

**OSAWATOMIE CITY COUNCIL  
AGENDA**

September 12, 2013  
6:30 p.m., Memorial Hall

1. Call to order
2. Roll Call
3. Pledge of Allegiance
4. 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. Approve Minutes of August 8 and August 22 Council Meetings
  - B. Approve September 12 Agenda
  - C. Appropriation Ordinance 2013-08
5. Presentations; Comments from the Public
  - A. Public Comments

*Citizen participation will be limited to 5 minutes. Please stand & be recognized by the Mayor.*
6. Public Hearing – none
7. Unfinished Business
  - A. Resolution Authorizing Temporary Notes
  - B. Note Purchase Agreement
  - C. Resolution to Authorize State Revolving Loan Application
8. New Business
  - A. Appointments
    - i. League Voting Delegates & Alternates *2 of each*
  - B. Proclamation – National Rehabilitation Awareness Week, September 16-22
  - C. 2013 Standard Traffic Ordinance
  - D. 2013 Uniform Public Offense Code
  - E. Bids for Library Foundation Repair
  - F. Discussion of Invocation at Council Meetings
9. Council Reports
10. Mayor’s Report
11. City Manager’s Report
12. Executive Session
13. Adjournment

*REGULAR MEETING – September 26, 2013*

*REGULAR MEETING – October 10, 2013*

Osawatomie, Kansas. **AUGUST 8, 2013.** The Council meeting was held in Memorial Hall. Mayor Govea called the meeting to order at 6:30 p.m. Council members present were Dickinson, Farley, Hunter, LaDuex, Maichel, Martin, and Walmann. Absent was Hampson. Also present were City Manager Cawby and City Clerk Elmquist. Visitors were Kendal Low, Phil Slater and Coleen Truelson.

**CONSENT AGENDA.** Approval of the minutes of July 11, July 17, and July 25 Council Meetings, approval of August 8 Agenda, and approval of Appropriation Ordinance 2013-7. Motion made by LaDuex, seconded by Hunter to approve the minutes of July 11, July 17, and July 25 Council Meetings, approval of August 8 Agenda, and approval of Appropriation Ordinance 2013-7. Yeas: All.

Public Participation; Presentations: none

Public Hearings: none

Unfinished Business: none

New Business:

**APPOINTMENTS.** none

**ALL 4 U EVENT – FIREWORKS PERMIT.** Motion made by Hunter, seconded by Maichel to approve the permit for September 7 in John Brown Park. Yeas: All.

Hampson arrived at 6:39 p.m.

**WAPA IRP REVIEW.** The Western Area Power Administration (WAPA) markets hydroelectric power generated by federal dams and associated services to public entities in the Western United States. Late last year, the power pool under the Kansas Municipal Energy Agency (KMEA) purchased power from WAPA. Federal law requires WAPA customers comply with the requirements of the Energy Planning and Management Program to meet the objectives of the Federal Energy Policy Act. Integrated resource planning (IRP) is a planning process for new energy resources that evaluates the full range of alternatives to provide reliable service to electric consumers. At the next meeting there will be a public hearing to receive comments from the public and the Council will consider approving the IRP plan.

Council Reports:

Maichel: Mayor Govea and Walmann carhopped at Sonic as part of the fundraising for the Mid-Way Drive-in to purchase a new digital projector to be able to stay in business. Honda is sponsoring a contest, Project Drive-In, to help preserve what drive-ins it can. They will donate five digital projectors to those drive-ins getting the most votes.

Hampson: The Parks & Recreation Committee will meet Sunday, 6:00 p.m. in John Brown Park to clean up and will be looking at equipment, etc. to make the park nicer.

Hunter: A constituent in another ward had to call 911. Commented on the Police Department as first responders and the EMTs and how good they were.

Walmann: The employees recognition picnic is August 17, 6:30 p.m. in John Brown Park.

Martin: August 10, 6:00 p.m. in John Brown Park Shelter House, Ward 2 will hold their ice cream social.

Mayor's Report:

Getting information on evaluating the City Manager. Long-time councilmembers, President Hunter and Vice-President LaDuex, will work on modifying an evaluation. It will be sent out to the Council.

Took a tour with the Board of Directors of the Kanza Rail Trail Conservancy to evaluate the city's ½ mile trail. There are some obstacles.

The Elks Lodge is looking for a grant for the youth to plant trees in Osawatomie.

City Manager's Report:

Met with staff in John Brown Park to design a new bridge that crosses from the camping and parking lot east to the camping area in the grass. It will be a nice structure and plans will be brought to the Council.

*Projects:* none

*Issues:* none

**EXECUTIVE SESSION – ACQUISITION OF REAL PROPERTY.** At 7:24 p.m. motion was made by Farley, seconded by Hunter to recess into executive session for the purpose of discussion of acquisition of real property, with City Manager Cawby to be present; and that the Council will reconvene the open meeting in this room at 7:35 p.m. Yeas: All.

Walmann left the meeting at 7:35 p.m.

Meeting reconvened at 7:36 p.m. No action taken. At 7:37 p.m. motion made by Farley, seconded by Hunter to recess into executive session for the purpose of continuing the discussion of acquisition of real property, with City Manager Cawby present; and that the Council will reconvene the open meeting in this room at 7:57 p.m. Yeas: All. Meeting reconvened at 7:58 p.m. No action taken. At 8:01 p.m. motion made by LaDuex, seconded by Hunter to recess into executive session for the purpose of continuing the discussion of acquisition of real property, with City Manager Cawby present; and that the Council will reconvene the open meeting in this room at 8:11 p.m. Yeas: All. Meeting reconvened at 8:12 p.m.

Motion made by LaDuex, seconded by Maichel to authorize the Mayor to sign the papers to purchase the property at 509 First Street for \$75,000. Farley asked if it was the fairest price for the property. City Manager Cawby said yes. Yeas: Farley, Hunter, LaDuex, Maichel, and Martin. Nays: none. Abstention: Dickinson. Motion passed. The plan is to put the house up for bid with the intention of it being moved out of town. No change in the zoning is necessary.

Motion made by LaDuex, seconded by Martin to authorize the Mayor to sign the papers to purchase the property at 105 E. Main for \$225,000 to relocate the Police Department, subject to financing with temporary notes so when the two properties are purchased the cost will roll it into a bond issue, and including renovations to the new building and to where the department is currently located. Farley asked if it was the fairest price for the property. City Manager Cawby said yes. Does it have a finished basement? City Manager Cawby said the building is 4,700 square feet with a finished basement. Is it ADA accessible? City Manager Cawby said yes. Is the seller going to leave some equipment? City Manager Cawby said they will be leaving some furniture and equipment, the phone system, etc. The purchase price was \$7,000 under the appraised value and the building is double the size of the current location. Not including the evidence room, they currently have 2,200-2,400 square feet. The plan for the current area is to renovate it into a Council room to also be used as a Courtroom. There will be ADA bathrooms, a conference room for executive sessions, installation of a camera system, and wiring to allow the use of Power Point. The budgeted amount for these renovations is \$75,000 to come from the bond issue. Yeas: All.

