



# CITY OF WESTWOOD, KANSAS

## CITY COUNCIL MEETING

4700 RAINBOW BLVD. WESTWOOD, KS 66205

Thursday, February 08, 2024 at 7:00 PM

### AGENDA

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Welcome to your Westwood City Council meeting. This meeting may be attended remotely via Zoom:

**Access Online:** <https://us02web.zoom.us/j/89908289796>

**Access by Phone:** (312) 626-6799 / **Webinar ID:** 899 0828 9796

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*[Note: This agenda is subject to changes, additions, or deletions at the discretion of the Governing Body]*

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#### CITY COUNCIL WORK SESSION AGENDA - 5:30 PM

- I. **CALL TO ORDER**
  - II. **WORK SESSION ITEMS/DISCUSSION OF UPCOMING MATTERS**
    - A. Community Survey Preparation (Facilitator: Kate Bender, PorchLight Insights)
  - III. **ADJOURNMENT TO REGULAR MEETING**
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#### REGULAR MEETING AGENDA - 7:00 PM

- I. **CALL TO ORDER**
- II. **APPROVAL OF THE AGENDA**
- III. **PUBLIC COMMENT**

Members of the public are welcome to use this time to make comments about City matters that do not appear on the agenda, or about items that will be considered as part of the consent agenda, or about items on the regular agenda for which the Governing Body, at its discretion, accepts public comment. Public comment should be limited to 2-3 minutes and, unless the topic of public comment is before the Governing Body as part of its agenda, no action will be taken by the Governing Body on public comment items. Please state your name and address for the record. Persons attending virtually online will be able to make public comment by using the "raise hand" function on Zoom.
- IV. **PRESENTATIONS AND PROCLAMATIONS**
  - A. Consolidated Fire District No. 2 (CFD2) Update (Fire Chief Steve Chick)
- V. **CONSENT AGENDA**

All items listed below are considered to be routine by the Governing Body and will be enacted in

one motion (roll call vote). There will be no separate discussion of these items unless a member of the Governing Body so requests, in which event the item will be removed from the consent agenda and considered separately following approval of the consent agenda.

- [A.](#) Consider approval of January 11, 2024 City Council meeting minutes
- [B.](#) Consider approval of January 17, 2024 City Council special meeting minutes
- [C.](#) Consider approval of Appropriations Ordinance 759

**VI. MAYOR'S REPORT**

**VII. CITY COUNCILMEMBER REPORTS**

**VIII. STAFF REPORTS**

- [A.](#) Administrative Report (City Administrator Leslie Herring)
- [B.](#) Public Works Report (Public Works Director John Sullivan)
- [C.](#) Police Department Report (Police Chief Curt Mansell)
- [D.](#) Treasurer's Report (City Treasurer Michelle Ryan)
- E. City Attorney Report (Ryan Denk)

**IX. OLD BUSINESS**

**X. NEW BUSINESS**

- [A.](#) Consider Ordinance 1040 approving a Franchise Agreement with Google Fiber
- [B.](#) Consider Appointments to the Westwood Planning Commission

**XI. ANNOUNCEMENTS/GOVERNING BODY COMMENTS**

**XII. EXECUTIVE SESSION**

- A. Consultation with the City Attorney on matters relating to real property located at and around 5000 Rainbow Blvd. which would be deemed privileged in the attorney-client relationship under K.S.A. 75-4319(b)2

**XIII. ADJOURNMENT**

**UPCOMING MEETINGS**

Regular meetings of the Westwood City Council are held at 7:00 PM on the second Thursday of each month. The next regular meeting of the Westwood City Council will be held Thursday, March 14, 2024, at 7:00 PM at Westwood City Hall. The City Calendar may be accessed at [www.westwoodks.org](http://www.westwoodks.org). To receive further updates and communications, please see or sign up for the following:

**Westwood Buzz Email:** <https://bit.ly/3wA4DWx>

**Facebook:** City of Westwood Kansas-Government  
Westwood, KS Police Department

**STAFF REPORT**

Meeting Date: February 8, 2024  
Staff Contact: Leslie Herring, City Administrator

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Discussion Item: Community Survey Preparation

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**Background/Description of Item**

City staff recommends that the Governing Body create a strategic plan to provide direction to staff for work activities and for budgeting, and for the development of performance metrics to ensure a framework for accountability, responsiveness, and efficient use of tax-payer resources.

Staff recommends that this strategic plan be based on the results of a city-wide survey, to be developed and deployed with the assistance of professional partners ETC Institute and PorchLight Insights. The survey will be sent by mail to all Westwood addresses – both residential and commercial – and responses will be accepted by pre-paid return mail or online. Only one response per address will be accepted.

At tonight’s work session, the Governing Body is asked to share with PorchLight Insights what it would like to know and hear from Westwood residents and businesses. This input will be used by City staff and the consultant team to create survey questions, which survey results will then be analyzed and discussed with the Governing Body moving into strategic priority and resource planning in the second quarter of 2024.

Performance metrics, communications objectives, and strategic priority identification are all anticipated outcomes of this process. The process is expected to conclude late in the second quarter or early in the third quarter of 2024.

**City of Westwood, Kansas  
City Council Work Session  
4700 Rainbow Boulevard  
January 11, 2024 – 6:00 PM**

Council Present: David E. Waters, Mayor  
Andrew Buckman, Councilmember  
Jeff Harris, Council President  
Jason Hannaman, Councilmember  
Laura Steele, Councilmember  
Holly Wimer, Councilmember

Council Absent: None

Staff Present: Leslie Herring, City Administrator  
Curtis Mansell, Police Chief  
John Sullivan, Public Works Director  
Ryan Denk, City Attorney  
Abby Schneweis, City Clerk

**Call to Order**

Mayor Waters called the meeting to order at 6:00 p.m. on January 11, 2024. Mayor Waters noted all members of the Governing Body were present along with Ms. Herring, Ms. Schneweis, Chief Mansell, and Mr. Sullivan were present. The meeting was held in a hybrid manner with attendees being able to join in person and virtually via Zoom.

**Discuss 2024 work plan outline and council priorities**

Mayor Waters conducted a discussion among the Governing Body of possible issues to address in 2024.

Ms. Herring provided an update of the Administration Department staffing reorganization. Members of the Administration Department have been working to cross train more duties, Ms. Herring also highlighted trainings staff members are planning to attend in 2024.

Mayor Waters said he is in the process of selecting members of a steering committee for planning the feature park. There was a general discussion about the demographics of the steering committee.

Mayor Waters provided an update on the Rainbow Boulevard corridor study. An open house will be held on Saturday, January 27<sup>th</sup> at 2 p.m. at City Hall to share renderings of possible improvements to Rainbow Boulevard.

Ms. Herring provided a general update of the joint project with Roeland Park to redesign Mission Road to add bike lanes and enhance pedestrian features.

Mayor Waters shared that Councilmember Wimer and former Mayor Karen Johnson are working on updating a book about Westwood’s history in anticipation of Westwood’s 75<sup>th</sup> anniversary in June, and thanked them for their work. Councilmember Wimer said she is working to organize a group of residents

to plan events for the community to celebrate. Councilmember Wimer said those that are interested in helping plan these events are encouraged to reach out to her.

Ms. Herring provided an overview of the planning process for a community survey to be conducted in 2024. The Governing Body will be able to use the results from the survey to strategically set priorities for the future. The Governing Body will meet with Kate Bender of Porchlight Insights during the February 8<sup>th</sup> Governing Body work session to begin discussing the survey process.

Mayor Waters asked the members of the Governing Body for their thoughts on issuing a Request for Proposals (RFP) to redevelop the property City Hall currently sits on. Councilmember Harris said given that the contract with Shawnee Mission School District (SMSD) to purchase the property at 2511 W 50<sup>th</sup> Street has been extended to July 2024 it might be too much land use discussion, but he would consider other arguments. Councilmember Hannaman said if for some reason the Karbank proposal does not move forward, he does not think sitting on the City Hall property instead of redeveloping it is an option, it will be required to generate the revenues needed to provide the services Westwood residents desire. Councilmember Hannaman acknowledged that the RFP could generate more strong feelings in the community. Councilmember Harris said he agreed with Councilmember Hannaman. Councilmember Wimer noted the longer the Governing Body delays the RFP process, the information and data in the 2022 Facilities Assessment becomes more outdated. Mayor Waters noted the RFP process could potentially provide ideas for redeveloping the property that the Governing Body has not considered before. Ms. Herring reminded the Governing Body that the proposals submitted do not have to be accepted and acted upon.

Ms. Herring provided an update on the development of a communications plan for the City.

**Adjournment to Regular Meeting**

The Work Session adjourned at 6:56 p.m. to prepare for the regular City Council meeting.

**City of Westwood, Kansas  
City Council Meeting  
January 11, 2024 – 7:00 p.m.**

Council Present: David E. Waters, Mayor  
Andrew Buckman, Councilmember  
Jeff Harris, Council President  
Jason Hannaman, Councilmember  
Laura Steele, Councilmember  
Holly Wimer, Councilmember

Council Absent: None

Staff Present: Leslie Herring, City Administrator  
Curtis Mansell, Police Chief  
John Sullivan, Public Works Director  
Ryan Denk, City Attorney  
Abby Schneweis, City Clerk

**Call to Order**

Mayor Waters called the meeting to order at 7:00 p.m. on January 11, 2024. The City Clerk called the roll. A quorum was present. The evening's meeting was held in a hybrid manner, with attendees joining both in person and via Zoom.

**Approval of Agenda**

Motion by Councilmember Hannaman to approve the January 11, 2024 City Council meeting agenda as submitted. Second by Councilmember Steele. Motion carried by a 5-0 voice vote.

**Public Comment**

Stephen Platt, 4910 Glendale, Westwood Hills, said a petition has been submitted to the City to compel the City to hold an election regarding the sale of Joe D. Dennis Park. Mr. Platt noted there were 169 validated signatures on the petition. Mr. Platt said the City got ahead of itself by rezoning the park. Mr. Platt said he believes the Governing Body should invalidate the zoning change and start the process of rezoning over. Mr. Platt said he believes the City can hold the election in August of 2024 at no additional cost to the City.

**Presentations and Proclamations**

Lauren Schaumburg, Mid America Regional Council, presented the City with a Gold Level achievement in the Communities for All Ages program.

**Consent Agenda**

All items listed below are considered to be routine by the Governing Body and will be enacted in one motion. There will be no separate discussion of these items unless a member of the Governing Body so requests, in which event the item will be removed from the consent agenda and considered separately following approval of the consent agenda.

- A. Consider December 21, 2023, City Council Meeting Minutes

## B. Consider Appropriations Ordinance 758

Motion by Councilmember Harris to approve the Consent Agenda as submitted. Second by Councilmember Wimer. Ms. Schneweis conducted a roll call vote. Motion carried by a 5-0 vote.

### **Mayor's Report**

Mayor Waters said he made an address at the State of the Cities event hosted by the NEJC Chamber earlier that day.

### **Councilmember Reports**

Councilmember Wimer announced that volunteers are needed to help plan and hold a 75<sup>th</sup> Anniversary celebration in June.

Councilmember Steele noted there will be an open house event at City Hall on Saturday, January 27<sup>th</sup> at 2 p.m. to share plans for a redesign of Rainbow Boulevard.

### **Staff Reports**

#### **Administrative Report**

Ms. Herring provided an overview of the January 2024 Administrative Report included in the agenda packet and offered to answer questions.

#### **Feature Park Planning Process Report**

Ms. Herring provided an overview of the Feature Park Planning Process Report included in the agenda packet and offered to answer questions.

#### **Public Works Report**

Mr. Sullivan provided an overview of the December 2023 and January 2024 Public Works Report included in the agenda packet and offered to answer questions.

#### **Public Safety Report**

Chief Mansell provided an overview of the December 2023 Public Safety Report included in the agenda packet and offered to answer questions.

#### **Treasurer's Report**

The December 2023 Treasurer's Report was included in the agenda packet, no questions or comments were made about the report.

#### **City Attorney's Report**

Mr. Denk did not have any items to report.

### **Old Business**

No Old Business items were considered.

### **New Business**

#### **Consider Ordinance 1039 approving a Franchise Agreement with Kansas Fiber Network**

Motion by Councilmember Hannaman to adopt Ordinance 1039 granting to Kansas Fiber Network, LLC a contract franchise to construct, operate, and maintain a telecommunications franchise in the City of



Westwood, Kansas. Second by Councilmember Wimer. The City Clerk conducted a roll call vote. Motion passed 5-0.

