

OSAWATOMIE CITY COUNCIL

AGENDA

March 24, 2022

6:30 p.m. | Memorial Hall | 411 11th Street

1. Call to Order
2. Roll Call
3. Pledge of Allegiance
4. Invocation
5. Consent Agenda

Consent Agenda items will be acted upon by one motion unless a Council member requests an item be removed for discussion and separate action.

 - A. March 24th Agenda
 - B. March 10th Meeting Minutes
 - C. Pay Application(s)
 - D. Special Event Permit(s)
2022 Application for Fireworks Display Permit
6. Comments from the Public

Citizen participation will be limited to 5 minutes. Stand & be recognized by the mayor.
7. Public Hearing
8. Presentations, Proclamations, and Appointments
 - A. Oath of Office - Jeffrey W. Deane, J.D., City Attorney
9. Unfinished Business
 - A. Resolution 977 – Approve Governmental Assistance Services (GAS) for Application Assistance for USDA Grant/Loan Combination for Water Plant and Distribution Design and Construction (Glendening)
 - B. Resolution 978 – Approve Water Design/Const. Administration Agreement (Glendening) C.
10. New Business
 - A. Resolution 984 – Authorize Transformer Purchase for Conversion & Inventory (Glendening)
 - B. Resolution 985 – Authorize Pickup Truck with Plow Package Purchase (Glendening)
 - C. Resolution 986 – Accepting the Bid from Jerod Ryckert for the Farmland Lease
 - D. Resolution 987 – Directing the City Manager to Set a Public Hearing for 525 Main Street Regarding CDBG Grant
 - E. Resolution 988 - Joint Resolution KATT – Directing the City Manager to Develop a Joint Resolution with Communities and Organizations Along the Flint Hills Trail
11. Mayor's Report
12. City Manager & Staff Report
13. Adjourn

NEXT REGULAR MEETING – April 14th, 2022

Osawatomie, Kansas. **March 10, 2022.** The Council Meeting was held at Memorial Hall located at 411 11th Street. Mayor Nick Hampson called the meeting to order at 6:30 p.m. Council members present were Macek, Bratton, LaDuex, Dickinson, Diehm, and Filipin. Council members Wright and Caldwell were absent. City Staff present at the meeting were City Manager Mike Scanlon, Deputy City Manager Bret Glendening, City Clerk Tammy Seamands, Assistant to the City Manager Samantha Moon, GIS Specialist Trevor Ballou, Police Chief David Stuteville, Nuisance Officer David Ellis and Business Liaison Kari Bradley. Members of the public were: Derek Henness, Christle Macek, Dale Samuels, and Shay Hanyask.

INVOCATION. – Dale Samuels, Faith Community Church

CONSENT AGENDA. Approval of March 10th Agenda, February 23rd KOMA Training Work Session, February 24th Council Minutes, Pay Application – BG Consultants - \$2,700 – WWTP Improvements, Pay Application – BG Consultants - \$558.00 Water Treatment Plant, Pay Application – BG Consultants - \$13,631.25 – Street Improvements, Pay Application – Western Consultants - \$8,950.00 – CDBG Commercial Rehab Application, Pay Application – Western Consultants - \$3,137.50 – WWTP Improvements, and Special Event Permit – Soap Box Derby. **Motion** made by LaDuex, seconded by Macek to approve the consent agenda with the removal of the Special Event Permit – Soap Box Derby (missing insurance certificate). Yeas: All.

COMMENTS FROM THE PUBLIC. – Pastor Dale Samuels – Faith Community Church is officially in their building at 560 Main. This week they have already had three people ask about using the facility. They are glad to be in the building and using it.

PUBLIC HEARINGS. – None

PRESENTATIONS, PROCLAMATIONS AND APPOINTMENTS.

APPOINTMENTS TO THE OSAWATOMIE TRAIL COMMISSION – The Rails for Trails taskforce was started in September 2018. The name then changed to the Osawatomie Trails taskforce. Looking at what we need in terms for a trails commission, we realized that we weren't going to be able to just focus on the flint hills trail if we wanted to increase the trails in our community. There are other trails and trail projects that we could build and a trail commission would get us there. As we transition from the taskforce to the commission several members of the taskforce said that they would be willing to apply and to continue with the commission. We have also been looking for other people that might be interested and have a passion for this to be on the commission. The commission will be comprised of seven members. Karen LaDuex was asked to head up the commission. Scanlon and LaDuex selected six other members. Kari Bradley, Jeff Dorsett, Doug Walker, Kevin Stone, Mark Fuchs, and Michele Silsbee. The first meeting of the commission will be April 4th at 4:00 p.m. **Motion** made by Dickinson, seconded by Diehm to appoint Karen LaDuex, Kari Bradley, Jeff Dorsett, Doug Walker, Kevin Stone, Mark Fuchs and Michele Silsbee to serve on the Osawatomie Trail Commission. Yeas: (5) Macek, LaDuex, Dickinson, Diehm and Filipin. Nays (1) Bratton

LIGHTS ON THE LAKE – Christle Macek is requesting an increase in the entertainment budget for Lights on the Lake to \$62,000. The bulk of that money would go to the concerts. The

committee has been in talks with Sara Evans to perform at the event. Sara Evans is asking for a fee of \$50,000 - \$52,000 depending on what is in her rider. Then there would be a couple additional acts that would perform before the headliner. Lights on the Lake is planning on charging an admittance fee this year. They are thinking about charging \$60 per car load (8 people max per carload). They anticipate 2000 ticket sales - 1500 tickets for online sales and 500 tickets to be sold the day of the event. This would encourage carpooling to save on space. The ticket price would also include all of the other activities such as the bounce house, face painting, balloon artist and fireworks. It would not include any food. They are looking at an overall budget of \$98,800. **Motion** made by Filipin, seconded by Dickinson to increase the entertainment budget for Lights on the Lake to \$62,000. Yeas: All.

UNFINISHED BUSINESS. – None.

NEW BUSINESS.

RESOLUTION 977 – APPROVE GOVERNMENTAL ASSISTANCE SERVICES (GAS) FOR APPLICATION ASSISTANCE FOR USDA GRANT/LOAN COMBINATION FOR WATER PLANT AND DISTRIBUTION DESIGN AND CONSTRUCTION – We have used GAS to support us in several grant application and grant administration projects. We use them because of the complexity and grant administration requirements that constantly change. This resolution will be brought back on March 24, 2022.

RESOLUTION 978 – APPROVE AGREEMENT WITH BG CONSULTANTS FOR WATER PLANT – We have used BG Consultants as our city engineer for over 20 years. We use them because of their expertise in all types of public works, as well as their familiarity with state regulations, grant administration requirements, and they are recognized as one of the top municipal engineering firms in the state. This resolution will be brought back on March 24, 2022.

RESOLUTION 979 –APPROVE POWER PURCHASE AGREEMENT WITH EVERGY– City staff has been operating under the MOU approved by the City Council back in October 2021 and the Solar Development Agreement approved in January 2022. Staff with the assistance of KMEA has finished negotiations of the power purchase agreement with Evergy. Once this agreement is executed, Evergy will be released to begin engineering of the facility. This resolution will be brought back on March 24, 2022.

RESOLUTION 982 –APPROVE BID FOR FIFTY (50) YAMAHA GOLF CARTS – As part of our replacement and master plan, a request for bids for a new fleet of 50 golf carts were asked from the three major golf car distributors in our area. Included within the bids are the trade in value for 38 of our club car golf carts. Yamaha is willing to give us \$3,600 per cart for trade value. This price is more than what we paid for each cart in 2019. The other companies were not able to quote prices on trades. This purchase will be funded by using cash on hand, and financing through a local lender. **Motion** made by Macek, seconded by Bratton to approve Resolution 982 – Accepting the proposal of Yamaha and directing the city manager to execute the purchase of fifty (50) golf carts at the Osawatomie Golf Course as presented. Yeas: All.

RESOLUTION 983 – APPLICATION OF \$125,000 OF THE 2022 ARPA GRANT TO DEVELOPMENT OF PHASE I OF CAMP MOPAC – We are applying for a tourism attraction sub-grant for Kansas (TASK). This is a 50/50 grant in which you can ask for up to \$250,000 in matching funds for a project. The project has to be a capital investment in nature and it needs to attract people to Kansas. We believe that the bike-hike hut ideas that were presented last spring to the city council and the expansion of our Mile Zero development fits the criteria and offers us yet another way to leverage the Flint Hill Trail to the benefit of our community. One of the things important in any funding/grant request is to show both the financial commitment of the City and support for the project community-wide. Resolution 983 is the financial commitment piece. We will receive approximately \$364,000 in ARPA dollars that we did not use in our 2022 budget. Subtracting this amount would leave another \$239,000 to be allocated. We are allowed to leverage ARPA dollars with this grant. **Motion** made by LaDuex, seconded by Dickinson to approve Resolution 983 – Designating the application of \$125,000 of the 2022 allocation of the American Rescue Plan Act grant to the first phase of Camp MOPAC as presented. Yeas: All.

COUNCIL REPORTS – None.

MAYOR’S REPORT – I want to thank Kari and Bret for taking on the role of Ex-Officio members of the Tourism Committee. I know it’s a lot of work but investing our time and effort into making these events the best they can be is important. I want to congratulate Morgan at the library for receiving a \$10,000 Humanities Grant from federal ARPA dollars. Mike wanted me to remind you that there are some possible boundary changes and annexations in our future. We’ll probably have a work session in April once we get an idea as to what parcels and pieces we will be working with. You should have received an email from Mike today. He will be setting up city council updates (trying to do this quarterly) where staff can give updates to a couple of council members at a time and tour projects and facilities. I went to Mr. Duncan’s kindergarten class this week. They presented a mock city that they called Sunflower City. It was really good.

CITY MANAGER & STAFF REPORTS. – Thanks to Karen LaDuex and Bret Glendenning. An RFP was sent out in December for a city attorney. We received three responses. We interviewed those three people and based on those interviews we scored each of them across twelve categories. Based on those scores we unanimously selected Jeff Deane with the Lauber Municipal Law Group. He will be at the next meeting. Please be here a little early to meet him. Miami County Medical Foundation has agreed to give the city a \$25,000 grant to invest in things on the Flint Hills Trail. We will receive \$5,000 each year for five years. Trevor Ballou has been working on a project at the trail. One of the things that we are investing in this year is placing mile markers every half mile on the trail. The markers will be placed for 22 miles. Some of the races that are scheduled can only be sanctioned if you have a survey distance. Trevor passed around a mile marker for council to look at. The first race starting at Mile Zero is April 16th will include a 50K (31 miles), 20 miles, 10 miles and there a fun run. The race currently has 121 participants with more expected to sign up. Out of those 121 participants, 54 are from out of state, some are as far away as New York.

EXECUTIVE SESSION. - None

OTHER DISCUSSION/MOTIONS.

Motion made by Bratton, seconded by LaDuex to adjourn. Yeas: All. The mayor declared the meeting adjourned at 7:50 p.m.

/s/ Tammy Seamands
Tammy Seamands, City Clerk

CITY OF OSAWATOMIE

439 Main Street
PO Box 37
Osawatomie, KS 66064

Phone: (913) 755-2146
Fax: (913) 755-4164
cityclerk@osawatomieks.org

2022**APPLICATION FOR FIREWORKS DISPLAY PERMIT**

Chapter 7, Article 3, Subsection 306 of 2010 Municipal Code

Purpose of Event	<u>Annual City of Osawatomie Public Fireworks Display</u>		
Applicant's Name	<u>City of Osawatomie</u>		
Address	<u>PO Box 37, Osawatomie, KS 66064</u>		
Phone Number	<u>913-755-2146</u>	Emergency Number	<u>913-755-2101</u>
Name of Public Fireworks Display Operator	<u>Dan Macek</u>		
Kansas State Fire Marshal License Number	<u>MIFDO006</u>		
Date & Time of Discharge	<u>June 25, 2022 at dusk</u>		
Site Address	<u>Osawatomie City Lake</u>		
Supplier Name	<u>Aerial FX, Inc.</u>	Phone Number	<u>816-238-2800</u>
Address	<u>121 SE Turner Road, St. Joseph, MO 64504</u>		
Anticipated Need for Police, Fire or other City services	<u>Tanker truck, firemen, police officers</u>		

Copies of the following, when applicable, are part of the application and must be received at least 30 days prior to the date of the display to be eligible for consideration:

Certificate of Insurance
Detailed Site Plan
Display Operators License

Type and Number of Fireworks - detailed list
Payment of Permit Fee

Applicant's Signature _____ Date _____

FOR OFFICE USE ONLY

Date of Application	<u>11-Mar-22</u>	Cash	<u>NA</u>	Check #	<u>NA</u>
Receipt Number	<u>NA</u>				
<u>NA</u>	Certificate of Insurance				
<u>NA</u>	Detailed Site Plan				
	Council Approval Date				
<u>NA</u>	Fire Chief Approval Date	Signature	<u>NA</u>		
<u>NA</u>	Utility Distribution Supervisor Approval	Signature	<u>NA</u>		
	Permit Approved by City Clerk	Signature	<u>NA</u>		



City of Osawatomie

ACTION ITEM SUMMARY	Item Number:	9.A.
	Date:	02/17/2022
Deputy City Manager	From:	Bret Glendening

RE: Resolution 977 – Resolution directing city staff to finalize the contract with Governmental Assistance Services (GAS) for application assistance for the USDA Rural Development Loan/Grant Program and complete the necessary environmental review for the project.

RECOMMENDATION: That the City Council approve Resolution 977 – Resolution directing city staff to finalize the contract with Governmental Assistance Services (GAS) for application assistance for the USDA Rural Development Loan/Grant Program and complete the necessary environmental review for the project.

DETAILS: We have used GAS to support us in several grant application and grant administration projects over the last 15 or so years. We use them because of the complexity and grant administration requirements that constantly change. These services can be reimbursed out of the grant proceeds if we are successful in receiving the loan/grant. In the last five grant applications/administrations submitted the City has received the funds requested.

Related Statute / City Ordinances	Resolution 941, 972
Line-Item Code/Description	N/A
Available Budget:	N/A

CONTRACT FOR COMPLETION OF
USDA ENVIRONMENTAL REVIEW
FOR THE CITY OF OSAWATOMIE, KANSAS
WATER SYSTEM IMPROVEMENTS PROJECT

THIS CONTRACT made this 24TH day of FEBRUARY 2022 between WESTERN CONSULTANTS DBA GOVERNMENTAL ASSISTANCE SERVICES (THE CONSULTANT), PO BOX 187, Lawrence, Kansas 66044, and the CITY OF OSAWATOMIE, KANSAS (THE CITY).

WHEREAS, THE CITY, is engaged in a Community Improvement project, and,

WHEREAS this project requires the completion of an Environmental Review under the National Environmental Policy Act (NEPA) of 1969.

NOW, THEREFORE, THE CITY engages the services of THE CONSULTANT upon the following terms and conditions:

1. TERMINATION OF CONTRACT

A. FOR CAUSE

If, through any cause, either party shall fail to fulfill, in a timely and proper manner, their obligations under this Contract, or if either party shall violate any of the covenants, agreements, or stipulations of this Contract, the other party shall thereupon have the right to terminate this Contract by giving written notice to the breaching party of such termination and specifying the effective date thereof. This notice shall not be less than fifteen (15) days prior to the effective date.

B. FOR CONVENIENCE

The CITY may terminate this Contract, in whole or in part, at any time by written notice to THE CONSULTANT.

In event of termination, all finished or unfinished documents, studies and reports prepared by THE CONSULTANT, under this Contract, shall remain the property of THE CONSULTANT until THE CONSULTANT receives just and equitable compensation for any work satisfactorily completed hereunder, in accordance with this Contract, whereupon said documents, studies and reports shall become the property of THE CITY.

2. CHANGES

THE CITY may from time to time, request changes in the scope of services of THE CONSULTANT to be performed hereunder. Such changes, including any increase or decrease in the amount of THE CONSULTANT'S compensation, which are mutually agreed upon by both parties shall be incorporated in written amendments to this Contract.

3. PERSONNEL

- A. THE CONSULTANT represents that it has, or will secure at its own expense, all personnel required in performing the services under this Contract. Such personnel shall not be the employees of or have any contractual relationship with THE CITY.
- B. All of the services required hereunder will be performed by THE CONSULTANT or under its supervision and all personnel shall be fully qualified to perform such services.
- C. None of the work or services covered by this Contract shall be subcontracted without the prior approval of THE CITY. Any work or services subcontracted hereunder shall be specified by written contract or agreement and shall be subject to each provision of this Contract.

4. SERVICES OF THE CONSULTANT

Services outlined in this Contract are those necessary to effectively complete the environmental assessment. The following summary of services is not intended to limit the scope of services but is intended to illustrate the work and services to be provided by THE CONSULTANT.

These services will include, but are not limited to the following:

- Preparation of reports and paperwork to be submitted to State and Federal departments involved in the project.
- Prepare and submit Environmental Review Report.
- Prepare and submit USDA Funding Application in the RD Apply System.
- Assist CITY with documentation relating to Release of Funds.
- Prepare "No Significant Impact" certificate.
- Work closely with City Staff throughout entire project.

- Attend Meetings that are project related.
- Report schedule changes to Governing Body.
- Work closely with all Regulatory departments and furnish additional information they may request.
- Operate within Federal and State guidelines, specifically:
 1. Title VI Civil Rights Act of 1964
 2. Section 109 Certifications
 3. Section 504 Certifications
 4. Age Discrimination Act of 1975
 5. Fair Housing Amendments Act of 1988
 6. Executive Order 11063 Certifications
 7. Kansas Act Against Discrimination
 8. Executive Order 11246 Certifications
 9. Section 3 Certifications
 10. Title VIII of the Civil Rights Act of 1968 as amended by the Housing Act of 1974
 11. Section 503 of the Rehabilitation Act of 1973 as amended
 12. 24 CFR 85 as modified by CFR 570 Subpart J
 13. Title 1 of the Housing & Community Development Act of 1974 as amended
 14. Section 519 Public Law 101-144 (The 1990 HUD Appropriation Act)
 15. Cranston-Gonzales National Affordable Housing Act (Section 906 & 912)
- Comply with all applicable laws, ordinances and codes for the State and Local governments.
- Will not discriminate against any employee or applicant for employment because of race, sex, creed, color or national origin. THE CONSULTANT will take Affirmative Action to ensure that applicants are employed, and that employees are treated equally during employment, without regard to their race, creed, sex, color or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer, recruitment or recruitment advertising, lay-off or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

5. INTEREST OF THE CONSULTANT AND EMPLOYEES

THE CONSULTANT covenants that it presently has no interest and shall not acquire interest, direct or indirect, in the study area or any parcels therein or any other interest of its service hereunder. THE CONSULTANT further covenants that in the performance of this Contract no person having any such interest shall be employed.

6. THE CITY will be responsible for all additional studies and surveys that may be directed by State or Federal agencies required to obtain a release of funds.

7. FEES

THE CITY agrees to pay THE CONSULTANT a fee for the services outlined.

The fee, for these services, will be as follows (check applicable boxes):

- ☐ Payment of \$5,250.00 upon the signing of this contract for the preparation of the environmental review.
- ☐ Payment of \$2,750.00 upon the signing of this contract for the preparation of the application using the USDA RD Apply system.

In no way can the contract be changed without a written amendment approved by the CITY.

IN WITNESS WHEREOF, the parties have signed this Contract the day and year first mentioned above.

ATTEST: _____
City Clerk

Nick Hampson
Mayor
City of OSAWATOMIE, KS

(SEAL)

D. Garrett Nordstrom
Western Consultants dba
Governmental Assistance Services

RESOLUTION NO. 977

A RESOLUTION DIRECTING CITY STAFF TO SIGN AN AGREEMENT WITH GOVERNMENTAL ASSISTANCE SERVICES FOR A USDA LOAN & GRANT APPLICATION AND COMPLETION OF THE ENVIRONMENTAL REVIEW FOR THE WATER TREATMENT PLANT.

WHEREAS, the City of Osawatomie provides clean, potable drinking water to the citizens of Osawatomie, employees and patients of the Osawatomie State Hospital, as well as Rural Water Districts 1 and 3; and

WHEREAS, the city council accepted the recommendation of the water study committee at its January 13, 2022 council meeting; and

WHEREAS, the city council recognizes the importance of applying for, and obtaining grants such as this to help minimize the financial impact to the water utility's end consumer; and

WHEREAS, the City of Osawatomie, Kansas is a legal governmental entity as provided by the laws of the State of Kansas; and

WHEREAS, the city intends to submit an application for assistance in the design and construction of the new water treatment plant from the United States Department of Agriculture – Rural Development (USDA-RD);

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF OSAWATOMIE, KANSAS:

SECTION ONE: The Governing Body of Osawatomie, Kansas hereby directs city staff to enter into an Agreement with Governmental Assistance Services (GAS) for the preparation of a 2022 USDA Rural Development loan and grant application as well as perform the required environmental review for the project in an amount not to exceed \$8,000 payable from Water Fund resources.

PASSED AND APPROVED by the Governing Body of the City of Osawatomie, Kansas, this 24th day of March, 2022, a majority voting in favor of.

APPROVED and signed by the Mayor.

Nick Hampson, Mayor

(SEAL)

ATTEST:

Tammy Seamands, City Clerk

This document has important legal consequences; consultation with an attorney is encouraged with respect to its use or modification. This document should be adapted to the particular circumstances of the contemplated Project and the controlling Laws and Regulations.

AGREEMENT BETWEEN OWNER AND ENGINEER FOR PROFESSIONAL SERVICES

Prepared by



Issued and Published Jointly by



Note: This document has been modified by BG Consultants, Inc. for the express purpose of complying with USDA Rural Development requirements. Additions to the text by USDA Bulletin 1780-35 (02/18/18) and 1780-26 (06/16/20) are denoted by bold text and additions to the text by BG Consultants are denoted by underlined text. Deletions are denoted by strikethroughs. Modifications required by Engineer or other Agency is located in Exhibit J, Special Provisions.

This Agreement has been prepared for use with EJCDC® C-700, Standard General Conditions of the Construction Contract, 2013 Edition. Their provisions are interrelated, and a change in one may necessitate a change in the other. For guidance on the completion and use of this Agreement, see EJCDC® E-001, Commentary on the EJCDC Engineering Services Agreements, 2013 Edition.

Copyright © 2014:

National Society of Professional Engineers
1420 King Street, Alexandria, VA 22314-2794
(703) 684-2882
www.nspe.org

American Council of Engineering Companies
1015 15th Street N.W., Washington, DC 20005
(202) 347-7474
www.acec.org

American Society of Civil Engineers
1801 Alexander Bell Drive, Reston, VA 20191-4400
(800) 548-2723
www.asce.org

The copyright for this EJCDC document is owned jointly by the three sponsoring organizations listed above. The National Society of Professional Engineers is the Copyright Administrator for the EJCDC documents; please direct all inquiries regarding EJCDC copyrights to NSPE.

NOTE: EJCDC publications may be purchased at www.ejcdc.org, or from any of the sponsoring organizations above.

TABLE OF CONTENTS

	<u>Page</u>
ARTICLE 1 – SERVICES OF ENGINEER	1
1.01 Scope	1
ARTICLE 2 – OWNER’S RESPONSIBILITIES.....	1
2.01 General	1
ARTICLE 3 – SCHEDULE FOR RENDERING SERVICES.....	2
3.01 Commencement.....	2
3.02 Time for Completion	2
ARTICLE 4 – INVOICES AND PAYMENTS	3
4.01 Invoices.....	3
4.02 Payments	3
ARTICLE 5 – OPINIONS OF COST	3
5.01 Opinions of Probable Construction Cost	3
5.02 Designing to Construction Cost Limit	4
5.03 Opinions of Total Project Costs.....	4
ARTICLE 6 – GENERAL CONSIDERATIONS.....	4
6.01 Standards of Performance	4
6.02 Design Without Construction Phase Services	6
6.03 Use of Documents	6
6.04 Electronic Transmittals.....	7
6.05 Insurance	7
6.06 Suspension and Termination	8
6.07 Controlling Law.....	10
6.08 Successors, Assigns, and Beneficiaries	10
6.09 Dispute Resolution	10
6.10 Environmental Condition of Site.....	11
6.11 Indemnification and Mutual Waiver	11
6.12 Records Retention	12
6.13 Miscellaneous Provisions	12
ARTICLE 7 – DEFINITIONS.....	13
7.01 Defined Terms	13
ARTICLE 8 – EXHIBITS AND SPECIAL PROVISIONS	17
8.01 Exhibits Included:	17
8.02 Total Agreement:	18
8.03 Designated Representatives:	18
8.04 Engineer's Certifications:	18
8.05 Federal Requirements.....	19

**AGREEMENT
BETWEEN OWNER AND ENGINEER
FOR PROFESSIONAL SERVICES**

THIS IS AN AGREEMENT effective as of [February 8, 2022] (“Effective Date”) between
[Osawatomie, Kansas] (“Owner”) and
[BG Consultants, Inc.] (“Engineer”).

Owner's Project, of which Engineer's services under this Agreement are a part, is generally identified as follows:
[Water Treatment and Distribution Improvements]

("Project").

Other terms used in this Agreement are defined in Article 7.

Engineer's services under this Agreement are generally identified as follows: Water treatment and distribution system improvements. Water treatment plant improvements include four low service pumps, two presedimentation basins, two solids contact clarifiers, six gravity filters and a filtration building, a dual compartment wet well, one high service and backwash pump house, four high service pumps, two backwash pumps, a chemical feed building with chemical feed systems, and an administration building. Water treatment and distribution improvements are shown on the enclosed figure.

Owner and Engineer further agree as follows:

ARTICLE 1 – SERVICES OF ENGINEER

1.01 *Scope*

- A. Engineer shall provide, or cause to be provided, the services set forth herein and in Exhibit A.

ARTICLE 2 – OWNER’S RESPONSIBILITIES

2.01 *General*

- A. Owner shall have the responsibilities set forth herein and in Exhibit B.
- B. Owner shall pay Engineer as set forth in Article 4 and Exhibit C.
- C. Owner shall be responsible for all requirements and instructions that it furnishes to Engineer pursuant to this Agreement, and for the accuracy and completeness of all programs, reports, data, and other information furnished by Owner to Engineer pursuant to this Agreement. Engineer may use and rely upon such requirements, programs, instructions, reports, data, and information in performing or furnishing services under this Agreement, subject to any express limitations or reservations applicable to the furnished items.

- D. Owner shall give prompt written notice to Engineer whenever Owner observes or otherwise becomes aware of:
1. any development that affects the scope or time of performance of Engineer's services;
 2. the presence at the Site of any Constituent of Concern; or
 3. any relevant, material defect or nonconformance in: (a) Engineer's services, (b) the Work, (c) the performance of any Constructor, or (d) Owner's performance of its responsibilities under this Agreement.

ARTICLE 3 – SCHEDULE FOR RENDERING SERVICES

3.01 Commencement

- A. Engineer is authorized to begin rendering services as of the Effective Date.
1. Execution of the Contract (Preliminary Design Phase, Final Design Phase, Bidding, or Negotiating Phase, Construction Phase, and Post-Construction Phase) shall be contingent upon the confirmation of project funding. However, the Owner may execute the design phases prior to funding award with written authorization to the Engineer. The Owner reserves the right to retain BG Consultants, Inc. for any and all engineering services related to this project.

3.02 Time for Completion

- A. Engineer shall complete its obligations within a reasonable time. Specific periods of time for rendering services, or specific dates by which services are to be completed, are provided in Exhibit A, and are hereby agreed to be reasonable.
- B. If, through no fault of Engineer, such periods of time or dates are changed, or the orderly and continuous progress of Engineer's services is impaired, or Engineer's services are delayed or suspended, then the time for completion of Engineer's services, and the rates and amounts of Engineer's compensation, shall be adjusted equitably.
- C. If Owner authorizes changes in the scope, extent, or character of the Project or Engineer's services, then the time for completion of Engineer's services, and the rates and amounts of Engineer's compensation, shall be adjusted equitably.
- D. Owner shall make decisions and carry out its other responsibilities in a timely manner so as not to delay the Engineer's performance of its services.
- E. If Engineer fails, through its own fault, to complete the performance required ~~in~~ within this Agreement within the time set forth, as duly adjusted, then Owner shall be entitled, through due process as its sole remedy, to the recovery of direct damages, if any, resulting from such failure.

ARTICLE 4 – INVOICES AND PAYMENTS

4.01 *Invoices*

- A. *Preparation and Submittal of Invoices:* Engineer shall prepare invoices in accordance with its standard invoicing practices and the terms of Exhibit C. Engineer shall submit its invoices to Owner on a monthly basis. Invoices are due and payable within ~~30~~ 60 days of receipt. **Invoices must include a breakdown of services provided.**

4.02 *Payments*

- A. *Application to Interest and Principal:* Payment will be credited first to any interest owed to Engineer and then to principal.
- B. *Failure to Pay:* If Owner fails to make any payment due Engineer for services and expenses within ~~30~~ 60 days after receipt of Engineer's invoice, then:
 - 1. amounts due Engineer will be increased at the rate of 1.0% per month (or the maximum rate of interest permitted by law, if less) from said sixtieth day; and
 - ~~2. Engineer may, after giving seven days written notice to Owner, suspend services under this Agreement until Owner has paid in full all amounts due for services, expenses, and other related charges. Owner waives any and all claims against Engineer for any such suspension.~~
- C. *Disputed Invoices:* If Owner disputes an invoice, either as to amount or entitlement, then Owner shall promptly advise Engineer in writing of the specific basis for doing so, may withhold only that portion so disputed, and must pay the undisputed portion subject to the terms of Paragraph 4.01.
- D. *Sales or Use Taxes:* If after the Effective Date any governmental entity takes a legislative action that imposes additional sales or use taxes on Engineer's services or compensation under this Agreement, then Engineer may invoice such additional sales or use taxes for reimbursement by Owner. Owner shall reimburse Engineer for the cost of such invoiced additional sales or use taxes; such reimbursement shall be in addition to the compensation to which Engineer is entitled under the terms of Exhibit C.