Motion made at 8:23 p.m. by Maichel, seconded by LaDuex to adjourn. Yeas: All.

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Ann Elmquist, City Clerk

Osawatomie, Kansas. **August 22, 2013.** The Council meeting was held in Memorial Hall. Mayor Govea called the meeting to order at 6:30 p.m. Council members present were Dickinson, Farley, Hunter, LaDuex, and Maichel. Absent were Hampson, Martin, and Walmann. Also present were City Manager Cawby, City Attorney Wetzler, and City Clerk Elmquist. Visitor was Coleen Truelson.

**APPROVAL OF AGENDA.** Motion made by Hunter, seconded by LaDuex to approve the consent agenda. Yeas: All.

Public Participation; Presentations: none

Public Hearings:

**HEARING ON 2013 REVISED AND 2014 PROPOSED BUDGET.** Mayor Govea opened the hearing at 6:30 p.m. City Manager Cawby made a few comments. There being no comments from the public, the hearing was closed at 6:40 p.m.

**HEARING ON INTEGRATED RESOURCES PLAN (IRP).** Mayor Govea opened the hearing at 6:41 p.m. City Manager Cawby had no changes from what was presented before. There being no comments from the public, the hearing was closed at 6:44 p.m.

Unfinished Business:

**ADOPT REVISED 2013 BUDGET.  
ADOPT 2014 BUDGET.  
ADOPT PROPOSED 2013-2018 CIP.**

Motion made by Hunter, seconded by LaDuex to adopt the budgets and CIP. Yeas: All.

**ORDINANCE – 2014 BUDGET LEVY.** Motion made by Dickinson, seconded by Hunter to approve the ordinance approving the increase of tax revenues for the 2014 Budget year. Yeas: All. The Ordinance was assigned No. 3710.

**WAPA INTEGRATED RESOURCES PLAN (IRP).** Motion made by LaDuex, seconded by Hunter to adopt the IRP. Yeas: All.

**SLUDGE PRESS EQUIPMENT ACCEPTANCE.** BG Consultants received preliminary approval to merge the sludge project into the head works project. Staff evaluated the Aero-Mod belt press equipment. All comments from area wastewater treatment operators using the same equipment were positive, including its simple operation that doesn't require a significant amount of mechanical adjustment during operation. BG Consultants provided recent proposals for basically the same equipment.

<b>Aero-mod sludge press</b>		<b>\$215,000</b>	
Cowetta, OK	2012	\$204,000	5.00%
Hinckley, IL	2013	\$201,000	6.50%
Peru, IL	2013	\$269,870	25.50%
Harrison, MO	2012	\$240,000	11.50%

It could cost about \$9,000 to go through the bid process and valuable time would be lost. Staff feels very comfortable with the vendor and their close proximity and Kansas manufacturing location would be significant factors in a selection. City Manager Cawby negotiated the price down to \$208,000. Motion made by LaDuex, seconded by Maichel to approve the purchase of the Aero-Mod equipment for \$208,000. Yeas: All.

New Business:

**APPOINTMENTS.** There are still appointments to made. Have not received enough applications for some of the new committees to be complete. City Manager Cawby will publicize the openings.

**ORDINANCE – SPECIAL USE PERMIT TO ALLOW CHILD CARE CENTER AT 1312 6<sup>TH</sup> IN C-3 DISTRICT.** Sara Campa has applied for a special use permit to operate a day care center at 1312 6th Street. The building has previously been operated as a child care center. She does not own the property, but owner Marsha Adams supports the application. The Osawatome Planning Commission held a public hearing July 31, 2013. Only Campa appeared at the hearing and there was not any opposition. After the hearing, the Planning Commission recommended approval of a Special Use Permit by unanimous vote. No protest was filed during the 14-day protest period following the decision of the Planning Commission. Motion made by Hunter, seconded by LaDuex to support the Planning Commission's recommendation and approve the special use permit for a child care center at 1312 6<sup>th</sup> Street. Yeas: All. The Ordinance was assigned No. 3711.

**ORDINANCE AUTHORIZING BONDS FOR PUBLIC BUILDING IMPROVEMENTS.** The purchase of 105 E Main Street and 509 1st Street for a new police station makes it necessary to finance the projects. The closing on the two properties should occur at the end of September. The project budget is set at \$575,000 for the buildings, furniture & equipment, house relocation, parking area and building renovation to a courtroom/council room. Issuing temporary notes in the amount of \$600,000 is recommended for any contingencies or surprises. Then when the bonds are issued, it could be a lower amount. City Council will need to take three actions to initiate the temporary bonds process to finance the police station project. Motion made by Dickinson, seconded by Hunter to authorize the issuance of General Obligation Bonds for the project. Yeas: All. The Ordinance was assigned No. 3712.

**RESOLUTION AUTHORIZING THE SALE OF TEMPORARY NOTES.** Motion made by Hunter, seconded by LaDuex to authorize the issuance of temporary bonds in the amount of \$600,000. Yeas: All. The Resolution was assigned No. 672.

**FIDUCIARY ENGAGEMENT LETTER WITH GEORGE K. BAUM & COMPANY.** The agreement establishes that George K. Baum & Company is acting as a financial advisor to the City on this transaction and not as an underwriter. Motion made by Hunter, seconded by LaDuex to authorize the Mayor to sign the Fiduciary Letter of Engagement with George K. Baum & Company. Yeas: All.

**2013 AUDIT ENGAGEMENT SELECTION.** The cost for the 2013 audit will be \$8,650, plus \$1,900 if a single audit is required. Motion made by Hunter, seconded by LaDuex to authorize the Mayor to sign the Letter of Engagement with Jarred, Gilmore & Phillips. Yeas: All.

**ADOPT RESOLUTION FOR 2013 GAAP WAIVER.** Motion made by Maichel, seconded by LaDuex to approve the resolution for the 2013 GAAP Waiver. Yeas: All. The Resolution was assigned No. 673.

#### Council Reports:

Dickinson: Received a lot of compliments from employees about the picnic the Council held for them.

Hunter: The chip and seal is currently be done. The pig roast went very well. Council should consider doing this once a year.

LaDuex: Thanked those who donated their time to the picnic.

Farley: Expressed the same thoughts.

#### Mayor's Report:

The employee picnic was very well received and there was good interaction.

Would like the ministers in the area to take turns and do the invocation at the beginning of the meeting. Also, wants them to give a short talk about what their church does in the community. There

was discussion about having it on the agenda or having it before the meeting begins. The City Attorney will look into it. This is to be placed on the September 26 meeting agenda.

