to fifty percent (50%) of its reasonable estimated direct cost to perform the services, and Owner agrees to pay such amounts, with the express understanding that (i) such payment by Owner does not prejudice Owner's right to argue that it has no responsibility to pay for such services and (ii) receipt of such payment by Design-Builder does not prejudice Design-Builder's right to seek full payment of the disputed services if Owner's order is deemed to be a change to the Work.

## **9.5 Emergencies.**

**9.5.1** In any emergency affecting the safety of persons and/or property, Design-Builder shall act, at its discretion, to prevent threatened damage, injury or loss. Any change in the Contract Price and/or Contract Time(s) on account of emergency work shall be determined as provided in this Article 9.

# **Article 10**

## **Contract Adjustments and Disputes**

### **10.1 Requests for Contract Adjustments and Relief.**

**10.1.1** If either Design-Builder or Owner believes that it is entitled to relief against the other for any event arising out of or related to the Work or Project, such party shall provide written notice to the other party of the basis for its claim for relief. Such notice shall, if possible, be made prior to

incurring any cost or expense and in accordance with any specific notice requirements contained in applicable sections of these General Conditions of Contract. In the absence of any specific notice requirement, written notice shall be given within a reasonable time, not to exceed twenty-one (21) days, after the occurrence giving rise to the claim for relief or after the claiming party reasonably should have recognized the event or condition giving rise to the request, whichever is later. Such notice shall include sufficient information to advise the other party of the circumstances giving rise to the claim for relief, the specific contractual adjustment or relief requested and the basis of such request.

## **10.2 Dispute Avoidance and Resolution.**

**10.2.1** The parties are fully committed to working with each other throughout the Project and agree to communicate regularly with each other at all times so as to avoid or minimize disputes or disagreements. If disputes or disagreements do arise, Design-Builder and Owner each commit to resolving such disputes or disagreements in an amicable, professional and expeditious manner so as to avoid unnecessary losses, delays and disruptions to the Work.

**10.2.2** Design-Builder and Owner will first attempt to resolve disputes or disagreements at the field level through discussions between Design-Builder's Representative and Owner's Representative which shall conclude within fourteen (14) days of the written notice provided for in Section 10.1.1 unless the Owner and Design-Builder mutually agree otherwise.

**10.2.3** If a dispute or disagreement cannot be resolved through Design-Builder's Representative and Owner's Representative, Design-Builder's Senior Representative and Owner's Senior Representative, upon the request of either party, shall meet as soon as conveniently possible, but in no case later than thirty (30) days after such a request is made, to attempt to resolve such dispute or disagreement. Five (5) days prior to any meetings between the Senior Representatives, the parties will exchange relevant information that will assist the parties in resolving their dispute or disagreement.

**10.2.4** If after meeting the Senior Representatives determine that the dispute or disagreement cannot be resolved on terms satisfactory to both parties, the parties shall submit within thirty (30) days of the conclusion of the meeting of Senior Representatives the dispute or disagreement to non-binding mediation. The mediation shall be conducted by a mutually agreeable impartial mediator, or if the parties cannot so agree, a mediator designated by the American Arbitration Association ("AAA") pursuant to its Construction Industry Mediation Rules. The mediation will be governed by and conducted pursuant to a mediation agreement negotiated by the parties or, if the parties cannot so agree, by procedures established by the mediator. Unless otherwise mutually agreed by the Owner and Design-Builder and consistent with the mediator's schedule, the mediation shall commence within ninety (90) days of the submission of the dispute to mediation.

## **10.3 Arbitration.**

**10.3.1** Any claims, disputes or controversies between the parties arising out of or relating to the Agreement, or the breach thereof, which have not been resolved in accordance with the procedures set forth in Section 10.2 above, shall be decided by arbitration in accordance with the Construction Industry Arbitration Rules of the AAA then in effect, unless the parties mutually agree otherwise.