ARTICLE 5 – OPINIONS OF COST

5.01 *Opinions of Probable Construction Cost*

- A. Engineer's opinions (if any) of probable Construction Cost are to be made on the basis of Engineer's experience, qualifications, and general familiarity with the construction industry. However, because Engineer has no control over the cost of labor, materials, equipment, or services furnished by others, or over contractors' methods of determining prices, or over competitive bidding or market conditions, Engineer cannot and does not guarantee that proposals, bids, or actual Construction Cost will not vary from opinions of probable Construction Cost prepared by Engineer. If Owner requires greater assurance as to probable Construction Cost, then Owner agrees to obtain an independent cost

estimate. **Opinions of Probable Cost and any revisions thereof should reflect compliance with American Iron & Steel requirements mandated by Section 746 of Title VII of the Consolidated Appropriations Act of 2017 (Division A - Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2017) and subsequent statutes mandating domestic preference.**

~~5.02 — *Designing to Construction Cost Limit*~~

- ~~A. If a Construction Cost limit is established between Owner and Engineer, such Construction Cost limit and a statement of Engineer's rights and responsibilities with respect thereto will be specifically set forth in Exhibit F to this Agreement.~~

5.03 *Opinions of Total Project Costs*

- A. The services, if any, of Engineer with respect to Total Project Costs shall be limited to assisting the Owner in tabulating the various categories that comprise Total Project Costs. Engineer assumes no responsibility for the accuracy of any opinions of Total Project Costs.
- B. **Opinions of Total Project Costs and any revisions thereof should reflect compliance with American Iron & Steel requirements mandated by Section 746 of Title VII of the Consolidated Appropriations Act of 2017 (Division A - Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2017) and subsequent statutes mandating domestic preference.**

ARTICLE 6 – GENERAL CONSIDERATIONS

6.01 *Standards of Performance*

- A. *Standard of Care:* The standard of care for all professional engineering and related services performed or furnished by Engineer under this Agreement will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality. Engineer makes no warranties, express or implied, under this Agreement or otherwise, in connection with any services performed or furnished by Engineer.
- B. *Technical Accuracy:* Owner shall not be responsible for discovering deficiencies in the technical accuracy of Engineer's services. Engineer shall correct deficiencies in technical accuracy without additional compensation, unless such corrective action is directly attributable to deficiencies in Owner-furnished information.
- C. *Consultants:* Engineer may retain such Consultants as Engineer deems necessary to assist in the performance or furnishing of the services, subject to reasonable, timely, and substantive objections by Owner.
- D. *Reliance on Others:* Subject to the standard of care set forth in Paragraph 6.01.A, Engineer and its Consultants may use or rely upon design elements and information ordinarily or customarily furnished by others, including, but not limited to, specialty contractors, manufacturers, suppliers, and the publishers of technical standards.

E. *Compliance with Laws and Regulations, and Policies and Procedures:*

1. Engineer and Owner shall comply with all applicable Laws and Regulations compliant with and limited to the professional standard of care.
 2. Engineer shall comply with any and all policies, procedures, and instructions of Owner that are applicable to Engineer's performance of services under this Agreement and that Owner provides to Engineer in writing, subject to the standard of care set forth in Paragraph 6.01.A, and to the extent compliance is not inconsistent with professional practice requirements.
 3. This Agreement is based on Laws and Regulations and Owner-provided written policies and procedures as of the Effective Date. The following may be the basis for modifications to Owner's responsibilities or to Engineer's scope of services, times of performance, or compensation:
 - a. changes after the Effective Date to Laws and Regulations;
 - b. the receipt by Engineer after the Effective Date of Owner-provided written policies and procedures;
 - c. changes after the Effective Date to Owner-provided written policies or procedures.
- F. Engineer shall not be required to sign any document, no matter by whom requested, that would result in the Engineer having to certify, guarantee, or warrant the existence of conditions whose existence the Engineer cannot ascertain. Owner agrees not to make resolution of any dispute with the Engineer or payment of any amount due to the Engineer in any way contingent upon the Engineer signing any such document.
- G. The general conditions for any construction contract documents prepared hereunder are to be EJCDC® C-700 "Standard General Conditions of the Construction Contract" (2013 Edition), prepared by the Engineers Joint Contract Documents Committee, unless expressly indicated otherwise in Exhibit J or elsewhere in this Agreement.
- H. Engineer shall not at any time supervise, direct, control, or have authority over any Constructor's work, nor shall Engineer have authority over or be responsible for the means, methods, techniques, sequences, or procedures of construction selected or used by any Constructor, or the safety precautions and programs incident thereto, for security or safety at the Site, nor for any failure of a Constructor to comply with Laws and Regulations applicable to that Constructor's furnishing and performing of its work. Engineer shall not be responsible for the acts or omissions of any Constructor.
- I. Engineer neither guarantees the performance of any Constructor nor assumes responsibility for any Constructor's, failure to furnish and perform the Work in accordance with the Construction Contract Documents.
- J. Engineer shall not be responsible for any decision made regarding the Construction Contract Documents, or any application, interpretation, clarification, or modification of

the Construction Contract Documents, other than those made by Engineer or its Consultants.

- K. Engineer is not required to provide and does not have any responsibility for surety bonding or insurance-related advice, recommendations, counseling, or research, or enforcement of construction insurance or surety bonding requirements.
- L. Engineer's services do not include providing legal advice or representation.
- M. Engineer's services do not include (1) serving as a "municipal advisor" for purposes of the registration requirements of Section 975 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (2010) or the municipal advisor registration rules issued by the Securities and Exchange Commission, or (2) advising Owner, or any municipal entity or other person or entity, regarding municipal financial products or the issuance of municipal securities, including advice with respect to the structure, timing, terms, or other similar matters concerning such products or issuances.
- N. While at the Site, Engineer, its Consultants, and their employees and representatives shall comply with the applicable requirements of Contractor's and Owner's safety programs of which Engineer has been informed in writing.

6.02 *Design Without Construction Phase Services*

- A. Engineer shall be responsible only for those Construction Phase services expressly required of Engineer in Exhibit A, Paragraph A1.05. With the exception of such expressly required services, Engineer shall have no design, Shop Drawing review, or other obligations during construction, and Owner assumes all responsibility for the application and interpretation of the Construction Contract Documents, review and response to Contractor claims, Construction Contract administration, processing of Change Orders and submittals, revisions to the Construction Contract Documents during construction, construction observation and review, review of Contractor's payment applications, and all other necessary Construction Phase administrative, engineering, and professional services. Owner waives all claims against the Engineer that may be connected in any way to Construction Phase administrative, engineering, or professional services except for those services that are expressly required of Engineer in Exhibit A.

6.03 *Use of Documents*

- A. All Documents are instruments of service, and Engineer shall retain an ownership and property interest therein (including the copyright and the right of reuse at the discretion of the Engineer) whether or not the Project is completed.
- B. If Engineer is required to prepare or furnish Drawings or Specifications under this Agreement, Engineer shall ~~may~~ deliver to Owner at least one original printed record version of such Drawings and Specifications, signed and sealed according to applicable Laws and Regulations.
- C. Owner may make and retain copies of Documents for information and reference in connection with the use of the Documents on the Project. Engineer grants Owner a

limited license to use the Documents on the Project, extensions of the Project, and for related uses of the Owner, subject to receipt by Engineer of full payment due and owing for all services relating to preparation of the Documents, and subject to the following limitations: (1) Owner acknowledges that such Documents are not intended or represented to be suitable for use on the Project unless completed by Engineer, or for use or reuse by Owner or others on extensions of the Project, on any other project, or for any other use or purpose, without written verification or adaptation by Engineer; (2) any such use or reuse, or any modification of the Documents, without written verification, completion, or adaptation by Engineer, as appropriate for the specific purpose intended, will be at Owner's sole risk and without liability or legal exposure to Engineer or to its officers, directors, members, partners, agents, employees, and Consultants; (3) Owner shall indemnify and hold harmless Engineer and its officers, directors, members, partners, agents, employees, and Consultants from all claims, damages, losses, and expenses, including attorneys' fees, arising out of or resulting from any use, reuse, or modification of the Documents without written verification, completion, or adaptation by Engineer; and (4) such limited license to Owner shall not create any rights in third parties.

- D. If Engineer at Owner's request verifies the suitability of the Documents, completes them, or adapts them for extensions of the Project or for any other purpose, then Owner shall compensate Engineer at rates or in an amount to be agreed upon by Owner and Engineer.

6.04 *Electronic Transmittals*

- A. Owner and Engineer may transmit, and shall accept, Project-related correspondence, Documents, text, data, drawings, information, and graphics, in electronic media or digital format, either directly, or through access to a secure Project website, in accordance with a mutually agreeable protocol.
- B. If this Agreement does not establish protocols for electronic or digital transmittals, then Owner and Engineer ~~shall be~~ **may** jointly develop such protocols.
- C. When transmitting items in electronic media or digital format, the transmitting party makes no representations as to long term compatibility, usability, or readability of the items resulting from the recipient's use of software application packages, operating systems, or computer hardware differing from those used in the drafting or transmittal of the items, or from those established in applicable transmittal protocols.

6.05 *Insurance*

- A. Engineer shall procure and maintain insurance as set forth in Exhibit G. Engineer shall cause Owner to be listed as an additional insured on any applicable ~~general liability insurance policy~~ policies carried by Engineer.
- B. Owner shall procure and maintain insurance as set forth in Exhibit G. Owner shall cause Engineer and its Consultants to be listed as additional insureds on any general liability policies carried by Owner, which are applicable to the Project.
- C. Owner shall require Contractor to purchase and maintain policies of insurance covering workers' compensation, general liability, motor vehicle damage and injuries, and other

insurance necessary to protect Owner's and Engineer's interests in the Project. Owner shall require Contractor to cause Owner, Engineer and its ~~its~~ their Consultants to be listed as additional insureds with respect to such liability insurance purchased and maintained by Contractor for the Project.

- D. Owner and Engineer shall each deliver to the other certificates of insurance evidencing the coverages indicated in Exhibit G. Such certificates shall be furnished prior to commencement of Engineer's services and at renewals thereafter during the life of the Agreement.
- E. All policies of property insurance relating to the Project, including but not limited to any builder's risk policy, shall allow for waiver of subrogation rights and contain provisions to the effect that in the event of payment of any loss or damage the insurers will have no rights of recovery against any insured thereunder or against Owner, Engineer or its ~~its~~ their Consultants. Owner and Engineer waive all rights against each other, Contractor, the Consultants, and the respective officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, for all losses and damages caused by, arising out of, or resulting from any of the perils or causes of loss covered by any builder's risk policy and any other property insurance relating to the Project. Owner and Engineer shall take appropriate measures in other Project-related contracts to secure waivers of rights consistent with those set forth in this paragraph.
- F. All policies of insurance shall contain a provision or endorsement that the coverage afforded will not be canceled or reduced in limits by endorsement, and that renewal will not be refused, until at least 10 days prior written notice has been given to the primary insured. Upon receipt of such notice, the receiving party shall promptly forward a copy of the notice to the other party to this Agreement.
- G. At any time, Owner may request that Engineer or its Consultants, at Owner's sole expense, provide additional insurance coverage, increased limits, or revised deductibles that are more protective than those specified in Exhibit G. If so requested by Owner, and if commercially available, Engineer shall obtain and shall require its Consultants to obtain such additional insurance coverage, different limits, or revised deductibles for such periods of time as requested by Owner, and Exhibit G will be supplemented to incorporate these requirements.

6.06 *Suspension and Termination*

A. *Suspension:*

- 1. *By Owner:* Owner may suspend the Project ~~for up to 90 days~~ upon seven days written notice to Engineer. If the project is suspended for convenience by the Owner for more than 30 days and is then resumed, the Engineer's compensation may be equitably adjusted, as mutually agreed, using Exhibit K, Amendment to Owner Engineer Agreement, to provide for expenses incurred in the interruption and resumption of Engineer's services.
- 2. *By Engineer:* Engineer may, after giving seven days written notice to Owner, suspend services under this Agreement if Owner has failed to pay Engineer for invoiced services

and expenses, as set forth in Paragraph 4.02.B, or in response to the presence of Constituents of Concern at the Site, as set forth in Paragraph 6.10.D.

B. *Termination:* The obligation to provide further services under this Agreement may be terminated:

1. For cause,

a. by either party upon 30 days written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party.

b. by Engineer:

1) upon seven days written notice if Owner demands that Engineer furnish or perform services contrary to Engineer's responsibilities as a licensed professional; or

2) upon seven days written notice if the Engineer's services for the Project are delayed or suspended for more than 90 days for reasons beyond Engineer's control, or as the result of the presence at the Site of undisclosed Constituents of Concern, as set forth in Paragraph 6.10.D.

3) Engineer shall have no liability to Owner on account of such termination.

c. Notwithstanding the foregoing, this Agreement will not terminate under Paragraph 6.06.B.1.a if the party receiving such notice begins, within seven days of receipt of such notice, to correct its substantial failure to perform and proceeds diligently to cure such failure within no more than 30 days of receipt thereof; provided, however, that if and to the extent such substantial failure cannot be reasonably cured within such 30 day period, and if such party has diligently attempted to cure the same and thereafter continues diligently to cure the same, then the cure period provided for herein shall extend up to, but in no case more than, 60 days after the date of receipt of the notice.

2. For convenience, by Owner effective upon Engineer's receipt of notice from Owner.

C. *Effective Date of Termination:* The terminating party under Paragraph 6.06.B may set the effective date of termination at a time up to 30 days later than otherwise provided to allow Engineer to demobilize personnel and equipment from the Site, to complete tasks whose value would otherwise be lost, to prepare notes as to the status of completed and uncompleted tasks, and to assemble Project materials in orderly files.

D. *Payments Upon Termination:*

1. In the event of any termination under Paragraph 6.06, Engineer will be entitled to invoice Owner and to receive full payment for all services performed or furnished in accordance with this Agreement and all Reimbursable Expenses incurred through the effective date of termination. Upon making such payment, Owner shall have the limited

right to the use of Documents, at Owner's sole risk, subject to the provisions of Paragraph 6.03.

2. In the event of termination by Owner for convenience or by Engineer for cause, Engineer shall be entitled, in addition to invoicing for those items identified in Paragraph 6.06.D.1, to invoice Owner and receive payment of a reasonable amount for services and expenses directly attributable to termination, both before and after the effective date of termination, such as reassignment of personnel, costs of terminating contracts with Engineer's Consultants, and other related close-out costs, using methods and rates for Additional Services as set forth in Exhibit C.

6.07 *Controlling Law*

- A. This Agreement is to be governed by the Laws and Regulations of the state in which the Project is located.

6.08 *Successors, Assigns, and Beneficiaries*

- A. Owner and Engineer are hereby bound and the successors, executors, administrators, and legal representatives of Owner and Engineer (and to the extent permitted by Paragraph 6.08.B the assigns of Owner and Engineer) are hereby bound to the other party to this Agreement and to the successors, executors, administrators and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements, and obligations of this Agreement.
- B. Neither Owner nor Engineer may assign, sublet, or transfer any rights under or interest (including, but without limitation, money that is due or may become due) in this Agreement without the written consent of the other party, except to the extent that any assignment, subletting, or transfer is mandated by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.
- C. Unless expressly provided otherwise in this Agreement:
 1. Nothing in this Agreement shall be construed to create, impose, or give rise to any duty owed by Owner or Engineer to any Constructor, other third-party individual or entity, or to any surety for or employee of any of them.
 2. All duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of Owner and Engineer and not for the benefit of any other party.
 3. Owner agrees that the substance of the provisions of this Paragraph 6.08.C shall appear in the Construction Contract Documents.

6.09 *Dispute Resolution*

- A. Owner and Engineer agree to negotiate all disputes between them in good faith for a period of 30 days from the date of notice prior to invoking the procedures of Exhibit H or other provisions of this Agreement, or exercising their rights at law.

- B. If the parties fail to resolve a dispute through negotiation under Paragraph 6.09.A, then either or both may invoke the procedures of Exhibit H. If Exhibit H is not included, or if no dispute resolution method is specified in Exhibit H, then the parties may exercise their rights at law.

6.10 *Environmental Condition of Site*

- A. Owner represents to Engineer that as of the Effective Date to the best of Owner's knowledge no Constituents of Concern, other than those disclosed in writing to Engineer, exist at or adjacent to the Site.
- B. If Engineer encounters or learns of an undisclosed Constituent of Concern at the Site, then Engineer shall notify (1) Owner and (2) appropriate governmental officials if Engineer reasonably concludes that doing so is required by applicable Laws or Regulations.
- C. It is acknowledged by both parties that Engineer's scope of services does not include any services related to unknown or undisclosed Constituents of Concern. If Engineer or any other party encounters, uncovers, or reveals an undisclosed Constituent of Concern, then Owner shall promptly determine whether to retain a qualified expert to evaluate such condition or take any necessary corrective action.
- D. If investigative or remedial action, or other professional services, are necessary with respect to undisclosed Constituents of Concern, or if investigative or remedial action beyond that reasonably contemplated is needed to address a disclosed or known Constituent of Concern, then Engineer may, at its option and without liability for consequential or any other damages, suspend performance of services on the portion of the Project affected thereby until such portion of the Project is no longer affected.
- E. If the presence at the Site of undisclosed Constituents of Concern adversely affects the performance of Engineer's services under this Agreement, then the Engineer shall have the option of (1) accepting an equitable adjustment in its compensation or in the time of completion, or both; or (2) terminating this Agreement for cause on seven days notice.
- F. Owner acknowledges that Engineer is performing professional services for Owner and that Engineer is not and shall not be required to become an "owner," "arranger," "operator," "generator," or "transporter" of hazardous substances, as defined in the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended, which are or may be encountered at or near the Site in connection with Engineer's activities under this Agreement.

6.11 *Indemnification and Mutual Waiver*

- A. *Indemnification by Engineer:* To the fullest extent permitted by Laws and Regulations, Engineer shall indemnify and hold harmless Owner, and Owner's officers, directors, members, partners, agents, consultants, and employees, from losses, damages, and judgments (including reasonable consultants' and attorneys' fees and expenses) arising from third-party claims or actions relating to the Project, provided that any such claim, action, loss, damages, or judgment is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself),

including the loss of use resulting therefrom, but only to the extent caused by any negligent act or omission of Engineer or Engineer's officers, directors, members, partners, agents, employees, or Consultants.

- B. ~~*Indemnification by Owner:*~~ ~~Owner shall indemnify and hold harmless Engineer and its officers, directors, members, partners, agents, employees, and Consultants as required by Laws and Regulations.~~
- C. *Environmental Indemnification:* To the fullest extent permitted by Laws and Regulations, Owner shall indemnify and hold harmless Engineer and its officers, directors, members, partners, agents, employees, and Consultants from all claims, costs, losses, damages, actions, and judgments (including reasonable consultants' and attorneys fees and expenses) caused by, arising out of, relating to, or resulting from a Constituent of Concern at, on, or under the Site, provided that (1) any such claim, cost, loss, damages, action, or judgment is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom, and (2) nothing in this paragraph shall obligate Owner to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence or willful misconduct.
- D. *No Defense Obligation:* The indemnification commitments in this Agreement do not include a defense obligation by the indemnitor unless such obligation is expressly stated.
- E. *Percentage Share of Negligence:* To the fullest extent permitted by Laws and Regulations, a party's total liability to the other party and anyone claiming by, through, or under the other party for any cost, loss, or damages caused in part by the negligence of the party and in part by the negligence of the other party or any other negligent entity or individual, shall not exceed the percentage share that the party's negligence bears to the total negligence of Owner, Engineer, and all other negligent entities and individuals.
- F. *Mutual Waiver:* To the fullest extent permitted by Laws and Regulations, Owner and Engineer waive against each other, and the other's employees, officers, directors, members, agents, insurers, partners, and consultants, any and all claims for or entitlement to special, incidental, indirect, or consequential damages arising out of, resulting from, or in any way related to this Agreement or the Project, from any cause or causes.

6.12 *Records Retention*

- A. Engineer shall maintain on file in legible form, for a period of five (5) years following completion or termination of its services, all Documents, records (including cost records), and design calculations related to Engineer's services or pertinent to Engineer's performance under this Agreement. Upon Owner's request, Engineer shall provide a copy of any such item to Owner at cost.

6.13 *Miscellaneous Provisions*

- A. *Notices:* Any notice required under this Agreement will be in writing, addressed to the appropriate party at its address on the signature page and given personally, by registered

or certified mail postage prepaid, or by a commercial courier service. All notices shall be effective upon the date of receipt.

- B. *Survival*: All express representations, waivers, indemnifications, and limitations of liability included in this Agreement will survive its completion or termination for any reason.
- C. *Severability*: Any provision or part of the Agreement held to be void or unenforceable under any Laws or Regulations shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Engineer, which agree that the Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.
- D. *Waiver*: A party's non-enforcement of any provision shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of this Agreement.
- E. *Accrual of Claims*: To the fullest extent permitted by Laws and Regulations, all causes of action arising under this Agreement shall be deemed to have accrued, and all statutory periods of limitation shall commence, no later than the date of Substantial Completion.

ARTICLE 7 – DEFINITIONS

7.01 *Defined Terms*

- A. Wherever used in this Agreement (including the Exhibits hereto) terms (including the singular and plural forms) printed with initial capital letters have the meanings indicated in the text above, in the exhibits, or in the following definitions:
 - 1. *Addenda*—Written or graphic instruments issued prior to the opening of bids which clarify, correct, or change the bidding requirements or the proposed Construction Contract Documents.
 - 2. *Additional Services*—The services to be performed for or furnished to Owner by Engineer in accordance with Part 2 of Exhibit A of this Agreement.
 - 3. *Agreement*—This written contract for professional services between Owner and Engineer, including all exhibits identified in Paragraph 8.01 and any duly executed amendments.
 - 4. *Application for Payment*—The form acceptable to Engineer which is to be used by Contractor during the course of the Work in requesting progress or final payments and which is to be accompanied by such supporting documentation as is required by the Construction Contract.
 - 5. *Basic Services*—The services to be performed for or furnished to Owner by Engineer in accordance with Part 1 of Exhibit A of this Agreement.

6. *Change Order*—A document which is signed by Contractor and Owner and authorizes an addition, deletion, or revision in the Work or an adjustment in the Construction Contract Price or the Construction Contract Times, or other revision to the Construction Contract, issued on or after the effective date of the Construction Contract.
7. *Change Proposal*—A written request by Contractor, duly submitted in compliance with the procedural requirements set forth in the Construction Contract, seeking an adjustment in Construction Contract Price or Construction Contract Times, or both; contesting an initial decision by Engineer concerning the requirements of the Construction Contract Documents or the acceptability of Work under the Construction Contract Documents; challenging a set-off against payments due; or seeking other relief with respect to the terms of the Construction Contract.
8. *Constituent of Concern*—Asbestos, petroleum, radioactive material, polychlorinated biphenyls (PCBs), hazardous waste, and any substance, product, waste, or other material of any nature whatsoever that is or becomes listed, regulated, or addressed pursuant to (a) the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§9601 et seq. (“CERCLA”); (b) the Hazardous Materials Transportation Act, 49 U.S.C. §§5501 et seq.; (c) the Resource Conservation and Recovery Act, 42 U.S.C. §§6901 et seq. (“RCRA”); (d) the Toxic Substances Control Act, 15 U.S.C. §§2601 et seq.; (e) the Clean Water Act, 33 U.S.C. §§1251 et seq.; (f) the Clean Air Act, 42 U.S.C. §§7401 et seq.; or (g) any other federal, State, or local statute, law, rule, regulation, ordinance, resolution, code, order, or decree regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, or dangerous waste, substance, or material.
9. *Construction Contract*—The entire and integrated written contract between the Owner and Contractor concerning the Work.
10. *Construction Contract Documents*—Those items designated as “Contract Documents” in the Construction Contract, and which together comprise the Construction Contract.
11. *Construction Contract Price*—The money that Owner has agreed to pay Contractor for completion of the Work in accordance with the Construction Contract Documents.
12. *Construction Contract Times*—The number of days or the dates by which Contractor shall: (a) achieve milestones, if any, in the Construction Contract; (b) achieve Substantial Completion; and (c) complete the Work.
13. *Construction Cost*—The cost to Owner of the construction of those portions of the entire Project designed or specified by or for Engineer under this Agreement, including construction labor, services, materials, equipment, insurance, and bonding costs, and allowances for contingencies. Construction Cost does not include costs of services of Engineer or other design professionals and consultants; cost of land or rights-of-way, or compensation for damages to property; Owner’s costs for legal, accounting, insurance counseling, or auditing services; interest or financing charges incurred in connection with the Project; or the cost of other services to be provided by others to Owner. Construction Cost is one of the items comprising Total Project Costs.

14. *Constructor*—Any person or entity (not including the Engineer, its employees, agents, representatives, and Consultants), performing or supporting construction activities relating to the Project, including but not limited to Contractors, Subcontractors, Suppliers, Owner's work forces, utility companies, other contractors, construction managers, testing firms, shippers, and truckers, and the employees, agents, and representatives of any or all of them.
15. *Consultants*—Individuals or entities having a contract with Engineer to furnish services with respect to this Project as Engineer's independent professional associates and consultants; subcontractors; or vendors.
16. *Contractor*—The entity or individual with which Owner enters into a Construction Contract.
17. *Documents*—Data, reports, Drawings, Specifications, Record Drawings, building information models, civil integrated management models, and other deliverables, whether in printed or electronic format, provided or furnished in appropriate phases by Engineer to Owner pursuant to this Agreement.
18. *Drawings*—That part of the Construction Contract Documents that graphically shows the scope, extent, and character of the Work to be performed by Contractor.
19. *Effective Date*—The date indicated in this Agreement on which it becomes effective, but if no such date is indicated, the date on which this Agreement is signed and delivered by the last of the parties to sign and deliver.
20. *Engineer*—The individual or entity named as such in this Agreement.
21. *Field Order*—A written order issued by Engineer which requires minor changes in the Work but does not change the Construction Contract Price or the Construction Contract Times.
22. *Laws and Regulations; Laws or Regulations*—Any and all applicable laws, statutes, rules, regulations, ordinances, codes, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.
23. *Owner*—The individual or entity named as such in this Agreement and for which Engineer's services are to be performed. Unless indicated otherwise, this is the same individual or entity that will enter into any Construction Contracts concerning the Project.
24. *Project*—The total undertaking to be accomplished for Owner by engineers, contractors, and others, including planning, study, design, construction, testing, commissioning, and start-up, and of which the services to be performed or furnished by Engineer under this Agreement are a part.
25. *Record Drawings*—Drawings depicting the completed Project, or a specific portion of the completed Project, prepared by Engineer ~~as an Additional Service~~ and based on Contractor's record copy of all Drawings, Specifications, Addenda, Change Orders, Work

Change Directives, Field Orders, and written interpretations and clarifications, as delivered to Engineer and annotated by Contractor to show changes made during construction.

26. *Reimbursable Expenses*—The expenses incurred directly by Engineer in connection with the performing or furnishing of Basic Services and Additional Services for the Project.
27. *Resident Project Representative*—The authorized representative of Engineer assigned to assist Engineer at the Site during the Construction Phase. As used herein, the term Resident Project Representative or "RPR" includes any assistants or field staff of Resident Project Representative. The duties and responsibilities of the Resident Project Representative, if any, are as set forth in Exhibit D.
28. *Samples*—Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and that establish the standards by which such portion of the Work will be judged.
29. *Shop Drawings*—All drawings, diagrams, illustrations, schedules, and other data or information that are specifically prepared or assembled by or for Contractor and submitted by Contractor to illustrate some portion of the Work. Shop Drawings, whether approved or not, are not Drawings and are not Construction Contract Documents.
30. *Site*—Lands or areas to be indicated in the Construction Contract Documents as being furnished by Owner upon which the Work is to be performed, including rights-of-way and easements, and such other lands furnished by Owner which are designated for the use of Contractor.
31. *Specifications*—The part of the Construction Contract Documents that consists of written requirements for materials, equipment, systems, standards, and workmanship as applied to the Work, and certain administrative requirements and procedural matters applicable to the Work.
32. *Subcontractor*—An individual or entity having a direct contract with Contractor or with any other Subcontractor for the performance of a part of the Work.
33. *Substantial Completion*—The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of Engineer, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Construction Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms "substantially complete" and "substantially completed" as applied to all or part of the Work refer to Substantial Completion thereof.
34. *Supplier*—A manufacturer, fabricator, supplier, distributor, materialman, or vendor having a direct contract with Contractor or with any Subcontractor to furnish materials or equipment to be incorporated in the Work by Contractor or a Subcontractor.
35. *Total Project Costs*—The total cost of planning, studying, designing, constructing, testing, commissioning, and start-up of the Project, including Construction Cost and all other Project labor, services, materials, equipment, insurance, and bonding costs, allowances

for contingencies, and the total costs of services of Engineer or other design professionals and consultants, together with such other Project-related costs that Owner furnishes for inclusion, including but not limited to cost of land, rights-of-way, compensation for damages to properties, Owner's costs for legal, accounting, insurance counseling, and auditing services, interest and financing charges incurred in connection with the Project, and the cost of other services to be provided by others to Owner.

36. *Work*—The entire construction or the various separately identifiable parts thereof required to be provided under the Construction Contract Documents. Work includes and is the result of performing or providing all labor, services, and documentation necessary to produce such construction; furnishing, installing, and incorporating all materials and equipment into such construction; and may include related services such as testing, start-up, and commissioning, all as required by the Construction Contract Documents.
37. *Work Change Directive*—A written directive to Contractor issued on or after the effective date of the Construction Contract, signed by Owner and recommended by Engineer, ordering an addition, deletion, or revision in the Work.
38. ***Agency – The Rural Utilities Service or any designated representative of Rural Utilities Service, including USDA, Rural Development.***
39. *Environmental Report* – The initial environmental report typically prepared and provide to the Agency at the same time as the preliminary engineering report (PER). The significance of impacts identified will determine whether the impacts can be mitigated or whether a higher level of environmental review is necessary.
40. *Environmental Assessment* – Higher level of environmental review used to determine whether an Environmental Impact Statement (EIS) is required or if a Finding of No Significant Impact (FONSI) can be issued.
41. *Environmental Impact Statement* – The highest level of environmental review providing a more detailed assessment of the environmental impacts that includes public, outside party and other federal agency input.

B. *Day:*

1. The word “day” means a calendar day of 24 hours measured from midnight to the next midnight.

ARTICLE 8 – EXHIBITS AND SPECIAL PROVISIONS

8.01 *Exhibits Included:*

- A. Exhibit A, Engineer's Services.
- B. Exhibit B, Owner's Responsibilities.
- C. Exhibit C, Payments to Engineer for Services and Reimbursable Expenses.