City Manager's Report:

**Picnic.** Enjoyed the staff picnic, had a good turnout and has heard good comments from staff.

*Projects:*

**Chip Sealing.** The County should complete chip sealing tomorrow. It has gone fairly well, with minimal issues. If there is extra oil, should at least do a single chip seal of the alley next to the future police station.

**Rail-banking.** The City was notified that the Surface Transportation Board issued the City the interim use request for the trail. Now have to negotiate with Union Pacific for several matters during the next 180 days. The City will be reaching out to the Kanza Rail-Trails Conservancy for guidance in completing the transaction.

**Zoning Regulations.** The Planning Commission will meet next week and on September 11 they will meet to finalize the zoning regulations.

Issues: none

Motion made at 7:42 p.m. by Hunter, seconded by LaDuex to adjourn. Yeas: All.

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Ann Elmquist, City Clerk

## Record of Ordinances

ORDINANCE NO. 2013-08

DATE WARRANTS ISSUED:  
August 31, 2013

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AN ORDINANCE MAKING APPROPRIATION FOR THE PAYMENT OF CERTAIN CLAIMS.

Be it ordained by the Governing Body of the City of Osawatomie, Kansas

Section 1. That in order to pay the claims hereinafter stated which have been properly audited and approved, there is hereby appropriated out of the respective funds in the city treasury the sum required for each claim.

CLAIMANT	NATURE OF CLAIM OR SERVICE	CLAIM NUMBER	AMOUNT
City of Osawatomie	Petty Cash Reimbursement	1372	5,223.25
KMEA	GRDA Electricity	1373	89,500.42
KMEA	WAPA Hydro Electricity	1374	12,474.40
KMEA	SPA Hydro Electricity	1375	3,416.13
Brenntag Mid-South, Inc.	Alum Ground, Ammonium Sulfate	42207	14,864.66
Miami County Treasurer	Trailer Tags	42208	667.38
Crawford Sales Company	Budweiser	42209	144.25
Void Checks	42210-42223		-
Ace Pest Control	Pest Control	42224	475.00
AT&T	RTU'S	42225	221.45
Awe, Inc.	Children's Computers	42226	2,549.00
Beachner Grain, Inc.	Glyphosate	42227	124.50
Bradley A/C & Heating	Replace Motor & Capacitor	42228	246.24
C& G Merchants Supply, Inc.	Toilet Tissue, Towels, Plates, Cups	42229	205.14
California Contractors Supplies	Electric Tape	42230	99.50
Champion Brands, LLC	Motor Oil	42231	760.85
City of Osawatomie	Utilities	42232	16,134.47
Comm-Tronix	Display Unit	42233	131.00
CPI Tools	Torx Socket	42234	5.45
Director of Accounts & Reports	Filing Fee for 2012 Audit	42235	150.00
Ditch Witch Sales, Inc.	Bolt	42236	19.32
Easton Sod Farms, Inc.	Sod	42237	201.60
Entersect	Police Online	42238	79.00
Family Center	Trimmer Line, Wrench, Caulk, Bucket	42239	213.09
Grass Pad, Inc.	Primera-One Field Day	42240	339.60
Hanes Florist & Greenhouse	Flowers & Balloons	42241	134.50
Helena Chemical Co.	Fertilizer	42242	33.00
Holliday Sand & Gravel Co.	Brick Sand	42243	132.12
Jarred, Gilmore & Phillips, PA	On-Site Golf Course Deposit Review	42244	400.00
John Deere Financial	O-Ring, Seal, Gasket, Camshaft	42245	246.52
John Deere Landscapes	Hose, Lesco Wet Plus, Insecticide	42246	1,894.98
Kansas Association for Court Mgmt.	Fall Conference	42247	50.00
Kansas City Wilbert	Grave Openings	42248	2,900.00
Kansas Department of Commerce	JTC Oil Lease	42249	1,000.00
Kansas Department of Health & Envir	Analytical Services	42250	581.00
Kansas One Call	Locates	42251	57.60
Kansas State Treasurer	Training Funds	42252	430.50
Kelcon Technologies, Inc.	Remove Virus	42253	225.00
Killough Construction, Inc.	Asphalt	42254	3,335.30
Lang Chevrolet	Case, Replace Ignition Housing	42255	243.88

CLAIMANT	NATURE OF CLAIM OR SERVICE	CLAIM NUMBER	AMOUNT
Lybarger Oil, Inc.	Fuel	42256	11,016.30
C. Carl Marsh	Advertising	42257	75.00
Miami Lumber, Inc.	Wood Glue, Asphalt Felt, Paint	42258	339.43
Mississippi Lime Company	Lime	42259	1,719.70
Moon's IGA	Hamburger, Chips, Water, Buns	42260	631.04
New Century Dodge	Valve Stem	42261	13.12
NPG Newspapers	Jamboree Ads, Treasurers Report	42262	1,001.06
Osawatomie Pet Clinic	Examination/Meds, Panacur	42263	60.00
Paola Hardware	Dual Casters	42264	19.95
Penny's Concrete, Inc.	Concrete	42265	558.60
Pepsi Beverages Co.	Pop, CO2	42266	315.27
Pocket Press, Inc.	Kansas Criminal Laws	42267	134.85
Quill	Hanging File Folders, Ink, Date Stamp	42268	290.43
Read It Free	Jamboree Ad	42269	100.00
Rejis Commission	LEWeb Subscription Service	42270	31.50
Ruan Logistics Corporation	Freight for Lime	42271	1,472.84
Rural Water District #1	Service	42272	157.21
Smitty's Lawn & Garden Equipment	Mower Parts	42273	12.00
Southeastern Security Consultants	Applicant Profiles	42274	185.00
Suddenlink	Internet	42275	179.85
University of Kansas	Seminar	42276	135.00
UZ Engineered Products	Kwik Drill HW HD	42277	76.16
Wade Quarries	Rock	42278	178.44
Winkler, Domoney & Schultz	Municipal Court Judge	42279	2,000.00
Winterscheid Auto Parts	Brake Pads, Filters, Harness	42281	1,077.58
Family Center	Trimmer Line, Hose	42282	96.51
Crawford Sales Company	Budweiser	42283	199.70
Belger Cartage Services, Inc.	Install Poly Tank	42284	4,149.32
BG Consultants, Inc.	Consulting Services	42285	17,560.75
Brewer's Automotive Repair	Carlisle Smooth	42286	75.01
Correct Care Solutions, LLC	Inmate Healthcare Repricing	42287	17.50
Dish Network	Service	42288	94.77
Emg, Inc.	Energy Consulting	42289	2,401.25
Entersect	Police Online	42290	79.00
Extreme Collision & Custom	Replace Rear Glass	42291	210.50
Gallagher Benefit Services, Inc.	Administrative Fee	42292	382.00
Gerken Rent-All	Sod Cutter, Portable Toilet Pumping	42293	138.32
Hach Company	Chlorine Reagent, Buffer Soln, Spadns	42294	602.13
KC Golf Cart Company, LLC	Cart Rental	42295	500.00
L&K Services, Inc.	Refuse	42296	32,674.31
Miami County Medical Center	Medical Care for Prisoner	42297	243.96
Oil Patch Pump & Supply, Inc.	Plug, Coupling, Bushing, Adapters	42298	101.00
Pepsi Beverages Co.	Pop, Gatorade	42299	731.04
Ricoh USA, Inc.	Copier Lease	42300	183.90
Ricoh USA, Inc.	Copier Lease	42301	289.00