**10.3.2** The award of the arbitrator(s) shall be final and binding upon the parties without the right of appeal to the courts. Judgment may be entered upon it in accordance with applicable law by any court having jurisdiction thereof.

**10.3.3** Design-Builder and Owner expressly agree that any arbitration pursuant to this Section 10.3 may be joined or consolidated with any arbitration involving any other person or entity (i) necessary to resolve the claim, dispute or controversy, or (ii) substantially involved in or affected by such claim, dispute or controversy. Both Design-Builder and Owner will include appropriate provisions in all contracts they execute with other parties in connection with the Project to require

such joinder or consolidation.

**10.3.4** The prevailing party in any arbitration, or any other final, binding dispute proceeding upon which the parties may agree, shall be entitled to recover from the other party reasonable attorneys' fees and expenses incurred by the prevailing party.

#### **10.4 Duty to Continue Performance.**

**10.4.1** Unless provided to the contrary in the Contract Documents, Design-Builder shall continue to perform the Work and Owner shall continue to satisfy its payment obligations to Design-Builder, pending the final resolution of any dispute or disagreement between Design-Builder and Owner.

#### **10.5 CONSEQUENTIAL DAMAGES.**

**10.5.1** NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY (EXCEPT AS SET FORTH IN SECTION 10.5.2 BELOW), NEITHER DESIGN-BUILDER NOR OWNER SHALL BE LIABLE TO THE OTHER FOR ANY CONSEQUENTIAL LOSSES OR DAMAGES, WHETHER ARISING IN CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE, INCLUDING BUT NOT LIMITED TO LOSSES OF USE, PROFITS, BUSINESS, REPUTATION OR FINANCING.

**10.5.2** The consequential damages limitation set forth in Section 10.5.1 above is not intended to affect the payment of liquidated damages or lost early completion bonus, if any, set forth in Article 5 of the Agreement, which both parties recognize has been established, in part, to reimburse Owner or reward Design-Builder for some damages that might otherwise be deemed to be consequential.

## **Article 11**

### **Stop Work and Termination for Cause**

#### **11.1 Owner's Right to Stop Work.**

**11.1.1** Owner may, without cause and for its convenience, order Design-Builder in writing to stop and suspend the Work. Such suspension shall not exceed sixty (60) consecutive days or aggregate more than ninety (90) days during the duration of the Project.

**11.1.2** Design-Builder is entitled to seek an adjustment of the Contract Price and/or Contract Time(s) if its cost or time to perform the Work has been adversely impacted by any suspension of stoppage of the Work by Owner.

#### **11.2 Owner's Right to Perform and Terminate for Cause.**

**11.2.1** If Design-Builder persistently fails to (i) provide a sufficient number of skilled workers, (ii) supply the materials required by the Contract Documents, (iii) comply with applicable Legal Requirements, (iv) timely pay, without cause, Design Consultants or Subcontractors, (v) prosecute the Work with promptness and diligence to ensure that the Work is completed by the Contract Time(s), as such times may be adjusted, or (vi) perform material obligations under the Contract Documents, then Owner, in addition to any other rights and remedies provided in the Contract Documents or by law, shall have the rights set forth in Sections 11.2.2 and 11.2.3 below.

**11.2.2** Upon the occurrence of an event set forth in Section 11.2.1 above, Owner may provide written notice to Design-Builder that it intends to terminate the Agreement unless the problem cited is cured, or commenced to be cured, within seven (7) days of Design-Builder's receipt of such notice. If Design-Builder fails to cure, or reasonably commence to cure, such problem, then Owner may give a second written notice to Design-Builder of its intent to terminate within an additional seven (7) day period. If Design-Builder, within such second seven (7) day period, fails to cure, or

reasonably commence to cure, such problem, then Owner may declare the Agreement terminated for default by providing written notice to Design-Builder of such declaration.