- D. Exhibit D, Duties, Responsibilities and Limitations of Authority of Resident Project Representative.
- E. Exhibit E, Notice of Acceptability of Work.
- F. ~~Exhibit F, Construction Cost Limit. (Optional – Not Included)~~
- G. Exhibit G, Insurance.
- H. ~~Exhibit H, Dispute Resolution. (Optional – Not Included)~~
- I. Exhibit I, Limitations of Liability.
- J. Exhibit J, Special Provisions.
- K. Exhibit K, Amendment to Owner-Engineer Agreement.

8.02 *Total Agreement*

- A. This Agreement, (together with the following exhibits ~~included above~~) constitutes the entire agreement between Owner and Engineer and supersedes all prior written or oral understandings. This Agreement may only be amended, supplemented, modified, or canceled by a written instrument duly executed by both parties. Amendments should be based whenever possible on the format of Exhibit K to this Agreement.

8.03 *Designated Representatives*

- A. With the execution of this Agreement, Engineer and Owner shall designate specific individuals to act as Engineer's and Owner's representatives with respect to the services to be performed or furnished by Engineer and responsibilities of Owner under this Agreement. Such an individual shall have authority to transmit instructions, receive information, and render decisions relative to this Agreement on behalf of the respective party whom the individual represents.

8.04 *Engineer's Certifications*

- A. Engineer certifies that it has not engaged in Corrupt, Fraudulent, or Coercive practices in competing for or in executing the Agreement. For the purposes of this Paragraph 8.04:
 - 1. "Corrupt Practice" means the offering, giving, receiving, or soliciting of any thing of value likely to influence the action of a public official in the selection process or in the Agreement execution;
 - 2. "Fraudulent Practice" means an intentional misrepresentation of facts made (a) to influence the selection process or the execution of the Agreement to the detriment of Owner, or (b) to deprive Owner of the benefits of free and open competition;

3. "Coercive Practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the selection process or affect the execution of the Agreement.

8.05 **Federal Requirements**

- A. **Agency Concurrence.** Signature of a duly authorized representative of the Agency in the space provided on the signature page of EJCDC form E-500 hereof does not constitute a commitment to provide financial assistance or payments hereunder but does signify that this Agreement conforms to Agency's applicable requirements. This Agreement shall not be effective unless the Funding Agency's designated representative concurs. No amendment to this Agreement shall be effective unless the Funding Agency's designated representative concurs.
- B. **Audit and Access to Records.** Owner, Agency, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the Engineer which are pertinent to the Agreement, for the purpose of making audits, examinations, excerpts, and transcriptions. Engineer shall maintain all required records for ~~three~~ five (5) years after final payment is made and all other pending matters are closed.
- C. **Restriction on Lobbying.** Engineer and each Consultant shall comply with "Restrictions on Lobbying" if they are recipients of engineering services contracts and subcontracts that exceed \$100,000 at any tier. If applicable, Engineer and/or consultant/consultants must complete a certification form on lobbying activities related to a specific Federal loan or grant that is a funding source for this appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other applicable award. Each tier shall disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Certifications and disclosures are forwarded from tier to tier up to the Owner. Necessary certification and disclosure forms shall be provided by Owner.
- D. **Suspension and Debarment.** Engineer certifies, by signing this Agreement, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from ~~in~~ this transaction by any Federal department or agency. Engineer will not contract with any Consultant for this project if it or its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency. Necessary certification forms shall be provided by the Owner. The Engineer will complete and submit a form AD-1048, "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion – lower tier transactions," to the Owner who will forward it the USDA, Rural Development processing office.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, the Effective Date of which is indicated on page 1.

Owner: Osawatomie, Kansas

Engineer: BG Consultants, Inc.

By: _____

By: _____

Print name: Nick Hampson

Print name: Paul Owings, P.E.

Title: Mayor

Title: Project Manager

Date Signed: _____

Date Signed: 3-8-2022

Engineer License or Firm's Certificate No. (if required):

24159

State of: Kansas

Address for Owner's receipt of notices:

Osawatomie City Offices

439 Main Street; PO Box 37

Osawatomie, Kansas 66064

Address for Engineer's receipt of notices:

1405 Wakarusa Dr.

Lawrence, KS 66049

Designated Representative (Paragraph 8.03.A):

Bret Glendening

Title: Deputy City Manager

Phone 913.755.2146 Ext. 101

Number: _____

E-Mail bglendening@osawatomieks.org

Address: _____

Designated Representative (Paragraph 8.03.A):

Paul Owings, P.E.

Title: Project Manager

Phone Number: 785.727.1694

E-Mail Address: paul.owings@bgcons.com

RUS CERTIFICATION PAGE

PROJECT NAME: Osawatomie Water Distribution and Treatment Improvements

The Engineer and Owner hereby concur in the Funding Agency required revisions to E-500. In addition, Engineer certifies to the following:

All modifications required by RUS Bulletin 1780-26 have been made in accordance the terms of the license agreement, which states in part that the Engineer “must plainly show all changes to the Standard EJCDC Text, using ‘Track Changes’ (redline/strikeout), highlighting, or other means of clearly indicating additions and deletions.” Such other means may include attachments indicating changes (e.g. Supplementary Conditions modifying the General Conditions).

SUMMARY OF ENGINEERING FEES

Note that the fees indicated on this table are only a summary and if there is a conflict with any provision of Exhibit C, the provisions there overrule the values on this table. Fees shown in will not be exceeded without the concurrence of the Agency.

Basic Services	\$ <u>3,816,000.00</u>
Resident Project Observation	\$ <u>1,954,000.00</u>
Additional Services	\$ <u>N/A</u>
TOTAL:	\$ <u>5,770,000.00</u>

Any adjustments to engineering fees or changes to maximum estimated values must be approved by the Agency and must include a table of what specific category or categories of fees are being changed, what fees were before and after the change, and the resulting total fee.

<u>Paul C Owings</u>	3-8-2022
Engineer	Date

Paul Owings, Project Manager

Name and Title

Owner	Date
-------	------

Nick Hampson, Mayor

Name and Title

Agency Concurrence:

As lender or insurer of funds to defray the costs of this Contract, and without liability for any payments thereunder, the Agency hereby concurs in the form, content, and execution of this Agreement.

Agency Representative	Date
-----------------------	------

Name and Title

Engineer's Services

Article 1 of the Agreement is supplemented to include the following agreement of the parties.

Engineer shall provide Basic and Additional Services as set forth below.

PART 1 – BASIC SERVICES

A1.01 Study and Report Phase – Not Applicable

A. Engineer shall:

1. ~~Consult with Owner to define and clarify Owner's requirements for the Project, including design objectives and constraints, space, capacity and performance requirements, flexibility, and expandability, and any budgetary limitations, and identify available data, information, reports, facilities plans, and site evaluations.~~

a. ~~If Owner has already identified one or more potential solutions to meet its Project requirements, then proceed with the study and evaluation of such potential solutions: [] **[List the specific potential solutions here.]**~~

b. ~~If Owner has not identified specific potential solutions for study and evaluation, then assist Owner in determining whether Owner's requirements, and available data, reports, plans, and evaluations, point to a single potential solution for Engineer's study and evaluation, or are such that it will be necessary for Engineer to identify, study, and evaluate multiple potential solutions.~~

~~**In addition, Engineer must identify, study and evaluate multiple alternative solutions potentially available to Owner, unless Owner and Engineer mutually agree with Agency concurrence that only one feasible solution exists. The number of alternative solutions should be appropriate to the specific project as concurred in by the Agency.**~~

c. ~~If it is necessary for Engineer to identify, study, and evaluate multiple potential solutions, then identify [] **[insert specific number]** alternative solutions potentially available to Owner, unless Owner and Engineer mutually agree that some other specific number of alternatives should be identified, studied, and evaluated.~~

2. ~~Identify potential solution(s) to meet Owner's Project requirements, as needed.~~

3. ~~Study and evaluate the potential solution(s) to meet Owner's Project requirements.~~

4. ~~Visit the Site, or potential Project sites, to review existing conditions and facilities, unless such visits are not necessary or applicable to meeting the objectives of the Study and Report Phase.~~

- ~~5. Advise Owner of any need for Owner to obtain, furnish, or otherwise make available to Engineer additional Project-related data and information, for Engineer's use in the study and evaluation of potential solution(s) to Owner's Project requirements, and preparation of a related report.~~
- ~~6. After consultation with Owner, recommend to Owner the solution(s) which in Engineer's judgment meet Owner's requirements for the Project.~~
- ~~7. Identify, consult with, and analyze requirements of governmental authorities having jurisdiction to approve the portions of the Project to be designed or specified by Engineer, including but not limited to mitigating measures identified in an environmental assessment for the Project.~~
- ~~8. Prepare a report (the "Report") which will, as appropriate, contain schematic layouts, sketches, and conceptual design criteria with appropriate exhibits to indicate the agreed-to requirements, considerations involved, and Engineer's recommended solution(s). For each recommended solution Engineer will provide the following, which will be separately itemized: opinion of probable Construction Cost; proposed allowances for contingencies; the estimated total costs of design, professional, and related services to be provided by Engineer and its Consultants; and, on the basis of information furnished by Owner, a tabulation of other items and services included within the definition of Total Project Costs. **The report mentioned in paragraph 1.01.A.8 of Exhibit A to the Agreement is the Preliminary Engineering Report as defined in RUS Bulletin 1780-2. This document must meet customary professional standards as required by 7 CFR 1780.55. The Report must be concurred in by the Agency.**~~
- ~~9. Advise Owner of any need for Owner to provide data or services of the types described in Exhibit B, for use in Project design, or in preparation for Contractor selection and construction.~~
10. When mutually agreed, **and approved by the Agency** assist Owner in evaluating the possible use of building information modeling; civil integrated management; geotechnical baselining of subsurface site conditions; innovative design, contracting, or procurement strategies; or other strategies, technologies, or techniques for assisting in the design, construction, and operation of Owner's facilities. The subject matter of this paragraph shall be referred to in Exhibit A and B as "Project Strategies, Technologies, and Techniques."
- ~~11. If requested to do so by Owner, assist Owner in identifying opportunities for enhancing the sustainability of the Project, and pursuant to Owner's instructions plan for the inclusion of sustainable features in the design.~~
12. Use ASCE 38, "Standard Guideline for the Collection and Depiction of Existing Subsurface Utility Data" as a means to advise the Owner on a recommended scope of work and procedure for the identification and mapping of existing utilities.
- ~~13. Develop a scope of work and survey limits for any topographic and other surveys necessary for design.~~

~~14. Perform or provide the following other Study and Report Phase tasks or deliverables:~~

~~a. **Provide an Environmental Report as defined in 7 CFR 1970. The Environmental Report must be concurred in by the Agency.**~~

~~15. Furnish [] review copies of the Report and any other Study and Report Phase deliverables to Owner within [] days of the Effective Date and review it with Owner. Within [] days of receipt, Owner shall submit to Engineer any comments regarding the furnished items.~~

~~16. Revise the Report and any other Study and Report Phase deliverables in response to Owner's comments, as appropriate, and furnish [] copies of the revised Report and any other Study and Report Phase deliverables to the Owner within [] days of receipt of Owner's comments.~~

~~**Revise the Report and any other Study and Report Phase deliverables in response to Owner's and Agency's comments, as appropriate, and furnish three (3) written copies and (1) electronic copy of the revised Report and any other Study and Report Phase deliverables to the Owner within [] days of receipt of Owner's and Agency's comments.**~~

~~B. Engineer's services under the Study and Report Phase will be considered complete on the date when Engineer has delivered to Owner the revised Report and any other Study and Report Phase deliverables.~~

A1.02 Preliminary Design Phase

A. After acceptance by Owner **and concurrence by Agency** of the Report and any other Study and Report Phase deliverables; selection by Owner of a recommended solution; issuance by Owner of any instructions for use of Project Strategies, Technologies, and Techniques, or for inclusion of sustainable features in the design; and indication by Owner of any specific modifications or changes in the scope, extent, character, or design requirements of the Project desired by Owner, (1) Engineer and Owner shall discuss and resolve any necessary revisions to Engineer's compensation (through application of the provisions regarding Additional Services, or otherwise), or the time for completion of Engineer's services, resulting from the selected solution, related Project Strategies, Technologies, or Techniques, sustainable design instructions, or specific modifications to the Project, and (2) upon written authorization from Owner, Engineer shall:

1. Prepare Preliminary Design Phase documents consisting of final design criteria, preliminary drawings on 22" x 36" sheets, outline specifications, and written descriptions of the Project.
2. In preparing the Preliminary Design Phase documents, use any specific applicable Project Strategies, Technologies, and Techniques authorized by Owner **and Agency** during or following the Study and Report Phase, and include sustainable features, as appropriate, pursuant to Owner's instructions.
3. Provide necessary field surveys and topographic and utility mapping for Engineer's design purposes. Comply with the scope of work and procedure for the identification

and mapping of existing utilities selected and authorized by Owner pursuant to advice from Engineer based on ASCE 38, "Standard Guideline for the Collection and Depiction of Existing Subsurface Utility Data," as set forth in Paragraph A1.01.A.12 above. If no such scope of work and procedure for utility mapping has been selected and authorized, then at a minimum the utility mapping will include Engineer contacting utility owners and obtaining available information.

4. Visit the Site as needed to prepare the Preliminary Design Phase documents.
5. Advise Owner if additional reports, data, information, or services of the types described in Exhibit B are necessary and assist Owner in obtaining such reports, data, information, or services.
6. Continue to assist Owner with Project Strategies, Technologies, and Techniques that Owner has chosen to implement.
7. Based on the information contained in the Preliminary Design Phase documents, prepare a revised opinion of probable Construction Cost, and assist Owner in tabulating the various cost categories which comprise Total Project Costs.
8. Obtain and review Owner's instructions regarding Owner's procurement of construction services (including instructions regarding advertisements for bids, instructions to bidders, and requests for proposals, as applicable), Owner's construction contract practices and requirements, insurance and bonding requirements, electronic transmittals during construction, and other information necessary for the finalization of Owner's bidding-related documents (or requests for proposals or other construction procurement documents), and Construction Contract Documents. Also obtain and review copies of Owner's design and construction standards, Owner's standard forms, general conditions (if other than EJCDC® C-700, Standard General Conditions of the Construction Contract, 2013 Edition), supplementary conditions, text, and related documents or content for Engineer to include in the draft bidding-related documents (or requests for proposals or other construction procurement documents), and in the draft Construction Contract Documents, when applicable. **Engineer must also incorporate all Agency regulations, forms, and design and construction standards applicable to the project in development of the documents indicated in this Article.**
9. Identify, consult with, and analyze requirements of governmental authorities having jurisdiction to approve the portions of the Project designed or specified by Engineer, including but not limited to mitigating measures identified in the Environmental Report or Assessment.
10. Perform or provide the following other Preliminary Design Phase tasks or deliverables:
 - a. Prepare a conceptual design which will, as appropriate, contain schematic layouts, sketches, and conceptual design criteria with appropriate exhibits to indicate the agreed-to requirements, considerations involved, and those alternate solutions available to Owner which Engineer recommends. For each recommended solution Engineer will provide an opinion of probable Construction Cost.

- b. Provide to Owner three copies of maps showing the general location of required construction easements and permanent easements and the land to be acquired.
 - c. Submittal of preliminary design to the Kansas Department of Health and Environment (KDHE) for review, if required by KDHE.
- 11. Furnish 2 review copies of the Preliminary Design Phase documents, opinion of probable Construction Cost, and any other Preliminary Design Phase deliverables to Owner within 6 months of authorization to proceed with this phase, and review them with Owner. Within 30 days of receipt, Owner shall submit to Engineer any comments regarding the furnished items.
- 12. Revise the Preliminary Design Phase documents, opinion of probable Construction Cost, and any other Preliminary Design Phase deliverables in response to Owner's comments, as appropriate, and furnish to Owner 1 copies of the revised Preliminary Design Phase documents, revised opinion of probable Construction Cost, and any other deliverables within 60 days after receipt of Owner's comments.
- 13. Furnish 1 review copy of the Preliminary Design Phase Plans and any other deliverables to each public and private utility owner having facilities located within the project area. Assist the City with compiling a list of known private and public utilities including a summary of utility adjustment coordination for City records.
- B. Engineer's services under the Preliminary Design Phase will be considered complete on the date when Engineer has delivered to Owner the revised Preliminary Design Phase documents, revised opinion of probable Construction Cost, and any other Preliminary Design Phase deliverables.

A1.03 *Final Design Phase*

- A. After acceptance by Owner of the Preliminary Design Phase documents, revised opinion of probable Construction Cost as determined in the Preliminary Design Phase, and any other Preliminary Design Phase deliverables, subject to any Owner-directed modifications or changes in the scope, extent, character, or design requirements of or for the Project, and upon written authorization from Owner, Engineer shall:
 - 1. Prepare final Drawings on 22" x 36" sheets and Specifications indicating the scope, extent, and character of the Work to be performed and furnished by Contractor.
 - 2. Visit the Site as needed to assist in preparing the final Drawings and Specifications.
 - 3. Provide technical criteria, written descriptions, and design data for Owner's use in filing applications for permits from or approvals of governmental authorities having jurisdiction to review or approve the final design; assist Owner in consultations with such authorities; and revise the Drawings and Specifications in response to directives from such authorities, as appropriate. Known permits include:
 - a. **Kanas Water Pollution Control Permit**
 - b. **Kansas Water Treatment and Distribution Permit**

c. Kansas Department of Transportation Permit

d. Railroad Permit

4. Advise Owner of any known recommended adjustments to the opinion of probable Construction Cost.
5. After consultation with Owner, include in the Construction Contract Documents any specific protocols for the transmittal of Project-related correspondence, documents, text, data, drawings, information, and graphics, in electronic media or digital format, either directly, or through access to a secure Project website. Any such protocols shall be applicable to transmittals between and among Owner, Engineer, and Contractor during the Construction Phase and Post-Construction Phase, and unless agreed otherwise shall supersede any conflicting protocols previously established for transmittals between Owner and Engineer.
6. Assist Owner in assembling known reports and drawings of Site conditions, and in identifying the technical data contained in such reports and drawings upon which bidders or other prospective contractors may rely.
7. In addition to preparing the final Drawings and Specifications, assemble drafts of other Construction Contract Documents based on specific instructions and contract forms, text, or content received from Owner.
8. Prepare or assemble draft bidding-related documents (or requests for proposals or other construction procurement documents), based on the specific bidding or procurement-related instructions and forms, text, or content received from Owner.
9. Perform or provide the following other Final Design Phase tasks or deliverables:
 - a. **The Engineer shall identify the building codes and accessibility standards used in the design and indicate them on the drawings and specifications and certify that the final drawings and specifications comply with those standards**
 - b. Submit final Drawings and Specifications to KDHE for Review
10. Furnish for review by Owner, its legal counsel, **and Agency** and other advisors, 2 copies of the final Drawings and Specifications, assembled drafts of other Construction Contract Documents, the draft bidding-related documents (or requests for proposals or other construction procurement documents), and any other Final Design Phase deliverables, within 10 months of authorization to proceed with the Final Design Phase, and review them with Owner. Within 30 days of receipt, Owner shall submit to Engineer any comments regarding the furnished items, and any instructions for revisions.
11. Revise the final Drawings and Specifications, assembled drafts of other Construction Contract Documents, the draft bidding-related documents (or requests for proposals or other construction procurement documents), and any other Final Design Phase deliverables in accordance with comments and instructions from the Owner, as appropriate, and submit 2 final copies of such documents to Owner within 30 days after receipt of Owner's comments and instructions.

12. Provide the Owner and Agency with a written certification that based on information known and to the best of Engineer's knowledge and belief the final Drawings and Specifications, other assembled Construction Contract Documents, bidding-related documents (or requests for proposals or other construction procurement documents), and any other Final Design Phase deliverables comply with all requirements of Agency. Use the Engineer's Certification of Final Plans and Specifications (Attachment J of the RUS Bulletin 1780-26) for this purpose.
13. Services required to determine and certify that based upon information known and that to the best of the Engineer's knowledge and belief all iron and steel products referenced in engineering analysis, the Plans, Specifications, and Bidding Documents requiring design revisions are either produced in the United States or are the subject of an approved waiver; and services required to determine to the best of the engineer's knowledge and belief that approved substitutes, equals, and all iron and steel products proposed in the Plans, Specifications, and Bidding Documents are either produced in the United States or are the subject of an approved waiver under AIS.
14. The following services are not provided. If a future need arises, services by the Engineer may be provided through addendum to this Agreement.
 - a. Providing services for assisting the Owner in obtaining a Section 404 Permit from the U.S. Army Corps of Engineers. The need for said permit is not anticipated for this project.
 - b. Providing an Environmental Assessment or an Environmental Impact Statement concerning the National Environmental Policy Act. Owner has contracted with others for the performance of this work.
- B. Engineer's services under the Final Design Phase will be considered complete on the date when Engineer has delivered to Owner the final Drawings and Specifications, other assembled Construction Contract Documents, bidding-related documents (or requests for proposals or other construction procurement documents), and any other Final Design Phase deliverables **and all final design phase deliverables have been accepted by Owner.**
- C. In the event that the Work designed or specified by Engineer is to be performed or furnished under more than one prime contract, or if Engineer's services are to be separately sequenced with the work of one or more prime Contractors (such as in the case of fast-tracking), Owner and Engineer shall, prior to commencement of the Final Design Phase, develop a schedule for performance of Engineer's services during the Final Design, Bidding or Negotiating, Construction, and Post-Construction Phases in order to sequence and coordinate properly such services as are applicable to the work under such separate prime contracts. This schedule is to be prepared and included in or become an amendment to Exhibit A whether or not the work under such contracts is to proceed concurrently.
- D. The number of prime contracts for Work designed or specified by Engineer upon which the Engineer's compensation has been established under this Agreement is one. If more prime contracts are awarded, Engineer shall be entitled to an equitable increase in its compensation under this Agreement.

A1.04 *Bidding or Negotiating Phase*

- A. After acceptance by Owner of the final Drawings and Specifications, other Construction Contract Documents, bidding-related documents (or requests for proposals or other construction procurement documents), and the most recent opinion of probable Construction Cost as determined in the Final Design Phase, and upon written authorization by Owner to proceed, Engineer shall:
1. Assist Owner in advertising for and obtaining bids or proposals for the Work, assist Owner in issuing assembled design, contract, and bidding-related documents (or requests for proposals or other construction procurement documents) to prospective contractors, and, where applicable, maintain a record of prospective contractors to which documents have been issued, attend pre-bid conferences, if any, and receive and process contractor deposits or charges for the issued documents.
 2. Prepare and issue Addenda as appropriate to clarify, correct, or change the issued documents. **Obtain Agency concurrence on any addenda that modify the bidding documents. Obtain prior concurrence where possible.**
 3. Provide information or assistance needed by Owner in the course of any review of proposals or negotiations with prospective contractors.
 4. Consult with Owner as to the qualifications of prospective contractors.
 5. Consult with Owner as to the qualifications of subcontractors, suppliers, and other individuals and entities proposed by prospective contractors, for those portions of the Work as to which review of qualifications is required by the issued documents.
 - ~~6. If the issued documents require, the Engineer shall evaluate and determine the acceptability of "or equals" and substitute materials and equipment proposed by prospective contractors, provided that such proposals are allowed by the bidding-related documents (or requests for proposals or other construction procurement documents) prior to award of contracts for the Work. Services under this paragraph are subject to the provisions of Paragraph A2.02.A.2 of this Exhibit A.~~
 - a. The Engineer shall evaluate and determine the acceptability of "or equals" and substitute materials and equipment proposed by prospective contractors prior to award of contracts for the Work. Engineer shall issue a bid addendum for any and all approved "or equals" and substitutes. Review of substitutes and "or equals" shall be in accordance with the General Conditions of the Construction Contract and applicable Agency regulations. Services under this paragraph are subject to the provisions of Paragraph A2.02A.2 of this Exhibit A.
 - b. **Services required to determine and certify that to the best of the Engineer's knowledge and belief all iron and steel products referenced in Bid Addenda requiring design revisions are either produced in the United States or are the subject of an approved waiver.**

7. Attend the bid opening, prepare bid tabulation sheets to meet Owner's schedule, and assist Owner in evaluating bids or proposals, assembling final contracts for the Work for execution by Owner and Contractor, and in issuing notices of award of such contracts.
 8. If Owner engages in negotiations with bidders or proposers, assist Owner with respect to technical and engineering issues that arise during the negotiations.
 9. Perform or provide the following other Bidding or Negotiating Phase tasks or deliverables:
 - a. **Upon Award of the Construction Contract, the Engineer shall furnish to Owner five executed copies of the Contract Documents and one electronic copy of the signed documents, including Drawings and Specifications.**
 10. **Provide copies of Manufacturers' Certification letters to the Bidders on any brand name iron and steel products along with the Plans, Specifications and Bidding Documents. Manufacturers' Certification Letters are to be included in the Bidding Documents and must be kept in the engineer's project file and on site during construction.**
 11. **Provide copies of Manufacturers' Certification letters to the Contractor on any brand name iron and steel products along with the Plans, Specifications, Bidding Documents including any Bid Addenda and Change Orders. Manufacturers' Certification Letters must be kept in the engineer's project file and on site during construction.**
- B. The Bidding or Negotiating Phase will be considered complete upon commencement of the Construction Phase or upon cessation of negotiations with prospective contractors (except as may be required if Exhibit F is a part of this Agreement).

A1.05 *Construction Phase*

- A. Upon successful completion of the Bidding and Negotiating Phase, and upon written authorization from Owner, Engineer shall:
 1. *General Administration of Construction Contract:* Consult with Owner and act as Owner's representative as provided in the Construction Contract. The extent and limitations of the duties, responsibilities, and authority of Engineer shall be as assigned in EJCDC® C-700, Standard General Conditions of the Construction Contract (2013 Edition), prepared by the Engineers Joint Contract Documents Committee, or other construction general conditions specified in this Agreement. If Owner, or Owner and Contractor, modify the duties, responsibilities, and authority of Engineer in the Construction Contract, or modify other terms of the Construction Contract having a direct bearing on Engineer, then Owner shall compensate Engineer for any related increases in the cost to provide Construction Phase services. Engineer shall not be required to furnish or perform services contrary to Engineer's responsibilities as a licensed professional. All of Owner's instructions to Contractor will be issued through Engineer, which shall have authority to act on behalf of Owner in dealings with Contractor to the extent provided in this Agreement and the Construction Contract except as otherwise provided in writing.

2. *Resident Project Representative (RPR):* Provide the services of an RPR at the Site to assist the Engineer and to provide more extensive observation of Contractor's work. Duties, responsibilities, and authority of the RPR are as set forth in Exhibit D. The furnishing of such RPR's services will not limit, extend, or modify Engineer's responsibilities or authority except as expressly set forth in Exhibit D.
3. *Selection of Independent Testing Laboratory:* Assist Owner in the selection of an independent testing laboratory to perform the services identified in Exhibit B, Paragraph B2.01.
4. *Pre-Construction Conference:* Participate in **and chair** a pre-construction conference prior to commencement of Work at the Site.
5. *Electronic Transmittal Protocols:* If the Construction Contract Documents do not specify protocols for the transmittal of Project-related correspondence, documents, text, data, drawings, information, and graphics, in electronic media or digital format, either directly, or through access to a secure Project website, then together with Owner and Contractor jointly develop such protocols for transmittals between and among Owner, Contractor, and Engineer during the Construction Phase and Post-Construction Phase.
6. *Original Documents:* ~~If requested by Owner to do so,~~ Maintain and safeguard during the Construction Phase at least one original printed record version of the Construction Contract Documents, including Drawings and Specifications signed and sealed by Engineer and other design professionals in accordance with applicable Laws and Regulations. Throughout the Construction Phase, make such original printed record version of the Construction Contract Documents available to Contractor and Owner for review.
7. *Schedules:* Receive, review, and determine the acceptability of any and all schedules that Contractor is required to submit to Engineer, including the Progress Schedule, Schedule of Submittals, and Schedule of Values.
8. *Baselines and Benchmarks:* As appropriate, establish baselines and benchmarks for locating the Work which in Engineer's judgment are necessary to enable Contractor to proceed.
9. *Visits to Site and Observation of Construction:* In connection with observations of Contractor's Work while it is in progress:
 - a. Make visits to the Site at intervals appropriate to the various stages of construction, as Engineer deems necessary, to observe as an experienced and qualified design professional the progress of Contractor's executed Work. Such visits and observations by Engineer, and the Resident Project Representative, if any, are not intended to be exhaustive or to extend to every aspect of the Work or to involve detailed inspections of the Work beyond the responsibilities specifically assigned to Engineer in this Agreement and the Construction Contract Documents, but rather are to be limited to spot checking, selective sampling, and similar methods of general observation of the Work based on Engineer's exercise of professional judgment, as assisted by the Resident Project Representative, if any. Based on information obtained during such visits and observations, Engineer will determine

in general if the Work is proceeding in accordance with the Construction Contract Documents, and Engineer shall keep Owner informed of the progress of the Work.

- b. The purpose of Engineer's visits to the Site, and representation by the Resident Project Representative, if any, at the Site, will be to enable Engineer to better carry out the duties and responsibilities assigned to and undertaken by Engineer during the Construction Phase, and, in addition, by the exercise of Engineer's efforts as an experienced and qualified design professional, to provide for Owner a greater degree of confidence that the completed Work will conform in general to the Construction Contract Documents and that Contractor has implemented and maintained the integrity of the design concept of the completed Project as a functioning whole as indicated in the Construction Contract Documents. Engineer shall not, during such visits or as a result of such observations of the Work, supervise, direct, or have control over the Work, nor shall Engineer have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected or used by any Constructor, for security or safety at the Site, for safety precautions and programs incident to any Constructor's work in progress, for the coordination of the Constructors' work or schedules, nor for any failure of any Constructor to comply with Laws and Regulations applicable to furnishing and performing of its work. Accordingly, Engineer neither guarantees the performance of any Constructor nor assumes responsibility for any Constructor's failure to furnish or perform the Work, or any portion of the Work, in accordance with the Construction Contract Documents.
 - c. **The visits described in Article A1.05.A.9.a shall be at least monthly and the Engineer shall document all visits to the project with copies furnished to the Owner and Agency.**
- 10. *Defective Work:* Reject Work if, on the basis of Engineer's observations, Engineer believes that such Work is defective under the terms and standards set forth in the Construction Contract Documents. Provide recommendations to Owner regarding whether Contractor should correct such Work or remove and replace such Work, or whether Owner should consider accepting such Work as provided in the Construction Contract Documents.
 - 11. *Compatibility with Design Concept:* If Engineer has express knowledge that a specific part of the Work that is not defective under the terms and standards set forth in the Construction Contract Documents is nonetheless not compatible with the design concept of the completed Project as a functioning whole, then inform Owner of such incompatibility, and provide recommendations for addressing such Work.
 - 12. *Clarifications and Interpretations:* Accept from Contractor and Owner submittal of all matters in question concerning the requirements of the Construction Contract Documents (sometimes referred to as requests for information or interpretation—RFIs), or relating to the acceptability of the Work under the Construction Contract Documents. With reasonable promptness, render a written clarification, interpretation, or decision on the issue submitted, or initiate an amendment or supplement to the Construction Contract Documents.