**Announcements/Governing Body Comments**

No announcements were made.

**Executive Session**

**Consultation with the City Attorney on matters relating to that property located at and around 5000 Ranbow Blvd. which would be deemed privileged in the attorney client relationship under K.S.A. 75-1319(b)2**

Motion by Councilmember Hannaman to recess into Executive Session for 45 minutes for consultation with the City Attorney on matters relating to real property located at and around 5000 Rainbow Blvd. which would be deemed privileged in the attorney-client relationship under K.S.A. 75-4319(b)2 present will be the members of the Governing Body, the City Administrator, and the City Attorney for, the regular meeting will resume at 8:45 p.m. Second by Councilmember Harris. Motion carried by a unanimous voice vote.

At 8:45 p.m. the Governing Body returned to the dais. Mayor Waters announced no actions were taken during Executive Session.

**Discuss the City Administrator’s annual performance review under K.S.A. 75-4319 (b)(1) to discuss personnel matters of nonelected personnel**

Motion by Councilmember Harris to recess into Executive Session for 10 minutes. Second by Councilmember Buckman. Motion carried by a unanimous voice vote.

**Adjournment**

Motion by Councilmember Buckman to adjourn the meeting. Second by Councilmember Wimer. Motion carried by a 5-0 voice vote. The meeting adjourned at 9:00 p.m.

APPROVED: \_\_\_\_\_  
David E. Waters, Mayor

ATTEST: \_\_\_\_\_  
Abby Schneweis, City Clerk

**City of Westwood, Kansas  
Special City Council Meeting  
January 17, 2024 – 7:00 p.m.**

Council Present: David E. Waters, Mayor  
Andrew Buckman, Councilmember  
Jeff Harris, Council President  
Jason Hannaman, Councilmember  
Laura Steele, Councilmember  
Holly Wimer, Councilmember

Council Absent: None

Staff Present: Leslie Herring, City Administrator  
Ryan Denk, City Attorney  
Abby Schneewis, City Clerk

**Call to Order**

Mayor Waters called the meeting to order at 7:00 p.m. on January 17, 2024. The City Clerk called the roll. A quorum was present. The evening's meeting was held in a hybrid manner, with attendees joining both in person and via Zoom.

The purpose of the evening's Special City Council meeting was to hold an executive session for legal matters related to petitions, to consider a Resolution relating to the determination by the City Council of the validity of the petitions received by the City Clerk on December 12, 2023, and to authorize appropriate proceedings under Kansas Statutes related to the same.

**Approval of Agenda**

Motion by Councilmember Hannaman to approve the January 17, 2024 Special City Council meeting agenda as submitted. Second by Councilmember Harris. Motion carried by a 5-0 voice vote.

**Executive Session**

**Consultation with the City Attorney on matters relating to that property located at and around 5000 Rainbow Blvd. which would be deemed privileged in the attorney client relationship under K.S.A. 75-1319(b)2**

Motion by Councilmember Hannaman to recess into Executive Session for 30 minutes for consultation with the City Attorney on matters relating to real property located at and around 5000 Rainbow Blvd. which would be deemed privileged in the attorney-client relationship under K.S.A. 75-4319(b)2 present will be the members of the Governing Body, the City Administrator, and the City Attorney for, the regular meeting will resume at 7:32 p.m. Second by Councilmember Buckman. Motion carried by a unanimous voice vote.

At 7:32 p.m. the Governing Body returned to the dais. Mayor Waters announced no actions were taken during Executive Session.

**New Business**

**Consider Resolution 125-2024 relating to a determination by the city council on the validity of the petition received by the city Clerk on December 12, 2023 relating to city owned property located at 5000 Rainbow Blvd.**

Mr. Denk presented proposed Resolution 125-2024 in great detail.

Councilmember Harris asked if the petition was hand delivered to the City Clerk. Ms. Herring confirmed that it was hand delivered on December 12, 2023, directly to Ms. Schneweis by Todd Hauser, Esq.

Councilmember Harris asked Mr. Denk if the Governing Body would put the City in legal jeopardy if it were to change the language from the petition in any way to place it on an election ballot. Mr. Denk confirmed that it would.

Councilmember Hannaman said the big roadblock for the petition is the City does not have a question to place on a ballot, and the City does not have the ability to create a question. Mr. Denk confirmed this was correct.

Mr. Denk said the Kansas Constitution limits the ability of cities to hold a referendum vote. Kansas cities can only hold a referendum vote when the Kansas Legislature gives specific authority to do so, and in the manner that the legislature gives them.

Motion by Councilmember Harris to approve Resolution 125-2024 determining and declaring the petition filed with the City Clerk on December 12, 2023 relating to City owned property at 5000 Rainbow Boulevard invalid based upon the findings of fact included in such resolution. Second by Councilmember Wimer. The City Clerk conducted a roll call vote. Motion passed with a 5-0 vote.

**Adjournment**

Motion by Councilmember Steele to adjourn the meeting. Second by Councilmember Wimer. Motion carried by a 5-0 voice vote. The meeting was adjourned at 7:50 p.m.

APPROVED: \_\_\_\_\_  
David E. Waters, Mayor

ATTEST: \_\_\_\_\_  
Abby Schneweis, City Clerk

**City of Westwood, Kansas  
Appropriation Ordinance No. 759**

**AN ORDINANCE APPROPRIATING CITY EXPENDITURES FOR THE PERIOD OF JANUARY 1, 2024 - JANUARY 31, 2024 AND SUMMARIZING SAID EXPENDITURE HEREIN.**

	General Month Ending 1/31/2024	Capital Improvements Month Ending 1/31/2024	Equipment Reserve Month Ending 1/31/2024	Stormwater Month Ending 1/31/2024	Special Highway Month Ending 1/31/2024	Woodside TIF/CID Month Ending 1/31/2024	Debt Service Month Ending 1/31/2024	Total All Funds Month Ending 1/31/2024
<b>Expenditures</b>								
Salary & Benefits	142,038.67	0.00	0.00	0.00	0.00	0.00	0.00	142,038.67
Employee Expenses	6,490.84	0.00	0.00	0.00	0.00	0.00	0.00	6,490.84
Professional Fees	33,688.99	0.00	0.00	0.00	0.00	0.00	0.00	33,688.99
General Operating Expenses	3,792.10	0.00	0.00	0.00	0.00	0.00	0.00	3,792.10
Utilities	12,538.70	0.00	0.00	0.00	0.00	0.00	0.00	12,538.70
Equipment and Maintenance	8,970.04	0.00	0.00	0.00	0.00	0.00	0.00	8,970.04
Street and Stormwater	0.00	0.00	0.00	525.00	0.00	0.00	9,900.00	10,425.00
Park and Events	2,527.19	0.00	0.00	0.00	0.00	0.00	0.00	2,527.19
Miscellaneous	0.00	0.00	0.00	0.00	0.00	17,138.25	0.00	17,138.25
Intergovernmental	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Interfund Transfers	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
<b>Total Expenditures</b>	<b>210,046.53</b>	<b>0.00</b>	<b>0.00</b>	<b>525.00</b>	<b>0.00</b>	<b>17,138.25</b>	<b>9,900.00</b>	<b>237,609.78</b>

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

**SECTION 1.** The Claims included herein are hereby approved and allowed.

**SECTION 2.** That the payment of all claims and charges against the respective accounts and funds provided in the budget for the year 2023 are consistent with that budget and are hereby authorized, ratified and approved.

**SECTION 3.** This Ordinance shall take effect from and after its passage.

ADOPTED this 8th day of FEBRUARY, 2024.

\_\_\_\_\_  
MAYOR

\_\_\_\_\_  
ATTEST: CITY CLERK



## City Administrator's Report February 2024

To: Mayor and City Council  
From: Leslie Herring, City Administrator  
Date: February 8, 2024  
RE: Update on some of the key areas of focus of the Administration Department

### Current Priorities

3<sup>rd</sup> Quarter (October) 2023 through 1<sup>st</sup> Quarter (March) 2024

- *Rainbow Blvd. Complete Streets Traffic Management Plan*
  - ✓ The MARC Board approved the scope of work negotiated with the firm selected by the project steering/advisory committee of stakeholders in April and the Notice to Proceed was issued on May 31, 2023.
  - ✓ A project kick-off with WSP Consulting, MARC, and the local project stakeholders took place on June 27<sup>th</sup>.
  - ✓ Public engagement is currently taking place with an opinion survey and additional public engagement activities and opportunities will take place through November. Survey and information available here: <https://publicinput.com/rainbowboulevard>
  - ✓ Full data analysis has been completed and Steering Committee Meeting 3 of 4 was held last week.
  - ✓ A public open house to release the recommended options and to gather wider feedback from the community was held Saturday, January 27, 2024 from 2 – 4 PM. I anticipate about 50 people attended.
  - One final Steering Committee meeting will be scheduled later this month and reporting of final recommendations and findings to take place in March 2024.
  
- Mission Rd. Improvements (2024 JoCo CARS-funded project in partnership with Roeland Park)
  - ✓ The City was awarded County cost-share funding through Johnson County's CARS program for improvements to Mission Rd. between 47<sup>th</sup> and 53<sup>rd</sup> Streets. The cost of improvements to this stretch of Mission Rd. are also paid 50% by the City of Roeland Park, since the cities split the roadway as it's a City boundary line.
  - ✓ The results from a 2021 community survey jointly administered by the City of Roeland Park and Westwood have set City staff in both cities to pursue the following elements when the cities do street maintenance in 2025:
    - adding bicycle facilities,
    - enhanced pedestrian crossings,
    - new pedestrian-scale streetlighting, and
    - removal of on-street parking on the Roeland Park side of the street to accommodate bicycle lanes.
  - Staff involved in the project are meeting regularly to refine the scope of work and associated costs before submitting to Johnson County for programming.

- A public open house is being scheduled for later in February. Once the logistics are determined, both Roeland Park and Westwood staff will advertise widely. The anticipated deadline for submitting plans and costs to the County is April.
- *Community Survey and Strategic Priorities Setting*
  - City staff recommends that the Governing Body create a strategic plan to provide direction to staff for work activities and for budgeting and for the development of performance metrics to ensure a framework for accountability, responsiveness, and efficient use of tax-payer resources.
  - Staff recommends that this strategic plan be based on the results of a city-wide survey, to be developed and deployed with the assistance of professional partners ETC Institute and PorchLight Insights. The survey will be sent by mail to all Westwood addresses – both residential and commercial – and responses will be accepted by pre-paid return mail or online. Only one response per address will be accepted.
  - A 5:30 PM work session at tonight’s regular February meeting will allow the Governing Body to share with PorchLight Insights what it would like to know and hear from Westwood residents and businesses. This input will be used by City staff and the consultant team to create survey questions, which survey results will then be analyzed and discussed with the Governing Body moving into strategic priority and resource planning in the second quarter of 2024.
  - Performance metrics, communications objectives, and strategic priority identification are all anticipated outcomes of this process. The process is expected to conclude late in the second quarter or early in the third quarter of 2024.
- *New Feature Park Plan Creation*
  - Following the October approval by the City Council of the development plan submitted by Karbank in 2023, the City will commence planning activities for the new feature City park, included in the plan for 50<sup>th</sup> & Rainbow Blvd.
  - The process for creating a plan for the park is expected to take a full year and is anticipated to involve:
    - 2023 Q4: Create park steering committee process, draft RFQ for review by committee, determine and invite committee members
    - 2024 Q1: Park steering committee and RFQ issuance for park planning professional services
    - 2024 Q2 - Q3: Park planning and public engagement
    - 2024 Q4: Park plan concept and schedule acceptance by Council
  - This rough schedule and component parts is subject to change based on steering committee input once that group convenes
  - The Mayor has determined the appointments to the steering committee and will release those names directly.

- *City Website Relaunch*
  - The updated City website went live in March 2023 and, after living with it for a bit, I have rejected the website for issues of functionality, lack of professionalism and lack of modern feel in appearance, and hasty and incomplete migration of data by the website provider.
  - City staff – along with support from a professional communications partner, Katie Garcia at Gather Media – have re-engaged the City’s website provider and have identified an acceptable alternate website template to migrate to through a relaunch. A mock-up of the new website is being developed by CivicPlus, the website developer, and has been shared with City staff and City Council for input.
  - The full relaunch is expected take place by March 31<sup>st</sup>.
  