## Record of Ordinances

DATE WARRANTS ISSUED:  
August 31, 2013

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CLAIMANT	NATURE OF CLAIM OR SERVICE	CLAIM NUMBER	AMOUNT
RMI Golf Carts	1922 Key-Yamaha	42302	50.78
Suddenlink	Internet	42303	74.23
Superior Lamp, Inc.	Bulbs	42304	1,059.05
Thomas Outdoor Advertising, Inc.	Billboard Rental	42305	540.00
Viking Industrial Supply	Paper Goods	42306	313.95
Visa	Dvds, Vanity, Storage Box, Cake Mix	42307	937.74
Visa	ICMA Registration, Flight, Moon Walk	42308	3,817.35
Brad Waggoner	Pro Shop	42309	1,399.65
Kansas Department of Revenue	Sales Tax	1376	11,042.56
Kansas Department of Revenue	Compensating Use Tax	1377	135.27
Kansas Department of Revenue	Sales Tax	1378	287.20
Crawford Sales Company	Budweiser	42310	465.90
Midwest Distributors	Miller	42311	426.80
Atco International	Peel N Seal	42312	164.00
Baker & Taylor	Books	42313	835.06
Bollings Bargain Bonanza	Bungee Cords, Paper, Nails, Blades	42314	106.15
Brenntag Mid-South, Inc.	Sod Hypochlorite	42315	3,282.56
California Contractors Supplies	Wipes, Plastic Ties	42316	369.91
City Electric Supply Co.	Pole 30 Amp Breaker	42317	175.50
Correct Care Solutions, LLC	Inmate Healthcare Repricing	42318	17.50
Elliott Insurance	Insurance	42319	133.00
Evco Wholesale Food Corp.	Gatorade, Sausage, Salad, Tea, Chips	42320	191.07
Grainger	Circuit Board, Bench Grinder	42321	498.55
HD Waterworks	Water break Clamps	42322	382.52
Heartland Plumbing, Inc.	Camera West Lift Line	42323	250.00
JCI Industries, Inc.	Repair UV Lights	42324	524.00
Kansas City Power & Light	Service	42325	1,983.11
Kansas Gas Service	Service	42326	372.26
Killough Construction, Inc.	Asphalt	42327	4,555.80
Logan Contractors Supply, Inc.	Locate Paint	42328	94.80
Miami County Medical Center	Medical Care for Prisoner	42329	549.52
MRWARD No. 2	Water Assurance	42330	8,850.02
NPG Newspapers	Ad-2013 Best of	42331	125.00
Osawatomie Pet Clinic	Examinations, Wormer, Needles	42332	603.50
Pat's Signs	2 Sided Yard Signs	42333	52.50
Quill Corporation	Report Cover, Pens, Toner, Tissue	42234	183.39
Royal Metal Industries, Inc.	BBQ Pit, Shoring Materials	42335	233.60
Selecturf	Zoysia Spriggs Installed	42336	42,742.00
Sprint	Service	42337	22.35
Star Printing	Envelopes	42338	312.10
Suddenlink	Internet	42339	59.95
Superior Signals, Inc.	Amber Strobe	42340	77.50
Uline	Heavy Duty Mop Heads, Handle	42341	93.34
USA Blue Book	Bleed Valve	42342	43.95
USD 367	Transportation Services	42343	1,438.50







## STAFF AGENDA MEMORANDUM

**DATE OF MEETING:** September 12, 2013

**AGENDA ITEM:** Temporary Notes for the Police Station Project

**PRESENTER:** Don Cawby, City Manager

**ISSUE SUMMARY:** At the August 22, 2013 meeting the Council took action to authorize the issuance of General Obligation Bonds for the Police Station project. The Council also passed a resolution to issue temporary bonds not to exceed \$600,000.

To issue the temporary notes, we asked our three local banking institutions to bid on the temporary bonds for this project. We received two bids from First Option and from Great Southern Bank. The bids were 1.85% from Great Southern and 2.85% from First Option.

We recommend the City issue bonds through Great Southern at 1.85%, in the amount of \$590,000. The \$590,000 will include all issuance costs and provide us with adequate proceeds for the project. The project budget is set at \$575,000 for the buildings, furniture & equipment, house relocation, parking area and building renovation to a courtroom/council room. Should the money not be spent we can lower the amounts we pay for the permanent bonds next year.

**COUNCIL ACTION NEEDED:** Take action on the resolution authorizing the temporary notes and approve the note purchase agreement.

**STAFF RECOMMENDATION TO COUNCIL:** Approve the resolution authorizing the temporary notes and authorize the Mayor to sign the note purchase agreement and any other required documents necessary to issue the \$590,000 in temporary notes.

**City of Osawatomie, Kansas**

General Obligation Temporary Notes

Series 2013-1

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**City of Osawatomie, Kansas**

General Obligation Temporary Notes

Series 2013-1

**Sources & Uses**

Dated 09/30/2013 | Delivered 09/30/2013

**Sources Of Funds**

Par Amount of Notes	\$590,000.00
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<b>Total Sources</b>	<b>\$590,000.00</b>
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**Uses Of Funds**

Costs of Issuance	11,180.00
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Deposit to Project Construction Fund	576,750.00
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Rounding Amount	2,070.00
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<b>Total Uses</b>	<b>\$590,000.00</b>
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## City of Osawatomie, Kansas

### General Obligation Temporary Notes

Series 2013-1

## Debt Service Schedule

Date	Principal	Coupon	Interest	Total P+I
09/30/2013	-	-	-	-
09/01/2014	590,000.00	1.850%	10,035.74	600,035.74
<b>Total</b>	<b>\$590,000.00</b>	<b>-</b>	<b>\$10,035.74</b>	<b>\$600,035.74</b>