13. *Non-reviewable Matters:* If a submitted matter in question concerns the Engineer's performance of its duties and obligations, or terms and conditions of the Construction Contract Documents that do not involve (1) the performance or acceptability of the Work under the Construction Contract Documents, (2) the design (as set forth in the Drawings, Specifications, or otherwise), or (3) other engineering or technical matters, then Engineer will promptly give written notice to Owner and Contractor that Engineer will not provide a decision or interpretation.
14. *Field Orders:* Subject to any limitations in the Construction Contract Documents, Engineer may prepare and issue Field Orders requiring minor changes in the Work.
15. *Change Orders and Work Change Directives:* Recommend Change Orders and Work Change Directives to Owner, as appropriate, and prepare Change Orders and Work Change Directives as required.
16. *Differing Site Conditions:* Respond to any notice from Contractor of differing site conditions, including conditions relating to underground facilities such as utilities, and hazardous environmental conditions. Promptly conduct reviews and prepare findings, conclusions, and recommendations for Owner's use.
17. *Shop Drawings, Samples, and Other Submittals:* **Review and approve or take other appropriate action with respect to Shop Drawings, Samples, and other required Contractor submittals to determine compliance with American and Iron Steel requirements mandated by Section 746 of Title VII of the Consolidated Appropriations Act of 2017 (Division A - Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2017) and subsequent statutes mandating domestic preference. Any iron and steel products included in any submittal by the General Contractor, must include a Manufacturers' Certification letter to verify the products were produced in the United States. Copies of Manufacturers' Certification letters must be kept in the engineer's project file and on site during construction.** Review and approve or take other appropriate action with respect to Shop Drawings, Samples, and other required Contractor submittals, but only for conformance with the information given in the Construction Contract Documents and compatibility with the design concept of the completed Project as a functioning whole as indicated by the Construction Contract Documents. Such reviews and approvals or other action will not extend to means, methods, techniques, sequences, or procedures of construction or to safety precautions and programs incident thereto. Engineer shall meet any Contractor's submittal schedule that Engineer has accepted.
18. *Substitutes and "Or-equal":* Evaluate and determine the acceptability of substitute or "or-equal" materials and equipment proposed by Contractor, but subject to the provisions of Paragraph A2.02.A.2 of this Exhibit A. **Review of substitutes and "or equals" shall be in accordance with the General Conditions of the Contract and applicable Agency regulations. Prior to approval of any substitute "or equal" review Manufacturers' Certifications provided by the Contractor to verify the product(s) meet AIS requirements. Manufacturers' Certifications must be kept in the Engineer's project file and on-site during construction to ensure compliance with AIS.**
19. *Inspections and Tests:*

- a. Receive and review all certificates of inspections, tests, and approvals required by Laws and Regulations or the Construction Contract Documents. Engineer's review of such certificates will be for the purpose of determining that the results certified indicate compliance with the Construction Contract Documents and will not constitute an independent evaluation that the content or procedures of such inspections, tests, or approvals comply with the requirements of the Construction Contract Documents. Engineer shall be entitled to rely on the results of such inspections and tests.
 - b. As deemed reasonably necessary, request that Contractor uncover Work that is to be inspected, tested, or approved.
 - c. Pursuant to the terms of the Construction Contract, require special inspections or testing of the Work, whether or not the Work is fabricated, installed, or completed.
 - d. **Receive and review all Manufacturers' Certification Letters for materials required to comply with AIS. Manufacturer's Certifications must be kept in the Engineer's project file and on-site during construction.**
20. *Change Proposals and Claims:* (a) Review and respond to Change Proposals. Review each duly submitted Change Proposal from Contractor and, within 30 days after receipt of the Contractor's supporting data, either deny the Change Proposal in whole, approve it in whole, or deny it in part and approve it in part. Such actions shall be in writing, with a copy provided to Owner and Contractor. If the Change Proposal does not involve the design (as set forth in the Drawings, Specifications, or otherwise), the acceptability of the Work, or other engineering or technical matters, then Engineer will notify the parties that the Engineer will not resolve the Change Proposal. (b) Provide information or data to Owner regarding engineering or technical matters pertaining to Claims. **(c) Review Change Proposals to determine compliance with American and Iron Steel requirements mandated by Section 746 of Title VII of the Consolidated Appropriations Act of 2017 (Division A - Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2017) and subsequent statutes mandating domestic preference.**
21. *Applications for Payment:* Based on Engineer's observations as an experienced and qualified design professional and on review of Applications for Payment and accompanying supporting documentation:
- a. Determine the amounts that Engineer recommends Contractor be paid. Recommend reductions in payment (set-offs) based on the provisions for set-offs stated in the Construction Contract. Such recommendations of payment will be in writing and will constitute Engineer's representation to Owner, based on such observations and review, that, to the best of Engineer's knowledge, information and belief, Contractor's Work has progressed to the point indicated, the Work is generally in accordance with the Construction Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, to the results of any subsequent tests called for in the Construction Contract Documents, and to any other qualifications stated in the recommendation), and the conditions precedent to Contractor's being entitled to

such payment appear to have been fulfilled in so far as it is Engineer's responsibility to observe the Work. In the case of unit price Work, Engineer's recommendations of payment will include final determinations of quantities and classifications of the Work (subject to any subsequent adjustments allowed by the Construction Contract Documents).

- b. By recommending payment, Engineer shall not thereby be deemed to have represented that observations made by Engineer to check the quality or quantity of Contractor's Work as it is performed and furnished have been exhaustive, extended to every aspect of Contractor's Work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to Engineer in this Agreement. Neither Engineer's review of Contractor's Work for the purposes of recommending payments nor Engineer's recommendation of any payment including final payment will impose on Engineer responsibility to supervise, direct, or control the Work, or for the means, methods, techniques, sequences, or procedures of construction or safety precautions or programs incident thereto, or Contractor's compliance with Laws and Regulations applicable to Contractor's furnishing and performing the Work. It will also not impose responsibility on Engineer to make any examination to ascertain how or for what purposes Contractor has used the money paid to Contractor by Owner; to determine that title to any portion of the Work, including materials or equipment, has passed to Owner free and clear of any liens, claims, security interests, or encumbrances; or that there may not be other matters at issue between Owner and Contractor that might affect the amount that should be paid.
22. *Contractor's Completion Documents:* Receive from Contractor, review, and transmit to Owner maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance required by the Construction Contract Documents, certificates of inspection, tests and approvals, and Shop Drawings, Samples, and other data approved as provided under Paragraph A1.05.A.17. ~~Receive from Contractor, review, and transmit to Owner the annotated record documents which are to be assembled by Contractor in accordance with the Construction Contract Documents to obtain final payment. The extent of Engineer's review of record documents shall be to check that Contractor has submitted all pages.~~ **Receive from Contractor and review the annotated record documents which are to be assembled by Contractor in accordance with the Construction Contract Documents to obtain final payment. The Engineer shall prepare Record Drawings, and furnish such Record Drawings to Owner.**
 23. *Substantial Completion:* Promptly after notice from Contractor that Contractor considers the entire Work ready for its intended use, in company with Owner and Contractor, visit the Site to review the Work and determine the status of completion. Follow the procedures in the Construction Contract regarding the preliminary certificate of Substantial Completion, punch list of items to be completed, Owner's objections, notice to Contractor, and issuance of a final certificate of Substantial Completion. Assist Owner regarding any remaining engineering or technical matters affecting Owner's use or occupancy of the Work following Substantial Completion.
 24. *Other Tasks:* Perform or provide the following other Construction Phase tasks or deliverables:

- a. **Upon Substantial Completion, the Engineer shall provide a copy of the Certificate of Substantial Completion to the Agency.**
 - b. The visits described in Article A1.05.A.9.a shall be at least monthly.
 - c. The Engineer shall document visit to the project site in writing on standard inspection report forms approved by the Agency with copies furnished to the Owner, Agency, and Contractor.
 - d. Upon Substantial Completion, the Engineer shall provide a copy of the Certificate of Substantial Completion to the Agency.
 - e. The Engineer shall prepare Record Drawings showing appropriate record information based on Project annotated record documents received from Contractor, and furnishing 2 copies of such Record Drawings to Owner.
25. *Final Notice of Acceptability of the Work:* Conduct a final visit to the Project to determine if the Work is complete and acceptable so that Engineer may recommend, in writing, final payment to Contractor. Accompanying the recommendation for final payment, Engineer shall also provide a notice to Owner and Contractor in the form attached hereto as Exhibit E ("Notice of Acceptability of Work") that the Work is acceptable (subject to the provisions of the Notice and Paragraph A1.05.A.21.b) to the best of Engineer's knowledge, information, and belief, and based on the extent of the services provided by Engineer under this Agreement.
- a. **Obtain the Contractors' Certification letter and copies of Manufacturers' Certification letters for all American Iron and Steel products used in the project. Upon Substantial Completion, provide copies of Engineer's, Contractors', and Manufacturers' Certification letters to the Owner and a copy of Contractor's Certification letter to the Agency.**
26. *Standards for Certain Construction-Phase Decisions:* Engineer will render decisions regarding the requirements of the Construction Contract Documents, and judge the acceptability of the Work, pursuant to the specific procedures set forth in the Construction Contract for initial interpretations, Change Proposals, and acceptance of the Work. In rendering such decisions and judgments, Engineer will not show partiality to Owner or Contractor, and will not be liable to Owner, Contractor, or others in connection with any proceedings, interpretations, decisions, or judgments conducted or rendered in good faith.
- B. *Duration of Construction Phase:* The Construction Phase will commence with the execution of the first Construction Contract for the Project or any part thereof and will terminate upon written recommendation by Engineer for final payment to Contractors. If the Project involves more than one prime contract as indicated in Paragraph A1.03.D, then Construction Phase services may be rendered at different times in respect to the separate contracts. Subject to the provisions of Article 3, Engineer shall be entitled to an equitable increase in compensation if Construction Phase services (including Resident Project Representative services, if any) are required after the original date for completion and readiness for final payment of Contractor as set forth in the Construction Contract.

A1.06 *Post-Construction Phase*

- A. Upon written authorization from Owner during the Post-Construction Phase, Engineer shall:
1. Together with Owner, visit the Project to observe any apparent defects in the Work, make recommendations as to replacement or correction of defective Work, if any, or the need to repair of any damage to the Site or adjacent areas, and assist Owner in consultations and discussions with Contractor concerning correction of any such defective Work and any needed repairs.
 2. Together with Owner, visit the Project within one month before the end of the Construction Contract's correction period to ascertain whether any portion of the Work or the repair of any damage to the Site or adjacent areas is defective and therefore subject to correction by Contractor.
 3. Perform or provide the following other Post-Construction Phase tasks or deliverables:
 - a. Notify applicable regulatory agencies of the completion of the project
 - b. Two (2) sets of As-Built Drawings
- B. The Post-Construction Phase services may commence during the Construction Phase and, if not otherwise modified in this Exhibit A, will terminate twelve months after the commencement of the Construction Contract's correction period.

PART 2 – ADDITIONAL SERVICES

A2.01 *Additional Services Requiring Owner's Written Authorization*

- A. If authorized in writing by Owner, Engineer shall provide Additional Services of the types listed below. These services are not included as part of Basic Services and will be paid for by Owner as indicated in Exhibit C.
1. Preparation of applications and supporting documents (in addition to those furnished under Basic Services) for private or governmental grants, loans, or advances in connection with the Project; preparation or review of environmental assessments and impact statements **not including preparation of the Environmental Report defined under Basic Services**; review and evaluation of the effects on the design requirements for the Project of any such statements and documents prepared by others; and assistance in obtaining approvals of authorities having jurisdiction over the anticipated environmental impact of the Project.
 2. Services to make measured drawings of existing conditions or facilities, to conduct tests or investigations of existing conditions or facilities, or to verify the accuracy of drawings or other information furnished by Owner or others.
 3. Services resulting from significant changes in the scope, extent, or character of the portions of the Project designed or specified by Engineer, or the Project's design requirements, including, but not limited to, changes in size, complexity, Owner's schedule, character of construction, or method of financing; and revising previously

accepted studies, reports, Drawings, Specifications, or Construction Contract Documents when such revisions are required by changes in Laws and Regulations enacted subsequent to the Effective Date or are due to any other causes beyond Engineer's control.

4. Services resulting from Owner's request to evaluate additional Study and Report Phase alternative solutions beyond those agreed to in Paragraph A1.01.A.1 ~~and 2~~, **but only if the Owner's request is made after completion of the Study and Report Phase.**
5. Services required as a result of Owner's providing incomplete or incorrect Project information to Engineer.
6. Providing renderings or models for Owner's use, including services in support of building information modeling or civil integrated management.
7. Undertaking investigations and studies including, but not limited to:
 - a. detailed consideration of operations, maintenance, and overhead expenses;
 - b. the preparation of feasibility studies (such as those that include projections of output capacity, utility project rates, project market demand, or project revenues) and cash flow analyses, provided that such services are based on the engineering and technical aspects of the Project, and do not include rendering advice regarding municipal financial products or the issuance of municipal securities;
 - c. preparation of appraisals;
 - d. evaluating processes available for licensing, and assisting Owner in obtaining process licensing;
 - e. detailed quantity surveys of materials, equipment, and labor; and
 - f. audits or inventories required in connection with construction performed or furnished by Owner.
8. Furnishing services of Consultants for other than Basic Services.
9. Providing data or services of the types described in Exhibit B, when Owner retains Engineer to provide such data or services instead of Owner furnishing the same.
10. Providing the following services:
 - a. Services attributable to more prime construction contracts than specified in Paragraph A1.03.D.
 - b. Services to arrange for performance of construction services for Owner by contractors other than the principal prime Contractor, and administering Owner's contract for such services.
11. Services during out-of-town travel required of Engineer, other than for visits to the Site or Owner's office as required in Basic Services (Part 1 of Exhibit A).

12. Preparing for, coordinating with, participating in and responding to structured independent review processes, including, but not limited to, construction management, cost estimating, project peer review, value engineering, and constructability review requested by Owner; and performing or furnishing services required to revise studies, reports, Drawings, Specifications, or other documents as a result of such review processes.
13. Preparing additional bidding-related documents (or requests for proposals or other construction procurement documents) or Construction Contract Documents for alternate bids or cost estimates requested by Owner for the Work or a portion thereof.
- ~~14. Assistance in connection with bid protests, rebidding, or renegotiating contracts for construction, materials, equipment, or services, except when such assistance is required to complete services required by Paragraph 5.02.A and Exhibit F.~~
15. Preparing conformed Construction Contract Documents that incorporate and integrate the content of all Addenda and any amendments negotiated by Owner and Contractor.
16. Providing Construction Phase services beyond the original date for completion and readiness for final payment of Contractor, but only if such services increase the total quantity of services to be performed in the Construction Phase, rather than merely shifting performance of such services to a later date.
- ~~17. Preparing Record Drawings, and furnishing such Record Drawings to Owner.~~
18. Supplementing Record Drawings with information regarding the completed Project, Site, and immediately adjacent areas obtained from field observations, Owner, utility companies, and other reliable sources.
19. Conducting surveys, investigations, and field measurements to verify the accuracy of Record Drawing content obtained from Contractor, Owner, utility companies, and other sources; revise and supplement Record Drawings as needed.
20. Preparation of operation, maintenance, and staffing manuals.
21. Protracted or extensive assistance in refining and adjusting of Project equipment and systems (such as initial startup, testing, and balancing).
22. Assistance to Owner in training Owner's staff to operate and maintain Project equipment and systems.
23. Assistance to Owner in developing systems and procedures for (a) control of the operation and maintenance of Project equipment and systems, and (b) related recordkeeping.
24. Preparing to serve or serving as a consultant or witness for Owner in any litigation, arbitration, lien or bond claim, or other legal or administrative proceeding involving the Project.
25. Overtime work requiring higher than regular rates.

26. Providing construction surveys and staking to enable Contractor to perform its work other than as required under Paragraph A1.05.A.8; any type of property surveys or related engineering services needed for the transfer of interests in real property; and providing other special field surveys.
27. Providing more extensive services required to enable Engineer to issue notices or certifications requested by Owner.
28. Extensive services required during any correction period, or with respect to monitoring Contractor's compliance with warranties and guarantees called for in the Construction Contract (except as agreed to under Basic Services).
29. Other additional services performed or furnished by Engineer not otherwise provided for in this Agreement.
 - a. Provide legal descriptions for permanent and temporary easements for the Owner to acquire for construction purposes.
 - b. Administrative services resulting from the Owner's request to assist in acquiring geotechnical services as required for design purposes.
 - c. Services in obtaining a Division of Water Resources (DWR) Permit from the Kansas Department of Agriculture or a Section 404 Permit from the US Army Corps of Engineers.

A2.02 *Additional Services Not Requiring Owner's Written Authorization*

- A. Engineer shall advise Owner that Engineer is commencing to perform or furnish the Additional Services of the types listed below. For such Additional Services, Engineer need not request or obtain specific advance written authorization from Owner. Engineer shall cease performing or furnishing such Additional Services upon receipt of written notice to cease from Owner.
 1. Services in connection with Work Change Directives and Change Orders to reflect changes requested by Owner.
 2. ~~Services in making revisions to Drawings and Specifications occasioned by the acceptance of substitute materials or equipment other than "or equal" items; services after the award of the Construction Contract in evaluating and determining the acceptability of a proposed "or equal" or substitution which is found to be inappropriate for the Project; evaluation and determination of an excessive number of proposed "or equals" or substitutions, whether proposed before or after award of the Construction Contract.~~ **Services in making revisions to Drawings and Specifications occasioned by the acceptance of substitute materials or equipment other than "or equal" items; evaluation and determination of an excessive number of proposed "or equals" or substitutions, whether proposed before or after award of the Construction Contract.**
 3. Services resulting from significant delays, changes, or price increases occurring as a direct or indirect result of materials, equipment, or energy shortages.

4. Additional or extended services arising from (a) the presence at the Site of any Constituent of Concern or items of historical or cultural significance, (b) emergencies or acts of God endangering the Work, (c) damage to the Work by fire or other causes during construction, (d) a significant amount of defective, neglected, or delayed Work, (e) acceleration of the progress schedule involving services beyond normal working hours, or (f) default by Contractor.
5. Services (other than Basic Services during the Post-Construction Phase) in connection with any partial utilization of the Work by Owner prior to Substantial Completion.
6. Evaluating unreasonable or frivolous requests for interpretation or information (RFIs), Change Proposals, or other demands from Contractor or others in connection with the Work, or an excessive number of RFIs, Change Proposals, or demands.
7. Reviewing a Shop Drawing or other Contractor submittal more than three times, as a result of repeated inadequate submissions by Contractor.
8. While at the Site, compliance by Engineer and its staff with those terms of Owner's or Contractor's safety program provided to Engineer subsequent to the Effective Date that exceed those normally required of engineering personnel by federal, State, or local safety authorities for similar construction sites.

This is **EXHIBIT B**, consisting of 4 pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated 02/08/2022.

Owner's Responsibilities

Article 2 of the Agreement is supplemented to include the following agreement of the parties.

B2.01 In addition to other responsibilities of Owner as set forth in this Agreement, Owner shall at its expense:

- A. Provide Engineer with all criteria and full information as to Owner's requirements for the Project, including design objectives and constraints, space, capacity and performance requirements, flexibility, and expandability, and any budgetary limitations.
- B. Give instructions to Engineer regarding Owner's procurement of construction services (including instructions regarding advertisements for bids, instructions to bidders, and requests for proposals, as applicable), Owner's construction contract practices and requirements, insurance and bonding requirements, electronic transmittals during construction, and other information necessary for the finalization of Owner's bidding-related documents (or requests for proposals or other construction procurement documents), and Construction Contract Documents. Furnish copies (or give specific directions requesting Engineer to use copies already in Engineer's possession) of all design and construction standards, Owner's standard forms, general conditions (if other than EJCDC® C-700, Standard General Conditions of the Construction Contract, 2013 Edition), supplementary conditions, text, and related documents and content for Engineer to include in the draft bidding-related documents (or requests for proposals or other construction procurement documents), and draft Construction Contract Documents, when applicable. Owner shall have responsibility for the final content of (1) such bidding-related documents (or requests for proposals or other construction procurement documents), and (2) those portions of any Construction Contract other than the design (as set forth in the Drawings, Specifications, or otherwise), and other engineering or technical matters; and Owner shall seek the advice of Owner's legal counsel, risk managers, and insurance advisors with respect to the drafting and content of such documents.
- C. Furnish to Engineer any other available information pertinent to the Project including reports and data relative to previous designs, construction, or investigation at or adjacent to the Site.
- D. Following Engineer's assessment of initially-available Project information and data and upon Engineer's request, obtain, furnish, or otherwise make available (if necessary through title searches, or retention of specialists or consultants) such additional Project-related information and data as is reasonably required to enable Engineer to complete its Basic and Additional Services. Such additional information or data would generally include the following:
 - 1. Property descriptions.
 - 2. Zoning, deed, and other land use restrictions.

3. Utility and topographic mapping and surveys.
 4. Property, boundary, easement, right-of-way, and other special surveys or data, including establishing relevant reference points.
 5. Explorations and tests of subsurface conditions at or adjacent to the Site; geotechnical reports and investigations; drawings of physical conditions relating to existing surface or subsurface structures at the Site; hydrographic surveys, laboratory tests and inspections of samples, materials, and equipment; with appropriate professional interpretation of such information or data.
 6. Environmental assessments, audits, investigations, and impact statements, and other relevant environmental, historical, or cultural studies relevant to the Project, the Site, and adjacent areas.
 7. Data or consultations as required for the Project but not otherwise identified in this Agreement.
- E. Arrange for safe access to and make all provisions for Engineer to enter upon public and private property as required for Engineer to perform services under the Agreement.
- F. Recognizing and acknowledging that Engineer's services and expertise do not include the following services, provide, as required for the Project:
1. Accounting, bond and financial advisory (including, if applicable, "municipal advisor" services as described in Section 975 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (2010) and the municipal advisor registration rules issued by the Securities and Exchange Commission), independent cost estimating, and insurance counseling services.
 2. Legal services with regard to issues pertaining to the Project as Owner requires, Contractor raises, or Engineer reasonably requests.
 3. Such auditing services as Owner requires to ascertain how or for what purpose Contractor has used the money paid.
- G. Provide the services of an independent testing laboratory to perform all inspections, tests, and approvals of samples, materials, and equipment required by the Construction Contract Documents (other than those required to be furnished or arranged by Contractor), or to evaluate the performance of materials, equipment, and facilities of Owner, prior to their incorporation into the Work with appropriate professional interpretation thereof. Provide Engineer with the findings and reports generated by testing laboratories, including findings and reports obtained from or through Contractor.
- H. Provide reviews, approvals, and permits from all governmental authorities having jurisdiction to approve all phases of the Project designed or specified by Engineer and such reviews, approvals, and consents from others as may be necessary for completion of each phase of the Project.

- I. Advise Engineer of the identity and scope of services of any independent consultants employed by Owner to perform or furnish services in regard to the Project, including, but not limited to, cost estimating, project peer review, value engineering, and constructability review.
- J. If Owner designates a construction manager or an individual or entity other than, or in addition to, Engineer to represent Owner at the Site, define and set forth as an attachment to this Exhibit B the duties, responsibilities, and limitations of authority of such other party and the relation thereof to the duties, responsibilities, and authority of Engineer.
- K. If more than one prime contract is to be awarded for the Work designed or specified by Engineer, then designate a person or entity to have authority and responsibility for coordinating the activities among the various prime Contractors, and define and set forth the duties, responsibilities, and limitations of authority of such individual or entity and the relation thereof to the duties, responsibilities, and authority of Engineer as an attachment to this Exhibit B that is to be mutually agreed upon and made a part of this Agreement before such services begin.
- L. Inform Engineer in writing of any specific requirements of safety or security programs that are applicable to Engineer, as a visitor to the Site.
- M. Examine all alternative solutions, studies, reports, sketches, Drawings, Specifications, proposals, and other documents presented by Engineer (including obtaining advice of an attorney, risk manager, insurance counselor, financial/municipal advisor, and other advisors or consultants as Owner deems appropriate with respect to such examination) and render in writing timely decisions pertaining thereto.
- N. Inform Engineer regarding any need for assistance in evaluating the possible use of Project Strategies, Technologies, and Techniques, as defined in Exhibit A.
- O. Advise Engineer as to whether Engineer's assistance is requested in identifying opportunities for enhancing the sustainability of the Project.
- P. Place and pay for advertisement for Bids in appropriate publications.
- Q. Furnish to Engineer data as to Owner's anticipated costs for services to be provided by others (including, but not limited to, accounting, bond and financial, independent cost estimating, insurance counseling, and legal advice) for Owner so that Engineer may assist Owner in collating the various cost categories which comprise Total Project Costs.
- R. Attend and participate in the pre-bid conference, bid opening, pre-construction conferences, construction progress and other job related meetings, and Site visits to determine Substantial Completion and readiness of the completed Work for final payment.
- S. Authorize Engineer to provide Additional Services as set forth in Part 2 of Exhibit A of the Agreement, as required.
- T. Perform or provide the following:

1. The Owner shall pay the Contractor any amounts due under the Construction Contract, but must obtain Agency concurrence prior to issuing such payment.

B2.02 Owners are ultimately responsible for compliance with Section 746 of Title VII of the Consolidated Appropriations Act of 2017 (Division A - Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2017) and subsequent statutes mandating domestic preference and will be responsible for the following:

- A. *Signing* loan resolutions, grant agreements and letters of intent to meet conditions which include American Iron and Steel language, accepting American Iron and Steel requirements in those documents and in the letter of conditions.
- B. *Signing* change orders (i.e. C-941 of EJCDC) and partial payment estimates (i.e. C-620 of EJCDC) and thereby *acknowledging* responsibility for compliance with American Iron and Steel requirements.
- C. *Obtaining* the certification letters from the consulting engineer upon substantial completion of the project and *maintaining* this documentation for the life of the loan.
- D. Where the owner provides their own engineering and/or construction services, *providing* copies of the engineers' opinion letters and, contractors', and manufacturers' certification letters (as applicable) to the Agency. All certification letters must be kept in the engineer's project file and on site during construction. For Owner Construction (Force Account), all clauses from Section 17 of RUS Bulletin 1780-35 must be included in the Agreement for Engineering Services.
- E. Where the owner directly procures American Iron and Steel products, *including* American Iron and Steel clauses in the procurement contracts and *obtaining* manufacturers' certification letters and *providing* copies to consulting engineers and contractors.

This is **EXHIBIT C**, consisting of 6 pages, referred to in and part of the Agreement between Owner and Engineer for Professional Services dated 02/08/2022.

Payments to Engineer for Services and Reimbursable Expenses
COMPENSATION PACKET BC-1: Basic Services – Lump Sum

Article 2 of the Agreement is supplemented to include the following agreement of the parties:

ARTICLE 2 – OWNER’S RESPONSIBILITIES

C2.01 Compensation for Basic Services (other than Resident Project Representative) – Lump Sum Method of Payment

- A. Owner shall pay Engineer for Basic Services set forth in Exhibit A, except for services of Engineer’s Resident Project Representative, if any, as follows:
1. A Lump Sum amount of \$3,816,000.00 based on the following estimated distribution of compensation:

a. Study and Report Phase	\$[]
b. Preliminary Design Phase	\$1,645,600.00
c. Final Design Phase	\$1,346,400.00
d. Bidding and Negotiating Phase	\$40,000.00
e. Construction Phase	\$769,000.00
f. Post-Construction Phase	\$15,000.00
 2. Engineer may alter the distribution of compensation between individual phases noted herein to be consistent with services actually rendered, but shall not exceed the total Lump Sum amount unless approved in writing by the Owner **and Agency**.
 3. The Lump Sum includes compensation for Engineer’s services and services of Engineer’s Consultants, if any. Appropriate amounts have been incorporated in the Lump Sum to account for labor costs, overhead, profit, expenses (other than any expressly allowed Reimbursable Expenses), and Consultant charges.
 4. In addition to the Lump Sum, Engineer is also entitled to reimbursement from Owner for the following Reimbursable Expenses (see Appendix 1 for rates or charges): None.
 5. The portion of the Lump Sum amount billed for Engineer’s services will be based upon Engineer’s estimate of the percentage of the total services actually completed during the

billing period. If any Reimbursable Expenses are expressly allowed, Engineer may also bill for any such Reimbursable Expenses incurred during the billing period.