- *Westwood’s 75th Anniversary – June 7, 2024*
  - I have been working with Mayor Waters, Councilmember Wimer, and resident Karen Johnson to put together a process, expectations, and names of people to help us prepare to celebrate the City of Westwood’s 75<sup>th</sup> anniversary of incorporation. We are expecting components to include:
    - A reprint and expansion of the City’s 50<sup>th</sup> anniversary book publication. We have located the publisher and will provide that information to an ad hoc committee of residents and City Officials so that they can connect to create a new book that accounts for the past 25 years;
    - An event in June 2024 to celebrate the anniversary; and
    - Official City of Westwood merch that residents can proudly wear to show their pride in Westwood.

## **Building Permits**

The following is a snapshot of select building permits of note issued last month:

### *Residential*

#### New Construction:

- 2008 W. 47<sup>th</sup> Ter. – Construct new single family detached house

#### Additions: None

#### Alterations:

- 2720 W. 51<sup>st</sup> St. – Remove wall between kitchen and living area; remove first floor bedroom to add bathroom and walk-in closet for primary bedroom

#### Demolition:

- 2008 W. 47<sup>th</sup> Ter. – Demolish single family house to construct new house

#### Misc: None of note

*Commercial*

New Construction: None

Additions: None

Alterations: None

Demolition: None

Misc: None of note



## **Westwood Public Works Monthly Report**

**TO: GOVERNING BODY**  
**FROM: JOHN SULLIVAN, DIRECTOR OF PUBLIC WORKS**  
**RE: MONTHLY REPORT, JANUARY 2024**  
**DATE: FEBRUARY 6, 2024**

Some of the activities for Public Works in January include:

1. Daily collection of trash from City Hall and City Parks.
2. Perform a weekly inspection of the playground equipment and park facilities.
3. Perform a weekly inspection of the traffic control signs throughout the city; replace poles and signs as required.
4. I prepared the Purchase Orders and documentation for those purchases.
5. Performed routine maintenance at the City Hall to include the servicing of the air handling equipment, re-lamping fixtures and repairing or installing appurtenances including plumbing fixtures.
6. I represented the city at various meetings to include:
  - KCMMB Board Meeting – Virtual – 1 hr.
  - Public Works Directors Meeting – In person - 1.5 hrs.
  - Shade Tree Conference – KAA – In person – 3 days
  - OGL Meeting – Virtual – 1.5 hrs.
  - Emergency Managers Meeting - Virtual – 1 hr.
  - UPROW Committee Meeting - Virtual – 1 hr.
  - Emergency Management Meeting - Virtual – 1.5 hrs.
7. Received, via email, Kansas One-Call Locate Requests, advised callers of their status with the City of Westwood regarding utilities and advised, when appropriate, the need to either get an excavation permit, building permit or fence permit. I provided the building official with a copy of the locate requests for follow-up for any building permits that may be required and answered any questions when asked.
8. We performed routine maintenance on the Public Works vehicles and equipment to include fluid services, cleaning, and general repairs.
9. Routine maintenance of the Public Works Facility to include the air handling equipment, plumbing, electrical, and cleaning.
10. Performed various clerical duties for the Public Works Department's daily functions.
11. I attended Public Works, City Council and Staff and Committee meetings as required.
12. Observed activities associated with ROW Permits.
13. We marked streetlight utilities when requested by the One-Call System.
14. We performed monthly safety checks at all City properties as well as monthly fire extinguisher inspections.
15. Mitch attends monthly Safety Committee Meetings.
16. We patched potholes.
17. We swept streets.
18. We cleaned the catch basin fronts.

19. Performed routine maintenance on equipment.
20. Troubleshoot and repair streetlights as needed at various locations.
21. Performed various repairs to roadway signs.
22. We removed leaves from various City Properties.
23. I have been meeting with FEMA to recover expenses related to the July storms.
24. We performed the annual fire extinguisher inspection.
25. We replaced the hot water heater at the Public Works Building.
26. We performed snow removal and ice control operations on 7 different occasions.
27. We removed snow from roof gutters at City Hall to prevent leaks in the gutter.
28. We removed the Holiday lights from City Hall.

This concludes my activities report for some of the activities for Public Works in January.

## Westwood Public Works

To: Governing Body  
From: John Sullivan, Director of Public Works  
Date: February 6, 2024  
Re: Monthly Status Report

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- W. 47<sup>th</sup> Street Project: We have received 22 of the 26 clamshells. I expect the remaining 4 to be delivered at anytime. I am arranging the install. We have one streetlight fixture that has 4 of the 6 LED arrays not working. We have received the parts for this repair. We also have a pedestrian fixture that has failed. The parts are ordered. Something struck another one of the “47” signs at 47<sup>th</sup> and Fisher. We will make the repairs as soon as our bucket truck is repaired. The remaining parts of the project are complete. KDOT is working on the final accounting for the project.
- 2023 F-550 and Equipment: We have received the truck cab and chassis. The truck is currently at American equipment being outfitted.
- CCLIP funding: Our project has been funded. This includes work on the replacement of the concrete intersection at W. 47<sup>th</sup> Street and Rainbow. We will not have any City funds in this project. Project will be in 2026.
- Storm Debris Removal: We have begun the reimbursement process. More to come as we work through the process. I am meeting with FEMA for what hope is the last time on February 7<sup>th</sup>. More to come.
- Stone wall damage: We had a vehicle accident at W. 51<sup>st</sup> Terrace and Belinder Avenue that resulted in damage to the stone wall on the corner. We have been reimbursed for the expense by the insurance company. When the weather is more favorable, we will have the repairs completed.
- Stone wall damage and light pole damage: I have the replacement Medalion, and we will be installing it when we get the bucket truck back.
- Bicycle Repair Station: This project is complete.
- Garage Door Openers at PW Bldg.: Our door openers have failed and are obsolete. They are the original openers from when we installed them in 1989. The new ones have been ordered and will be installed soon.
- Bucket Truck Repairs: The main seal on the center boom has developed a hydraulic due to a fault seal. We are having it repaired and should get it back soon.
- Brush Chipper: The rear engine seal has failed causing the unit to lose oil. We are having it repaired and expect it back soon.

# Westwood Police Department Westwood City Council Report

Item C. Section VIII, Item

1/1/2024



1/31/2024



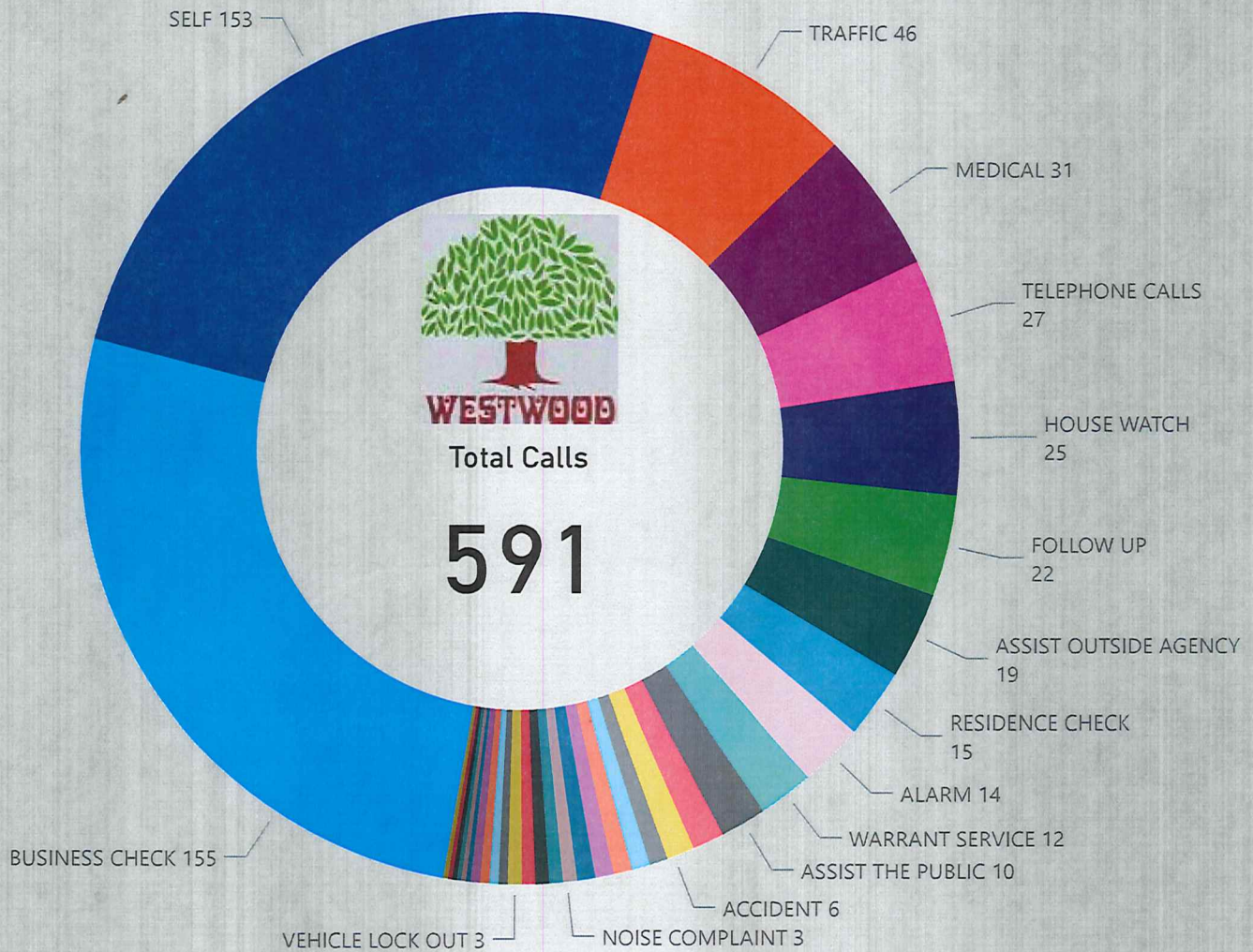
# Westwood Police Department City Council Report

Item C. Section VIII, Item

1/1/2024



1/31/2024



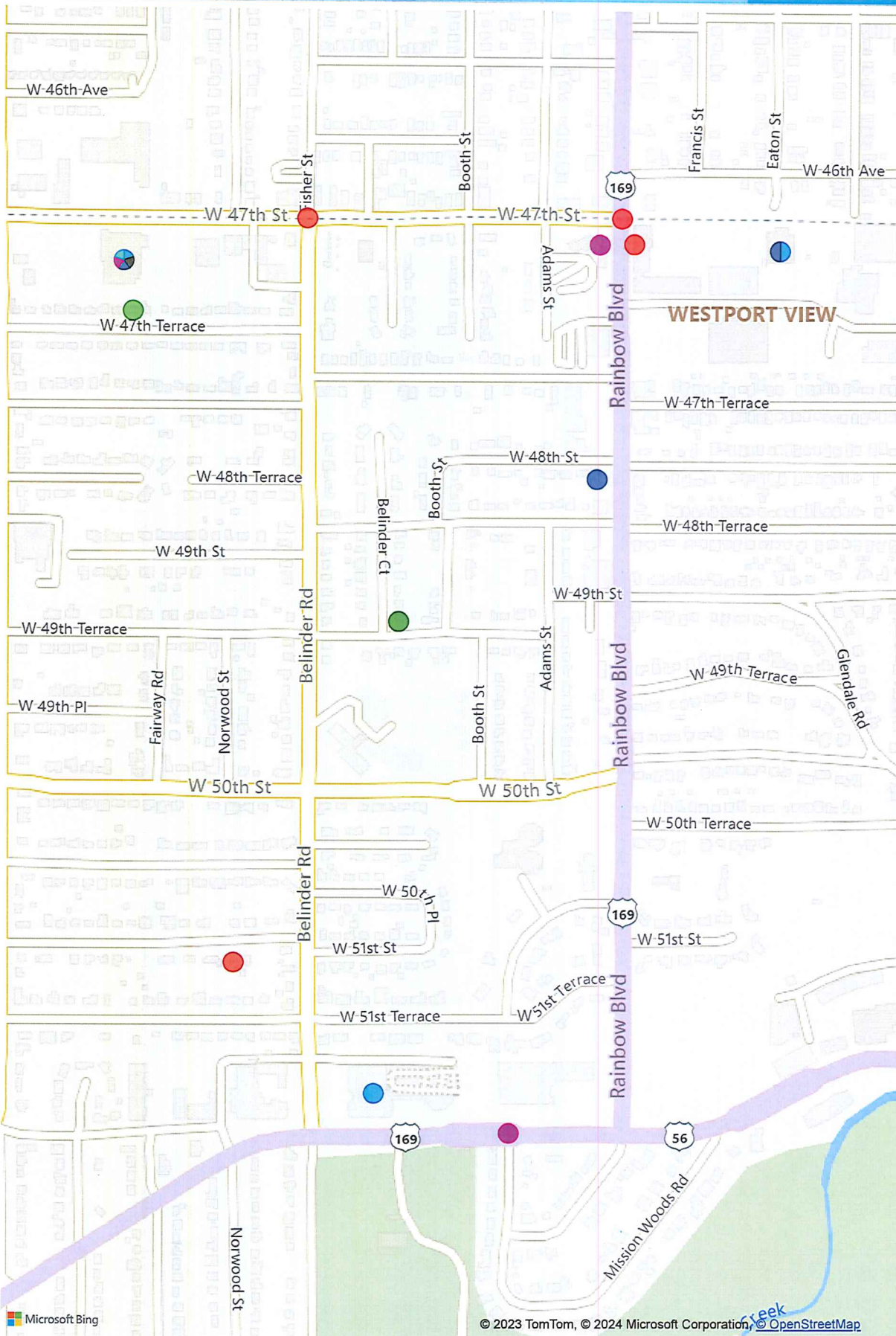
# Westwood Police Department Westwood City Council Report