### Yield Statistics

Bond Year Dollars	\$542.47
Average Life	0.919 Years
Average Coupon	1.8500007%
Net Interest Cost (NIC)	1.8500007%
True Interest Cost (TIC)	1.8428816%
Bond Yield for Arbitrage Purposes	1.8428816%
All Inclusive Cost (AIC)	3.9537270%

**City of Osawatomie, Kansas**  
General Obligation Temporary Notes  
Series 2013-1

**Detail Costs Of Issuance**

Dated 09/30/2013 | Delivered 09/30/2013

**COSTS OF ISSUANCE DETAIL**

Financial Advisor	\$5,900.00
Bond Counsel	\$4,250.00
Kansas Attorney General	\$200.00
CUSIP Number	\$200.00
State Treasurer	\$630.00
<b>TOTAL</b>	<b>\$11,180.00</b>



RESOLUTION NO. \_\_\_\_

OF

THE CITY OF OSAWATOMIE, KANSAS

SEPTEMBER 12, 2013

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RESOLUTION NO. \_\_\_\_

A RESOLUTION AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION TEMPORARY NOTES, SERIES 2013-1 OF THE CITY OF OSAWATOMIE, KANSAS, IN THE TOTAL PRINCIPAL AMOUNT OF \$590,000 TO PROVIDE FUNDS TO FINANCE A PORTION OF THE COSTS OF CONSTRUCTING CERTAIN BUILDING IMPROVEMENTS IN THE CITY; AND ESTABLISH THE TERMS AND CONDITIONS OF THE GENERAL OBLIGATION TEMPORARY NOTES.

WHEREAS, pursuant to K.S.A. 12-1736 *et seq.*, as amended, (the “Act”) and Ordinance No. 3712, the City of Osawatomie, Kansas (the “City”) has authorized the acquisition and renovation of an existing building to be used a new police station, including construction of an addition to the building, acquisition and relocation of an existing building for construction of a public parking facility and related improvements and the renovation and repair of the current police station space in City Hall for use as a council chamber and municipal court room (the “Project”); and

WHEREAS, pursuant to K.S.A. 10-123, the Governing Body of the City is authorized to issue temporary notes from time to time as funds are needed for orderly construction of such improvements and in anticipation of the issuance of general obligation bonds; and

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

SECTION 1. Authority for the Notes; Security. The City’s General Obligation Temporary Notes, Series 2013-1 in the principal amount of \$590,000, dated September 30, 2013 (the “Notes”) are authorized and directed to be issued.

The Notes shall be general obligations of the City payable as to both principal and interest from the proceeds of the City’s general obligation bonds issued to permanently finance the Project or from current revenues of the City lawfully available for such purposes, and, if not so paid, from ad valorem taxes which may be levied without limitation as to rate or amount upon all the taxable tangible property, real and personal, within the territorial limits of the City. The full faith, credit and resources of the City are hereby pledged to secure the payment of the principal of and interest on the Notes as and when the same become due and payable in accordance with their terms.

The Governing Body covenants to make provision for the payment of the principal of and the interest on the Notes by issuing general obligation bonds of the City for the Project and/or applying any current revenues of the City available for such purpose.

SECTION 2. Details of the Notes; Payment of Principal and Interest. The Notes shall be issued in the principal amount of \$590,000, designated “City of Osawatomie, Kansas, General Obligation Temporary Notes, Series 2013-1”, dated September 30, 2013 (“Dated Date”), and shall mature September 1, 2014 (“Maturity Date”).

The Notes shall be fully registered certificated securities, numbered as the Note Registrar determines, and issued in the denomination of \$5,000 or integral multiples thereof. The Notes shall bear interest from their Dated Date (computed on the basis of a 360-day year of twelve 30-day months) at the rate of 1.85% per annum, payable on the Maturity Date or on the Redemption Date authorized by this Resolution (the “Interest Payment Date”).

The principal amount of the Notes shall be payable to the registered owner in lawful money of the United States of America by check or draft of the Paying Agent upon the presentation of the Notes for payment and cancellation at the Paying Agent’s principal office in Topeka, Kansas.

If an Interest Payment Date, Redemption Date or Maturity Date is on a Saturday, Sunday or any day designated as a holiday by the Congress of the United States or by the legislature of the State of Kansas and on which the Paying Agent is not open in the normal course of its operations, then the payment of principal, premium or interest may be paid on the next succeeding business day with the same force and effect as if made on the scheduled payment date, and no interest shall accrue for the period after such scheduled payment date.

**SECTION 3. Redemption of Notes in Advance of Maturity.** The Notes are not callable in advance of their maturity.

**SECTION 4. Designation of Paying Agent and Note Registrar; Agreement, Initial Registration as Book-Entry Securities.** Pursuant to K.S.A. 10-620 *et seq.*, the Governing Body elects to have the provisions of the Kansas Bond Registration Law apply to the Notes and appoints the Treasurer of the State of Kansas, Topeka, Kansas, as the Note Registrar and Paying Agent for the Notes (the “Paying Agent” or “Note Registrar”). The duties of the Note Registrar and Paying Agent for the Notes are contained in an “Agreement between Issuer and Agent”, dated as of September 30, 2013 (the “Agreement”). The Agreement is hereby approved and accepted by the Governing Body on behalf of the City and the Mayor and City Clerk are hereby authorized to execute and deliver the Agreement. The Agreement is incorporated here by this reference.

If elected by the Original Purchaser (as later defined in this Resolution), the Notes shall be initially distributed in book-entry-only form through The Depository Trust Company, New York, New York (“DTC”), by depositing with DTC one certificate in fully registered form, registered in the name of DTC’s nominee, Cede & Co., in an amount equal to the total principal amount of the Notes as authorized by this Resolution. Notwithstanding anything in this Resolution to the contrary, so long as the Notes remain in book-entry-only form the manner of payment of the principal of and the interest on the Notes to DTC, and other matters relating to the distribution of the Notes in book-entry-only form through DTC, shall be governed by the provisions of this Section and a Letter of Representations (the “Letter of Representations”) from the City to DTC, previously executed and delivered on behalf of the City.

One certificate registered in the name of DTC’s nominee, Cede & Co., for the total principal amount of the Notes will be delivered to DTC in New York, New York; and such

certificate will be immobilized in its custody. Purchases of the Notes in denominations authorized by this Resolution must be made by or through Direct Participants of DTC (as defined in the Letter of Representation), which will receive a credit for the Notes on DTC's records. The ownership interest of each actual purchaser of each Note (the "Beneficial Owner") is in turn to be recorded on the Direct and Indirect Participants' records. Transfers of ownership will be affected on the records of DTC and its Participants pursuant to the rules and procedures established by DTC and its Participants. Payment of principal and interest on the Notes will be made in same day funds directly to DTC. The transfer of principal and interest to Participants of DTC will be the responsibility of DTC; the transfer of principal and interest to Beneficial Owners by Participants of DTC will be the responsibility of such Participants. Neither the City nor the Paying Agent and Note Registrar will be responsible or liable for maintaining, supervising or reviewing the records maintained by DTC, its Participants or persons acting through such Participants.