**11.2.3** Upon declaring the Agreement terminated pursuant to Section 11.2.2 above, Owner may enter upon the premises and take possession, for the purpose of completing the Work, of all materials, equipment, scaffolds, tools, appliances and other items thereon, which have been purchased or provided for the performance of the Work, all of which Design-Builder hereby transfers, assigns and sets over to Owner for such purpose, and to employ any person or persons to complete the Work and provide all of the required labor, services, materials, equipment and other items. In the event of such termination, Design-Builder shall not be entitled to receive any further payments under the Contract Documents until the Work shall be finally completed in accordance with the Contract Documents. At such time, if the unpaid balance of the Contract Price exceeds the cost and expense incurred by Owner in completing the Work, such excess shall be paid by Owner to Design-Builder. Notwithstanding the preceding sentence, if the Agreement establishes a Guaranteed Maximum Price, Design-Builder will only be entitled to be paid for Work performed prior to its default. If Owner's cost and expense of completing the Work exceeds the unpaid balance of the Contract Price, then Design-Builder shall be obligated to pay the difference to Owner. Such costs and expense shall include not only the cost of completing the Work, but also losses, damages, costs and expense, including attorneys' fees and expenses, incurred by Owner in connection with the procurement and defense of claims arising from Design-Builder's default, subject to the waiver of consequential damages set forth in Section 10.5 hereof.

**11.2.4** If Owner improperly terminates the Agreement for cause, the termination for cause will be converted to a termination for convenience in accordance with the provisions of Article 8 of the Agreement.

### **11.3 Design-Builder's Right to Stop Work.**

**11.3.1** Design-Builder may, in addition to any other rights afforded under the Contract Documents or at law, stop the Work for the following reasons:

**11.3.1.1** Owner's failure to provide financial assurances as required under Section 3.3 hereof; or

**11.3.1.2** Owner's failure to pay amounts properly due under Design-Builder's Application for Payment.

**11.3.2** Should any of the events set forth in Section 11.3.1 above occur, Design-Builder has the right to provide Owner with written notice that Design-Builder will stop the Work unless said event is cured within seven (7) days from Owner's receipt of Design-Builder's notice. If Owner does not cure the problem within such seven (7) day period, Design-Builder may stop the Work. In such case, Design-Builder shall be entitled to make a claim for adjustment to the Contract Price and Contract Time(s) to the extent it has been adversely impacted by such stoppage.

### **11.4 Design-Builder's Right to Terminate for Cause.**

**11.4.1** Design-Builder, in addition to any other rights and remedies provided in the Contract Documents or by law, may terminate the Agreement for cause for the following reasons:

**11.4.1.1** The Work has been stopped for sixty (60) consecutive days, or more than ninety (90) days during the duration of the Project, because of court order, any government authority having jurisdiction over the Work, or orders by Owner under Section 11.1.1 hereof, provided that such stoppages are not due to the acts or omissions of Design-Builder or anyone for whose acts Design-Builder may be responsible.

**11.4.1.2** Owner's failure to provide Design-Builder with any information, permits or approvals that are Owner's responsibility under the Contract Documents which result in the

Work being stopped for sixty (60) consecutive days, or more than ninety (90) days during the duration of the Project, even though Owner has not ordered Design-Builder in writing to stop and suspend the Work pursuant to Section 11.1.1 hereof.

**11.4.1.3** Owner's failure to cure the problems set forth in Section 11.3.1 above after Design-Builder has stopped the Work.

1. **11.4.2** Upon the occurrence of an event set forth in Section 11.4.1 above, Design-Builder may provide written notice to Owner that it intends to terminate the Agreement unless the problem cited is cured, or commenced to be cured, within seven (7) days of Owner's receipt of such notice. If Owner fails to cure, or reasonably commence to cure, such problem, then Design-Builder may give a second written notice to Owner of its intent to terminate within an additional seven (7) day period. If Owner, within such second seven (7) day period, fails to cure, or reasonably commence to cure, such problem, then Design-Builder may declare the Agreement terminated for default by providing written notice to Owner of such declaration. In such case, Design-Builder shall be entitled to recover in the same manner as if Owner had terminated the Agreement for its convenience under Article 8 of the Agreement.