Item C. Section VIII, Item

1/1/2024



1/31/2024



### Nature of Call

- 911 CALL
- ACCIDENT
- AUTO THEFT REPORT
- CHECK THE WELFARE
- CRIMINAL THREAT
- DISTURBANCE
- SUSPICIOUS
- THEFT REPORT
- TRESPASSING

# Westwood Police Department Westwood City Council Report

Item C. Section VIII, Item

1/1/2024



1/31/2024



Case Number	Nature of Call	Summary
20240012	ACCIDENT	V1 was travelling southbound on State Line Rd and rear ended V2 which was stopped in traffic.
20240013	PROPERTY	Reporting officer took a criminal damage report of a vehicle. The reporting party witnessed a suspect attempting to gain access to her vehicle. The suspect was seen driving off property and the investigation is on going.
20240014	THEFT REPORT	Officer responded to the station for a walk in auto burglary report that occurred on 01-04-2024.
20240015	ACCIDENT	Reporting officer responded for a previous accident in a parking lot. The striking vehicle did not report the accident when it occurred. Officers contacted the driver of the striking vehicle and insurance info was exchanged.
20240020	DISTURBANCE	Reporting officer responded to a physical disturbance. An investigation took place. Victim did not want to press charges during the time of report. All suspects were given criminal trespass and released pending further investigation.
20240024	ACCIDENT	Reporting officer took a report for a vehicle that was struck while parked on side of the road. No suspect vehicle information at this time.
20240025	THEFT REPORT	Reporting officer responded to suspicious activity. RP notified dispatch of a male that had previously taken items earlier in the day without paying was back on scene. Reporting officer made contact and took male into custody for theft and KCKPD warrants. The suspect posted a modified bond and was released into KCKPD custody.
20240034	THEFT REPORT	Reporting officer conducted traffic on vehicle. Upon investigation, parties in the vehicle were arrested for drug and theft charges. Parties were released from the station pending their court appearance.
20240035	ACCIDENT	Vehicle 1 was traveling on north on Belinder Ave approaching 47th St. Stopped at the stop sign to make a turn. Proceeded through the intersection. Vehicle 2 traveling east as traveling on 47th St. approaching Belinder Ave.

WESTWOOD  
COURT SUMMARY  
JANUARY, 2024

COURT DATE	ARRAIGNMENTS	TRIALS	FINES	LETTERS	WARRANTS
January 05, 2024	37	03	\$2,830.00	23	11
January 19, 2024	42	09	\$3,725.00	20	16
<b>TOTALS</b>					
January, 2024	79	12	\$ 6,555.00	43	27
January, 2023	64	13	\$ 5,863.00	14	29
			<b>TOTAL (\$6,555.00) less</b>		
			* Kansas DL fees:	\$ 0.00	
			* Judges Training Fund:	\$ 18.50	
			* LET Training Fund:	\$ 447.50	
			* Seat Belt Fund:	\$ 60.00	
			<b>January, 2024 TOTAL:</b>	<b>\$6,029.00</b>	

Y.T.D. TOTALS 2024		Y.T.D. TOTALS 2023	
ARRAIGNMENTS:	79	ARRAIGNMENTS:	64
TRIALS	12	TRIALS:	13
LETTERS:	43	LETTERS:	14
WARRANTS:	27	WARRANTS:	29
FINES:	\$6,555.00	FINES:	\$5,863.00
KS DL FEES:	\$0.00	KS DL FEES:	\$203.00
JUDGES FUND:	\$18.50	JUDGES FUND:	\$21.00
L.E.T.FUND:	\$447.50	L.E.T FUND:	\$472.50
Comm Correct Fund:	\$0.00	Comm Correct Fund:	\$ 0.00
SEAT BELT FUND:	\$60.00	SEAT BELT FUND:	\$0.00



**City of Westwood  
Treasurer's Report  
1/31/24**

1. Balance Sheet by Fund – shows overall ending cash balances for the City by Fund.
  - a. Ending unencumbered cash through 1/31/2024 was \$4,562,110. January 2023 the balance was \$2,917,209.
2. Cash Flow – shows beginning cash by fund and associated revenues and expenditures for each fund in a more summarized format.
3. Statement of Operations – General Fund
  - a. Revenue received for the month was \$714,975. Revenue compared to the prior year was \$678,807.
    - i. Taxes – Taxes collected were up by 19,795 in 2024.
    - ii. Fees and Licenses – were down by \$4,324 in 2024.
    - iii. Building permits were up by \$4,940.
    - iv. Fines are still up by \$3,145.
    - v. The city received a reimbursement from damages for \$9,786.
  - b. January Expenditures totaled \$21,047. This is an increase of \$8,250 from the prior year.
    - i. General overhead expenditures were \$53,054 for the month. Overall expenditures increased by \$17,872 due to insurance costs.
    - ii. Administrative expenditures were \$35,593 in 2024. Salary and benefits were down by \$8,059 due to the employee and not being replaced before the month end.
    - iii. Public Works total expenditures were \$34,243 for the month. This is comparable to the previous January.
    - iv. Police expenditures are \$88,285 for the month. This is comparable to the previous January.
  - c. Net Receipts Over (Under) Expenditures in the General Fund were 504,928 for the month. This is an increase over January 2023 of \$27,918.
4. Other Funds – Current Month and Year to Date
  - a. CIP –Sales tax collected was \$29102.
  - b. Equipment reserve received a donation of \$10,222.
  - c. Stormwater received stormwater utility fee of \$144,517 which reflects the increase approved for this fund.
  - d. Special Highway had revenue collected of \$15,314.
  - e. The Woodside TIF/CID fund received revenue of \$515,899 which was for the ad valorem tax and the CID funds. This is an increase over the previous year since the tax adjustments ended in December 2023. Made the UMB CID payment of \$17,138 in January.
  - f. Debt Service received tax revenue of \$10,789 and had expenses of \$9,900.

I am happy to answer any questions upon request.

Michelle Ryan  
City of Westwood Treasurer

## ACCOUNTANTS' COMPILATION REPORT

To the City Council  
**City of Westwood, Kansas**  
Westwood, Kansas

Management is responsible for the accompanying financial statements of **City of Westwood, Kansas** (a municipal entity), which comprises the statement of assets, liabilities and fund balance by fund – regulatory basis and the statement of cash flow – regulatory basis as of and for the one month ended January 31, 2024, in accordance with the regulatory basis of accounting, and for determining that the regulatory basis of accounting is an acceptable financial reporting framework. We have performed a compilation engagement in accordance with Statements on Standards for Accounting and Review Services promulgated by the Accounting and Review Services Committee of the AICPA. We did not audit or review the financial statements nor were we required to perform any procedures to verify the accuracy or completeness of the information provided by management. We do not express an opinion, a conclusion, nor provide any assurance on these financial statements.

The financial statements are prepared in accordance with the regulatory basis of accounting, which is a basis of accounting other than accounting principles generally accepted in the United States of America.

Management has elected to omit substantially all the disclosures ordinarily included in financial statements prepared in accordance with the regulatory basis of accounting. If the omitted disclosures were included in the financial statements, they might influence the user's conclusions about the City's assets, liabilities, fund balance, receipts, and expenditures. Accordingly, the financial statements are not designed for those who are not informed about such matters.

The supplementary information is presented for purposes of additional analysis and is not a required part of the basic financial statements. Such information is the responsibility of management. The supplementary information was subject to our compilation engagement. We have not audited or reviewed the supplementary information and do not express an opinion, a conclusion, nor provide any assurance on such information.

We are not independent with respect to **City of Westwood, Kansas**.

*Adams Brown, LLC*

**ADAMSBROWN, LLC**  
Certified Public Accountants  
Overland Park, Kansas

February 5, 2024



**City of Westwood, Kansas**  
**Statement of Assets, Liabilities and Fund Balance by Fund - Regulatory Basis**  
 As of January 31, 2024

	General Fund 01/31/2024	Capital Improvements Fund 01/31/2024	Equipment Reserve Fund 01/31/2024	Stormwater Fund 01/31/2024	Special Highway Fund 01/31/2024	Woodside TIF/CID Fund 01/31/2024	Debt Service Fund 01/31/2024	All Funds 01/31/2024
<b>Assets</b>								
Current Assets								
Cash In Bank	2,011,535.25	336,444.85	414,150.53	333,209.50	184,406.88	1,101,426.22	145,445.57	4,526,618.80
Cash In Bank - Bond Fund	35,142.67	0.00	0.00	0.00	0.00	0.00	0.00	35,142.67
Cash In Bank - Woodside Village Acct	9.51	0.00	0.00	0.00	0.00	0.00	0.00	9.51
Petty Cash	339.00	0.00	0.00	0.00	0.00	0.00	0.00	339.00
<b>Total Current Assets</b>	<b>2,047,026.43</b>	<b>336,444.85</b>	<b>414,150.53</b>	<b>333,209.50</b>	<b>184,406.88</b>	<b>1,101,426.22</b>	<b>145,445.57</b>	<b>4,562,109.98</b>
<b>Total Assets</b>	<b>\$ 2,047,026.43</b>	<b>\$ 336,444.85</b>	<b>\$ 414,150.53</b>	<b>\$ 333,209.50</b>	<b>\$ 184,406.88</b>	<b>\$ 1,101,426.22</b>	<b>\$ 145,445.57</b>	<b>\$ 4,562,109.98</b>
<b>Liabilities and Fund Balance</b>								
Current Liabilities								
Encumbrances	59,199.70	2,373.79	0.00	5,490.76	0.00	0.00	0.00	67,064.25
Woodside Village Deposits	9.19	0.00	0.00	0.00	0.00	0.00	0.00	9.19
Refundable Bond Deposits	34,639.99	0.00	0.00	0.00	0.00	0.00	0.00	34,639.99
Accounts Payable	(59,199.70)	(500.00)	47,439.00	(5,490.76)	0.00	0.00	0.00	(17,751.46)
KPERS/KPF Payable	25.73	0.00	0.00	0.00	0.00	0.00	0.00	25.73
<b>Total Current Liabilities</b>	<b>34,674.91</b>	<b>1,873.79</b>	<b>47,439.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>83,987.70</b>
<b>Total Liabilities</b>	<b>34,674.91</b>	<b>1,873.79</b>	<b>47,439.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>83,987.70</b>
Fund Balance								
Fund Balance	1,507,423.53	305,469.03	356,488.84	189,217.42	169,092.79	602,665.66	144,556.17	3,274,913.44
Fund Balance - Current Year	504,927.99	29,102.03	10,222.69	143,992.08	15,314.09	498,760.56	889.40	1,203,208.84
<b>Total Fund Balance</b>	<b>2,012,351.52</b>	<b>334,571.06</b>	<b>366,711.53</b>	<b>333,209.50</b>	<b>184,406.88</b>	<b>1,101,426.22</b>	<b>145,445.57</b>	<b>4,478,122.28</b>
<b>Total Liabilities and Fund Balance</b>	<b>\$ 2,047,026.43</b>	<b>\$ 336,444.85</b>	<b>\$ 414,150.53</b>	<b>\$ 333,209.50</b>	<b>\$ 184,406.88</b>	<b>\$ 1,101,426.22</b>	<b>\$ 145,445.57</b>	<b>\$ 4,562,109.98</b>

See accountants' compilation report.