In the event (a) the City determines (i) that DTC is unable to properly discharge its responsibilities, or (ii) that DTC is no longer qualified to act as a securities depository and registered clearing agency under the Securities and Exchange Act of 1934, as amended, or (iii) that the continuation of a book-entry system to the exclusion of any Notes being issued to any owner other than Cede & Co. is no longer in the best interest of the Beneficial Owners of the Notes; or (b) the Note Registrar receives written notice from Participants having interest in not less than 50% of the Notes outstanding, as shown on the records of DTC (and certified to such effect by DTC), that the continuation of a book-entry only system to the exclusion of any Notes being issued to any Registered Owner other than Cede & Co., is no longer in the best interest of the Beneficial Owners of the Notes, then the Note Registrar shall notify the registered owners of such determination or such notice, and the Note Registrar shall register in the name of and authenticate and deliver replacement Notes to the Beneficial Owners or their nominees in principal amounts representing the interest of each, making such adjustments as it may find necessary or appropriate as to accrued interest and previous calls for redemption ("Replacement Notes"); provided, that in the case of a determination under (a)(i) or (a)(ii) of this paragraph, the City, with the consent of the Note Registrar, may select a successor securities depository in accordance with the provisions hereof to effect book-entry transfers. If issued in certificated form, the certificates representing the Notes shall be numbered in such manner as the Note Registrar shall determine.

All references to DTC herein shall relate to the period of time when DTC has possession of at least one Note. Upon the issuance of Replacement Notes, all references herein to obligations imposed upon or to be performed by DTC shall be deemed to be imposed upon and performed by the Note Registrar, to the extent applicable with respect to such Replacement Notes. If DTC resigns and the City, the Note Registrar or the Owners are unable to locate a qualified successor of the securities depository, then the Note Registrar shall authenticate and cause delivery of Replacement Notes to Owners, as provided herein. The Note Registrar may rely on information from DTC and its Participants as to the names of the Beneficial Owners of the Notes. The cost of printing, registration, authentication, and delivery of Replacement Notes shall be paid for by the City.

In the event DTC resigns, is unable to properly discharge its responsibilities, or is no longer qualified to act as a securities depository and registered clearing agency under the Securities and Exchange Act of 1934, as amended, the City may appoint a successor securities depository provided the Note Registrar receives written evidence satisfactory to the Note Registrar with respect to the ability of the successor securities depository to discharge its responsibilities. Any such successor securities depository shall be a securities depository which is a registered clearing agency under the Securities and Exchange Act of 1934, as amended or other applicable statute or regulation that operates a securities depository upon reasonable and customary terms. The Note Registrar upon its receipt of a Note or Notes for cancellation shall cause the delivery of the Notes to the successor securities depository in appropriate denominations and form as provided in this Resolution.

While the Notes are in book-entry form the Paying Agent shall make payment directly to DTC or its nominee, as the registered owner, for the principal of and the interest on the Notes; and DTC will remit such principal and interest to its Direct Participants for distribution to the Beneficial Owners.

In the event that the Notes should be issued and delivered in certificated form at or any time after the initial delivery of the Notes, the Paying Agent shall maintain Registration Books for the ownership of the Notes on behalf of the City; and the Paying Agent will make payment for the Notes directly to the registered owners of the Notes as shown by said Registration Books as provided by this Resolution and the Agreement.

**SECTION 5. Form of Notes.** The Notes shall be in the usual and customary form and shall contain recitals as required by law, including a recital that they are issued under the authority of K.S.A. 10-123. The Notes shall also recite that they are issued for the purpose of temporarily financing the costs of constructing the Project under K.S.A. 12-1736 *et seq.*, as amended and supplemented, and that they are subject to redemption to maturity under the terms of this Resolution. The City's Bond Counsel, Triplett, Woolf & Garretson, LLC, is authorized and directed to prepare the form and text of the certificates for the Notes, and to cause the same to be printed as the definitive certificates for the Notes.

**SECTION 6. Registration of Ownership, Transfer and Exchange of Certificated Notes.** Pursuant to the Agreement, and subject to the requirements of Section 4, the Note Registrar shall maintain books for the recording of the initial registration and any subsequent transfers of the ownership of the Notes (the "Registration Books;") and the person(s) in whose name any Notes are registered as shown on the Registration Books shall be deemed and regarded as the absolute Owner thereof for all purposes. Payment of, or on account of the principal of and the interest on any Notes shall be made only to or upon the order of the Owner or his duly authorized agent. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Notes, including the interest thereon, to the extent of the sum or sums so paid.

The provisions, terms and conditions and requirements for the transfer and exchange of the Notes and for the replacement of a mutilated, lost, stolen or destroyed Note are fully set forth in the Agreement. Replacement certificates delivered upon any transfer or exchange made in compliance with the Agreement shall be valid obligations of the City, evidencing the same debt

as the certificated Note surrendered, shall be secured by the pledges made in this Resolution and shall be entitled to all of the security and benefits of this Resolution to the same extent as the certificated Note surrendered.

SECTION 7. Execution of the Notes. The Notes shall be executed by the manual signature of the Mayor, shall have the City's official seal impressed thereon, and shall be attested by the manual signature of the City Clerk; and when so executed, the Notes shall be registered in the office of the City Clerk and in the Office of the Treasurer of the State of Kansas as required by law. After registration in the Office of the State Treasurer, the Notes shall be countersigned by the manual signature of the City Clerk, attested by the City's official seal. In case any officer of the City or of the State whose signature shall appear on the Notes shall cease to be such officer before the actual delivery of the Notes, such signature shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in office until such delivery.

No Notes shall be valid or obligatory for any purpose unless and until the Certificate of Authentication is duly executed by the Note Registrar, and such duly executed Certificate of Authentication on any Note shall be conclusive evidence that it has been authenticated and delivered under this Resolution. The Certificate of Authentication on any Note is deemed duly executed by the Note Registrar when manually signed by an authorized officer or signatory thereof, and it shall not be necessary that the same officer or signatory of the Note Registrar manually sign the Certificate of Authentication on all of the Notes issued under this Resolution.

SECTION 8. Payment of Costs. The City shall pay out of the proceeds of the Notes all costs incurred in connection with the issuance, transfer, exchange, registration, redemption and payment of the Notes except (a) the reasonable fees and expenses of replacing a Note or Notes which have been mutilated, stolen, lost or destroyed, or (b) any tax or other governmental charge imposed in relation to the transfer, exchange, registration, redemption or payment of the Notes.