## **11.5 Bankruptcy of Owner or Design-Builder.**

**11.5.1** If either Owner or Design-Builder institutes or has instituted against it a case under the United States Bankruptcy Code (such party being referred to as the "Bankrupt Party"), such event may impair or frustrate the Bankrupt Party's ability to perform its obligations under the Contract Documents. Accordingly, should such event occur:

**11.5.1.1** The Bankrupt Party, its trustee or other successor, shall furnish, upon request of the non-Bankrupt Party, adequate assurance of the ability of the Bankrupt Party to perform all future material obligations under the Contract Documents, which assurances shall be provided within ten (10) days after receiving notice of the request; and

**11.5.1.2** The Bankrupt Party shall file an appropriate action within the bankruptcy court to seek assumption or rejection of the Agreement within sixty (60) days of the institution of the bankruptcy filing and shall diligently prosecute such action.

If the Bankrupt Party fails to comply with its foregoing obligations, the non-Bankrupt Party shall be entitled to request the bankruptcy court to reject the Agreement, declare the Agreement terminated and pursue any other recourse available to the non-Bankrupt Party under this Article 11.

**11.5.2** The rights and remedies under Section 11.5.1 above shall not be deemed to limit the ability of the non-Bankrupt Party to seek any other rights and remedies provided by the Contract Documents or by law, including its ability to seek relief from any automatic stays under the United States Bankruptcy Code or the right of Design-Builder to stop Work under any applicable provision of these General Conditions of Contract.

## **Article 12**

### **Electronic Data**

#### **12.1 Electronic Data.**

**12.1.1** The parties recognize that Contract Documents, including drawings, specifications and three-dimensional modeling (such as Building Information Models) and other Work Product may be transmitted among Owner, Design-Builder and others in electronic media as an alternative to paper hard copies (collectively "Electronic Data").

## **12.2 Transmission of Electronic Data.**

**12.2.1** Owner and Design-Builder shall agree upon the software and the format for the transmission of Electronic Data. Each party shall be responsible for securing the legal rights to access the agreed-upon format, including, if necessary, obtaining appropriately licensed copies of the applicable software or electronic program to display, interpret and/or generate the Electronic Data.

**12.2.2** Neither party makes any representations or warranties to the other with respect to the functionality of the software or computer program associated with the electronic transmission of Work Product. Unless specifically set forth in the Agreement, ownership of the Electronic Data does not include ownership of the software or computer program with which it is associated, transmitted, generated or interpreted.

**12.2.3** By transmitting Work Product in electronic form, the transmitting party does not transfer or assign its rights in the Work Product. The rights in the Electronic Data shall be as set forth in Article 4 of the Agreement. Under no circumstances shall the transfer of ownership of Electronic Data be deemed to be a sale by the transmitting party of tangible goods.

## **12.3 Electronic Data Protocol.**

**12.3.1** The parties acknowledge that Electronic Data may be altered or corrupted, intentionally or otherwise, due to occurrences beyond their reasonable control or knowledge, including but not limited to compatibility issues with user software, manipulation by the recipient, errors in transcription or transmission, machine error, environmental factors, and operator error. Consequently, the parties understand that there is some level of increased risk in the use of Electronic Data for the communication of design and construction information and, in consideration of this, agree, and shall require their independent contractors, Subcontractors and Design Consultants to agree, to the following protocols, terms and conditions set forth in this Section 12.3.

**12.3.2** Electronic Data will be transmitted in the format agreed upon in Section 12.2.1 above, including file conventions and document properties, unless prior arrangements are made in advance in writing.