**City of Westwood, Kansas**  
**Statement of Cash Flow - Regulatory Basis**  
 For the One Month Ended January 31, 2024

	General Fund Month Ending 01/31/2024	Capital Improvements Fund Month Ending 01/31/2024	Equipment Reserve Fund Month Ending 01/31/2024	Stormwater Fund Month Ending 01/31/2024	Special Highway Fund Month Ending 01/31/2024	Woodside TIF/CID Fund Month Ending 01/31/2024	Debt Service Fund Month Ending 01/31/2024	All Funds Month Ending 01/31/2024
<b>Unencumbered Cash, Beginning Period</b>	<b>1,600,428.14</b>	<b>307,842.82</b>	<b>403,927.84</b>	<b>194,708.18</b>	<b>169,092.79</b>	<b>602,665.66</b>	<b>144,556.17</b>	<b>3,423,221.60</b>
<b>Receipts</b>								
Taxes	620,615.59	29,102.03	0.00	0.00	0.00	0.00	10,789.40	660,507.02
Fees and Licenses	38,385.29	0.00	0.00	0.00	0.00	0.00	0.00	38,385.29
Building Permits	5,583.33	0.00	0.00	0.00	0.00	0.00	0.00	5,583.33
Intergovernmental	26,115.52	0.00	0.00	0.00	0.00	0.00	0.00	26,115.52
Restricted Use	0.00	0.00	0.00	144,517.08	15,314.09	515,898.81	0.00	675,729.98
Fines	7,601.00	0.00	0.00	0.00	0.00	0.00	0.00	7,601.00
Grants and Donations	2,000.00	0.00	10,222.69	0.00	0.00	0.00	0.00	12,222.69
Reimbursements	9,786.00	0.00	0.00	0.00	0.00	0.00	0.00	9,786.00
Miscellaneous	4,887.79	0.00	0.00	0.00	0.00	0.00	0.00	4,887.79
<b>Total Receipts</b>	<b>714,974.52</b>	<b>29,102.03</b>	<b>10,222.69</b>	<b>144,517.08</b>	<b>15,314.09</b>	<b>515,898.81</b>	<b>10,789.40</b>	<b>1,440,818.62</b>
<b>Expenditures</b>								
Salary & Benefits	142,038.67	0.00	0.00	0.00	0.00	0.00	0.00	142,038.67
Employee Expenses	6,490.84	0.00	0.00	0.00	0.00	0.00	0.00	6,490.84
Professional Fees	33,688.99	0.00	0.00	0.00	0.00	0.00	0.00	33,688.99
General Operating Expenses	3,792.10	0.00	0.00	0.00	0.00	0.00	0.00	3,792.10
Utilities	12,538.70	0.00	0.00	0.00	0.00	0.00	0.00	12,538.70
Equipment and Maintenance	8,970.04	0.00	0.00	0.00	0.00	0.00	0.00	8,970.04
Street and Stormwater	0.00	0.00	0.00	525.00	0.00	0.00	9,900.00	10,425.00
Park and Events	2,527.19	0.00	0.00	0.00	0.00	0.00	0.00	2,527.19
Miscellaneous	0.00	0.00	0.00	0.00	0.00	17,138.25	0.00	17,138.25
Interfund Transfers	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
<b>Total Expenditures</b>	<b>210,046.53</b>	<b>0.00</b>	<b>0.00</b>	<b>525.00</b>	<b>0.00</b>	<b>17,138.25</b>	<b>9,900.00</b>	<b>237,609.78</b>
<b>Adjustments</b>								
Increase / (Decrease) in Payables	(59,199.70)	(500.00)	0.00	(5,490.76)	0.00	0.00	0.00	(65,190.46)
Increase / (Decrease) in Refundable Bond Deposits	870.00	0.00	0.00	0.00	0.00	0.00	0.00	870.00
<b>Total Adjustments</b>	<b>(58,329.70)</b>	<b>(500.00)</b>	<b>0.00</b>	<b>(5,490.76)</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>(64,320.46)</b>
<b>Ending Cash</b>	<b>\$ 2,047,026.43</b>	<b>\$ 336,444.85</b>	<b>\$ 414,150.53</b>	<b>\$ 333,209.50</b>	<b>\$ 184,406.88</b>	<b>\$ 1,101,426.22</b>	<b>\$ 145,445.57</b>	<b>\$ 4,562,109.98</b>

**CITY OF WESTWOOD, KANSAS**

Supplementary Information



**City of Westwood, Kansas**  
**Statement of Receipts and Expenditures - Regulatory Basis**  
 General Fund  
 For The One Month Ended January 31, 2024 and 2023

	<u>Month Ending</u> <u>01/31/2024</u>	<u>Month Ending</u> <u>01/31/2023</u>	<u>Year Ending</u> <u>12/31/2024</u>	
	Actual	Prior Year	Current Budget	Over/(Under) Budget
<b>Receipts</b>				
Taxes	\$ 620,615.59	\$ 600,820.80	\$ 2,110,854.00	(1,490,238.41)
Fees and Licenses	38,385.29	42,709.47	472,200.00	(433,814.71)
Building Permits	5,583.33	643.00	160,000.00	(154,416.67)
Intergovernmental	26,115.52	26,963.39	325,100.00	(298,984.48)
Fines	7,601.00	4,456.00	80,000.00	(72,399.00)
Grants and Donations	2,000.00	0.00	0.00	2,000.00
Reimbursements	9,786.00	0.00	0.00	9,786.00
Miscellaneous	4,887.79	3,214.23	55,250.00	(50,362.21)
<b>Total Receipts</b>	<u>714,974.52</u>	<u>678,806.89</u>	<u>3,203,404.00</u>	<u>(2,488,429.48)</u>
<b>Expenditures</b>				
<b>General Overhead</b>				
Salary & Benefits	3,038.71	2,930.91	45,940.68	(42,901.97)
Employee Expenses	1,996.87	1,937.67	9,000.00	(7,003.13)
Professional Fees	30,712.35	11,690.95	260,250.00	(229,537.65)
General Operating Expenses	2,552.38	589.99	30,000.00	(27,447.62)
Utilities	12,478.70	13,962.66	287,295.60	(274,816.90)
Park and Events	2,275.00	4,070.00	14,750.00	(12,475.00)
Miscellaneous	0.00	0.00	30,000.00	(30,000.00)
Intergovernmental	0.00	0.00	20,000.00	(20,000.00)
Interfund Transfers	0.00	0.00	268,830.00	(268,830.00)
<b>Total General Overhead</b>	<u>53,054.01</u>	<u>35,182.18</u>	<u>966,066.28</u>	<u>(913,012.27)</u>
<b>Administrative</b>				
Salary & Benefits	29,183.55	37,243.22	480,100.00	(450,916.45)
Employee Expenses	464.79	395.00	14,500.00	(14,035.21)
Professional Fees	2,843.00	2,703.50	48,000.00	(45,157.00)
General Operating Expenses	102.07	430.00	2,500.00	(2,397.93)
Interfund Transfers	0.00	0.00	5,000.00	(5,000.00)
<b>Total Administrative</b>	<u>32,593.41</u>	<u>40,771.72</u>	<u>550,100.00</u>	<u>(517,506.59)</u>
<b>Public Works</b>				
Salary & Benefits	33,331.87	34,952.52	432,000.00	(398,668.13)
Employee Expenses	0.00	0.00	7,900.00	(7,900.00)
Professional Fees	0.00	0.00	17,000.00	(17,000.00)
General Operating Expenses	197.60	636.04	27,550.00	(27,352.40)
Utilities	60.00	971.92	19,580.00	(19,520.00)
Equipment and Maintenance	653.50	0.00	60,500.00	(59,846.50)
Interfund Transfers	0.00	0.00	200,000.00	(200,000.00)
<b>Total Public Works</b>	<u>34,242.97</u>	<u>36,560.48</u>	<u>764,530.00</u>	<u>(730,287.03)</u>
<b>Police</b>				
Salary & Benefits	76,484.54	83,106.27	999,500.00	(923,015.46)
Employee Expenses	4,029.18	4,003.07	27,000.00	(22,970.82)
Professional Fees	133.64	(611.76)	34,000.00	(33,866.36)
General Operating Expenses	940.05	554.53	67,100.00	(66,159.95)

See accountants' compilation report.



**City of Westwood, Kansas**  
**Statement of Receipts and Expenditures - Regulatory Basis**  
 General Fund  
 For The One Month Ended January 31, 2024 and 2023

	Month Ending	Month Ending	Year Ending	
	01/31/2024	01/31/2023	12/31/2024	12/31/2023
	Actual	Prior Year	Current Budget	Over/(Under) Budget
Utilities	0.00	0.00	4,500.00	(4,500.00)
Equipment and Maintenance	6,697.34	1,891.60	10,500.00	(3,802.66)
Park and Events	0.00	0.00	1,200.00	(1,200.00)
Interfund Transfers	0.00	0.00	70,000.00	(70,000.00)
<b>Total Police</b>	<b>88,284.75</b>	<b>88,943.71</b>	<b>1,213,800.00</b>	<b>(1,125,515.25)</b>
<b>Parks &amp; Rec</b>				
General Operating Expenses	0.00	0.00	3,000.00	(3,000.00)
Utilities	0.00	313.18	30,000.00	(30,000.00)
Equipment and Maintenance	1,619.20	26.00	10,000.00	(8,380.80)
Park and Events	252.19	0.00	28,250.00	(27,997.81)
<b>Total Parks &amp; Rec</b>	<b>1,871.39</b>	<b>339.18</b>	<b>71,250.00</b>	<b>(69,378.61)</b>
<b>Total Expenditures</b>	<b>210,046.53</b>	<b>201,797.27</b>	<b>3,565,746.28</b>	<b>(3,355,699.75)</b>
<b>Receipts Over (Under) Expenditures</b>	<b>\$ 504,927.99</b>	<b>\$ 477,009.62</b>	<b>\$ (362,342.28)</b>	<b>867,270.27</b>

See accountants' compilation report.



**City of Westwood, Kansas**  
**Statement of Receipts and Expenditures - Regulatory Basis**  
 Other Funds  
 For The One Month Ended January 31, 2024

	Other Funds					
	Capital Improvements Fund	Equipment Reserve Fund	Stormwater Fund	Special Highway Fund	Woodside TIF/CID Fund	Debt Service Fund
	Month To Date 01/31/2024 Actual	Month To Date 01/31/2024 Actual	Month To Date 01/31/2024 Actual	Month To Date 01/31/2024 Actual	Month To Date 01/31/2024 Actual	Month To Date 01/31/2024 Actual
<b>Receipts</b>						
Taxes						
Ad Valorem Tax	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 10,519.61
City Sales & Use Tax - Special	29,102.03	0.00	0.00	0.00	0.00	0.00
Motor Vehicle Tax	0.00	0.00	0.00	0.00	0.00	269.79
<b>Total Taxes</b>	<b>29,102.03</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>10,789.40</b>
Restricted Use						
Stormwater Utility Fee	0.00	0.00	144,517.08	0.00	0.00	0.00
State Hwy Maintenance	0.00	0.00	0.00	3,735.45	0.00	0.00
Special Highway Fund Revenue	0.00	0.00	0.00	11,578.64	0.00	0.00
WV Ad Valorem Tax	0.00	0.00	0.00	0.00	488,381.00	0.00
WV CID-1	0.00	0.00	0.00	0.00	17,691.34	0.00
WV CID-2	0.00	0.00	0.00	0.00	9,826.47	0.00
Grants and Donations	0.00	10,222.69	0.00	0.00	0.00	0.00
Interfund Transfers	0.00	0.00	0.00	0.00	0.00	0.00
<b>Total Receipts</b>	<b>29,102.03</b>	<b>10,222.69</b>	<b>144,517.08</b>	<b>15,314.09</b>	<b>515,898.81</b>	<b>10,789.40</b>
<b>Expenditures</b>						
Street and Stormwater						
Capital Improvement Expense	0.00	0.00	0.00	0.00	0.00	9,900.00
Stormwater Expense	0.00	0.00	525.00	0.00	0.00	0.00
<b>Total Street and Stormwater</b>	<b>0.00</b>	<b>0.00</b>	<b>525.00</b>	<b>0.00</b>	<b>0.00</b>	<b>9,900.00</b>
Miscellaneous						
UMB CID Payment	0.00	0.00	0.00	0.00	17,138.25	0.00
<b>Total Miscellaneous</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>17,138.25</b>	<b>0.00</b>
Interfund Transfers	0.00	0.00	0.00	0.00	0.00	0.00
<b>Total Expenditures</b>	<b>0.00</b>	<b>0.00</b>	<b>525.00</b>	<b>0.00</b>	<b>17,138.25</b>	<b>9,900.00</b>
<b>Receipts Over (Under) Expenditures</b>	<b>\$ 29,102.03</b>	<b>\$ 10,222.69</b>	<b>\$ 143,992.08</b>	<b>\$ 15,314.09</b>	<b>\$ 498,760.56</b>	<b>\$ 889.40</b>

See accountants' compilation report.