SECTION 9. Creation of Funds and Accounts, Disposition of Proceeds. The following funds and accounts are created by the City in connection with the Notes:

- (A) Project Fund (the "2013 Project Fund"); and
- (B) Principal and Interest Account (the "2013 Notes Principal and Interest Account").

The proceeds from the sale of the Notes shall be deposited into the Treasury of the City for the credit of the funds and accounts created by this Section 9, and shall be applied as follows:

- (A) Accrued interest on the Notes, premium, if any, shall be deposited in the 2013 Notes Principal and Interest Account; and
- (B) \$590,000 of the proceeds of the Notes shall be deposited in the 2013 Project Fund.

The 2013 Project Fund and 2013 Notes Principal and Interest Account shall be administered and maintained for the purpose of depositing moneys received in connection with the issuance, sale and delivery of the Notes. Amounts deposited in the 2013 Notes Principal and Interest Account and shall be applied to the payment of principal of, or interest on the Notes as the same may become due, on the Maturity Date or upon an earlier Redemption Date. The 2013 Notes Principal and Interest Account may be created as a sub-account of the City's Bond and Interest Fund. Any moneys or investments remaining in the 2013 Notes Principal and Interest Account after retirement of the indebtedness represented by the Notes shall be transferred to the City's Bond and Interest Fund.

Moneys in the 2013 Project Fund shall be used to pay the costs associated with the Project and costs of issuing the Notes. Any moneys remaining in the 2013 Project Fund after completion of the Project shall be deposited in the 2013 Notes Principal and Interest Account and applied to pay principal of or interest on the Notes.

Moneys held in the funds and accounts created by this Resolution may be invested by the City in investments permitted by State law, in amounts and maturing at times that reasonably provide for moneys to be available when required in such funds or accounts. All interest earnings on such investment shall accrue to and become part of the fund or account.

**SECTION 10. Delivery of Notes.** The Mayor and City Clerk are authorized and directed to prepare and execute the Note in the form directed by this Resolution, including a reasonable inventory quantity of Note certificates for transfer, exchange and replacement, and to cause the registration and countersignature of the Notes, as required by this Resolution. The Notes have been sold to Great Southern Bank, Paola, Kansas, (the "Original Purchaser"), and shall be delivered to the Original Purchaser upon receipt by the City of the full purchase price of the Notes.

**SECTION 11. Sale of the Notes.** The Notes shall be sold to the Original Purchaser, at a price equal to the principal amount of the Notes, plus accrued interest from the Dated Date to the date of delivery of the Notes, if any and any premium paid by the Original Purchaser. If requested by the Original Purchaser, the Mayor and City Clerk are authorized to execute a Purchase Agreement on behalf of the City with the Original Purchaser; such Purchase Agreement to be in such final form as may be agreed upon by the Governing Body and the Original Purchaser.

**SECTION 12. Resolution Constitutes Contract, Remedies of Owner.** The provisions of this Resolution, and all of the covenants and agreements of the City contained here, shall constitute a contract between the City and the holders of the Notes (the "Owner"), and the Owner shall have the right:

(A) By mandamus or other suit, action or proceeding at law or in equity to enforce its rights against the City and its officers, agents and employees, and to require and compel the City and its officers, agents and employees to perform all duties and obligations required by the provisions of this Resolution or by the Constitution and laws of the State of Kansas as related to the Notes,

(B) By suit, action or other proceeding in equity or at law to require the City, its officers, agents and employees to account as if they were the trustees of an express trust, and

(C) By suit, action or other proceeding in equity or at law to enjoin any acts or things which may be unlawful or in violation of the rights of the Owner.

SECTION 13. Limitation on Actions by Owner; Remedies Cumulative; Delay or Omission Not Waiver. An Owner secured by this Resolution shall have no right in any manner whatsoever to affect, disturb or prejudice the security granted and provided for herein, or to enforce any right hereunder, except in the manner provided, and all proceedings at law or in equity shall be instituted, had and maintained for the equal benefit of the Owners of any or all of the Notes then outstanding. Nothing in this Resolution or in the Notes shall affect or impair the obligations of the City to pay the principal of and the interest on the Notes to the Owner thereof on the Maturity Date or any Redemption Date, or affect or impair the right of action of the Owner to enforce payment of the Notes held by it, or to reduce to judgment its claim against the City for payment of the principal and interest on the Notes. No remedy conferred by this Resolution upon an Owner is intended to be exclusive of any other remedy or remedies, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given here or now or subsequently existing at law or in equity or by statute, and may be exercised without exhausting and without regard to any other remedy, however given. No delay or omission of the Owner to exercise any right or power accruing shall be deemed acquiescence in default, and every right, power and remedy given by this Resolution to the Owner, may be exercised from time to time and as often as may be deemed expedient. In case any proceeding taken by the Owner on account of any default shall have been discontinued or abandoned for any reason, or shall have been determined adversely to the Owner, then in every such case the City and the Owner shall be restored to its former position and right hereunder, and all rights remedies, powers and duties of the Owner shall continue as though no such proceedings had been taken.

SECTION 14. Amendments. The City may, without the consent of the Owners, amend or supplement the provisions of this Resolution (i) to cure any ambiguity herein or to correct or supplement any provision which may be inconsistent with any other provision, or to correct errors, provided such action shall not materially adversely affect the interest of the Owners, or (ii) to grant or confer upon the Owners any additional rights, remedies, powers or security, or (iii) to more precisely identify the Project or (iv) to conform this Resolution to the Code (as defined in Section 16) or future applicable Federal laws concerning tax-exempt obligations like the Notes. The rights and duties of the City and the Owners and the terms and provisions of this Resolution may be modified or altered in any respect by a resolution of the City, consented to by 100% of the Owners as evidenced by an instrument or instruments executed by the Owners and duly acknowledged or proved in the manner of a deed to be recorded, which is filed with the City Clerk. The following modifications and amendments shall require written consent of 100% of the Owners:



(A) Extension of the Maturity of any payment of principal or interest due on the Notes, or

(B) A reduction in the amount which the City is required to pay by way of principal or interest on the Notes.

Amendments or modifications of the Notes not described in the preceding paragraph may be made by the City with the written consent of the Owners of not less than two-thirds of the principal amount of the Notes then outstanding.

Any and all amendments or modifications described by this Section shall be effective upon adoption of a resolution of the City authorizing such amendment or modifications. It shall not be necessary to note on any outstanding Notes a reference to such modification or amendment. A certified copy of any such resolution shall be filed with the City Clerk and made available for inspection by the Owners or any prospective purchaser of a Note.