**12.3.3** The Electronic Data represents the information at a particular point in time and is subject to change. Therefore, the parties shall agree upon protocols for notification by the author to the recipient of any changes which may thereafter be made to the Electronic Data, which protocol shall also address the duty, if any, to update such information, data or other information contained in the electronic media if such information changes prior to Final Completion of the Project.

**12.3.4** The transmitting party specifically disclaims all warranties, expressed or implied, including, but not limited to, implied warranties of merchantability and fitness for a particular purpose, with respect to the media transmitting the Electronic Data. However, transmission of the Electronic Data via electronic means shall not invalidate or negate any duties pursuant to the applicable standard of care with respect to the creation of the Electronic Data, unless such data is materially changed or altered after it is transmitted to the receiving party, and the transmitting party did not participate in such change or alteration.

# **Article 13**

## **Miscellaneous**

### **13.1 Confidential Information.**

**13.1.1** Confidential Information is defined as information which is determined by the transmitting party to be of a confidential or proprietary nature and: (i) the transmitting party identifies as either confidential or proprietary; (ii) the transmitting party takes steps to maintain the confidential or proprietary nature of the information; and (iii) the document is not otherwise available in or considered to be in the public domain. The receiving party agrees to maintain the confidentiality of the Confidential Information and agrees to use the Confidential Information solely in connection with the Project.

**13.2 Assignment.**

**13.2.1** Neither Design-Builder nor Owner shall, without the written consent of the other assign, transfer or sublet any portion or part of the Work or the obligations required by the Contract Documents.

**13.3 Successorship.**

**13.3.1** Design-Builder and Owner intend that the provisions of the Contract Documents are binding upon the parties, their employees, agents, heirs, successors and assigns.

**13.4 Governing Law.**

**13.4.1** The Agreement and all Contract Documents shall be governed by the laws of the place of the Project, without giving effect to its conflict of law principles.

**13.5 Severability.**

**13.5.1** If any provision or any part of a provision of the Contract Documents shall be finally determined to be superseded, invalid, illegal, or otherwise unenforceable pursuant to any applicable Legal Requirements, such determination shall not impair or otherwise affect the validity, legality, or enforceability of the remaining provision or parts of the provision of the Contract Documents, which shall remain in full force and effect as if the unenforceable provision or part were deleted.

**13.6 No Waiver.**

**13.6.1** The failure of either Design-Builder or Owner to insist, in any one or more instances, on the performance of any of the obligations required by the other under the Contract Documents shall not be construed as a waiver or relinquishment of such obligation or right with respect to future performance.

**13.7 Headings.**

**13.7.1** The headings used in these General Conditions of Contract, or any other Contract Document, are for ease of reference only and shall not in any way be construed to limit or alter the meaning of any provision.

**13.8 Notice.**

**13.8.1** Whenever the Contract Documents require that notice be provided to the other party, notice will be deemed to have been validly given (i) if delivered in person to the individual intended to receive such notice, (ii) four (4) days after being sent by registered or certified mail, postage prepaid to the address indicated in the Agreement, or (iii) if transmitted by facsimile, by the time stated in a machine generated confirmation that notice was received at the facsimile number of the intended recipient.

### **13.9 Amendments.**

**13.9.1** The Contract Documents may not be changed, altered, or amended in any way except in writing signed by a duly authorized representative of each party.

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## Contact us



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# COUNCIL ACTION FORM

# NEW BUSINESS ITEM NO. 4

**MEETING DATE:** JUNE 17, 2024

**STAFF CONTACT:** RENEE RICH, CITY CLERK

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**Agenda Item:** Consider a request for a Waiver of the Distance Limitation and a Temporary Permit to allow for the sale of cereal malt beverages for consumption within 200 feet of a school, church, or library during an event at the Johnson County Fairground

**Strategic Priority:** Quality of Life

**Department:** Administration

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### Staff Recommendation:

Staff recommends Council approve a request for a Waiver of the Distance Limitation and a Temporary Permit to allow for the sale of cereal malt beverages (CMB) for consumption within 200 feet of a school, church or library during a private event on June 30, 2024, at the Johnson County Fairgrounds, 136 E. Washington.