**City of Westwood, Kansas**  
Summary of Expenditures - Actual and Budget  
Regulatory Basis  
For The Year Ended January 31, 2024

	<b>Certified Budget</b>	<b>Expenditures Chargeable to Current Year</b>	<b>Difference Over/(Under)</b>
<b>Expenditures</b>			
General Fund	3,565,746.28	210,046.53	(3,355,699.75)
Capital Improvements Fund	361,976.00	0.00	(361,976.00)
Equipment Reserve Fund	741,414.00	0.00	(741,414.00)
Stormwater Fund	194,516.00	525.00	(193,991.00)
Special Highway Fund	10,000.00	0.00	(10,000.00)
Woodside TIF/CID Fund	623,562.00	17,138.25	(606,423.75)
Debt Service Fund	231,837.50	9,900.00	(221,937.50)
<b>Total Expenditures</b>	<b>5,729,051.78</b>	<b>237,609.78</b>	<b>(5,491,442.00)</b>

See accountants' compilation report.

**COUNCIL ACTION FORM**

Meeting Date: February 8, 2024

Staff Contact: Ryan Denk, City Attorney

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**Agenda Item:** Consider Ordinance 1040 approving a Franchise Agreement with Google Fiber

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**Background/Description of Item**

In 2012, Google Fiber was granted authorization by the State of Kansas to provide video service in Westwood and that same year entered into a Development Agreement with the City. In 2015, the City of Westwood entered into a Video Service Provider Agreement with Google Fiber Kansas, LLC to construct, operate, and maintain facilities within city rights-of-way, to provide video services to customers within the city, and to pay to the City a video service provider fee in the amount of 5% of gross revenues.

**Staff Comments/Recommendation**

There is only one change to the agreement - the franchise fee percentage has decreased. The 2015 agreement gave the City a 5% franchise fee for television and cable services. Since that agreement, Google has moved out of the business of providing television and cable services, which leaves that agreement collecting very little franchise fees. The new agreement has a lower percentage – 2% – but applies to a broader range of services, including Google's broadband service. This agreement was negotiated by the City Attorney and is the same framework that Google Fiber has worked out with surrounding municipalities in Johnson County, bringing Westwood in line with other neighboring cities.

**Budget Impact**

The City currently receives less than 3% of our total franchise fee revenue from Google Fiber, so the budget impact of this change is expected to be nominal if not possibly providing increased revenue by way of now assessing franchise fees on additional services provided by Google Fiber in Westwood, including broadband service.

*Suggested Motion*

*I move the City Council adopt Ordinance 1040 granting to Google Fiber Kansas, LLC a contract franchise to construct, operate, and maintain communications service facilities in the public right-of-way of the City of Westwood, Kansas.*

**ORDINANCE NO. 1040****AN ORDINANCE GRANTING TO GOOGLE FIBER KANSAS, LLC, A CONTRACT FRANCHISE TO CONSTRUCT, OPERATE, AND MAINTAIN COMMUNICATIONS SERVICE FACILITIES IN THE PUBLIC RIGHT-OF-WAY OF THE CITY OF WESTWOOD, KANSAS AND PRESCRIBING THE TERMS THEREOF.**

WHEREAS, the City of Westwood, Kansas, a city organized and existing under the laws of the State of Kansas (the “**City**”), has jurisdiction over the use of the public rights-of-way in the City (“**Public ROW**”); and

WHEREAS, Google Fiber Kansas, LLC, a Kansas limited liability company, and its direct parent, and its direct parent’s subsidiaries, successors, or assigns (“**Franchisee**”), owns, maintains, operates, and controls a fiber optic infrastructure network in Public ROW (“**Network**”); and

WHEREAS, the Network consists of equipment and facilities that may include aerial or underground fiber optic cables, lines, wires, or strands; underground conduits, vaults, access manholes and handholes; electronic equipment; power generators; batteries; pedestals; boxes; cabinets; vaults; and other similar facilities (“**Network Facilities**”); and

WHEREAS, prior to the Effective Date (as defined herein), Franchisee operated the Network pursuant to an appropriate state video services franchise and Franchisee desires to continue to use and occupy Public ROW in order to install, operate, and maintain its Network for the purposes of offering certain communications services (“**Services**”), consisting of broadband Internet access service as defined in 47 C.F.R. § 8.1(b) (“**Broadband Internet Services**”) and Voice over Internet Protocol services (“**VOIP Services**”) to residents and businesses in the City (“**Customers**”), and

WHEREAS, Franchisee will not offer multichannel video programming services that would be subject to a video services franchise under K.S.A. 12-2021 et seq. or telecommunications services as defined in 47 C.F.R. § 153(53), K.S.A. 12-2001(c)(9) or K.S.A. 17-1902(a)(3) under this Contract Franchise (as defined below); and

WHEREAS, in order to facilitate Franchisee’s desire, and pursuant to K.S.A. 12-2001 and its home rule powers, the City is adopting this ordinance granting Franchisee the right to install, operate and maintain its Network in the Public ROW for the provision of Services to its Customers (this “**Contract Franchise**”) and, upon acceptance by Franchisee, this Contract Franchise shall act as a binding agreement between the parties.

**NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WESTWOOD:**

**SECTION 1. Grant and Permission to Use and Occupy.**

- 1.1. Permission to Use and Occupy Public ROW. Upon the Commencement Date, the City grants Franchisee permission to use and occupy the Public ROW for the purpose of constructing, installing, repairing, maintaining, operating, and if necessary removing the Network and the related Network Facilities (the “**Work**”) in order to provide Services to Customers. This Contract Franchise does not authorize Franchisee to use any property other than the Public ROW as agreed herein (e.g., any City parkland or other recreational property, any governmental office property, any public safety property, or any public works facility). Franchisee’s use of any other City property, including poles and conduits, will be governed under a separate agreement regarding that use.

Franchisee shall not provide any additional services (other than the Services defined herein) for which a franchise or license is required by the City without first obtaining a separate franchise or license or amending this Contract Franchise, and Franchisee shall not knowingly allow the use of its Network Facilities by any third party in violation of any federal, state or local law.

- 1.2. Commencement Date. This Contract Franchise will be effective upon the later of the date on which (a) (i) Franchisee has discontinued provision of facilities-based linear video services to Customers, (ii) Franchisee has taken all actions necessary under its state video services franchise to terminate such state franchise and such state franchise has terminated, and (iii) Franchisee has notified the City of (i) and (ii); or (b) the Effective Date (“**License Commencement Date**”).
- 1.3. Subject to State and Local Law. This Contract Franchise is subject to the City’s valid authority under state and local laws as they exist now or may be amended from time-to-time, and subject to the conditions set forth in this Contract Franchise.
- 1.4. Subject to City’s Right to Use Public ROW. This Contract Franchise is subject and subordinate to the City’s prior and continuing right to use the Public ROW, including constructing, installing, operating, maintaining, repairing, or removing sewers, water pipes, storm drains, gas pipes, utility poles, overhead and underground electric lines and related facilities, and other public utility and municipal uses.
- 1.5. Subject to Pre-Existing Property Interests. The City’s grant and permission to use and occupy the Public ROW is subject to all valid pre-existing easements, restrictions, conditions, covenants, encumbrances, claims of title or other property interests that may affect the Public ROW. Franchisee will obtain at its own cost and expense any permission or rights as may be necessary to accommodate such pre-existing property interests.
- 1.6. No Grant of Property Interest. This Contract Franchise does not grant or convey any property interest, or any title, equitable or legal, in the Public ROW. Additionally, this Contract Franchise does not grant the right to use any facilities or property owned or controlled by a third-party without the consent of such third-party; and Franchisee is responsible for obtaining appropriate access or attachment agreements before locating its Network Facilities on property or facilities owned or controlled by a third-party.
- 1.7. Non-Exclusive. This Contract Franchise is not exclusive. The City expressly reserves the right to grant licenses, permits, franchises, privileges or other rights to any other individual, corporation, partnership, limited liability company, trust, joint stock company, business trust, unincorporated association, joint venture, governmental authority or other entity of any nature whatsoever (“**Person**”), as well as the right in its own name as a city, to use Public ROW for similar or different purposes allowed Franchisee under this Contract Franchise.
- 1.8. Reservation of Right. In entering into this Contract Franchise, the City does not in any manner waive its regulatory or other rights and powers under and by virtue of the laws of the State of Kansas or applicable federal laws and regulations as the same may be amended, its Home Rule powers and other authority established pursuant to the Constitution of the State of Kansas, nor any of its rights and powers under or by virtue of present or future ordinances of the City.

## **SECTION 2. Franchisee’s Obligations**

- 2.1. Use of Public ROW. Franchisee’s use of the Public ROW shall always be subject and subordinate to the reasonable public health, safety and welfare requirements and regulations

of the City. The City may exercise its home rule powers in its administration and regulation related to the management of the Public ROW; provided that any such exercise must be competitively neutral and may not be unreasonable or discriminatory. Franchisee shall be subject to all applicable laws and statutes, and/or rules, regulations, policies, resolutions and ordinances adopted by the City, relating to the construction and use of the Public ROW or otherwise relating to Franchisee's Network Facilities.

- 2.2. Individual Permits Required. Franchisee will obtain the City's approval of required individual encroachment, construction, and other necessary permits before placing its Network Facilities in the Public ROW or other property of the City as authorized. Franchisee will pay all lawful processing, field marking, engineering, and inspection fees associated with the issuance of individual permits by the City, including any fees as set out by Section 13-117 of the Westwood City Code and the Westwood Fee Schedule.
- 2.3. Franchisee's Sole Cost and Expense. Franchisee will perform the Work at its sole cost and expense.
- 2.4. Compliance with Laws. Franchisee will comply with all applicable laws and regulations when performing the Work. Franchisee will place its Network Facilities in conformance with the required permits, plans, and drawings approved by the City. Franchisee shall also participate in the Kansas One Call utility location program. To the extent applicable, Franchisee shall obtain any necessary permit, license, certification, grant, registration or any other authorization required by any appropriate governmental entity, including, but not limited to, the FCC or the Kansas Corporation Commission (KCC).
- 2.5. Reasonable Care. Franchisee will exercise reasonable care when performing the Work and will use commonly accepted practices and equipment to minimize the risks of personal injury, property damage, soil erosion, and pollution of surface or groundwater. Franchisee's Network Facilities shall be so constructed and maintained as not to obstruct or hinder the usual travel or public safety on such public ways or obstruct the legal use of such public ways by other utilities.
- 2.6. No Nuisance. Franchisee will maintain its Network Facilities in good and safe condition so that its Network Facilities do not cause a public nuisance.
- 2.7. Repair. Franchisee will promptly repair any damage to the Public ROW, City property, or private property: (i) if such damage is directly caused by Franchisee's Work (including Work by an Authorized Individual) and no other Person is responsible for the damage (e.g., where a Person other than Franchisee or its Authorized Individual fails to accurately or timely locate its underground facilities as required by applicable law); or (ii) as otherwise might be required under law. Franchisee will repair the damaged property to a condition equal to or better than that which existed prior to the damage. Franchisee's obligation under this Section 2.7 will be limited by, and consistent with, any applicable seasonal or other restrictions on construction or restoration work.
- 2.8. As-Built Drawings and Maps. Franchisee will maintain accurate as-built drawings and maps of its Network Facilities located in the City and will provide them to the City upon reasonable request and on a mutually-agreed timetable (e.g., piecemeal following the closure of each permit, or all at once after all the Work is complete), subject to applicable confidentiality protections.
- 2.9. Network Design. Nothing in this Contract Franchise requires Franchisee to build to all areas of the City, and Franchisee retains the discretion to determine the scope, location, and timing of the design and construction of the Network.