- B. *Period of Service:* The compensation amount stipulated in Compensation Packet BC-1 is conditioned on a period of service not exceeding 30 months. If such period of service is extended, the compensation amount for Engineer's services shall be appropriately adjusted **with the concurrence of the Owner and Agency.**

COMPENSATION PACKET RPR-2:
Resident Project Representative – Standard Hourly Rates

Article 2 of the Agreement is supplemented to include the following agreement of the parties:

C2.04 Compensation for Resident Project Representative Basic Services – Standard Hourly Rates Method of Payment

A. Owner shall pay Engineer for Resident Project Representative Basic Services as follows:

1. **Resident Project Representative Services:** For services of Engineer's Resident Project Representative under Paragraph A1.05.A of Exhibit A, an amount equal to the cumulative hours charged to the Project by each class of Engineer's personnel times Standard Hourly Rates for each applicable billing class for all Resident Project Representative services performed on the Project, plus related Reimbursable Expenses and Engineer's Consultant's charges, if any. The total compensation under this paragraph is estimated to be **\$1,954,000.00** based upon full-time RPR services on an eight-hour workday, Monday through Friday, over a **2,035 day** construction schedule.
2. **If rate(s) for RPR services is not indicated in Appendix Two to Exhibit C, "Standard Hourly Rates Schedule," the Standard Hourly Rate for RPR services is \$120.00 per hour.**

B. Compensation for Reimbursable Expenses:

1. For those Reimbursable Expenses that are not accounted for in the compensation for Basic Services under Paragraph C2.01, and are directly related to the provision of Resident Project Representative or Post-Construction Basic Services, Owner shall pay Engineer at the rates set forth in Appendix 1 to this Exhibit C.
2. Reimbursable Expenses include the expenses identified in Appendix 1 and the following: transportation (including mileage), lodging, and subsistence incidental thereto; providing and maintaining field office facilities including furnishings and utilities; subsistence and transportation of Resident Project Representative and assistants; toll telephone calls, mobile phone charges, and courier charges; reproduction of reports, Drawings, Specifications, bidding-related or other procurement documents, Construction Contract Documents, and similar Project-related items. In addition, if authorized in advance by Owner, Reimbursable Expenses will also include expenses incurred for the use of highly specialized equipment.
3. The amounts payable to Engineer for Reimbursable Expenses, if any, will be those internal expenses related to the Resident Project Representative Basic Services that are actually incurred or allocated by Engineer, plus all invoiced external Reimbursable Expenses allocable to such services, the latter multiplied by a factor of 1.0.
4. The Reimbursable Expenses Schedule will be adjusted annually (as of January 1st) to reflect equitable changes in the compensation payable to Engineer. **Changes will not be effective unless and until concurred in by the Owner and Agency.**

C. Other Provisions Concerning Payment Under this Paragraph C2.04:

1. Whenever Engineer is entitled to compensation for the charges of Engineer's Consultants, those charges shall be the amounts billed by Engineer's Consultants to Engineer times a factor of 1.10.
2. *Factors:* The external Reimbursable Expenses and Engineer's Consultant's factors include Engineer's overhead and profit associated with Engineer's responsibility for the administration of such services and costs.
3. *Estimated Compensation Amounts:*
 - a. Engineer's estimate of the amounts that will become payable for specified services are only estimates for planning purposes, are not binding on the parties, and are not the minimum or maximum amounts payable to Engineer under the Agreement.
 - b. When estimated compensation amounts have been stated herein and it subsequently becomes apparent to Engineer that the total compensation amount thus estimated will be exceeded, Engineer shall give Owner **and Agency** written notice thereof, allowing Owner to consider its options, including suspension or termination of Engineer's services for Owner's convenience. Upon notice Owner and Engineer promptly shall review the matter of services remaining to be performed and compensation for such services. Owner shall either exercise its right to suspend or terminate Engineer's services for Owner's convenience, agree to such compensation exceeding said estimated amount, or agree to a reduction in the remaining services to be rendered by Engineer, so that total compensation for such services will not exceed said estimated amount when such services are completed. If Owner decides not to suspend Engineer's services during negotiations and Engineer exceeds the estimated amount before Owner and Engineer have agreed to an increase in the compensation due Engineer or a reduction in the remaining services, then Engineer shall be paid for all services rendered hereunder.
4. To the extent necessary to verify Engineer's charges and upon Owner's timely request, Engineer shall make copies of such records available to Owner at **no** cost.
5. Period of Service: The compensation for Resident Project Representative identified in C2.04.A.1 is based on the construction working day duration identified in C2.04.A.1. Should the period of service be extended, the compensation for the Resident Project Representative Services shall be appropriately adjusted.

COMPENSATION PACKET AS-1:
Additional Services – Standard Hourly Rates

Article 2 of the Agreement is supplemented to include the following agreement of the parties:

C2.05 Compensation for Additional Services – Standard Hourly Rates Method of Payment

A. Owner shall pay Engineer for Additional Services, if any, as follows:

1. *General:* For services of Engineer's personnel engaged directly on the Project pursuant to Paragraph A2.01 or A2.02 of Exhibit A, except for services as a consultant or witness under Paragraph A2.01.A.20, (which if needed shall be separately negotiated based on the nature of the required consultation or testimony) an amount equal to the cumulative hours charged to the Project by each class of Engineer's personnel times Standard Hourly Rates for each applicable billing class for all Additional Services performed on the Project, plus related Reimbursable Expenses and Engineer's Consultant's charges, if any.

B. *Compensation For Reimbursable Expenses:*

1. For those Reimbursable Expenses that are not accounted for in the compensation for Basic Services under Paragraph C2.01 and are directly related to the provision of Additional Services, Owner shall pay Engineer at the rates set forth in Appendix 1 to this Exhibit C.
2. Reimbursable Expenses include the expenses identified in Appendix 1 and the following categories: transportation (including mileage), lodging, and subsistence incidental thereto; providing and maintaining field office facilities including furnishings and utilities; toll telephone calls, mobile phone charges, and courier charges; reproduction of reports, Drawings, Specifications, bidding-related or other procurement documents, Construction Contract Documents, and similar Project-related items; and Consultants' charges. In addition, if authorized in advance by Owner, Reimbursable Expenses will also include expenses incurred for the use of highly specialized equipment.
3. The amounts payable to Engineer for Reimbursable Expenses, if any, will be the Additional Services-related internal expenses actually incurred or allocated by Engineer, plus all invoiced external Reimbursable Expenses allocable to such Additional Services, the latter multiplied by a factor of ~~10%~~1.10.
4. The Reimbursable Expenses Schedule will be adjusted annually (as of January 1st) to reflect equitable changes in the compensation payable to Engineer. **Changes will not be effective unless and until concurred in by the Owner and Agency.**

C. *Other Provisions Concerning Payment for Additional Services:*

1. Whenever Engineer is entitled to compensation for the charges of Engineer's Consultants, those charges shall be the amounts billed by Engineer's Consultants to Engineer times a factor of 1.10.

2. *Factors:* The external Reimbursable Expenses and Engineer's Consultant's Factors include Engineer's overhead and profit associated with Engineer's responsibility for the administration of such services and costs.
3. To the extent necessary to verify Engineer's charges and upon Owner's timely request, Engineer shall make copies of such records available to Owner at **no** cost.

This is **Appendix 1 to EXHIBIT C**, consisting of 1 pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated 02/08/2022

Reimbursable Expenses Schedule

Reimbursable Expenses are subject to review and adjustment per Exhibit C. Rates and charges for Reimbursable Expenses as of the date of the Agreement are:

FAX	\$	0.50	/page
8½"x11" Copies/Impression	\$	0.35	/page
Blue Print Copies	\$	2.00	/sq. ft.
Reproducible Copies (Mylar)	\$	12.00	/sq. ft.
Reproducible Copies (Paper)	\$	6.00	/sq. ft.
Mileage (auto)	\$	0.565	/mile
Field Truck Daily Charge	\$	25.00	/day
Mileage (Field Truck)	\$	0.65	/mile
Field Survey Equipment	\$	500.00	/day
Confined Space Equipment	\$	500.00	/day plus expenses
Resident Project Representative Equipment	\$	600.00	/month
Computer CPU Charge	\$	15.00	/hour
Specialized Software	\$	75.00	/hour
Personal Computer Charge	\$	25.00	/hour
CAD Charge	\$	75.00	/hour
CAE Terminal Charge	\$	85.00	/hour

Standard Hourly Rates Schedule

A. Standard Hourly Rates:

1. Standard Hourly Rates are set forth in this Appendix 2 to this Exhibit C and include salaries and wages paid to personnel in each billing class plus the cost of customary and statutory benefits, general and administrative overhead, non-project operating costs, and operating margin or profit.
2. The Standard Hourly Rates apply only as specified in Article C2.

B. Schedule:

Hourly rates for services performed on or after the date of the Agreement are:

<u>POSITION</u>	<u>DISCOUNTED PER HOUR 2022</u>
PRINCIPAL III	\$264.00
PRINCIPAL II	\$226.00
PRINCIPAL I	\$167.00
ENGINEER/ARCHITECT V	\$160.00
ENGINEER/ARCHITECT IV	\$144.00
ENGINEER/ARCHITECT III	\$135.00
ENGINEER/ARCHITECT II	\$130.00
ENGINEER/ARCHITECT I	\$111.00
INTERN ENGINEER/GRADUATE ARCHITECT IV	\$129.00
INTERN ENGINEER/GRADUATE ARCHITECT III	\$128.00
INTERN ENGINEER/GRADUATE ARCHITECT II	\$116.00
INTERN ENGINEER/GRADUATE ARCHITECT I	\$105.00
TECHNICIAN IV	\$126.00
TECHNICIAN III	\$115.00
TECHNICIAN II	\$99.00
TECHNICIAN I	\$89.50
TECHNICIAN	\$65.00
SENIOR CONSTRUCTION OBSERVER	\$120.00
CERTIFIED CONSTRUCTION OBSERVER	\$103.00
CONSTRUCTION OBSERVER	\$90.50
SENIOR PROJECT SURVEYOR	\$155.00
PROJECT SURVEYOR	\$125.00

ASSISTANT PROJECT SURVEYOR	\$112.00
FIELD SUPERVISOR	\$101.00
FIELD SURVEYOR II	\$85.00
FIELD SURVEYOR I	\$67.50
CLERICAL II	\$71.50
CLERICAL I	\$56.00

Note: 1) The hourly rates shown above are effective for services through December 31st of the contract year

and are subject to revision annually.

2) For any Federal Wage and Hour Law non exempt personnel, overtime will be billed at 1.5 times the hourly

labor billing rates shown.

3) Expert Witness and Depositions will be charged at 1.5 times the hourly labor billing rates shown.

This is **EXHIBIT D**, consisting of 5 pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated 02/08/2022

[Note to User: Delete this Exhibit D if Engineer will not be providing Resident Project Representative Services under Paragraph A1.05.A.2.]

Duties, Responsibilities, and Limitations of Authority of Resident Project Representative

Article 1 of the Agreement is supplemented to include the following agreement of the parties:

ARTICLE 1 - SERVICES OF ENGINEER

D1.01 Resident Project Representative

- A. Engineer shall furnish a Resident Project Representative ("RPR") to assist Engineer in observing progress and quality of the Work. The RPR may provide full time representation or may provide representation to a lesser degree. RPR is Engineer's representative at the Site, will act as directed by and under the supervision of Engineer, and will confer with Engineer regarding RPR's actions. **Full time Resident Project Representation is required unless requested in writing by the Owner and Waived in writing by the Agency.**
- B. Through RPR's observations of the Work, including field checks of materials and installed equipment, Engineer shall endeavor to provide further protection for Owner against defects and deficiencies in the Work. However, Engineer shall not, as a result of such RPR observations of the Work, supervise, direct, or have control over the Work, nor shall Engineer (including the RPR) have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected or used by any Constructor, for security or safety at the Site, for safety precautions and programs incident to the Work or any Constructor's work in progress, for the coordination of the Constructors' work or schedules, or for any failure of any Constructor to comply with Laws and Regulations applicable to the performing and furnishing of its work. The Engineer (including RPR) neither guarantees the performances of any Constructor nor assumes responsibility for any Constructor's failure to furnish and perform the Work, or any portion of the Work, in accordance with the Construction Contract Documents. In addition, the specific terms set forth in Exhibit A, Paragraph A1.05, of this Agreement are applicable.
- C. The duties and responsibilities of the RPR are as follows:
 - 1. *General:* RPR's dealings in matters pertaining to the Work in general shall be with Engineer and Contractor. RPR's dealings with Subcontractors shall only be through or with the full knowledge and approval of Contractor. RPR shall generally communicate with Owner only with the knowledge of and under the direction of Engineer.
 - 2. *Schedules:* Review the progress schedule, schedule of Shop Drawing and Sample submittals, schedule of values, and other schedules prepared by Contractor and consult with Engineer concerning acceptability of such schedules.

3. *Conferences and Meetings:* Attend meetings with Contractor, such as preconstruction conferences, progress meetings, job conferences, and other Project-related meetings (but not including Contractor's safety meetings), and as appropriate prepare and circulate copies of minutes thereof.
4. *Safety Compliance:* Comply with Site safety programs, as they apply to RPR, and if required to do so by such safety programs, receive safety training specifically related to RPR's own personal safety while at the Site.
5. *Liaison:*
 - a. Serve as Engineer's liaison with Contractor. Working principally through Contractor's authorized representative or designee, assist in providing information regarding the provisions and intent of the Construction Contract Documents.
 - b. Assist Engineer in serving as Owner's liaison with Contractor when Contractor's operations affect Owner's on-Site operations.
 - c. Assist in obtaining from Owner additional details or information, when required for proper execution of the Work.
6. *Clarifications and Interpretations:* Receive from Contractor submittal of any matters in question concerning the requirements of the Construction Contract Documents (sometimes referred to as requests for information or interpretation—RFIs), or relating to the acceptability of the Work under the Construction Contract Documents. Report to Engineer regarding such RFIs. Report to Engineer when clarifications and interpretations of the Construction Contract Documents are needed, whether as the result of a Contractor RFI or otherwise. Transmit Engineer's clarifications, interpretations, and decisions to Contractor.
7. *Shop Drawings and Samples:*
 - a. Record date of receipt of Samples and Contractor-approved Shop Drawings.
 - b. Receive Samples that are furnished at the Site by Contractor, and notify Engineer of availability of Samples for examination.
 - c. Advise Engineer and Contractor of the commencement of any portion of the Work requiring a Shop Drawing or Sample submittal, if RPR believes that the submittal has not been received from Contractor, or has not been approved by Contractor or Engineer.
8. *Proposed Modifications:* Consider and evaluate Contractor's suggestions for modifications to the Drawings or Specifications, and report such suggestions, together with RPR's recommendations, if any, to Engineer. Transmit Engineer's response (if any) to such suggestions to Contractor.
9. *Review of Work; Defective Work:*

- a. Report to Engineer whenever RPR believes that any part of the Work is defective under the terms and standards set forth in the Construction Contract Documents, and provide recommendations as to whether such Work should be corrected, removed and replaced, or accepted as provided in the Construction Contract Documents.
- b. Inform Engineer of any Work that RPR believes is not defective under the terms and standards set forth in the Construction Contract Documents, but is nonetheless not compatible with the design concept of the completed Project as a functioning whole, and provide recommendations to Engineer for addressing such Work; and
- c. Advise Engineer of that part of the Work that RPR believes should be uncovered for observation, or requires special testing, inspection, or approval.

10. *Inspections, Tests, and System Start-ups:*

- a. Consult with Engineer in advance of scheduled inspections, tests, and systems start-ups.
- b. Verify that tests, equipment, and systems start-ups and operating and maintenance training are conducted in the presence of appropriate Owner's personnel, and that Contractor maintains adequate records thereof.
- c. Observe, record, and report to Engineer appropriate details relative to the test procedures and systems start-ups.
- d. Observe whether Contractor has arranged for inspections required by Laws and Regulations, including but not limited to those to be performed by public or other agencies having jurisdiction over the Work.
- e. Accompany visiting inspectors representing public or other agencies having jurisdiction over the Work, record the results of these inspections, and report to Engineer.

11. *Records:*

- a. Maintain at the Site orderly files for correspondence, reports of job conferences, copies of Construction Contract Documents including all Change Orders, Field Orders, Work Change Directives, Addenda, additional Drawings issued subsequent to the execution of the Construction Contract, RFIs, Engineer's clarifications and interpretations of the Construction Contract Documents, progress reports, approved Shop Drawing and Sample submittals, and other Project-related documents.
- b. Prepare a daily report or keep a diary or log book, recording Contractor's hours on the Site, Subcontractors present at the Site, weather conditions, data relative to questions of Change Orders, Field Orders, Work Change Directives, or changed conditions, Site visitors, deliveries of equipment or materials, daily activities, decisions, observations in general, and specific observations in more detail as in the case of observing test procedures; and send copies to Engineer.

- c. Upon request from Owner to Engineer, photograph or video Work in progress or Site conditions.
- d. Record and maintain accurate, up-to-date lists of the names, addresses, fax numbers, e-mail addresses, websites, and telephone numbers (including mobile numbers) of all Contractors, Subcontractors, and major Suppliers of materials and equipment.
- e. Maintain records for use in preparing Project documentation.
- f. Upon completion of the Work, furnish original set of all RPR Project documentation to Engineer.
- g. **Maintain all Manufacturers' Certification letters in the project file and on site during construction to ensure compliance with American and Iron Steel requirements mandated by Section 746 of Title VII of the Consolidated Appropriations Act of 2017 (Division A - Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2017) and subsequent statutes mandating domestic preference, as applicable.**

12. *Reports:*

- a. Furnish to Engineer periodic reports as required of progress of the Work and of Contractor's compliance with the progress schedule and schedule of Shop Drawing and Sample submittals.
- ~~b. Draft and recommend to Engineer proposed Change Orders, Work Change Directives, and Field Orders. Obtain backup material from Contractor. Deleted.~~
- c. Furnish to Engineer and Owner copies of all inspection, test, and system start-up reports.
- d. Immediately inform Engineer of the occurrence of any Site accidents, emergencies, acts of God endangering the Work, possible force majeure or delay events, damage to property by fire or other causes, or the discovery of any potential differing site condition or Constituent of Concern.

13. *Payment Requests:* Review applications for payment with Contractor for compliance with the established procedure for their submission and forward with recommendations to Engineer, noting particularly the relationship of the payment requested to the schedule of values, Work completed, and materials and equipment delivered at the Site but not incorporated in the Work.

14. *Certificates, Operation and Maintenance Manuals:* During the course of the Work, verify that materials and equipment certificates, operation and maintenance manuals and other data required by the Contract Documents to be assembled and furnished by Contractor are applicable to the items actually installed and in accordance with the Contract Documents, and have these documents delivered to Engineer for review and forwarding to Owner prior to payment for that part of the Work.

15. *Completion:*

- a. Participate in Engineer's visits to the Site regarding Substantial Completion, assist in the determination of Substantial Completion, and prior to the issuance of a Certificate of Substantial Completion submit a punch list of observed items requiring completion or correction.
- b. Participate in Engineer's visit to the Site in the company of Owner and Contractor, to determine completion of the Work, and prepare a final punch list of items to be completed or corrected by Contractor.
- c. Observe whether all items on the final punch list have been completed or corrected, and make recommendations to Engineer concerning acceptance and issuance of the Notice of Acceptability of the Work (Exhibit E).

D. Resident Project Representative shall not:

1. Authorize any deviation from the Construction Contract Documents or substitution of materials or equipment (including "or-equal" items).
2. Exceed limitations of Engineer's authority as set forth in this Agreement.
3. Undertake any of the responsibilities of Contractor, Subcontractors, or Suppliers, or any Constructor.
4. Advise on, issue directions relative to, or assume control over any aspect of the means, methods, techniques, sequences or procedures of the Work, by Contractor or any other Constructor.
5. Advise on, issue directions regarding, or assume control over security or safety practices, precautions, and programs in connection with the activities or operations of Owner or Contractor.
6. Participate in specialized field or laboratory tests or inspections conducted off-site by others except as specifically authorized by Engineer.
7. Accept Shop Drawing or Sample submittals from anyone other than Contractor.
8. Authorize Owner to occupy the Project in whole or in part.

This is **EXHIBIT E**, consisting of 2 pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated 02/08/2022



NOTICE OF ACCEPTABILITY OF WORK

PROJECT:

OWNER:

CONTRACTOR:

OWNER'S CONSTRUCTION CONTRACT IDENTIFICATION:

EFFECTIVE DATE OF THE CONSTRUCTION CONTRACT:

ENGINEER:

NOTICE DATE:

To: _____
Owner

And To: _____
Contractor

From: _____
Engineer

The Engineer hereby gives notice to the above Owner and Contractor that Engineer has recommended final payment of Contractor, and that the Work furnished and performed by Contractor under the above Construction Contract is acceptable, expressly subject to the provisions of the related Contract Documents, the Agreement between Owner and Engineer for Professional Services dated _____, and the following terms and conditions of this Notice:

CONDITIONS OF NOTICE OF ACCEPTABILITY OF WORK

The Notice of Acceptability of Work ("Notice") is expressly made subject to the following terms and conditions to which all those who receive said Notice and rely thereon agree:

1. This Notice is given with the skill and care ordinarily used by members of the engineering profession practicing under similar conditions at the same time and in the same locality.
2. This Notice reflects and is an expression of the Engineer's professional opinion.
3. This Notice is given as to the best of Engineer's knowledge, information, and belief as of the Notice Date.
4. This Notice is based entirely on and expressly limited by the scope of services Engineer has been employed by Owner to perform or furnish during construction of the Project (including observation of the Contractor's work) under Engineer's Agreement with Owner, and applies only to facts that are within Engineer's knowledge or could reasonably have been ascertained by Engineer as a result of carrying out the responsibilities specifically assigned to Engineer under such Agreement.
5. This Notice is not a guarantee or warranty of Contractor's performance under the Construction Contract, an acceptance of Work that is not in accordance with the related Contract Documents, including but not limited to defective Work discovered after final inspection, nor an assumption of responsibility for any failure of Contractor to furnish and perform the Work thereunder in accordance with the Construction Contract Documents, or to otherwise comply with the Construction Contract Documents or the terms of any special guarantees specified therein.
6. This Notice does not relieve Contractor of any surviving obligations under the Construction Contract, and is subject to Owner's reservations of rights with respect to completion and final payment.

By: _____

Title: _____

Dated: _____

Insurance

Paragraph 6.05 of the Agreement is supplemented to include the following agreement of the parties:

G6.05 Insurance

A. The limits of liability for the insurance required by Paragraph 6.05.A and 6.05.B of the Agreement are as follows:

1. By Engineer:

- a. Workers' Compensation: Statutory
- b. Employer's Liability --
 - 1) Bodily injury, each accident: \$1,000,000.00
 - 2) Bodily injury by disease, each employee: \$1,000,000.00
 - 3) Bodily injury/disease, aggregate: \$1,000,000.00
- c. General Liability --
 - 1) Each Occurrence (Bodily Injury and Property Damage): \$1,000,000.00
 - 2) General Aggregate: \$2,000,000.00
- d. Excess or Umbrella Liability --
 - 1) Per Occurrence: N/A
 - 2) General Aggregate: N/A
- e. Automobile Liability --Combined Single Limit (Bodily Injury and Property Damage):
\$1,000,000.00
- f. Professional Liability --
 - 1) Each Claim Made \$2,000,000.00
 - 2) Annual Aggregate \$2,000,000.00
- g. Other (specify): N/A

2. By Owner:

- a. Workers' Compensation: Statutory

b. Employer's Liability --

- | | |
|--|-------|
| 1) Bodily injury, Each Accident | \$[] |
| 2) Bodily injury by Disease, Each Employee | \$[] |
| 3) Bodily injury/Disease, Aggregate | \$[] |

c. General Liability --

- | | |
|---|-------|
| 1) General Aggregate: | \$[] |
| 2) Each Occurrence (Bodily Injury and Property Damage): | \$[] |

d. Excess Umbrella Liability

- | | |
|-----------------------|-------|
| 1) Per Occurrence: | \$[] |
| 2) General Aggregate: | \$[] |

e. Automobile Liability – Combined Single Limit (Bodily Injury and Property Damage):

\$[]

f. Other (specify):

\$[]

B. *Additional Insureds:*

1. The following individuals or entities are to be listed on Owner's general liability policies of insurance as additional insureds:

a. BG Consultants, Inc.
Engineer

b. N/A
Engineer's Consultant

c. N/A
Engineer's Consultant

2. During the term of this Agreement the Engineer shall notify Owner of any other Consultant to be listed as an additional insured on Owner's general liability policies of insurance.
3. The Owner shall be listed on Engineer's general liability policy as provided in Paragraph 6.05.A.

Limitations of Liability

Paragraph 6.11 of the Agreement is supplemented to include the following agreement of the parties:

A. Limitation of Engineer's Liability

1. *Engineer's Liability Limited to Amount of Engineer's Compensation:* To the fullest extent permitted by Laws and Regulations, and notwithstanding any other provision of this Agreement, the total liability, in the aggregate, of Engineer and Engineer's officers, directors, members, partners, agents, employees, and Consultants, to Owner and anyone claiming by, through, or under Owner for any and all claims, losses, costs, or damages whatsoever arising out of, resulting from, or in any way related to the Project or the Agreement from any cause or causes, including but not limited to the negligence, professional errors or omissions, strict liability, breach of contract, indemnity obligations, or warranty express or implied of Engineer or Engineer's officers, directors, members, partners, agents, employees, or Consultants shall not exceed the \$1,000,000.00. Higher limits are available for an additional fee.
 2. *Exclusion of Special, Incidental, Indirect, and Consequential Damages:* To the fullest extent permitted by Laws and Regulations, and notwithstanding any other provision in the Agreement, consistent with the terms of Paragraph 6.11, the Engineer and Engineer's officers, directors, members, partners, agents, Consultants, and employees shall not be liable to Owner or anyone claiming by, through, or under Owner for any and all claims for or entitlement to special, incidental, indirect, or consequential damages arising out of, resulting from, or in any way related to this Agreement or the Project, from any cause or causes, including but not limited to:
-

This is **EXHIBIT J**, consisting of 9 pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated 02/08/2022

Special Provisions

Paragraph(s) [Noted Below] of the Agreement is/are amended to include the following agreement(s) of the parties:

The original EJCDC Agreement has been modified in accordance with the following RUS Bulletins

1780-26 dated April 19, 2017

1780-26 dated September 7, 2017

1780-26 dated June 16, 2020

1780-35 dated August 30, 2017

1780-35 dated June 16, 2020

6.10 G. The ENGINEER and the ENGINEER's subconsultants shall have no responsibility for the discovery, presence, handling, removal or disposal or exposure of persons to hazardous materials in any form at the Project site.

6.11 B. *Indemnification by Owner:* To the fullest extent permitted by Laws and Regulations, Owner shall indemnify and hold harmless Engineer, and Engineer's officers, directors, members, partners, agents, consultants, and employees, from losses, damages, and judgments (including reasonable consultants' and attorneys' fees and expenses) arising from third-party claims or actions relating to the Project, provided that any such claim, action, loss, damages, or judgment is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom, but only to the extent caused by any negligent act or omission of Owner or Owner's officers, directors, members, partners, agents, employees, or Consultants.

8.06 *CDBG Guidelines. The Engineer shall operate within all known CDBG guidelines, specifically:*

- A. Title VI Civil Rights Act of 1964
- B. Section 109 Certifications
- C. Section 504 Certifications
- D. Age Discrimination Act of 1975
- E. Fair Housing Amendments Act of 1988
- F. Executive Order 11063 Certifications
- G. Kansas Act Against Discrimination
- H. Executive Order 11246 Certifications
- I. Section 3 Certifications
- J. Title VIII of the Civil Rights Act of 1968 as amended by the Housing Act of 1974
- K. Section 503 of the Rehabilitation Act of 1973 as amended
- L. 24 CFR 85 as modified by CFR 570 Subpart J
- M. Title I of the Housing & Community Development Act of 1974 as amended
- N. Section 519 Public Law 101-44 (The 1990 HUD Appropriation Act)
- O. Cranston-Gonzales National Affordable Housing Act (Section 906 & 912)

8.07 KDHE SRF Guidelines The Engineer shall operate within all known KDHE guidelines, specifically:

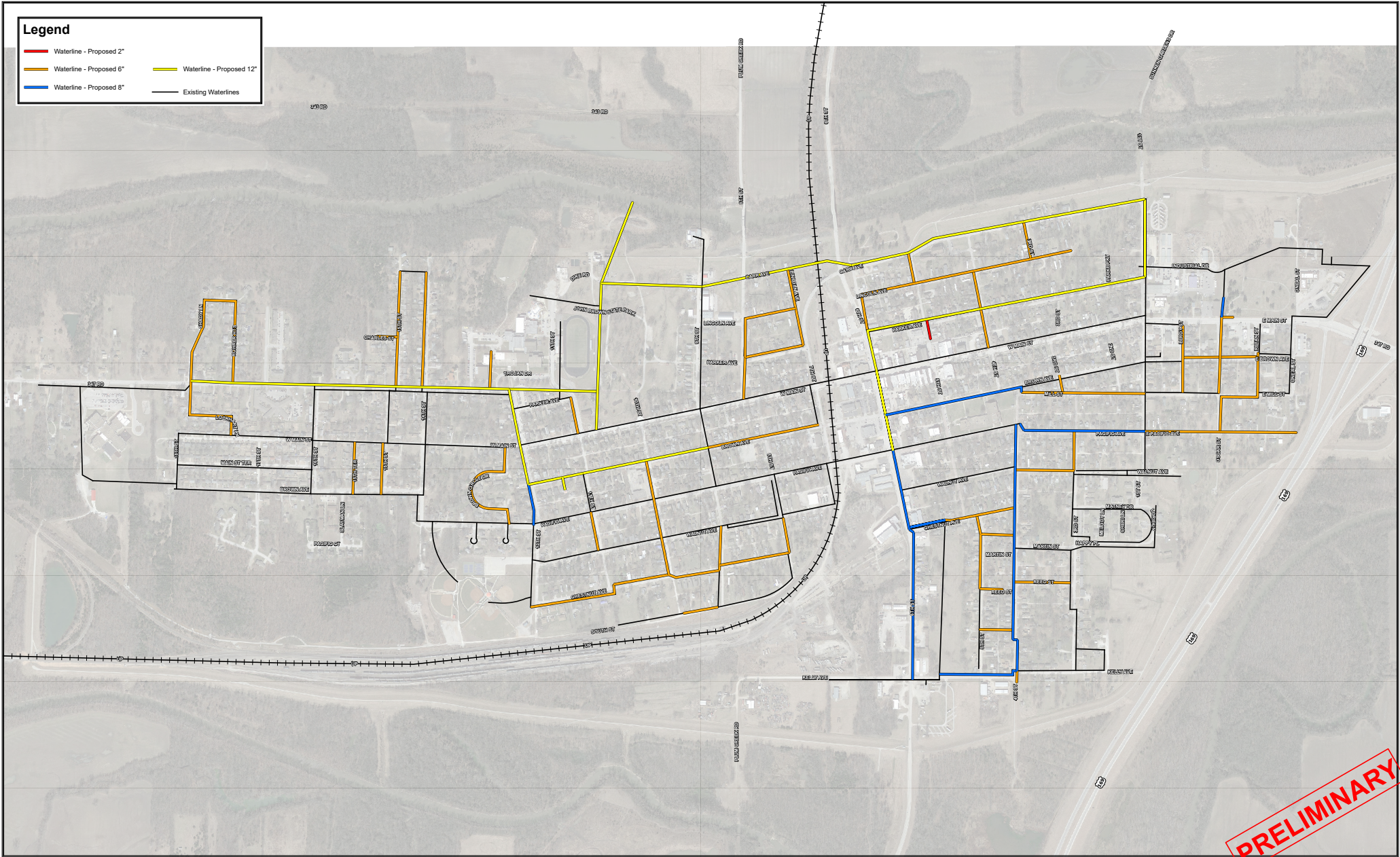
- A. State of Kansas Act Against Discrimination Contract Provision Certification Form
- B. Certification Regarding Lobbying Certification for Contracts, Grants, Loans and Cooperative Agreements
- C. Contract Provisions for Equal Opportunity
- D. Contract Provisions for the Kansas Act Against Discrimination
- E. Contract Provisions for Restriction on Lobbying
- F. Contract Provisions for the Trafficking Victims Protection Act of 2000
- G. Contract Provisions for Suspension and Debarment
- H. Contract Provisions for Non Discrimination
- I. Contract Provisions for Non Segregated Facilities