### Background/Description of Item:

Brenda Maturino has applied for a temporary permit and is requesting a Waiver of the Distance Limitation for an area to sell cereal malt beverages (CMB) during the Santa Fe Disco Y Rodeo on June 30, 2024. Gardner Municipal Code (5.20.240) allows for the consumption of CMBs with a temporary permit being required. The Governing Body will need to approve a permit for a special event pursuant to Chapter 5.20.460 of the City Code.

The location is to be in the derby arena area (see attached map). CMBs will be served within the arena and all alcohol will be required to be consumed in that area. The applicant has hired a private security company and has requested additional security from the Gardner Police Department. The event will be held from 3:30 pm to 9:00 pm. Since the location of the event is within 200 feet of a school, church or library, the applicant must petition and be granted a Waiver of the Distance Limitation and a temporary permit by the City Council.

This waiver and permit, if approved, will be for June 30, 2024, from 3:30 pm to 9:00 pm.

### Attachments:

- Fairgrounds Map (area of event shaded in yellow)

### Suggested Motion:

Approve a request for a Waiver of the Distance Limitation and a General Retailer Special Event temporary permit to allow for the sale and consumption of Cereal Malt Beverages within 200 feet of a school, church or library during the Santa Fe Disco Y Rodeo to be held June 30, 2024, at the Johnson County Fairgrounds, 136 E. Washington St.



# City of Gardner, KS

## Council Actions

June 17, 2024

The City Council took the following actions at the June 17, 2024, meeting:

1. Heard a presentation of the 2023 Audit and Annual Comprehensive Financial Report.
2. Heard a presentation of the Revised 2025 Budget Presentation.
3. Held a public hearing for the purpose of receiving comments to a request for a Waiver of the Distance Limitation to allow for the sale and consumption of Cereal Malt Beverages for consumption within 200 feet of a school, church or library during the Santa Fe Disco Y Rodeo event at the Johnson County Fairground.
4. Approved the minutes as written for the regular meeting on June 3, 2024. (Passed unanimously)
5. Approved City expenditures prepared May 30, 2024 in the amount of \$467,971.68 and June 6, 2024 for \$1,079,989.79. (Passed unanimously)
6. Authorized an agreement with JEO Consulting Group for design of the Gardner Traffic Signal Interconnect Project. (Passed unanimously)
7. Accepted the dedication of right-of-way and easements on the final plat for Cypress Creek 3<sup>rd</sup> Plat. (Passed unanimously)
8. Accepted the dedication of right-of-way and easements on the final plat for Cypress Creek 4<sup>th</sup> Plat (Passed unanimously)
9. Accepted the dedication of right-of-way and easements on the final plat for Villas on Grand 1<sup>st</sup> Plat. (Passed unanimously)
10. Accepted the dedication of right-of-way and easements on the final plat for Grand Mission Estates 1<sup>st</sup> Plat. (Passed unanimously)
11. Approved a conditional use permit for Nice Ice Baby at 312 W. Main St. (Passed unanimously)
12. Denied an ordinance of the City of Gardner, Kansas amending Section 114.2 of the "Standard Traffic Ordinance for Kansas Cities: Edition of 2023" relating to the operation of work-site utility vehicles, golf carts or micro utility trucks on city streets. (Passed 4-1)
13. Approved adjustments to the city's contribution strategy for health insurance. (Passed unanimously)
14. Awarded the Progressive Design Build Phase II construction services contract to the Crossland Heavy Contractors, Inc. for the Kill Creek Water Resource Recovery Facility Expansion, CIP Project No WW8012. (Passed unanimously)
15. Approved a request for a Waiver of the Distance Limitation and a Temporary Permit to allow for the sale of cereal malt beverages for consumption within 200 feet of a school, church, or library during an event at the Johnson County Fairground. (Passed unanimously)