- 2.10. Protection of Facilities. It shall be the responsibility of Franchisee to take adequate measures to protect and defend its Network Facilities in the Public ROW from harm or damage.

### **SECTION 3. City's Obligations**

- 3.1. Emergency Removal or Relocation by City. In the event of a public emergency that creates an imminent threat to the health, safety, or property of the City or its residents, the City may remove or relocate the applicable portions of the Network Facilities without prior notice to Franchisee. The City will, however, make best efforts to provide prior notice to Franchisee before making an emergency removal or relocation. In any event, the City will promptly provide to Franchisee a written description of any emergency removals or relocations of Franchisee's Network Facilities. Franchisee will reimburse the City for its actual, reasonable, and documented costs or expenses incurred for any such work performed by the City, the direct cause of which was Franchisee's construction, installation, operation, maintenance, repair, or removal of its Network Facilities. Franchisee's obligation to reimburse the City under this section will be separate from Franchisee's obligation to pay the Franchise Fee (as defined below).
- 3.2. Relocation to Accommodate Governmental Purposes. If Franchisee's then-existing Network Facilities would interfere with the City's planned use of the Public ROW or other City property for a legitimate governmental purpose, such as the construction, installation, repair, maintenance, or operation of a new water, sewer, or storm drain line, or a public road, curb, gutter, sidewalk, park, or recreational facility, Franchisee will, upon written notice from the City, relocate its Network Facilities at Franchisee's own expense to such other location or locations in the Public ROW as may be mutually agreed by the parties, taking into account the needs of the City's governmental purpose and Franchisee's interest in maintaining the integrity and stability of its Network. Franchisee will relocate its Network Facilities within a commercially reasonable period of time agreed to by the parties, taking into account the urgency of the need for relocation, the difficulty of the relocation, and other relevant facts and circumstances.
- 3.3. Relocation to Accommodate Non-Governmental or Third-Party Purposes. If Franchisee's then-existing Network Facilities would interfere with (a) the City's planned use of the Public ROW for a non-governmental (e.g., commercial) purpose, or (b) a third-party's use of the Public ROW, Franchisee will not be required to bear the cost to relocate or adjust its Network Facilities and shall not be obligated to commence the relocation or adjustment until receipt of funds for such relocation or adjustment. Franchisee will work in good faith with any third party regarding that third party's use of the ROW.
- 3.4. Non-Discrimination. The City will at all times treat Franchisee and provide access to the Public ROW in a non-discriminatory manner as compared to other non-incumbent holders of local or state franchise authority offering the same end-user wired facilities-based Broadband Internet Services.
- 3.5. Post-Removal Restoration of Public ROW. When removal or relocation is required under this Contract Franchise, Franchisee will, after the removal or relocation of the Network Facilities, at its own cost, repair and return the Public ROW in which the facilities were located to a safe and satisfactory condition in accordance with the construction-related conditions and specifications as established by the City.
- 3.6. Abandoned Network Facilities. If Franchisee abandons or fails to use any portions of its Network Facilities ("Abandoned Network Facilities"), Franchisee will notify City and the parties will discuss whether the Abandoned Network Facilities should be abandoned in place

or transferred to City, at City's option. Abandoned Network Facilities do not include Network Facilities intended for emergency use, redundant Network Facilities, or Network Facilities intended to meet future demand or capacity needs.

#### **SECTION 4. Contractors and Subcontractors.**

- 4.1. Use of Contractors and Subcontractors. Franchisee may retain contractors and subcontractors to perform the Work on Franchisee's behalf; provided, Franchisee shall be responsible for its contractors and subcontractors including responsible for their actions or failures to act, and Franchisee shall ensure its contractors and subcontractors adhere to the requirements of this Contract Franchise and any applicable laws. Accordingly, when and if applicable, references in this Contract Franchise to "Franchisee" shall include and apply to Franchisee's contractors and subcontractors.
- 4.2. Contractors to be Licensed. Franchisee's contractors and subcontractors used for the Work will be properly licensed under applicable law.
- 4.3. Authorized Individuals. Franchisee's contractors and subcontractors may submit individual permit applications to the City on Franchisee's behalf, so long as the permit applications are signed by individuals that Franchisee has authorized to act on its behalf via a letter of authorization provided to the City in the form attached as **Exhibit A ("Authorized Individuals")**. The City will accept permit applications under this Contract Franchise submitted and signed by Authorized Individuals, and will treat those applications as if they had been submitted by Franchisee under this Contract Franchise.

**SECTION 5. Franchise Fee.** Franchisee will pay the City a fee ("**Franchise Fee**") to compensate the City for Franchisee's use and occupancy of Public ROW pursuant to this Contract Franchise. Franchisee and the City acknowledge and agree that the Franchise Fee provides fair and reasonable compensation for Franchisee's use and occupancy of Public ROW and other City property as authorized, and shall in no way be deemed a tax of any kind. The Franchise Fee will begin accruing on the License Commencement Date (as defined herein) and will be calculated as set forth in Section 5.1. Subject to any applicable statute of limitations, Franchisee's payment obligations as of expiration or termination of Contract Franchise hereunder shall survive the expiration or termination of this Contract Franchise.

- 5.1. Franchise Fee. Franchisee will pay the City two percent (2%) (the "**Revenue Percentage**") of Gross Revenues for a calendar quarter, remitted within forty five (45) days of the end of each calendar quarter, commencing on the License Commencement Date. The payment will be accompanied by a report showing the basis for the computation and such other relevant facts as may be required by the City to determine the accuracy of the payment. Subject to any applicable statute of limitations, Franchisee's payment obligations hereunder shall survive the expiration or termination of this Contract Franchise.
  - 5.1.1. As used herein, "**Gross Revenues**" means all consideration of any kind or nature, including without limitation, cash, credits, property, and in-kind contributions (services or goods) received by Franchisee from Customers for Broadband Internet Services that are provided to Customers through Network Facilities located at least in part in Public ROW.
  - 5.1.2. Gross Revenues do not include:
    - (i) any revenue not actually received, even if billed, such as bad debt;
    - (ii) refunds, rebates, or discounts made to Customers, or the City;

- (iii) revenue received from the sale of Broadband Internet Services for resale in which the purchaser is required to collect and remit a franchise or similar fee to the City from the purchaser's customer;
  - (iv) revenue derived from the provision of Broadband Internet Services to Customers where none of the Network Facilities used to provide such Broadband Internet Services are located in Public ROW;
  - (v) any forgone revenue from Franchisee's provision of Broadband Internet Services to Customers at no charge if required by state law;
  - (vi) any revenue derived from advertising;
  - (vii) any revenue derived from VOIP Services;
  - (viii) any revenue derived from rental of modems or other equipment used to provide or facilitate the provision of the Broadband Internet Services;
  - (ix) any revenue derived from referral or marketing agreements with third party providers of online services which Franchisee may make available to Customers;
  - (x) any tax of general applicability imposed upon Franchisee or its Customers by the City or by any state, federal, or any other governmental entity, and required to be collected by Franchisee and remitted to the taxing entity (including but not limited to sales and use tax, gross receipts tax, excise tax, utility users tax, public service tax, communications taxes, and fees not imposed by this Contract Franchisee);
  - (xi) any forgone revenue from Franchisee's provision, in Franchisee's discretion, of free or reduced cost Broadband Internet Services to any Person, including without limitation employees of Franchisee; provided, however, that any forgone revenue which Franchisee chooses not to receive in exchange for trades, barter, services, or other items of value will be included in Gross Revenues; and
  - (xii) sales of capital assets or sales of surplus equipment.
- 5.2. Pass Through. To the extent allowed by either federal or state law, Franchisee may identify and collect, as a separate item on the regular bill of any Customer whose Broadband Internet Services are provided by Network Facilities located at least in part in Public ROW, that Customer's pro rata amount of the Franchise Fee.
- 5.3. Interest on Late Payments. Any payments that are due and payable under this Contract Franchise that are not received within thirty (30) days from the specified due date will be assessed interest at an annual rate equal to the applicable statutory interest rate in effect upon the due date.
- 5.4. No Accord. No acceptance by the City of any Franchise Fee shall be construed as an accord that the amount paid is in fact the correct amount, nor shall acceptance of any Franchise Fee payment be construed as a release or any claim of the City.
- 5.5. Audit. The City shall have the right to examine, upon 30-days written notice to Franchisee and no more often than once per calendar year, those records necessary to verify the correctness of the Franchise Fee paid by Franchisee.



5.6. Change in Franchise Fee. The parties may timely negotiate, in good faith and in conformance with applicable law, a potential change to either the Franchise Fee or the Revenue Percentage upon any of the following events:

5.6.1. A request by either party to reduce or increase the Franchise Fee.

5.6.2. A change in applicable law.

5.6.3. If during the term of this the Contract Franchise the City subsequently enters into a franchise with another comparable provider granting said provider the right to use and occupy the Public ROW for the provision of comparable wired facilities-based Broadband Internet Services for a fee more favorable than the Franchise Fee set forth in Section 5.1, then the City and Franchisee shall negotiate a lower Franchise Fee that is comparable to said other provider.

## **SECTION 6. Defense and Indemnity.**

6.1. Franchisee shall indemnify and hold the City and its officers and employees harmless against any and all claims, lawsuits, judgments, costs, liens, losses, expenses, fees (including reasonable attorney fees and costs of defense), proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including personal or bodily injury (including death), property damage or other harm for which recovery of damages is sought, to the extent that it is found by a court of competent jurisdiction to be caused by the negligence of Franchisee, any agent, officer, director, representative, employee or subcontractor of Franchisee, while installing, repairing or maintaining Facilities in the Public ROW.

6.2. The indemnity provided by this Section 6 does not apply to any liability resulting from the negligence of the City, its officers, employees, contractors or subcontractors. If Franchisee and the City are found jointly liable by a court of competent jurisdiction, liability shall be apportioned comparatively in accordance with the laws of this state without, however, waiving any governmental immunity available to the City under state law and without waiving any defenses of the parties under state or federal law. Likewise, the indemnity provided by this Section 6 does not apply to any liability resulting from the negligence of any third party not associated with Franchisee, or for any portion of any harm caused by the same. This section is solely for the benefit of the City and Franchisee and does not create or grant any rights, contractual or otherwise, to any other person or entity.

6.3. Franchisee or the City shall promptly advise the other in writing of any known claim or demand against Franchisee or the City relating to or arising out of Franchisee's activities in the Public ROW.

**SECTION 7. Limitation of Liability.** NEITHER PARTY WILL BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES IN CONNECTION WITH THIS CONTRACT FRANCHISE. THE PARTIES ACKNOWLEDGE THAT THIS LIMITATION WILL BE SUBJECT TO AND MAY BE LIMITED BY APPLICABLE LAW.

The Parties agree that nothing in this agreement shall be deemed a waiver by the City of any governmental or sovereign immunity or limitation of liability.

**SECTION 8. Performance Bond.** If Franchisee has not previously provided the City with a performance bond under any prior agreement, Franchisee will, promptly after the License Commencement Date, provide the City with a performance bond in the amount of fifty thousand dollars (\$50,000) naming the City as obligee and guaranteeing Franchisee's faithful performance of its

obligations under this Contract Franchise. The performance bond will remain in full force during the Term of this Contract Franchise. The bond must be with good and sufficient sureties, issued by a surety authorized to transact business in the State of Kansas, and satisfactory to the City Attorney in form and substance. At Franchisee's election, any performance bond previously provided by Franchisee to the City and associated with its state or local video service franchise may be applied to its obligations, in whole or in part, under this paragraph.

## **SECTION 9. Insurance.**

9.1. Franchisee will carry and maintain:

- 9.1.1. Commercial General Liability (CGL) insurance, with policy limits not less than \$2,000,000 in aggregate and \$1,000,000 for each occurrence covering bodily injury and property damage with the following features: (a) CGL primary insurance endorsement; and (b) CGL policy will include an endorsement which names the City, its employees, and officers as additional insureds.
- 9.1.2. Workers' Compensation insurance with policy limits not less than the Kansas Statutory requirements.
- 9.1.3. Business Automobile Policy covering all owned, hired and nonowned private passenger autos and commercial vehicles. Limits of liability not less than \$1,000,000 each occurrence, \$1,000,000 aggregate.

9.2. All insurance certificates, endorsements, coverage verifications and other items required pursuant to this Contract Franchise will be mailed directly to the City's insurance compliance representative upon the City's written request.