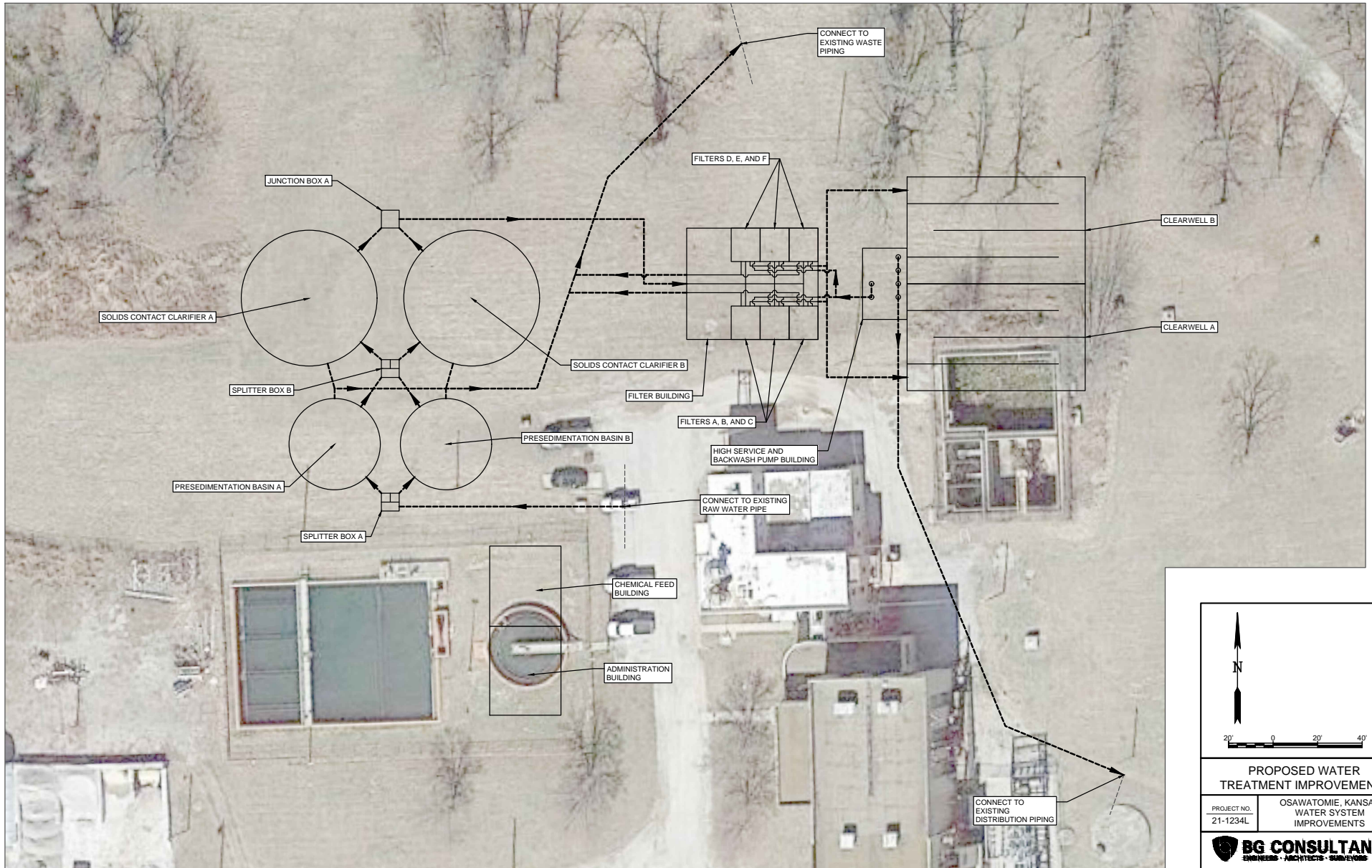
Osawatomie, Kansas
Drinking Water Improvements
 Engineer's Opinion of Probable Cost
21-1234L
 20-Jan-22
Water Distribution Improvements

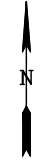
<u>No</u>	<u>Description</u>	<u>Quantity</u>	<u>Units</u>	<u>Unit Price</u>	<u>Total Price</u>
1	Mobilization & Incidentals	1	LS	\$ 830,000	\$ 830,000
2	12" Waterline (In Place)	18,360	Lin Ft	\$ 100	\$ 1,836,000
3	12" Waterline (Directional Bore)	2,040	Lin Ft	\$ 150	\$ 306,000
4	8" Waterline (In Place)	14,220	Lin Ft	\$ 80	\$ 1,137,600
5	8" Waterline (Directional Bore)	1,580	Lin Ft	\$ 120	\$ 189,600
6	6" Waterline (In Place)	25,290	Lin Ft	\$ 80	\$ 2,023,200
7	6" Waterline (Directional Bore)	2,810	Lin Ft	\$ 120	\$ 337,200
8	2" Waterline (In Place)	190	Lin Ft	\$ 100	\$ 19,000
9	24" Steel Casing (Bore & Jack)	600	Lin Ft	\$ 350	\$ 210,000
10	Service Line (In Place)	900	Each	\$ 1,000	\$ 900,000
11	Water Meter Assembly w/ Meter	900	Each	\$ 1,000	\$ 900,000
12	AMR Meter Reading System	1	L.S.	\$ 80,000	\$ 80,000
13	Gate Valve w/Box	162	Each	\$ 1,500	\$ 243,000
14	Fire Hydrant Setting	162	Each	\$ 5,000	\$ 810,000
15	Connect to Existing Waterline	164	Each	\$ 2,000	\$ 328,000
16	Remove & Replace Surfacing	1	L.S.	\$ 910,000	\$ 910,000
Subtotal Construction Cost					\$ 11,059,600.00
Contingency (10%)					\$ 1,105,960.00
Total Construction Cost					\$ 12,165,560.00
Engineering Design					\$ 1,156,000.00
Construction Observation					\$ 974,000.00
Construction Engineering					\$ 244,000.00
Grant Administration					\$ 40,000.00
Legal					\$ 20,000.00
Temp Financing & Bond Council					\$ 604,000.00
TOTAL PROJECT COST					\$ 15,203,560.00


City of Osawatomie, Kansas
Water Treatment Plant Improvements
Engineer's Opinion of Probable Cost
21-1234L
20-Jan-22
Treatment Improvements


<u>No</u>	<u>Description</u>	<u>Quantity</u>	<u>Units</u>	<u>Unit Price</u>	<u>Total Price</u>
1	Mobilization and Incidentals		Lump Sum	\$ 700,000	\$ 700,000
2	Site Piping		Lump Sum	\$ 500,000	\$ 500,000
3	Process Piping		Lump Sum	\$ 800,000	\$ 800,000
4	Site Work		Lump Sum	\$ 550,000	\$ 550,000
5	Demolition		Lump Sum	\$ 350,000	\$ 350,000
6	Splitter Structures/Junction Boxes	3	Each	\$ 50,000	\$ 150,000
7	Low Service Pumps	4	Each	\$ 80,000	\$ 320,000
8	Presedimentation Basin Concrete (Vert.)	160	Cu Yds	\$ 950	\$ 152,000
9	Presedimentation Basin Concrete (Flat)	150	Cu Yds	\$ 700	\$ 105,000
10	Presedimentation Basin Equipment	2	Each	\$ 650,000	\$ 1,300,000
11	Solids Contact Clarifier Concrete (Vert.)	230	Cu Yds	\$ 950	\$ 218,500
12	Solids Contact Clarifier Concrete (Flat)	310	Cu Yds	\$ 700	\$ 217,000
13	Solids Contact Clarifier Equipment	2	Each	\$ 900,000	\$ 1,800,000
14	Gravity Filter Building	2,950	Sq Ft	\$ 450	\$ 1,327,500
15	Gravity Filter Concrete (Vert.)	310	Cu Yds	\$ 1,050	\$ 325,500
16	Gravity Filter Concrete (Flat)	80	Cu Yds	\$ 700	\$ 56,000
17	Pneumatic Air System		Lump Sum	\$ 60,000	\$ 60,000
18	Clearwell Concrete (Vert.)	1,440	Cu Yds	\$ 950	\$ 1,368,000
19	Clearwell Concrete (Flat)	780	Cu Yds	\$ 700	\$ 546,000
20	Pump Building	640	Sq Ft	\$ 450	\$ 288,000
21	Pump Well Concrete (Vert.)	170	Cu Yds	\$ 950	\$ 161,500
22	Pump Well Concrete (Flat)	160	Cu Yds	\$ 700	\$ 112,000
23	Backwash Pumps	2	Each	\$ 95,000	\$ 190,000
24	High Service Pumps	4	Each	\$ 140,000	\$ 560,000
25	Mechanical, Electrical, Plumbing		Lump Sum	\$ 1,700,000	\$ 1,700,000
26	SCADA and Controls		Lump Sum	\$ 1,100,000	\$ 1,100,000
27	Chemical Feed Building	1,152	Sq Ft	\$ 450	\$ 518,400
28	Chemical Feed Systems	4	Each	\$ 250,000	\$ 1,000,000
29	Administration Building	1,280	Sq Ft	\$ 450	\$ 576,000
Subtotal Construction Cost					\$ 17,051,400
Construction Contingency					\$ 1,705,100
Total Construction Cost					\$ 18,756,500.00
Engineering Design					\$ 1,876,000.00
Construction Observation					\$ 980,000.00
Construction Engineering					\$ 540,000.00
Grant Administration					\$ 40,000.00
Legal					\$ 20,000.00
Temp Financing					\$ 908,500.00
Total Opinion of Cost					\$ 23,121,000.00









PROPOSED WATER TREATMENT IMPROVEMENTS	
PROJECT NO. 21-1234L	OSAWATOMIE, KANSAS WATER SYSTEM IMPROVEMENTS
 BG CONSULTANTS <small>ENGINEERS • ARCHITECTS • SURVEYORS</small>	
<small>1405 Wakarusa Drive, Lawrence, Kansas 66049 T: 1.785.749.4474 Web: www.bgcons.com Manhattan Lawrence Emporia</small>	

KDHE SRF CONTRACT PROVISIONS FOR CONSULTANT CONTRACTS

STATE OF KANSAS
ACT AGAINST DISCRIMINATION
CONTRACT PROVISION CERTIFICATION FORM

During the performance of this contract, the contractor agrees as follows:

- (1) The contractor shall observe the provisions of the Kansas Act Against Discrimination and shall not discriminate against any person in the performance of work under the present contract because of race, religion, color, sex, disability, national origin, or ancestry;
- (2) In all solicitations or advertisements for employees, the contractor shall include the phrase "equal opportunity employer" or a similar phrase to be approved by the Commission;
- (3) If the contractor fails to comply with the manner in which the contractor reports to the Commission in accordance with the provisions of K.S.A.44-1031 and amendments thereto, the contractor shall be deemed to have breached the present contract and it may be cancelled, terminated, or suspended, in whole or in part, by the contracting agency;
- (4) If the contractor is found guilty of a violation of the Kansas Act Against Discrimination under a decision or order of the Commission which has become final, the contractor shall be deemed to have breached the present contract and it may be cancelled, terminated or suspended, in whole, or in part, by the contracting agency;
- (5) The contractor shall include the provisions of (1) through (4) in every applicable subcontract or purchase order so that such provisions will be binding upon such subcontractor or vendor.

PROJECT/CONTRACT NAME AND NO.

MUNICIPALITY _____

CONTRACTOR'S
SIGNATURE _____

TITLE _____

KPWSLF NO. _____

DATE _____

KDHE PROJECT #

CERTIFICATION REGARDING LOBBYING

CERTIFICATION FOR CONTRACTS, GRANTS, LOANS AND COOPERATIVE AGREEMENTS

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including sub-contracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31 U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Typed Name & Title of Authorized Representative

Signature and Date of Authorized Representative

Contract Provisions for Equal Opportunity

1. The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.
2. The contractor will, in all solicitations or advancements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.
3. The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
4. The contractor will comply with all provisions of Executive Order No. 11246 of Sept. 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
5. The contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
6. In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be cancelled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 11246 of Sept. 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
7. The contractor will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the contractor may request the United States to enter into such litigation to protect the interests of the United States." [Sec. 202 amended by EO 11375 of Oct. 13, 1967, 32 FR 14303, 3 CFR, 1966-1970 Comp., p. 684, EO 12086 of Oct. 5, 1978, 43 FR 46501, 3 CFR, 1978 Comp., p. 230]

Contract Provisions for the Kansas Act Against Discrimination

(a) Except as provided by subsection (c), every contractor for or on behalf of the State and any county or municipality or other political subdivision of the State, or any agency of or authority created by any of the foregoing, for the construction, alteration, or repair of any public building or public work or for the acquisition of materials, equipment, supplies, or services shall contain provisions by which the contractor agrees that:

- (1) The contractor shall observe the provisions of the Kansas Act Against Discrimination and shall not discriminate against any person in the performance of work under the present contract because of race, religion, color, sex, disability, national origin, or ancestry;
- (2) In all solicitations or advertisements for employees, the contractor shall include the phrase “equal opportunity employer” or a similar phrase to be approved by the Commission;
- (3) If the contractor fails to comply with the manner in which the contractor reports to the Commission in accordance with the provisions of K.S.A.44-1031 and amendments thereto, the contractor shall be deemed to have breached the present contract and it may be cancelled, terminated, or suspended, in whole or in part, by the contracting agency;
- (4) If the contractor is found guilty of a violation of the Kansas Act Against Discrimination under a decision or order of the Commission which has become final, the contractor shall be deemed to have breached the present contract and it may be cancelled, terminated or suspended, in whole, or in part, by the contracting agency;
- (5) The contractor shall include the provisions of subsections (a)(1) through (4) in every subcontract or purchase order so that such provisions will be binding upon such subcontractor or vendor.

(b) The Kansas Human Rights Commission shall not be prevented hereby from requiring reports of contractors found to be not in compliance with the Kansas Act Against Discrimination.

(c) The provisions of this section shall not apply to a contract entered into by a contractor:

- (1) Who employs fewer than four employees during the term of such contract; or
- (2) Whose contracts with the governmental entity letting such contract cumulatively total \$5,000 or less during the fiscal year of such governmental entity.

Contract Provisions for Restrictions on Lobbying

The Contractor agrees to comply with Title 40 CRF Part 34, New Restrictions on Lobbying. **A Certification form must be submitted with the bid documents.**

Contract Provisions for the Trafficking Victims Protection Act of 2000

The Contractor, its employees, sub-contractors, and sub-contractors employees under any KPWSLF Loan Agreement, may not engage in severe forms of trafficking in persons during the period of time that the award is in effect; procure a commercial sex act during the period of time that the award is in effect; or use forced labor in the performance of the award or sub-awards under the award.

Contract Provisions for Suspension and Debarment

The Contractor certifies that it is not suspended or debarred from participating in federal assistance and benefit programs and further agrees to fully comply with Subpart C of 2 CFR Part 180 and 2 CFR Part 1532, entitled “Responsibilities of Participants Regarding Transactions.” The Contractor must ensure that any lower tier covered transaction, as described in Subpart B of 2 CFR Part 180 and 2 CFR Part 1532, entitled “Covered Transactions,” includes a term or condition requiring compliance with Subpart C. The Contractor agrees that failing to disclose the required information in 2 CFR 180.335 may result in the delay or negation of this assistance agreement, or pursuance of legal remedies, including suspension and debarment.

Contract Provisions for Non Discrimination

The contractor must comply with Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title IX of the Education Amendments of 1972, the Age Discrimination Act of 1975, and a variety of program-specific statutes with nondiscrimination requirements.

Other civil rights laws may impose additional requirements on the contractor. These laws include, but are not limited to, Title VII of the Civil Rights Act of 1964 (prohibiting race, color, national origin, religion, and sex discrimination in employment), the Americans with Disabilities Act (prohibiting disability discrimination in employment and in services provided by State and local governments, businesses, and non-profit agencies), and the Fair Housing Act (prohibiting race, color, national origin, age, family status, and disability discrimination in housing), as well as any other applicable civil rights laws.

Contract Provisions for Non Segregated Facilities

The contractor must ensure that facilities provided for employees are provided in such a manner that segregation on the basis of race, color, religion, sex or national origin cannot result. The contractor may neither require such segregated use by written or oral policies nor tolerate such use by employee custom. The contractor's obligation extends further to ensuring that its employees are not assigned to perform their services at any location, under the contractor's control, where the facilities are segregated. This obligation extends to all contracts containing the equal opportunity clause regardless of the amount of the contract. The term “facilities,” as used in this section, means waiting rooms, work areas, restaurants and other eating areas, time clocks, restrooms, wash rooms, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing provided for employees; *Provided*, That separate or single-user restrooms and necessary dressing or sleeping areas shall be provided to assure privacy between the sexes.

This is **EXHIBIT K**, consisting of 2 pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated 02/08/2022

AMENDMENT TO OWNER-ENGINEER AGREEMENT
Amendment No. _____

The Effective Date of this Amendment is: _____.

Background Data

Effective Date of Owner-Engineer Agreement:

Owner:

Engineer:

Project:

Nature of Amendment: [Check those that are applicable and delete those that are inapplicable.]

- _____ Additional Services to be performed by Engineer
- _____ Modifications to services of Engineer
- _____ Modifications to responsibilities of Owner
- _____ Modifications of payment to Engineer
- _____ Modifications to time(s) for rendering services
- _____ Modifications to other terms and conditions of the Agreement

Description of Modifications:

Here describe the modifications, in as much specificity and detail as needed. Use an attachment if necessary.

Agreement Summary:

Original agreement amount:	\$ _____
Net change for prior amendments:	\$ _____
This amendment amount:	\$ _____
Adjusted Agreement amount:	\$ _____

Change in time for services (days or date, as applicable): _____

The foregoing Agreement Summary is for reference only and does not alter the terms of the Agreement, including those set forth in Exhibit C.

Owner and Engineer hereby agree to modify the above-referenced Agreement as set forth in this Amendment. All provisions of the Agreement not modified by this or previous Amendments remain in effect.

OWNER:

ENGINEER:

By: _____
Print
name: _____

Title: _____

Date Signed: _____

By: _____
Print
name: _____

Title: _____

Date Signed: _____



City of Osawatomie

ACTION ITEM SUMMARY	Item Number:	9.B.
	Date:	02/17/2022
Deputy City Manager	From:	Bret Glendening

RE: Resolution 978 – Resolution authorizing the Mayor to enter into a contract with BG Consultants for the design and construction engineering services for the new water treatment plant.

RECOMMENDATION: That the City Council approve Resolution 978 – Resolution authorizing the Mayor to enter into a contract with BG Consultants for the design and construction engineering services for the new water treatment plant.

DETAILS: We have used BG Consultants as our city engineer for 20 years or more to support us in several water, sewer, storm sewer and street projects over the years. We use them because of their expertise in all types of public works, as well as their familiarity with state regulations, grant administration requirements, and they are recognized as one of the top municipal engineering firms in the state. These services can be reimbursed out of the loan/grant proceeds if we are successful.

Related Statute / City Ordinances	Resolution 941, 972, 977
Line-Item Code/Description	N/A
Available Budget:	N/A

RESOLUTION NO. 978

A RESOLUTION AUTHORIZING THE MAYOR TO SIGN AN AGREEMENT WITH BG CONSULTANTS FOR THE DESIGN AND CONSTRUCTION CONTRACT ENGINEERING REVIEW WORK FOR THE WATER TREATMENT PLANT.

WHEREAS, the City of Osawatomie provides clean, potable drinking water to the citizens of Osawatomie, employees and patients of the Osawatomie State Hospital, as well as Rural Water Districts 1 and 3; and

WHEREAS, the city council accepted the recommendation of the water study committee at its January 13, 2022 council meeting; and

WHEREAS, the city council recognizes the importance of applying for, and obtaining grants such as this to help minimize the financial impact to the water utility's end consumer; and

WHEREAS, the City of Osawatomie, Kansas is a legal governmental entity as provided by the laws of the State of Kansas; and

WHEREAS, the city intends to submit an application for assistance in the design and construction of the new water treatment plant from the United States Department of Agriculture – Rural Development (USDA-RD);

WHEREAS, BG Consultants has served as City Engineer for at least 20 years and is qualified to perform the work described in the Water Treatment Plant Design Contract; and

WHEREAS, City staff, including the City Attorney have reviewed the contract to ensure the best interests of the city and its residents are protected;

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF OSAWATOMIE, KANSAS:

SECTION ONE: The Governing Body of Osawatomie, Kansas hereby authorizes the Mayor to enter into an Agreement with BG Consultants for the design and construction engineering services for the water treatment plant, paid for with funds from the Water Fund and reimbursed with proceeds from the USDA Loan/Grant as adopted in Resolution 977.

PASSED AND APPROVED by the Governing Body of the City of Osawatomie, Kansas, this 24th day of March, 2022, a majority voting in favor of.

APPROVED and signed by the Mayor.

Nick Hampson, Mayor

(SEAL)

ATTEST:

Tammy Seamands, City Clerk



City of Osawatomie

ACTION ITEM SUMMARY	Item Number:	10.A.
Transformer Purchase	Date:	March 24, 2022
Deputy City Manager	From:	Bret Glendening

RE: Resolution 984 – A Resolution awarding bids for transformers to three separate suppliers.

RECOMMENDATION: Approve Resolution 984 – Authorizing the purchase of the transformers.

DETAILS: In 2018, the council authorized an upgrade of the city's electric system from 4160/2400KV to 12470/7200KV. City staff solicited proposals from the major suppliers. We received bids from Jerry's Electric, Midwest Electric Transformers, T&R Electric, and Emerald Transformer and they are attached. We requested pricing for all three types of transformers (two types of pad mount transformers - single and three phase; and one type of pole mount – single phase). We are struggling the same supply chain issues everyone else is. Only a year ago, these transformers would have cost significantly less and we would have had them in a matter of weeks and not months.

Compounding this problem is these transformers need to be capable of handling the voltage of the old system (one winding at 4160/2400) and the new system (one winding at 12470/7200). That being said, we have scaled back what we would have purchased given a normal economic climate. The transformers from Jerry's Electric and a portion of the transformers from T&R Electric will help us finish the conversion project on circuits 1 and 6 (NW part of the city). The balance of the transformers will be stored as inventory to support new construction as well as stock in the event we have a transformer go bad or we have a storm event that requires replacement of transformers.

RESOLUTION NO. 984

A RESOLUTION AUTHORIZING THE PURCHASE OF TRANSFORMERS FOR THE OSAWATOMIE ELECTRIC UTILITY

WHEREAS, the City of Osawatomie, Kansas, owns and operates an electric generation and distribution utility; and

WHEREAS, the City Council approved upgrading the city's electric system from 4160/2400KV to 12470/7200KV in 2018; and

WHEREAS, the city has requested proposals for the supply of transformers to support the conversion.

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the City of Osawatomie, Kansas, that the City Council hereby authorizes the purchase of new transformers totaling \$119,895 from the vendors listed below, paid for in part from the electric distribution operating budget for 2022 and the CIP – General Fund.

Jerry's Electric Inc. (for the conversion)

- | | | |
|-----|---|-------------|
| 1.) | 1 – 300 kVA 3 phase pad mount transformer | - \$ 9,720; |
| 2.) | 2 – 500 kVA 3 phase pad mount transformer | - \$13,550; |

Midwest Electric Transformer Services (for inventory)

- | | | |
|-----|--|-------------|
| 1.) | 5 – 25 kVA 1 phase pad mount transformer | - \$ 6,295; |
| 2.) | 5 – 37.5 kVA 1 phase pad mount transformer | - \$ 7,170; |

T & R Electric (for inventory & conversion)

- | | | |
|-----|--|-------------|
| 1.) | 15 – 25 kVA 1 phase pole mount transformer | - \$15,750; |
|-----|--|-------------|

PASSED AND ADOPTED by the Governing Body of the City of Osawatomie, Kansas this 24th day of March, 2022, a majority being in favor thereof.

APPROVED AND SIGNED by the Mayor.

(SEAL)

ATTEST: Nick Hampson, Mayor

Tammy Seamands, City Clerk

JERRY'S ELECTRIC, INC

February 25, 2022

Ph: 913-755-6800

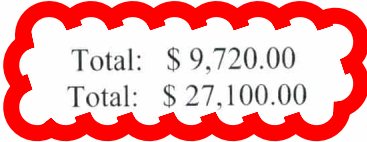
City of Osawatomie
P.O. Box 37
Osawatomie KS, 66064

Attention: Terry Upshaw

Jerry's Electric is pleased to quote the following price to you for remanufactured three phase oil-filled pad mount transformers:

Primary voltage: 12470y/7200 X 4160y/2400
Taps: NO
Dead front (with wells & 15 kv 200amp inserts)
Loop Feed
Bayonet fusing
Secondary voltage: 480y/277
LV spades
Gauges, oil level
Pressure relief valve
Drain valve w/sampler

- 1) 300 KVA @ \$ 9,720.00
- 2) 500 KVA @ \$13,550.00 each



Total: \$ 9,720.00
Total: \$ 27,100.00

Ready to ship in 52--54 weeks after receipt of purchase order.
Availability of copper may play a factor in lead time and price
Freight Included to Osawatomie KS
Outside shipping paid by end user

Prices are quoted for acceptance within 30 days.
Quotation is based on current inventory, subject to change without notice.

The transformer will be filled with **New Transformer Oil**. The transformer will carry our standard **Three Year Warranty** from the date of delivery.

Respectfully,

Chuck Leeds,

Sales Representative
Jerry's Electric, Inc.

P.O. Box 209 - Colman, SD - 57017-0209 - Ph. 800-843-9834 - Fax 605-534-3518
E-mail: cleeds@jerryselectric.com - Website: www.jerryselectric.com

Jerry's Electric, Inc.

February 25, 2022

ph: 913-755-6800

City of Osawatomie
P.O. Box 37
Osawatomie KS, 66064

Attn: Terry Upshaw

Jerry's Electric is pleased to quote the following price to you for remanufactured single phase oil-filled pole mount transformers:

Primary Voltage: 7200/12470y X 2400/4160y
Taps: NO
2) cover mounted HV bushing
Secondary Voltage: 120/240
10 kv Arrestors
Lugs
Pressure relief valve

**This Transformer
was NOT Selected**

15) 25 Kva @ \$995.00 each Total \$14,925.00

Ready to ship in _52_ to _54_ weeks after receipt of purchase order.
Availability of copper may play a factor in lead time and price
Freight Included to Osawatomie KS
Outside shipping paid by end user

Prices are quoted for acceptance within 30 days.
Quotation is based on current inventory, subject to change without notice.

The transformer will be filled with **New Transformer Oil**. The transformer will carry our standard **Three Year Warranty** from the date of delivery.

We appreciate the opportunity to quote you on the above unit. Please do not hesitate to call with any questions or if we can be of further assistance.

Respectfully,

Chuck Leeds

Chuck Leeds, Sales Representative
Jerry's Electric Inc.



March 11, 2022
Quote Number: KM-M220028

City of Osawatomie
Terry Upshaw
Osawatomie, Kansas

Midwest Electric Transformer Services is pleased to offer the following quotation for your consideration:

Qty: 5)	25 KVA Single Phase Padmount Transformers	Price: \$6,295.00 each
Qty: 5)	37.5 KVA Single Phase Padmount Transformers	Price: \$7,170.00 each

Primary Voltage: 4160Y/2400 x 12470Y/7200 (95 KV BIL)

Secondary Voltage: 240/120 (30 KV BIL)

Dual Voltage, No Taps

60 Hz, 65 °C Rise, Standard Impedance

Dead Front, Loop Feed

2) Well and 15 KV Insert HV Bushings

3) Stud LV Bushings

Pressure Relief Valve

Non-PCB Mineral Oil

Shipment: 10-12 Weeks ARO

Warranty: 3 Years

FOB: Freight Allowed to Kansas

Terms: Net 30 Days with prior approved credit.

~Pricing valid for 15 days.

If you have any questions or if you need anything additional regarding this quote, please call me at 785-577-5475.

Thank you,

Reed Hammond – Manager
Midwest Electric Transformer Services
785-577-5475
reed@midwesttransformer.com



"The Transformer People"

When Every Minute Counts

Call Toll Free 800-843-7994
(Outside U.S.) 605-534-3555
FAX 605-534-3861
Website <http://t-r.com>

Quote Rev. 92434-1

Date: 02/24/2022

Contact: Terry Upshaw

Company: Osawatome City Govt

Phone: 913-755-6800

Fax: 913-755-4164

Email: electric@osawatomieks.org

Quote Summary

#	Item	Type	Qty	Category	Ph	KVA	Primary	Secondary	Price	Total
1	0	RC	15	POLE MOUNT	1	25	2400/4160Y X 7200/12470Y	120/240	\$1,050.00 USD	\$15,750.00 USD
2	0	RW	2	PAD MOUNT	3	500	4160GRDY/2400 X 12470GRDY/7200	480Y/277	\$21,193.00 USD	\$42,386.00 USD
3	0	RW	1	PAD MOUNT	3	300	4160GRDY/2400 X 12470GRDY/7200	480Y/277	\$15,512.00 USD	\$15,512.00 USD
Grand Total										\$73,648.00 USD

Additional Notes

1. All quotes are subject to the "Standard Terms and Conditions of Sale".
2. This quote is valid for 15 days.
3. Estimated manufacturing lead-time is a best estimate at time of quotation and may vary.
4. Upon completion of order, immediate shipment is available plus freight on a common carrier. Unless otherwise specified, freight on quotes is prepaid and allowed in the contiguous US on our next available truck going to your area.
5. Electrical Test reports available upon request.
6. Prices subject to change. Due to the current volatility of the transformer components market (including copper), prices are subject to change in the event a rapid or extreme fluctuation in price occurs between the time of order placement and sourcing of materials. A rapid or extreme fluctuation occurs when a component part increases by more than 5% from the time the order is placed, and the time materials are ordered. T&R Electric agrees to use its best efforts to obtain advantageous pricing from materials suppliers. In the event there is a price increase through no fault of T&R Electric, we will notify the customer as soon as practicable.
7. Note: In order for a Purchase Order to be entered into the work queue and receive a designated time slot for production, these conditions must be accepted, and a note of acknowledgement must be present on said purchase order.