## **SECTION 10. Term.**

- 10.1. This Contract Franchise is effective on the later of (a) the date the last party to sign executes this Contract Franchise and (b) the date on which any implementing ordinance becomes effective in accordance with its terms and state law ("**Effective Date**"). The Contract Franchise will expire automatically on the tenth anniversary of the License Commencement Date ("**Original Term**"), unless earlier terminated in accordance with the provisions herein. Thereafter, the Contract Franchise will automatically renew for successive 5-year terms (each a "**Renewal Term**") unless a party provides at least six (6) months' prior written notice to the other party of its intent not to renew.
- 10.2. In the event the parties are actively negotiating in good faith a new contract franchise or an amendment to this Contract Franchise upon the termination date of this Contract Franchise, the parties by written mutual agreement may extend the termination date of this Contract Franchise to allow for further negotiations. Such extension period shall be deemed a continuation of this Contract Franchise and not as a new franchise or amendment.
- 10.3. Upon written request of either the City or Franchisee, this Contract Franchise shall be renegotiated at any time in accordance with the requirements of state law upon any of the following events: changes in federal, state, or local laws, regulations, or orders that materially affect any rights or obligations of either the City or Franchisee, including but not limited to the scope of the Contract Franchise granted to Franchisee or the compensation to be received by the City hereunder.

**SECTION 11. Termination.**

11.1. Termination by City. The City may terminate this Contract Franchise if Franchisee is in material breach of this Contract Franchise, provided that the City must first provide Franchisee written notice of the breach and ninety (90) days to cure, unless the cure cannot reasonably be accomplished in that time period, in which case Franchisee must commence its efforts to cure within that time period and the cure period will continue as long as such diligent efforts continue. No termination under this paragraph will be effective until the relevant cure period has expired. Nothing herein shall prevent the City from invoking any other remedy that may otherwise exist at law.

**SECTION 12. Assignment.** Except as set forth below, Franchisee shall not assign or transfer its rights or obligations under this Contract Franchise, in whole or part, to a third party, without the written consent of the City. Any agreed upon assignee will take the place of the Franchisee, and the Franchisee will be released from all of its rights and obligations upon the completion of the requirements of Subsection 12.3 below; provided, however, such release shall not include any liability or obligations under the Contract Franchise, whether of indemnity or otherwise, which may constitute a breach of the Contract Franchise and have accrued prior to the date of such assignment.

12.1. Notwithstanding the foregoing, Franchisee may at any time, on written notice to the City, assign this Contract Franchise or any or all of its rights and obligations under this Contract Franchise:

12.1.1. to any Affiliate (as defined below) of Franchisee;

12.1.2. to any successor in interest of Franchisee's business operations in the City in connection with any merger, acquisition, or similar transaction if Franchisee reasonably determines after a reasonable investigation that the successor in interest has the resources and ability to fulfill the obligations of this Contract Franchise; or

12.1.3. to any purchaser of all or substantially all of Franchisee's Network Facilities in the City if Franchisee reasonably determines after a reasonable investigation that the purchaser has the resources and ability to fulfill the obligations of this Contract Franchise.

12.2. Following any assignment of this Contract Franchise to an Affiliate, Franchisee will remain responsible for such Affiliate's performance under the terms of this Contract Franchise. For purposes of this section, (a) "Affiliate" means any Person that now or in the future, directly or indirectly controls, is controlled with or by, or is under common control with Franchisee; and (b) "control" means, with respect to: (i) a U.S. corporation, the ownership, directly or indirectly, of fifty percent (50%) or more of the voting power to elect directors thereof, or (ii) a non-U.S. corporation, if the voting power to elect directors thereof is less than fifty percent (50%), the maximum amount allowed by applicable law; and (iii) any other Person, fifty percent (50%) or more ownership interest in said Person, or the power to direct the management of such Person.

12.3. Franchisee shall: furnish the City with written notice of the assignment/transfer; provide a point of contact for the assignee; and advise the City of the effective date of the assignment. Additionally, Franchisee's obligations under this Contract Franchise with regard to indemnity, bond and insurance shall continue until the assignee has taken the appropriate measures necessary to assume and replace the same, the intent being that there shall be no lapse in any coverage as a result of the assignment.

**SECTION 13. Notice and Emergency Contact.**

- 13.1. Emergency Contact.** Franchisee shall maintain with the City a point of contact who shall be available to act on behalf of Franchisee in the event of an emergency. Franchisee shall provide the City's ROW Coordinator and City Engineer with said contact's name, address, telephone number and e-mail address.

Emergency notice by the City to Franchisee may be made by telephone to Franchisee's Emergency Contact at (866) 954-1572 or by email to [gfiber-noc-leads@google.com](mailto:gfiber-noc-leads@google.com).

*(Or to replacement Emergency Contact that is later designated by Franchisee in writing.)*

Emergency notice by Franchisee to the City may be made by telephone to the City's Public Works Director John Sullivan at (913) 207-1214 or by email at [john.sullivan@westwoods.org](mailto:john.sullivan@westwoods.org).

- 13.2. Notice.** All other notices related to this Contract Franchise will be in writing and sent, if to Franchisee to the email addresses set forth below, and if to the City to the address set forth below. Notices are effective (a) when delivered in person, (b) upon confirmation of a receipt when transmitted by electronic mail, (c) on the next business day if transmitted by registered or certified mail, postage prepaid (with confirmation of delivery), (d) on the next business day if transmitted by overnight courier (with confirmation of delivery), or (e) three (3) days after the date of mailing, whichever is earlier.

Franchisee's e-mail address for notice is: [googlefibernotices@google.com](mailto:googlefibernotices@google.com), with a copy to [legal-notices@google.com](mailto:legal-notices@google.com).

*(Or to replacement Notice contact that is later designated by Franchisee in writing.)*

City's address for notice is: The City of Westwood, Kansas  
4700 Rainbow Blvd.,  
Westwood, Kansas 66205  
ATTN: City Administrator

With a copy to: Ryan B. Denk  
MVP Law  
10 E. Cambridge Circle Drive, Suite 300  
Kansas City, Kansas 66103  
(913) 573-3310  
[rdenk@mvplaw.com](mailto:rdenk@mvplaw.com)

*(Or to replacement Notice contact that is later designated by the City in writing.)*

**SECTION 14. General Provisions.** This Contract Franchise is governed by the laws of Kansas. Neither party will be liable for failure or delay in performance to the extent caused by circumstances beyond its reasonable control. The failure of either party to insist upon the strict performance of any one or more terms or provisions of this Contract Franchise shall not be construed as a waiver or relinquishment for the future of any such term or provision, and the same shall continue in full force and effect. This Contract Franchise sets out all terms agreed between the parties and supersedes all previous or contemporaneous agreements between the parties relating to its subject matter. This Contract Franchise, including any exhibits, constitutes the entire agreement between the parties related to this subject matter, and any change to its terms must be in writing and signed by the parties. The parties may execute this Contract Franchise in counterparts, including facsimile, PDF, and other electronic copies, which taken together will constitute one instrument. Each party to this Contract Franchise agrees that Franchisee may use electronic signatures. If any clause, sentence, or section of this Contract Franchise, or any portion thereof, shall be held to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remainder, as a whole or any

part thereof, other than the part declared invalid; provided, however, the City or Franchisee may elect to declare the entire Contract Franchise is invalidated if the portion declared invalid is, in the judgment of the City or Franchisee, an essential part of the Contract Franchise.

**SECTION 15. Acceptance of Terms and Effective Date.** This Contract Franchise shall take effect and be in force from and after (i) its passage and approval by the City, (ii) written acceptance by Franchisee, and (iii) publication in the official city newspaper in accordance with Statute (the “**Effective Date**”). Franchisee shall have sixty (60) days after the final passage and approval of this Contract franchise to file with the City Clerk its acceptance in writing of the provisions, terms and conditions of this Contract franchise, and when so accepted, this Contract franchise and acceptance shall constitute a contract between the City and Franchisee. In accordance with Kansas Statute, Franchisee shall be responsible for payment of all costs and expense of publishing this Contract franchise, and any amendments thereof.

*[Signature page follows]*

**Google Fiber Kansas, LLC**

**City of Westwood**

\_\_\_\_\_  
(Authorized Signature)

\_\_\_\_\_  
(Authorized Signature)

\_\_\_\_\_  
(Name)

David E. Waters  
\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Title)

Mayor  
\_\_\_\_\_  
(Title)

Address:  
1600 Amphitheatre Parkway  
Mountain View, CA 94043

Address: 4700 Rainbow Blvd.  
Westwood, KS 66205  
\_\_\_\_\_

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

Date: February 8, 2024  
\_\_\_\_\_

**EXHIBIT A  
FORM OF LETTER OF AUTHORIZATION**

[Franchisee LETTERHEAD]

[Date]

Via Email ([Email Address])

[INSERT CITY NAME]

[Addressee]

[Address]

Re: [Amended] Letter of Authorization

Dear [Name],

In accordance with Section 4.3 of the Contract Franchise dated [redacted] between **the City of Westwood, Kansas** and **Google Fiber Kansas, LLC** (“**Google Fiber**”), Google Fiber hereby designates the following Authorized Individuals (as that term is defined in the Contract Franchise), who may submit and sign permit applications and other submissions to the City on behalf of Google Fiber. *[If applicable: This letter amends and supersedes the Letter of Authorization dated \_\_\_\_\_.]*

*[Insert name and title for each Authorized Individual, including any Authorized Individual previously named and whose authority continues. Strike through the names of any individuals who are no longer authorized, if any.]*

1. ~~Name, Title~~
2. ~~Name, Title~~
3. Name, Title (previously authorized, authorization continues)
4. ~~Name, Title~~ (authorization withdrawn)

This authorization may be withdrawn or amended and superseded by a written amendment to this Letter of Authorization, which will be effective 24 hours after receipt by the City.

Kind regards,

[Name]

Manager, **Google Fiber Kansas, LLC**

**COUNCIL ACTION FORM**

Meeting Date: February 8, 2024

Staff Contact: Leslie Herring, City Administrator

Agenda Item: Consider Appointments and to the Westwood Planning Commission

**Background / Description of Item**

The members of the Westwood Planning Commission are appointed by the Mayor, with the consent of the Governing Body, and serve for a term of three (3) years each (16.1.4.2). Planning Commissioners whose terms are expiring effective February 29, 2024 include:

Candidate	Residential Address	Date Appointed
Kevin Breer	2916 W. 47 <sup>th</sup> Ter.	2015
Mark Neibling	2708 W. 48 <sup>th</sup> St.	July 2021
M. Scott Weaver	2519 W. 51 <sup>st</sup> St.	May 2018

Commissioners Breer and Neibling are both seeking renewal of their terms. Commissioner Weaver is not seeking reappointment; he has shared that he feels since he has served two terms, that another Westwood resident be given the opportunity to serve the community in this way.

**Mayoral Recommendation**

Following Commissioner Weaver's notice to vacate his seat, the Mayor issued an open call for candidates. Statements of interest from two (2) residents were received. Following review of those statements of interest, Mayor David Waters and Planning Commission Chair Sarah Page conferred, and the Mayor is recommending the Governing Body consent<sup>1</sup> to the appointment of Emily Keyser for a three-year term.

Ms. Keyser is an 8-year resident of Westwood. She holds a degree in urban planning from the University of Missouri – Kansas City and has worked for both the City of Lee's Summit, Missouri and the Unified Government of Wyandotte County-Kansas City, Kansas.

**Staff Comments**

The following candidates, who all reside in Westwood are qualified appointees and are hereby recommended by the Mayor to serve on the Westwood Planning Commission for terms or three (3) years each.

Candidate	Residential Address	Term
Kevin Breer	2916 W. 47 <sup>th</sup> Ter.	March 1, 2024 – February 28, 2027
Emily Keyser	2915 W. 51 <sup>st</sup> St.	March 1, 2024 – February 28, 2027
Mark Neibling	2708 W. 48 <sup>th</sup> St.	March 1, 2024 – February 28, 2027

<sup>1</sup> Pursuant to Westwood Zoning Ordinance 1.4.2 Commission Membership and Appointment.



*Suggested Motion of the Mayor*

*I move to confirm the appointment of Kevin Breer, Emily Keyser, and Mark Neibling to the Westwood Planning Commission, each for a three-year term to expire February 28, 2027, and for Leslie Herring in her capacity as notary public to administer the oath of office at the next regular meeting of the Planning Commission.*