If you have any questions or need any additional information please call me at 800-843-7994. You may also email me at gary.bowen@trelectric.com.

Sincerely,
Gary Bowen
Sales Representative



"The Transformer People"

When Every Minute Counts

Call Toll Free 800-843-7994
 (Outside U.S.) 605-534-3555
 FAX 605-534-3861
 Website <http://t-r.com>

Quote Rev. 92434-1

Contact: Terry Upshaw

Phone: 913-755-6800

Date: 02/24/2022

Company: Osawatome City Govt

Fax: 913-755-4164

Email: electric@osawatomieks.org

Item #1 - Single Phase 25 KVA Pole Mount

Product Type: Reconditioned

Transformer Type: Pole Mount

Specifications:

KVA:	25	Phase:	1
High Voltage:	2400/4160Y X 7200/12470Y	Low Voltage:	120/240
Taps:	W/O TAPS		

Accessories:

- Lightning Arrestor
- Double Primary Bushing
- Secondary Lug
- Mineral Oil (standard)
- Non-PCB Label
- Pressure Relief Device
- ANSI 70 Paint

Notes:

Subject to Availability

Quantity: 15 Price: \$1,050.00 USD Each

Warranty: 36 Month Guarantee Manufacturing Time: 38 - 40 weeks (ARO)

Delivery: Fob: Destination After Release to Production

Electrical Tests:

- | | |
|-------------------------------------|--|
| 1. Transformer Turns Ratio Test | 4. Core Loss and Excitation Test |
| 2. Polarity and Phase Relation Test | 5. Load and No Load Testing |
| 3. DC HYPOT TEST | 6. Induced Potential Test at 400 Hertz for 7200 Cycles |
- Performed at Two Times Rated Line Voltage Plus 1000 Volts
- a. HV to LV
 - b. HV to Ground
 - c. LV to Ground



"The Transformer People"

When Every Minute Counts

Call Toll Free 800-843-7994
(Outside U.S.) 605-534-3555
FAX 605-534-3861
Website <http://t-r.com>

Quote Rev. 92434-1

Contact: Terry Upshaw

Phone: 913-755-6800

Date: 02/24/2022

Company: Osawatomie City Govt

Fax: 913-755-4164

Email: electric@osawatomieks.org

Item #2 - Three Phase 500 KVA Pad Mount

Product Type: Rewind

Transformer Type: Pad Mount

Specifications:

KVA: 500

Phase: 3

High Voltage: 4160GRDY/2400 X 12470GRDY/7200

Low Voltage: 480Y/277

Taps: W/TAPS 2 X 2 1/2% +/-

Accessories:

- Primary Bushings, Dead Front, Loop Feed
- Secondary Bushings, Standard Spade Connectors Only
- Bayonet Fusing
- Pressure Relief Device
- Pentahead Entry Assembly
- Mineral Oil (standard)
- Non-PCB Label
- Drain Valve with Sampler
- Bell Green Paint
- Undercoating

Notes:

Rewound with Copper. Taps on 12470GRDY/7200

Quantity: 2

Warranty: 36 Month Guarantee

Delivery: Fob: Destination

Price:

\$21,193.00 USD Each

Manufacturing
Time:

50 - 52 weeks (ARO)

After Release to Production

Electrical Tests:

1. Transformer Turns Ratio Test
2. Polarity and Phase Relation Test
3. DC HYPOT TEST
Performed at Two Times Rated Line Voltage Plus 1000 Volts
 - a. HV to LV
 - b. HV to Ground
 - c. LV to Ground

4. Core Loss and Excitation Test
5. Load and No Load Testing
6. Induced Potential Test at 400 Hertz for 7200 Cycles



"The Transformer People"

When Every Minute Counts

Call Toll Free 800-843-7994
(Outside U.S.) 605-534-3555
FAX 605-534-3861
Website <http://t-r.com>

Quote Rev. 92434-1

Contact: Terry Upshaw

Phone: 913-755-6800

Date: 02/24/2022

Company: Osawatomie City Govt

Fax: 913-755-4164

Email: electric@osawatomieks.org

Item #3 - Three Phase 300 KVA Pad Mount

Product Type: Rewind

Transformer Type: Pad Mount

Specifications:

KVA: 300

Phase: 3

High Voltage: 4160GRDY/2400 X 12470GRDY/7200

Low Voltage: 480Y/277

Taps: W/TAPS 2 X 2 1/2% +/-

Accessories:

- Primary Bushings, Dead Front, Loop Feed
- Secondary Bushings, Standard Spade Connectors Only
- Bayonet Fusing
- Pressure Relief Device
- Pentahead Entry Assembly
- Mineral Oil (standard)
- Non-PCB Label
- Drain Valve with Sampler
- Bell Green Paint
- Undercoating

Notes:

Rewound with Copper, Taps on 12470GRDY/7200

Quantity: 1

Warranty: 36 Month Guarantee

Price:

\$15,512.00 USD Each

Manufacturing
Time:

50 - 52 weeks (ARO)

Delivery: Fob: Destination

After Release to Production

Electrical Tests:

1. Transformer Turns Ratio Test
2. Polarity and Phase Relation Test
3. DC HYPOT TEST
Performed at Two Times Rated Line Voltage Plus 1000 Volts
 - a. HV to LV
 - b. HV to Ground
 - c. LV to Ground

4. Core Loss and Excitation Test
5. Load and No Load Testing
6. Induced Potential Test at 400 Hertz for 7200 Cycles



**36 MONTHS
100%
Guarantee**

GUARANTEE

ALL T&R TRANSFORMERS ARE GUARANTEED TO BE FREE FROM DEFECTS IN WORKMANSHIP AND MATERIALS FOR 36 MONTHS UNDER NORMAL USE OR SERVICE ; THAT NORMAL USE OR SERVICE DOES NOT INCLUDE ABNORMAL STRESSES OR STRESS FROM SUCH CAUSES AS INCORRECT PRIMARY VOLTAGE, FREQUENCY OR IMPROPER LOAD.

We are not responsible for consequential losses or damages outside of this equipment nor for any repairs or replacements made by others without our written authorization. Should any unit fail within 36 months, we will either repair or replace the transformer or refund your money at our option.

Excluded under this guarantee are all newly-manufactured transformers and all transformers rebuilt by other rebuilders, in which case their guarantee will prevail.

This guarantee is expressly in lieu of other guarantees.

(605) 534-3555
(800) 843-7994
FAX: (605) 534-3861
E-MAIL: t-r@t-r.com



Quote Number: 00001016
Date: 3/3/2022
Prepared By: Cassi Cook
ccook@emeraldtransformer.com

Bill To:
Osawatomie City Utilities
9th and Lincoln
Osawatomie, KS 66064

Business Development Rep: Keith Tucker
ktucker@emeraldtransformer.com

Bidder not successful

Ship To:
Osawatomie City Utilities
9th and Lincoln
Osawatomie, KS 66064

Product Name	Code	Sale Price	Quantity	Total Price
Stock Rewind Single Phase Polemount 25 KVA	SFSRWPL1P25	1850.00	15.00	27750.00

HV: 2400/4160Y x 7200/12470Y (95 KV BIL)

LV: 120/240 (30 KV BIL)

65 Degree C Rise, 60 Hertz

No Taps

Conventional

Single 12" Hangers

(2) Cover Mounted Primary Bushings

(3) Sidewall Mounted Secondary Bushings

10 KV MOV Polymer Arrestor

Non-PCB Mineral Oil (ONAN)

Lead Time: Copper Windings

1) 10 KV Arrestor installed on the H1 bushing

Stock Rewind Three Phase Padmount 300 KVA	SFSRWPD3P300	12750.00	1.00	12750.00
---	--------------	----------	------	----------

HV: 4160GRDY/2400 x 12470GRDY/7200 (95 KV BIL)

LV: 480Y/277 (30 KV BIL)

65 Degree C Rise, 60 Hertz

2 @ 2.5% Above & Below Normal

Loop Feed

(6) Dead Front Wells & 15 kV Inserts

(4) 4 Hole Spade

Drain Valve w/ Sampler

Temperature; Liquid Level



Quote Number: 00001016
Date: 3/3/2022
Prepared By: Cassi Cook
ccook@emeraldtransformer.com

Non-PCB Mineral Oil (ONAN)
Copper Windings

Stock Rewind Three Phase Padmount 500 KVA	SFSRWP3P500	15800.00	2.00	31600.00
---	-------------	----------	------	----------

HV: 4160GRDY/2400 x 12470GRDY/7200 (95 KV
BIL)

LV: 480Y/277 (30 KV BIL)

65 Degree C Rise, 60 Hertz

2 @ 2.5% Above & Below Normal

Loop Feed

(6)Dead Front Wells & 15 kV Inserts

(4)4 Hole Spade

Drain Valve w/ Sampler

Bayonet Fusing

Temperature;Liquid Level

Non-PCB Mineral Oil (ONAN)

Copper Windings

Grand Total: \$72,100

Sales Tax: Taxes will be added for product delivered to or picked up by customers unless a tax exempt or resale certificate is provided with purchase order.

FOB: Shipping Point | Shipping & Handling: Prepaid & Allowed | Shipment: 36-40 Weeks
ARO | Warranty: 5 Years

GENERAL TERMS & CONDITIONS

Except where superseded by an existing agreement, the following terms and conditions apply to this quoted business:

- Emerald Transformer guarantees rates are firm for 30 days and order times will vary from 6-12 weeks.
- If the customer cancels an order, the customer may incur cancellation and restocking fees.
- Where modifications to the original transformer specifications become necessary, Emerald Transformer will obtain customer authorization for such modifications and a revised quoted price to fulfill order.
- Standard repair pricing includes a new PRV and gaskets. All other parts will be at additional cost.
- Pricing unless otherwise reflected does not include transportation or offloading fees at customer site. All rigging and removal from the truck/trailer is the responsibility of the customer. Customer is also responsible for loading the truck/ trailer when returning equipment.
- Emerald Transformer' standard credit terms are Net 30 days.
- Interest will be charged at 1.5% per month or the maximum allowed by law for all past due amounts.
- This proposal is submitted contingent upon the right to negotiate mutually acceptable contract terms and conditions, which are reflective of the work contemplated, and an equitable distribution of the risks involved therein. In the event that such agreement cannot be reached, Emerald Transformer reserves the right to decline to enter into such an agreement without prejudice or penalty.
- Units quoted are subject to prior sale.

For order processing to proceed we ask that you acknowledge the quotation with a signature and provide the appropriate purchase order number.

Signed: _____

Date: _____

Purchase Order Number: _____

STANDARD LIMITED WARRANTY

Standard Limited Warranty: Subject to the limitations set forth herein, Emerald Transformer warrants that all equipment, of any make or type, that has been serviced by an Emerald Transformer facility and that has been in normal use and undergone normal service ("Covered Equipment"), will be free from defects in material (excluding customer supplied materials) and workmanship for a period of five (5) years from the date of delivery of the equipment by Emerald Transformer to the customer (the "Warranty").

Upon receipt of a warranty claim with respect to Covered Equipment, Emerald Transformer will perform a warranty analysis to determine whether the cause of the Covered Equipment's failure is covered under the terms of this Warranty. Emerald Transformer is not responsible for any repairs to or alterations of the Covered Equipment made by anyone other than Emerald Transformer without a specific written authorization from Emerald Transformer. If requested by Emerald Transformer, the customer shall promptly return the Covered Equipment to Emerald Transformer, freight prepaid, prior to any warranty analysis or attempted repair of the Covered Equipment. Emerald Transformer is not responsible for loss of or damage to the Covered Equipment in transit. Emerald Transformer's obligations under this Warranty are limited to, at its sole option, replacing, repairing or refunding the total amount paid by the customer to Emerald Transformer in connection with the Covered Equipment confirmed to be defective and covered under the terms of this Warranty by Emerald Transformer. Emerald Transformer is not responsible for replacing any paint or finish on the Covered Equipment that did not originate from an Emerald Transformer facility.

Notwithstanding anything to the contrary herein, this Warranty does not apply to damage to the Covered Equipment caused by:

- a. Acts of God, including, but not limited to, lightning, tornadoes, hurricanes, floods, or other natural occurrences;
- b. normal wear and tear, abnormal conditions of use, improper installation or maintenance, accident, neglect or misuse; or
- c. the supply of defective parts by, or improper repairs made by, anyone other than Emerald Transformer without a specific written authorization from Emerald Transformer.

Liability Limitations: THIS WARRANTY IS THE SOLE WARRANTY PROVIDED BY EMERALD TRANSFORMER. ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, ARE HEREBY SPECIFICALLY EXCLUDED.

NO EMPLOYEE, AGENT OR DISTRIBUTOR OF EMERALD TRANSFORMER HAS ANY AUTHORITY, EXPRESSED OR IMPLIED, TO CHANGE OR EXPAND THE TERMS OF THIS WARRANTY, OR TO BIND EMERALD TRANSFORMER TO ANY WARRANTY TERMS OTHER THAN THE TERMS SPECIFICALLY SET FORTH HEREIN.

THIS WARRANTY MAY BE ASSERTED ONLY BY THE CUSTOMER, AND NOT BY THE CUSTOMER'S CUSTOMERS OR THIRD PARTIES. UNDER NO CIRCUMSTANCES SHALL EMERALD TRANSFORMER BE LIABLE FOR LIQUIDATED DAMAGES OR FOR COLLATERAL, CONSEQUENTIAL OR SPECIAL DAMAGES, OR FOR LOSS OF PROFITS, OR FOR ACTUAL LOSSES OR FOR LOSS OF PRODUCTION OR PROGRESS OF CONSTRUCTION. THE AGGREGATE TOTAL LIABILITY OF EMERALD TRANSFORMER IN CONNECTION WITH THE PERFORMANCE OF THIS WARRANTY SHALL IN NO EVENT EXCEED THE TOTAL AMOUNT PAID BY THE CUSTOMER TO EMERALD TRANSFORMER IN CONNECTION WITH THE COVERED EQUIPMENT.

REV AUG 2020 TWR



City of Osawatomie

ACTION ITEM SUMMARY	Item Number:	10.B
Pickup Purchase	Date:	March 24, 2022
Director of Public Works	From:	Bill Roseberry

RE: Resolution 985 – A Resolution awarding bid for 1 ton truck with plow package for Public Works.

RECOMMENDATION: Approve Resolution 985 – Authorizing staff to award the bid to purchase new truck for use by the Public Works Superintendent to: Olathe Ford.

DETAILS: The approved CIP plan for 2022 provides funds for the purchase of a new pickup for the Public Works Department. The truck being replaced is a 2002 Ford F350 with 98,500 miles. This vehicle currently has a head gasket leak and repair costs are beyond the reasonable value of the truck. The plow on this truck was purchased in 2002 as well and has been stretched well beyond its expected life. Staff has issued the RFP, received bids from only 1 bidder (Olathe Ford) in the amount of \$45,529. Adding the plow package will be an additional \$12,898. Total value in the CIP plan for the new truck/plow combination is \$50,000.

We are still awaiting a price from Olathe Ford regarding what allowance they will give us on this 2001 truck. Additionally, the Public Works Department has a 2007 Ford F-150 extended cab truck that will be transferred over to the Water Plant for use by the Water Production Superintendent, Andrew Burkhart. Andrew's current truck is a 2001 Ford F-250 Crew Cab and this truck will be listed on Purple Wave. We believe that between the 2002 truck and plow as well as the 2001 truck that we propose getting rid of, our cost will come in under the \$50,000 budget for the new truck.

VIN/to be built	N/A
Purchase price	\$45,529
Option add ons	\$12,898
Delivery date	120-180 DAYS A.R.O.

Business name	OLATHE FORD
Contact name	DEBI JONES/AARON CONAWAY
Business address	1845 E SANTA FE, OLATHE, KS 66062
Telephone number	(913)782-0881

Please submit bids on this form as well as adding on optional bed and plow bids and specifications.

THE CITY OF OSAWATOMIE RESERVES THE RIGHT TO REJECT ANY AND ALL BIDS

Deadline for Proposal: Wednesday March 16, 2022 4:00pm

Mark envelope: Street Dept. pickup bid

RETURN SEALED BIDS TO:

City of Osawatomie City Clerk
509 5th St.
P.O. Box 37
Osawatomie, Ks 66064

CITY OF OSAWATOMIE

439 Main St. 913-755-2146 (p)

P.O. Box 37 913-755-4146 (f)

Osawatomie, KS 66064

www.osawatomieks.org

REQUEST FOR PURCHASE BID

MINIMUM SPECIFICATIONS:

Model year 2022

Cab & Chassis

Crew Cab

1 ton DRW

Trailer tow package

V8 w/automatic transmission

Snow plow package

4WD

AM/FM stereo

Air conditioning

Cruise control

Power steering

White exterior color

Vinyl seats

ADD ONS:

(optional)

8' Snow Plow

Platform Bed

Any questions concerning this bid, contact Jason Rone, Jrone@osawatomieks.org (913)755-4525

CNGP530

VEHICLE ORDER CONFIRMATION

03/11/22 15:01:20

==>

2022 F-SERIES SD

Dealer: F53116

Page: 1 of 1

Order No: S222

Priority: E4 Ord FIN: KD536

Order Type: 5B Price Level: 250

Ord PEP: 640A Cust/Flt Name: OSAWATOMIE

PO Number:

RETAIL

RETAIL

W3H F350 4X4 CRW CC \$46245

425 50 STATE EMISS NC

179" WHEELBASE

473 SNOW PLOW PREP 250

Z1 OXFORD WHITE

JOB #1 BUILD

A VNYL 40/20/40

52B BRAKE CONTROL 270

S MEDIUM EARTH GR

52S CRUISE CONTROL 235

640A PREF EQUIP PKG

65Z AFT AXLE TANK NC

.XL TRIM

86M DUAL BATTERY 210

572 .AIR CONDITIONER NC

SP DLR ACCT ADJ

.AMFM/MP3/CLK

SP FLT ACCT CR

996 6.2L EFI V8 ENG NC

FUEL CHARGE

44G 10-SPD AUTOMATIC NC

B4A NET INV FLT OPT NC

TD8 .LT245 BSW AS 17 NC

DEST AND DELIV 1695

X37 3.73 REG AXLE NC

TOTAL BASE AND OPTIONS 48905

FLEET SPCL ADJ

TOTAL 48905

14000# GVWR PKG

THIS IS NOT AN INVOICE

F1=Help

F2=Return to Order

F3/F12=Veh Ord Menu

F4=Submit

F5=Add to Library

S099 - PRESS F4 TO SUBMIT

QF05238

V1DP0295

2,6



EQUIPMENT CO.
3250 Harvester Road
Kansas City, Kansas 66115
(Phone) 913-342-1450 (Fax) 913-342-1377
sales@americanequipment.us

QUOTATION

DATE	Quotation #
2/24/2022	022422/4JB

NAME / ADDRESS
Olathe Ford Sales, Inc. 1845 E. Santa Fe Olathe, KS 66062

TO CONFIRM ORDER
Quote Accepted by _____
Date _____
P.O. # _____

LEAD TIME	TERMS	REP	FOB	PHONE	FAX #
2- 3 weeks	Due on Rece...	JLB	KC, KS		

QTY	ITEM	DESCRIPTION	U/M	COST	Total
1	300	City of Osawatomie, Kansas 2022 Ford F-350 DRW 60" CA CM Truck Bodies 9' 4" Model RD - 1/8" Treadplate Steel Floor with Tapered Corners - 4" Structural Channel Long Sills - 3" Roll Formed 3/16" Channel Crossmembers - Steel Tube Headache Rack with (2) STT and (2) Clear Backup LED Lights - 3/8" X 2" Outside Rub Rails with Stake Pockets - 30K B&W Hitch with Welded Ball in Recessed Box - 18,500 B&W Hitch with 2" Receiver Tube - LED Lighting - Black Powder Coat Paint - Mud Flaps ALL OF THE ABOVE INSTALLED View the flatbed at https://cmtruckbeds.com/truck-beds/rd-truck-bed/		6,004.00	6,004.00

Quoted by John Blogin	Total
-----------------------	-------



EQUIPMENT CO.
3250 Harvester Road
Kansas City, Kansas 66115
(Phone) 913-342-1450 (Fax) 913-342-1377
sales@americanequipment.us

QUOTATION

DATE	Quotation #
2/24/2022	022422/4JB

NAME / ADDRESS
Olathe Ford Sales, Inc. 1845 E. Santa Fe Olathe, KS 66062

TO CONFIRM ORDER
Quote Accepted by _____
Date _____
P.O. # _____

LEAD TIME	TERMS	REP	FOB	PHONE	FAX #
2- 3 weeks	Due on Rece...	JLB	KC, KS		
QTY	ITEM	DESCRIPTION	U/M	COST	Total
1	300	City of Osawatomie, Kansas 2022 Ford F-350 DRW 60" CA Boss Muni Discount is included in \$ NOTE: Quoted a 8'6" plow due to the dual rear wheels Boss 8' 6" Super Duty Snow Plow: - 29" 11 gauge steel moldboard - 1/2" X 6" steel cutting edge - (7) vertical reinforcing ribs & (2) diagonal reinforcing ribs - (4) trip springs - (2) 1 1/2" X 10" angle cylinders - (2) adjustable cast iron shoes - Shock absorber - (2) plow markers - Smart Hitch 2 Quick Attaching System - SL-3 LED lights - SmartTouch 2 Handheld Controller Installed OPTION/S: Rubber snow deflector (ADD \$ 345) 9 foot plow in-lieu of 8' 6" quoted above (ADD \$ 325) View the plow/s at www.bossplow.com		6,894.00	6,894.00
Quoted by John Blogin				Total	\$12,898.00

This quote is valid for 30 days. Applicable taxes not included.

RESOLUTION NO. 985

**A RESOLUTION AUTHORIZING THE PURCHASE OF A
NEW ONE-TON PICKUP WITH PLOW PACKAGE AND
DISPOSING OF TWO OTHER TRUCKS**

WHEREAS, annually, the City of Osawatomie, Kansas, develops a capital improvement plan to guide staff on where to focus funds to replace outdated equipment and make needed improvements to city infrastructure; and

WHEREAS, the Public Works department has in its 2022 capital improvement plan the replacement of a 2002 Ford pickup truck with a snow plow at an estimated cost of \$50,000; and

WHEREAS, the city has requested proposals for a replacement of this truck and received only one bid due to supply chain issues; and

WHEREAS, the city staff recommends disposal of the 2002 truck as well as a 2001 truck to help offset the cost of the new truck;

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the City of Osawatomie, Kansas, that the City Council hereby authorizes city staff to purchase a new truck at a cost of \$45,529 as well as the plow package at an additional cost of \$12,898.

BE IT FURTHER RESOLVED by the Governing Body of the City of Osawatomie, Kansas that the City Council authorizes city staff to dispose of the 2002 and 2001 Ford one-ton trucks to offset the cost of the new pickup.

PASSED AND ADOPTED by the Governing Body of the City of Osawatomie, Kansas this 24th day of March, 2022, a majority being in favor thereof.

APPROVED AND SIGNED by the Mayor.

(SEAL)

ATTEST: Nick Hampson, Mayor

Tammy Seamands, City Clerk

Osawatomie Farmland Lease Bid

February 1, 2022

The City of Osawatomie has three (3) parcels of land which will be available for lease for the 2022 agricultural season. Tenant awarded lease on each of the following parcels, will be held responsible for control of noxious weeds at his/her expense.

Parcel# 1- 58.87 acres of crop ground, located at the Northeast corner of 335th Street and Osawatomie Road. Parcel ID # 1473600001024000,

Parcel# 2- 57.55 acres of crop ground, located at the Southeast corner of 335th Street and Osawatomie Road. Parcel ID # 1710100001005020

Parcel #3- 89.43 acres of pasture ground, and crop ground located at 169 Highway & 343rd Street.
Parcel ID # 1710100004003000

See attached map;

The awarded bidder on the pasture ground will be responsible for keeping fences in working order. The city will consider bids for one (1) and up to a three (3) year lease.

Sealed bids specifying parcel number at a per acre rate will be accepted; which are to be mailed or hand delivered to the Osawatomie City Clerk's Office at 509 Fifth Street, Osawatomie Kansas 66064.

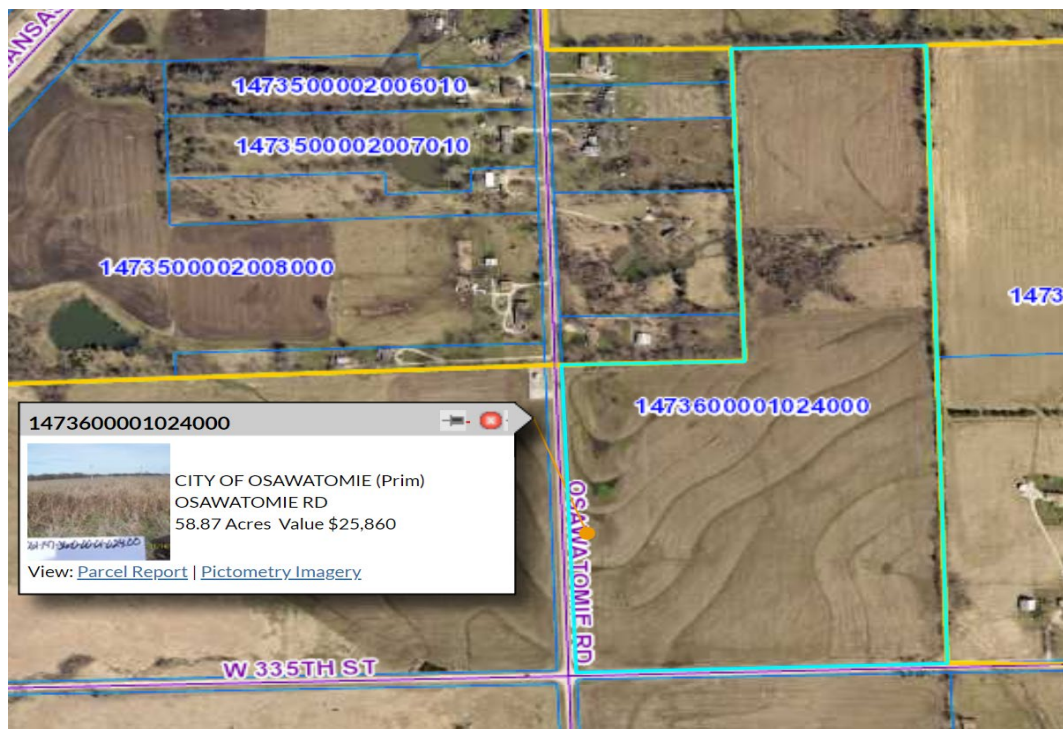
Bids will be accepted until March 1, 2022.

Tenant understands the primary reason for possession of the property by the City is for development of industry or business. The Tenant understands that development may need to occur on the crop ground prior to the end of the growing season, causing damage to crops or hay, or limiting use of pasture land and that no restitution will be paid in such circumstances. However, the Landlord agrees to make all reasonable accommodation necessary to allow the Tenant to remove crops prior to development of the property.

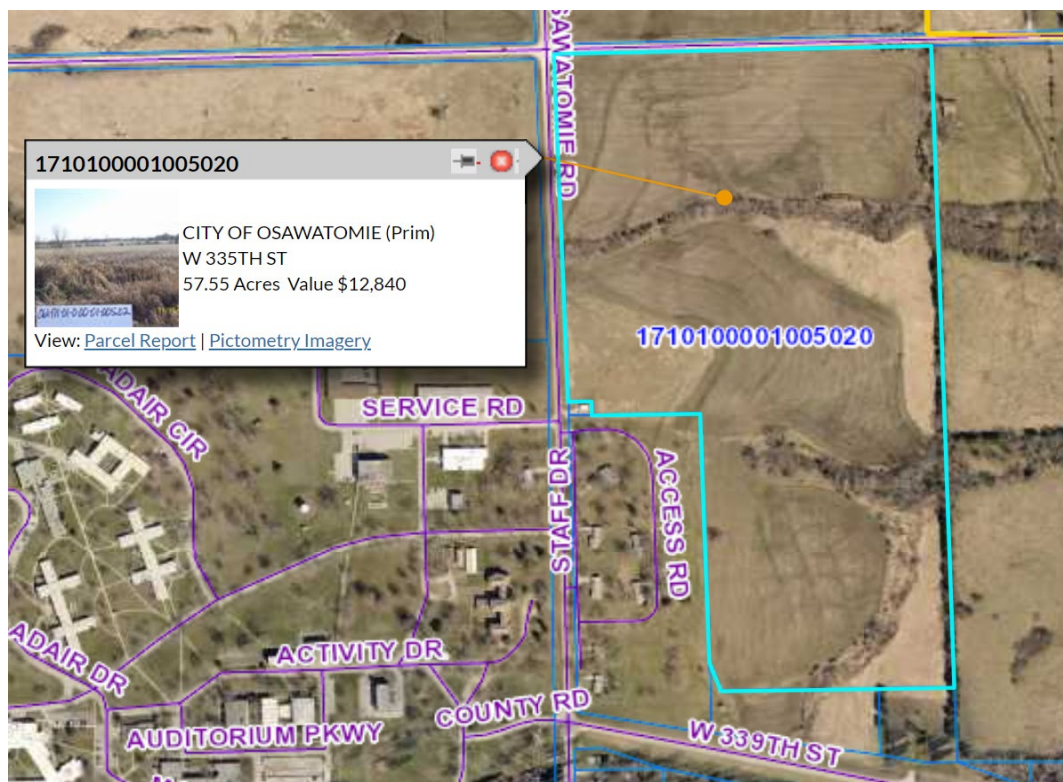
Details of current lease terms and requirements are available at City Hall for review.

If you have any questions, please contact the Osawatomie City Clerk at 913-755-2146 Ext. 104.

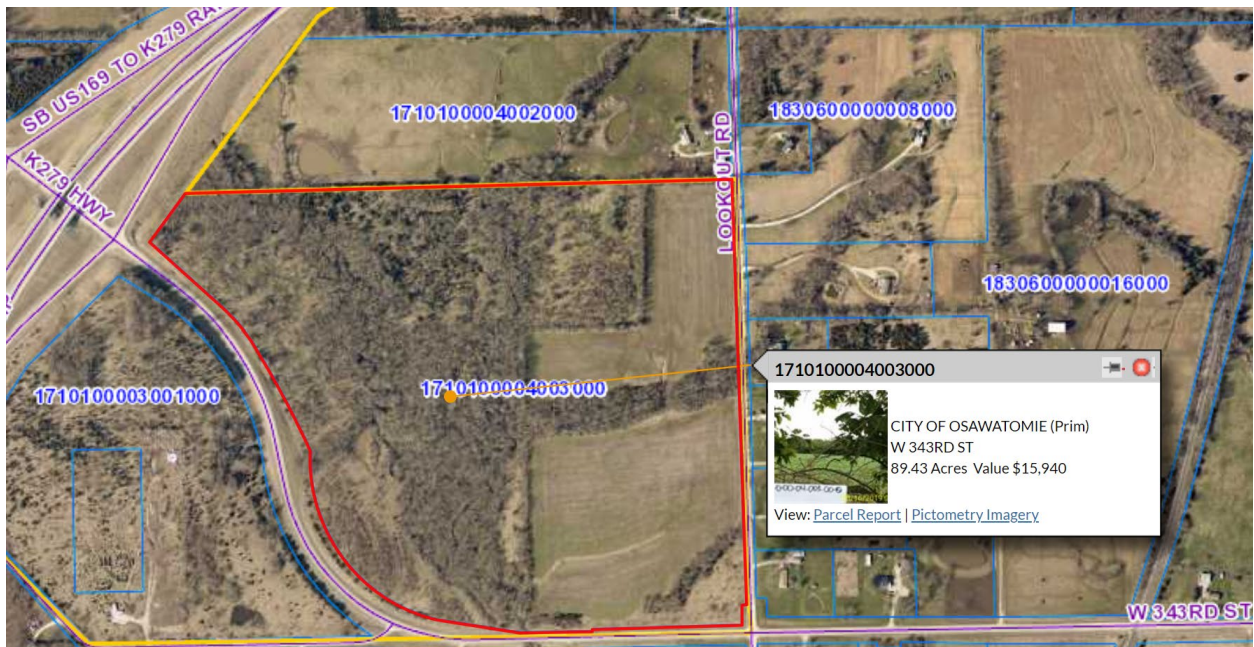
PARCEL 1



PARCEL 2



PARCEL 3



City of Osawatomie Land bid

From Jerod Ryker

Parcel - 1 \$ 5750

Parcel - 2 \$ 4820

Parcel - 3 \$ 2600

Jerod Ryker
913-244-4551



Tammy Seamands <tseamands@osawatomieks.org>

Fwd: City of Osawatomie Farmland bid

1 message

Ed Beaudry <EBeaudry@osawatomieks.org>
To: Tammy Seamands <tseamands@osawatomieks.org>

Thu, Mar 3, 2022 at 7:15 AM

Ed Beaudry
Director of Community Development
Chief Building Official
City of Osawatomie
ebeaudry@osawatomieks.org
913-755-2146 x102

----- Forwarded message -----

From: **Jerod Ryckert** <jerodryckertfarms@gmail.com>
Date: Wed, Mar 2, 2022 at 4:44 PM
Subject: Re: City of Osawatomie Farmland bid
To: Ed Beaudry <EBeaudry@osawatomieks.org>

To the City of Oswatomie,

The bid I placed on the City of Oswatomie farmland was for a three year contract or a possible extension for two extra year if both parties are willing.

From Jerod Ryckert

On Mar 1, 2022, at 1:12 PM, Ed Beaudry <EBeaudry@osawatomieks.org> wrote:

They will be opened at 3 pm, I will get with you once the bids are opened. City Council will still have to approve the bids, but I don't believe that will be an issue.

Ed Beaudry
Director of Community Development
Chief Building Official
City of Osawatomie
ebeaudry@osawatomieks.org
913-755-2146 x102

On Tue, Mar 1, 2022 at 9:46 AM Jerod Ryckert <jerodryckertfarms@gmail.com> wrote:
Hi Ed was just wondering if the bids were open

Sent from my iPhone

On Feb 8, 2022, at 12:07 PM, Ed Beaudry <EBeaudry@osawatomieks.org> wrote:

Just a lump sum on the parcel, I tried to figure the tillable but wasn't sure exactly where everything started or stopped as my maps are not current.

Ed Beaudry

Director of Community Development

Chief Building Official

City of Osawatomie

ebeaudry@osawatomieks.org

913-755-2146 x102

On Tue, Feb 8, 2022 at 11:32 AM Jerod Ryckert <jerodryckertfarms@gmail.com> wrote:
Hi Ed. On the bid do u want lump sum per parcel or tillable ac. The actual tillable are are less than parcel amounts

Sent from my iPhone

On Feb 8, 2022, at 9:42 AM, Ed Beaudry <EBeaudry@osawatomieks.org> wrote:

Ed Beaudry

Director of Community Development

Chief Building Official

City of Osawatomie

ebeaudry@osawatomieks.org

913-755-2146 x102

<Osawatomie Farmland Lease Bid 2022.docx>



City of Osawatomie

ACTION ITEM SUMMARY	Item Number:	
	Date:	March 24, 2022
Director of Community Development	From:	Ed Beaudry

RE: Resolution 986 is accepting the bid for the lease of Northland property from the City of Osawatomie. An RFP was sent out on February 1, 2022 with a deadline for accepting bids of March 1, 2022. City staff received only 1 bid for the property, the bid was from Jerod Ryckert (Ryckert Farms)

The bids were:

Parcel 1, 58.87 acres, \$5750.00 for a 3-year lease, annual \$1,916.66, \$32.55 an acre

Parcel 2, 57.55 acres, \$4820.00 for a 3-year lease, annual \$1,606.66, \$27.92 an acre

Parcel 3, 89.43 acres, \$2600.00 for a 3-year lease, annual \$866.66, \$9.69 an acre

The annual total for these three parcels is \$4,389.66.

Ryckert Farms has leased this land for numerous years for crops and hay.

RECOMMENDATION: That the City Council discuss and approve the lease of Northland property to Jerod Ryckert (Ryckert Farms).

Related Statute / City Ordinances	
Line Item Code/Description	N/A
Available Budget:	N/A

RESOLUTION NO. 986

BY THE CITY OF OSAWATOMIE, KANSAS

**A RESOLUTION ACCEPTING THE BID FROM JEROD RYCKERT (RYCKERT FARMS)
FOR THE FARMLAND LEASE**

WHEREAS, the City of Osawatomie has property useable for agriculture in the Northland; and

WHEREAS, the City of Osawatomie has leased this property for agricultural use; and

WHEREAS, it would benefit the City of Osawatomie to convert this land into a positive use and continue to lease the property; and

**NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY
OF OSAWATOMIE, KANSAS:**

SECTION ONE: The one bid received, is an annual total for the 3 parcels of \$4,389.66.

PASSED AND APPROVED by the Governing Body of the City of Osawatomie, Kansas, this 24th day of March, 2022, a majority voting in favor of.

APPROVED and signed by the Mayor.

Nick Hampson, Mayor

(SEAL)

ATTEST:

Tammy Seamands, City Clerk



City of Osawatomie

ACTION ITEM SUMMARY	Item Number:	10.D
	Date:	03/23/2022
City Manager	From:	Mike Scanlon

RE: Resolution 987 – Resolution 987 directs the City Manager to set a public hearing for 525 Main St. for consideration as a blighted property to be considered for Small Cities Community Development Block Grant.

RECOMMENDATION: That the City Council approve Resolution 987 directs the City Manager to set a public hearing for 525 Main St. for consideration as a blighted property to be considered for Small Cities Community Development Block Grant.

DETAILS: The City of Osawatomie will hold a public hearing on Thursday, March 31, 2022, at 6:30 pm, at Memorial Hall located at 411 11th St Osawatomie, KS for the purpose of considering an application to be submitted to the Kansas Department of Commerce for Small Cities Community Development Block Grant funds under the Downtown Commercial Rehabilitation category.

A specific application to be discussed is the rehabilitation of a commercial building located at 525 S Main St, Osawatomie, KS 66064. The proposed project will consist of demolition, roofing, exterior improvements, window & door upgrades, and miscellaneous appurtenances related to construction activities.

The estimated project cost is \$340,119 with a CDBG grant request for \$250,000 of the project cost. Other project proposals introduced at the hearing will be considered. Oral and written comments will be recorded and become a part of the City of Osawatomie s CDBG Citizen Participation Plan.

Related Statute / City Ordinances	Res. 969, 970, 976
Line-Item Code/Description	N/A
Available Budget:	N/A

RESOLUTION NO. 987

DIRECTS THE CITY MANAGER TO SET A PUBLIC HEARING FOR 525 MAIN ST. FOR CONSIDERATION AS A BLIGHTED PROPERTY TO BE CONSIDERED FOR SMALL CITIES COMMUNITY DEVELOPMENT BLOCK GRANT.

WHEREAS, The City of Osawatomie, Kansas, is a legal governmental entity as provided by the laws of the STATE OF KANSAS, and

WHEREAS, The City of Osawatomie, Kansas, intends to submit an application for assistance from the COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM.

WHEREAS, The City of Osawatomie, Kansas, intends to submit an application for the property at 525 Main Street..

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF OSAWATOMIE, KANSAS:

SECTION ONE: The City of Osawatomie will hold a public hearing on Thursday, March 31, 2022, at 6:30 pm, at Memorial Hall located at 411 11th St Osawatomie, KS for the purpose of considering an application to be submitted to the Kansas Department of Commerce for Small Cities Community Development Block Grant funds under the Downtown Commercial Rehabilitation category.

SECTION TWO: A specific application to be discussed is the rehabilitation of a commercial building located at 525 S Main St, Osawatomie, KS 66064. The proposed project will consist of demolition, roofing, exterior improvements, window & door upgrades, and miscellaneous appurtenances related to construction activities.

SECTION THREE: The estimated project cost is \$340,119 with a CDBG grant request for \$250,000 of the project cost. Other project proposals introduced at the hearing will be considered. Oral and written comments will be recorded and become a part of the City of Osawatomie s CDBG Citizen Participation Plan.

PASSED AND APPROVED by the Governing Body of the City of Osawatomie, Kansas, this 24th day of March 2022, a majority voting in favor of.

APPROVED and signed by the Mayor.

Nick Hampson, Mayor

(SEAL)

ATTEST:

Tammy Seamands, City Clerk

CITY OF OSAWATOMIE

DEPUTY CITY MANAGER'S REPORT ON OPERATIONS

March 24, 2022

Water Treatment Plant Status:

With Resolution #952, the council authorized the purchase of new turbidimeters and a new backwash pump. The backwash pump is still on schedule for delivery in June. The turbidimeters on the other hand have been received and installed, and we are pleased to report that the results are truly a “night and day” difference now that the old meters are gone. The plant’s permissible turbidity levels are well within KDHE guidelines.

Additionally, as was presented initially at the March 10, 2022 council meeting, Resolutions #977 (GAS contract) and #978 (BG Consultants contract) are ready for council approval. Below is the proposed fee schedule and design/construction durations:

Cost detail:

a.	Preliminary Design -	\$1,645,600
b.	Final Design -	\$1,346,400
c.	Bidding & Negotiating -	\$ 40,000
d.	Construction -	\$ 769,000
e.	Startup / Commissioning -	\$ 15,000

Schedule:

f.	Notice to Proceed
g.	Design for water distribution – 12-14 months
h.	Design for water treatment – 18-24 months
i.	Construction for water distribution – 18 months
j.	Construction for water treatment – 24 months

Mr. Wetzler has reviewed the agreement along with my comments. BG Consultants and city staff are in agreement on the terms. It is our recommendation that we move forward with the design contract.

Secondly, this council has heard the term “redundancy” many times over the last year and a half when discussing the need for multiple pumps at the intake, multiple high service pumps at the water treatment plant, etc. When the water study committee first began meeting, there was only one functioning pump at the intake and one functioning high service pump. Today, there is only one portion of the treatment process that is yet to be restored to having a redundant system and

that is the flocculator paddles at the clarifier basin. Four or five years ago, the crew at the water treatment plant had planned on replacing motors, gearboxes, bearings and bushings on one of the two flocculator paddles. Our understanding is the City Manager at the time did not permit the purchase of the necessary equipment, so the flocculator paddle was taken out of service. The cost to purchase the equipment that should have been purchased is being researched and I have requested the water treatment plant superintendent to get pricing on the necessary equipment so it can be brought before the council for approval.

Lastly, on March 21, I received a draft of the water utility rates study. Once I have had a chance to review and discuss with KMEA, I will bring a resolution to the council on how to structure the rates going forward in order to address the issues with the water treatment plant and the distribution system.

Wastewater Treatment Plant Status:

The preconstruction meeting for the WWTP project will be held on Friday, March 25 at which time we will have a tentative construction schedule. I will provide to the schedule council in the April Report on Operations.

Related to the wastewater plant is our ongoing battle with inflow and infiltration (I&I). BG Consultants has drafted an RFP for CCVT companies to bid to in order to identify sewer lines in the city that have not been part of the previous sewer main rehabilitation phases 1, 2 or 3. Estimated costs for the CCVT work is in the \$120,000 range.

Middle School Water Line Update: The middle school water line main as well as all of the residential service lines in the 400 and 500 blocks of Pacific Avenue have been completed. There is one small stretch of the line that we need to complete, which takes the line from the NW corner of 4th and Pacific Ave., North to roughly Mill St. (approx. 100' or so). This short addition will then allow the new line to be tied (looped) into the lines on both Brown Avenue and Mill St. which will improve our abilities to isolate certain segments of lines if there were to be a break that needed repaired, and keep water on for more residents. The cost to date is \$93,780.66 (material, labor and equipment). Estimated cost for work yet to be completed (i.e., extending the line to existing mains on Mill St. and Brown Ave., final grading and seeding, and replacement of sidewalk and street surfaces) is approximately \$10,000. Originally, when we expected to contract this project out, we estimated cost to be no more than \$300,000.

Evergy Solar Array Development:

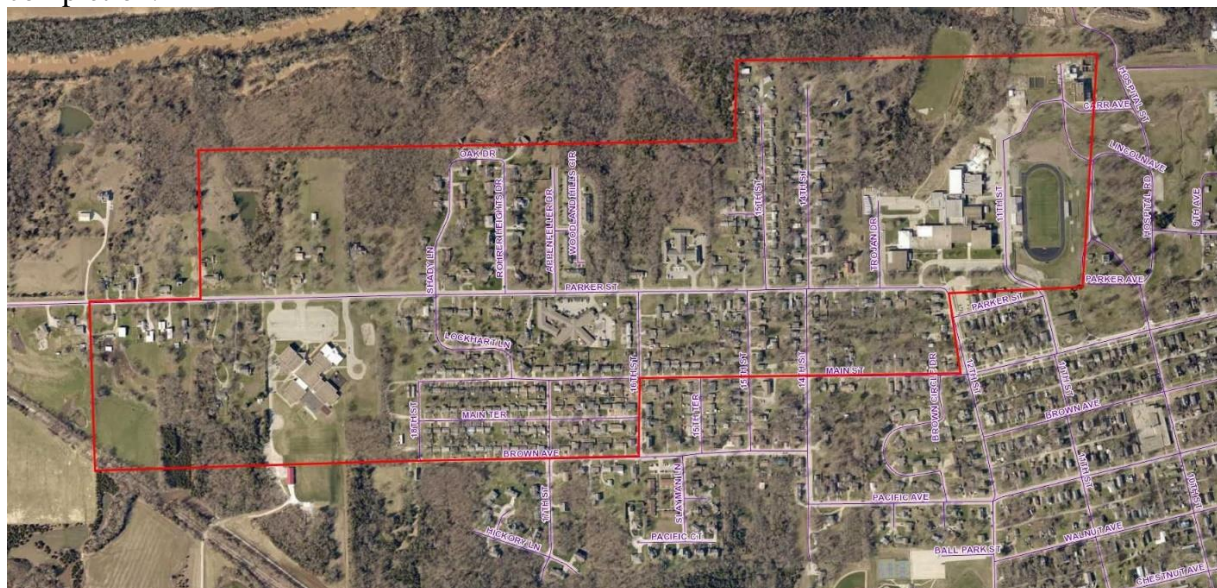
At the January 27th council meeting, the council suggested touring the Baldwin City fixed array solar facility. I am currently working with the City of Baldwin City to schedule a tour and tentatively we have set April 15th as a primary date and April 29th as a secondary option. On March 10th, I provided the council with the current redlined draft of the PPA (Resolution 979). This resolution will be back before the council to vote on once the PPA, final cost per MWh, and the purchase price of the facility can be known. This is dependent unfortunately, on other municipalities catching up with where we are in this process so Evergy can begin locking in prices for materials. Evergy estimates this could take as long as three months, and we are currently targeting June 2022 to have everything finalized.

2022 and 2023 Street Improvements:

Survey crews from BG Consultants were in town beginning on February 8, 2022 to begin boundary line and topographical surveys for the streets slated for replacement in 2022 and 2023. Additionally, the application for the KDOT Cost Share Grant program has been completed and submitted. Advertisement for bids on the Brown Avenue (16th to 18th) project began the week of March 7th. The bids are due and will be open on April 8th, with a presentation to the council for review/acceptance of the successful bidder on April 14th.

Electric System Conversion Update:

Transformer delivery delays have halted completion of circuits #6 and #1. Staff will finish circuit #1 and #6 next year (2023) with the purchase of the 3 large transformers included in Resolution #984 (areas of town serviced by these two circuits is depicted in the map below). All circuits should be completed by 2031. Staff is working on converting the circuits from the power plant sub first, because it is the oldest and most likely to fail first. Once City staff has completed the conversion, the 7th St. sub will be reworked to operate at the new 7200/12470 voltage. At that point, the city will have 2 substations at the new voltage, both of which will be able to carry the entire town should one fail. Staff will split the converted circuits between the 2 substations. The city will reduce the number of circuits from 12 to between 6 and 8, depending on the load at the time of completion.



Transformers scheduled for purchase with the approval of Resolution #984 are as follows:

Jerry's Electric Inc. (Lead time is ~52 weeks and these transformers are necessary for the conversion).

- 1.) 1 – 300 kVA 3 phase pad mount transformer - \$ 9,720 ea; Total - \$ 9,720
- 2.) 2 – 500 kVA 3 phase pad mount transformer - \$13,550 ea; Total - \$27,100

Midwest Electric Transformer Services (Lead time is 10-12 weeks. These transformers are for inventory purposes and will be necessary as more new homes are built. These costs will need to be passed on to the developer/builder).

- 1.) 5 – 25 kVA 1 phase pad mount transformer - \$ 6,295 ea; Total - \$31,475
- 2.) 5 – 37.5 kVA 1 phase pad mount transformer - \$ 7,170 ea; Total - \$35,850

T & R Electric (Lead time is 32-40 weeks and these transformers are for inventory & conversion).

1.) 15 – 25 kVA 1 phase pole mount transformer - \$1,050 ea; Total \$15,750

Grand total for these transformers is: \$119,895. Funds for this purchase will come partially from the distribution operating budget for the conversion project as well as the CIP-General fund.

Purchase New One-Ton Pickup Truck for Public Works:

The approved CIP plan for 2022 provides funds for the purchase of a new pickup for the Public Works Department. The truck being replaced is a 2002 Ford F350 with 98,500 miles. This vehicle currently has a head gasket leak and repair costs are beyond the reasonable value of the truck. The plow on this truck was purchased in 2002 as well and has been stretched well beyond its expected life. Staff has issued the RFP, received bids from only 1 bidder (Olathe Ford) in the amount of \$45,529. Adding the plow package will be an additional \$12,898. Total value in the CIP plan for the new truck/plow combination is \$50,000.

We are still awaiting a price from Olathe Ford regarding what allowance they will give us on this 2001 truck. Additionally, the Public Works Department has a 2007 Ford F-150 extended cab truck that will be transferred over to the Water Plant for use by the Water Production Superintendent, Andrew Burkhart. Andrew's current truck is a 2001 Ford F-250 Crew Cab and this truck will be listed on Purple Wave. We believe that between the 2002 truck and plow as well as the 2001 truck that we propose getting rid of, our cost will come in under the \$50,000 budget for the new truck.



BANKING AT ITS BEST

March 11, 2022

City of Osawatomie
439 Main
PO Box 37
Osawatomie, KS 66064

Dear Recipient:

We are pleased to enclose a check in the amount of \$75,000 from the Allen W. & Gladys A. Hawkins Charitable Foundation to help with renovations for Memorial Hall.

We take great pride in supporting many organizations that serve our community and improve the quality of life. Best wishes for success.

Sincerely,

A handwritten signature in blue ink, appearing to read "Keri Peterson".

Keri Peterson
First Option Bank Financial Services



BANKING AT ITS BEST

March 11, 2022

City of Osawatomie
439 Main
PO Box 37
Osawatomie, KS 66064

Dear Recipient:

We are pleased to enclose a check in the amount of \$8,500 from the Allen W. & Gladys A. Hawkins Charitable Foundation to complete the purchase of the Christmas decorations.

We take great pride in supporting many organizations that serve our community and improve the quality of life. Best wishes for success.

Sincerely,

A handwritten signature in blue ink, appearing to read "Keri Peterson".

Keri Peterson
First Option Bank Financial Services

Osawatomie, KS 66064 • 601 Main • P.O. Box 277 • 913-755-3811
LaCygne, KS 66040 • 502 Market Street • P.O. Box 429 • 913-757-2001
Louisburg, KS 66053 • 103 South Broadway • P.O. Box 458 • 913-837-3900
Paola, KS 66071 • 702 Baptiste Drive • P.O. Box B • 913-294-3811
Spring Hill, KS 66083 • 21101 West 223rd Street • P.O. Box 426 • 913-592-3811



BANKING AT ITS BEST

March 11, 2022

City of Osawatomie
439 Main
PO Box 37
Osawatomie, KS 66064

Dear Recipient:

We are pleased to enclose a check in the amount of \$8,350 from the Allen W. & Gladys A. Hawkins Charitable Foundation for the Osawatomie Library's summer reading program.

We take great pride in supporting many organizations that serve our community and improve the quality of life. Best wishes for success.

Sincerely,

A handwritten signature in blue ink, appearing to read "Keri Peterson".

Keri Peterson
First Option Bank Financial Services

Osawatomie, KS 66064 • 601 Main • P.O. Box 277 • 913-755-3811
LaCygne, KS 66040 • 502 Market Street • P.O. Box 429 • 913-757-2001
Louisburg, KS 66053 • 103 South Broadway • P.O. Box 458 • 913-837-3900
Paola, KS 66071 • 702 Baptiste Drive • P.O. Box B • 913-294-3811
Spring Hill, KS 66083 • 21101 West 223rd Street • P.O. Box 426 • 913-592-3811



BANKING AT ITS BEST

March 11, 2022

City of Osawatomie
439 Main
PO Box 37
Osawatomie, KS 66064

Dear Recipient:

We are pleased to enclose a check in the amount of \$15,000 from the Allen W. & Gladys A. Hawkins Charitable Foundation for the mural project.

We take great pride in supporting many organizations that serve our community and improve the quality of life. Best wishes for success.

Sincerely,

A handwritten signature in blue ink, appearing to read "Keri Peterson".

Keri Peterson
First Option Bank Financial Services

Mayor Nick Hampson
PO Box 37
Osawatomie, KS 66064

Dear Tree City USA Community Member,

On behalf of the Arbor Day Foundation, I congratulate Osawatomie on earning recognition as a 2021 Tree City USA. We are so thrilled that Osawatomie takes pride in creating a community that places unique value on the planting and caring of trees.

Osawatomie is part of an incredible network of more than 3,600 Tree City USA's, with a combined total population of 155 million. The Tree City USA program is one of the Arbor Day Foundation's earliest programs. We are proud to partner with the U.S. Forest Service and the National Association of State Foresters to maintain this community.

Over the last few years, it has become increasingly clear of the value and importance that trees hold for our future. Cities and towns across the globe are facing challenges when it comes to air quality, water resources, personal health and well-being, and energy use. Osawatomie shows its residents and peers that they are forward-thinking and eager to combat these issues. By showing your dedication to urban forestry, you demonstrate a commitment to a brighter, greener future.

We hope you are as excited as we are to share this accomplishment with your local media and your residents. Enclosed in this packet is a press release for you to distribute at your convenience.

State foresters will receive the Tree City USA recognition materials and coordinate on how to distribute them. We will forward information about your awards to your state forester's office to facilitate the presentation. Your community's Arbor Day ceremony would be the best time to mention the Tree City USA award.

Again, we are excited to celebrate your commitment to the people and trees of Osawatomie and thank you for helping us plant, nurture and celebrate trees.

Best Regards,

A handwritten signature in black ink, appearing to read 'DL' or 'Dan Lambe'.

Dan Lambe
Arbor Day Foundation Chief Executive

FOR IMMEDIATE RELEASE

Contact:

Arbor Day Foundation

Lauren Weyers

lweyers@arborday.org

Arbor Day Foundation Recognizes Osawatomie as a Tree City USA®
Osawatomie earns the Tree City USA recognition for their commitment to urban forestry

LINCOLN, Nebraska (3/3/2022) – Osawatomie was named a 2021 Tree City USA by the Arbor Day Foundation to honor its commitment to effective urban forest management.

Osawatomie achieved Tree City USA recognition by meeting the program's four requirements: forming a tree board or department, creating a tree-care ordinance, having an annual community forestry budget of at least \$2 per capita, and an Arbor Day observance and proclamation. The Tree City USA program is sponsored by the Arbor Day Foundation, in partnership with the U.S. Forest Service and the National Association of State Foresters.

"Tree City USA communities benefit from the positive effects that an urban tree canopy has year after year," said Dan Lambe, chief executive of the Arbor Day Foundation. "The trees being planted and cared for by Osawatomie ensure that generations to come will enjoy a better quality of life. Additionally, participation in this program helps cultivate a sense of stewardship and pride for the trees the community plants and cares for."

Planting trees in an urban space comes with a myriad of [benefits](#) past the recognition of this program. Urban tree plantings help reduce energy consumption by up to 25%, which will reduce general energy costs and help with the overall cooling of the city as well. In addition, members of the community benefit from properly placed trees as they increase property values from 7–20%. Trees also positively affect the local ecosystem by helping to clean water and create animal habitats to encourage biodiversity.

More information on the program is available at arborday.org/TreeCityUSA.

About the Arbor Day Foundation

Founded in 1972, the Arbor Day Foundation has grown to become the largest nonprofit membership organization dedicated to planting trees, with more than one million members, supporters and valued partners. Since 1972, almost 500 million Arbor Day Foundation trees have been planted in neighborhoods, communities, cities and forests throughout the world. Our vision is to lead toward a world where trees are used to solve issues critical to survival.

As one of the world's largest operating conservation foundations, the Arbor Day Foundation, through its members, partners and programs, educates and engages stakeholders and communities across the globe to involve themselves in its mission of planting, nurturing and celebrating trees. More information is available at arborday.org.

JOINT RESOLUTION OF THE FOLLOWING COMMUNITIES

**RESOLUTION 988 OF THE CITY OF OSAWATOMIE, KANSAS
RESOLUTION ____ OF THE CITY OF OTTAWA, KANSAS
RESOLUTION ____ OF THE CITY OF HERINGTON, KANSAS
RESOLUTION ____ OF THE CITY OF COUNCIL GROVE, KANSAS**

**A JOINT RESOLUTION ESTABLISHING A WORKING GROUP TO CONSIDER THE
ESTABLISHMENT OF THE KANSAS ASSOCIATION OF TRAIL TOWNS (KATT), WHOSE
INITIAL PURPOSE WILL BE THE DEVELOPMENT OF ECONOMIC OPPORTUNITIES
ALONG THE FLINT HILLS TRAIL.**

WHEREAS, through the efforts of the KANZA Rail-Trails Conservancy (KRTC) the 117-mile Flint Hills Trail, between Osawatomie and Herington, KS was established; and

WHEREAS, recognizing the economic, tourism, and outdoor recreation potential of the trail, the Kansas Department of Wildlife Parks and Tourism (KDWPT), in 2014, partnered with the KRTC to assist with the development and completion of the trail; and

WHEREAS, in partnership with Kansas Department of Transportation (KDOT), KDWPT has utilized federal Transportation Enhancements (TE) and federal Transportation Alternatives (TA) grant funding to continue the development, repairs, and construction of the trail infrastructure at a faster pace; and

WHEREAS, in 2018 the Kansas Legislature named the Flint Hills Trail a state park, bringing it under the management of KDWPT and recognizing it as the “Crown Jewel” of the Kansas trail system; and

WHEREAS, upon completion the Flint Hills Trail it will be the longest rail-trail in Kansas at 117 miles and the seventh longest rail-trail in the United States; and

WHEREAS, in order to leverage the State of Kansas investment in the Flint Hills Trail communities along it should work jointly to both promote and market its use which directly impacts at least 18 Kansas communities.

NOW THEREFORE, We the undersigned communities of this Joint Resolution hereby agree to,

1. Designate two officials from each jurisdiction to serve on the KATT Working Group, with planned meetings to be held during the second week of June, August, and September.
2. That the working group explore next steps in the formation of KATT and submit a proposed 1-, 2- and 3- year work plan for the Flint Hills Trail going forward.
3. That the Working Group also explore interconnections to other regional trails including but not limited to the KATY Trail(MO), Prairie Spirit Trail and Landon Trail, recognizing that a broader association of Kansas Trail Towns could create an even greater economic impact.

4. That in October, 2022 a formal presentation will be made by the working group to each of the founding cities in this Joint Resolution.

ADOPTED BY the Governing Body of the City of Osawatomie, Kansas this ____ day of _____, 2022

Nick Hampson
Mayor

ATTEST:

Tammy Seamands
City Clerk

ADOPTED BY the Governing Body of the City of Ottawa, Kansas this ____ day of _____, 2022

Eric Crowley
Mayor

ATTEST:

Melissa Reed
City Clerk

ADOPTED BY the Governing Body of the City of Herington, Kansas this ____ day of _____, 2022

Debi Urbanek
Mayor

ATTEST:

Cathy Reese
City Clerk

ADOPTED BY the Governing Body of the Council Grove, Kansas this _____ day of
_____, 2022

Debi Schwerdtfeger
Mayor

ATTEST:

Nick Jones
City Clerk