**SECTION 15. Tax Covenants.** The Governing Body of the City hereby covenants that so long as the Notes remain outstanding and unpaid, it will not make or permit the use of the Note proceeds in a manner which, if such use had been reasonably expected on the date of the Notes were issued and delivered, would cause Notes to be “arbitrage bonds” within the meaning of Section 103(b)(2) of the Internal Revenue Code of 1986, as amended (the “Code”). The City will comply with all applicable requirements of Section 148 of the Code and rules and regulations of the United States Treasury Department issued there under for so long as the Notes remain outstanding and unpaid. The Governing Body hereby further covenants to take all such action in its power as may be required from time to time in order to assure that interest on the Notes remains excluded from gross income for purposes of federal income taxation, and to comply with all provisions of the Code, as the same be amended, and any applicable rules and regulations of the United States Treasury Department.

**SECTION 16. Designation as Qualified Tax-Exempt Obligations.** The Governing Body of the City designates the Notes as “qualified tax-exempt obligations” as defined in Section 265(b)(3) of the Code.

**SECTION 17. Severability.** If any section, paragraph, clause or provision of this Resolution is, for any reason, held invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any remaining provisions of this Resolution.

**SECTION 18. Note Purchase Agreement; Further Authority.** The City and its officers, agents and employees are authorized and directed to execute a Note Purchase Agreement, in substantially the form presented with this Resolution between the City and the Original Purchaser and to further take such actions, expend such moneys and execute such other documents, certificates and instruments as may be necessary or desirable in order to issue the Notes and carry out the intent of this Resolution, including final certificates required to be included in the official transcript of proceedings relating to the authorization and issuance of the Notes, all without further authorization from the Governing Body.

SECTION 19. Effective Date. This Resolution shall be in force and take effect from and after its adoption and approval.

*[Remainder of Page Intentionally Left Blank]*

ADOPTED AND APPROVED by the Governing Body of the City of Osawatomie, Kansas on September 12, 2013.

CITY OF OSAWATOMIE, KANSAS

By \_\_\_\_\_  
L. Mark Govea, Mayor

[seal]

ATTEST:

By \_\_\_\_\_  
Ann Elmquist, City Clerk

EXCERPT OF MINUTES

The Governing Body of the City of Osawatomie, Kansas met in regular session at the usual meeting place in the City on September 12, 2013, at 6:30 p.m., with Mayor L. Mark Govea presiding and the following members present:

The following members were absent:

Among other business, there came on for consideration and discussion the following:

A RESOLUTION AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION TEMPORARY NOTES, SERIES 2013-1 OF THE CITY OF OSAWATOMIE, KANSAS, IN THE TOTAL PRINCIPAL AMOUNT OF \$590,000 TO PROVIDE FUNDS TO FINANCE A PORTION OF THE COSTS OF CONSTRUCTING CERTAIN BUILDING IMPROVEMENTS IN THE CITY; AND ESTABLISH THE TERMS AND CONDITIONS OF THE GENERAL OBLIGATION TEMPORARY NOTES.

The Resolution was considered and discussed, and on motion of \_\_\_\_\_, seconded by \_\_\_\_\_, the Resolution was adopted by vote of the majority of all members present.

The Resolution was assigned No. \_\_\_\_\_.

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CITY CLERK'S  
CERTIFICATION OF EXCERPT OF MINUTES

I hereby certify that the foregoing is a true and correct Excerpt of Minutes of the September 12, 2013, meeting of the Governing Body of the City of Osawatomie, Kansas.

[seal]

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Ann Elmquist, City Clerk

Dated as of September 30, 2013  
Executed for delivery this 12<sup>th</sup> day of September, 2013

**NOTE PURCHASE AGREEMENT**

CITY OF OSAWATOMIE, KANSAS  
439 Main St.  
Osawatomie, Kansas 66064

Ladies and Gentlemen:

Great Southern Bank, Paola, Kansas (the “Original Purchaser”) hereby offers to enter into this Note Purchase Agreement, executed and delivered the date set forth above, with the Governing Body of the City of Osawatomie, Kansas (the “Issuer”), with respect to the purchase by the Original Purchaser from the Issuer of \$590,000 aggregate principal amount of the Issuer’s General Obligation Temporary Notes, Series 2013-1, dated September 30, 2013 (the “Notes”).

This offer is made subject to your acceptance hereof and, upon such acceptance, this Note Purchase Agreement shall be in full force and effect in accordance with its terms and shall be binding upon the Issuer and the Original Purchaser.

The Notes are being issued for the purpose of providing financing the acquisition and renovation of an existing building to be used a new police station, including construction of an addition to the building, acquisition and relocation of an existing building for construction of a public parking facility and related improvements and the renovation and repair of the current police station space in City Hall for use as a council chamber and municipal court room, and to pay the costs of issuance of the Notes.

The Notes shall be issued pursuant to a certain Resolution adopted by the Issuer on September 12, 2013 (the “Resolution”).

**SECTION 1. REPRESENTATIONS AND WARRANTIES OF THE ISSUER**

The Issuer hereby represents and warrants to the Original Purchaser:

(A) The Issuer is a duly organized and existing municipality of the State of Kansas. The Issuer has, to the best of its knowledge and belief, in all pertinent respects, complied with the Constitution and laws of the State of Kansas, has full legal right, power and authority to enter into this Note Purchase Agreement, and has authorized the issuance, sale and delivery of the Notes and the taking of any and all such action as may be required on

the part of the Issuer to carry out, give effect to and consummate the transactions contemplated hereby.

(B) The adoption of the Resolution and the execution and delivery of this Note Purchase Agreement and the Notes, and compliance with the provisions thereof, will not conflict with or constitute on the part of the Issuer a violation, breach of or default under any statute, indenture, mortgage, declaration or deed of trust, note agreement or other agreement or instrument to which the Issuer is a party or by which the Issuer is bound, or, to the knowledge of the Issuer, any order, rule or regulation of any court or governmental agency or body having jurisdiction over the Issuer or any of its activities or properties.

(C) To the Issuer's knowledge, there is no action, suit, proceedings, inquiry or investigation, at law or in equity, before or by any court, public board or body pending or threatened against or affecting the Issuer, wherein an unfavorable decision, ruling or finding would materially adversely affect the transactions contemplated by the Resolution, this Note Purchase Agreement, or which, in any way, would adversely affect the validity or enforceability of the Notes, the Resolution, this Note Purchase Agreement, or any agreement or instrument to which the Issuer is a party, used or contemplated for use in the consummation of the transactions contemplated by this Note Purchase Agreement or the Resolution.

(D) Any certificate signed by any authorized officer or official of the Issuer and delivered to the Original Purchaser shall be deemed a representation by the Issuer to the Original Purchaser as to the truth of the statements therein made.

(E) The Issuer acknowledges and agrees that: (i) the primary role of the Original Purchaser, as an Original Purchaser, is to purchase the Notes in an arms-length commercial transaction between the Issuer and the Original Purchaser, (ii) the Original Purchaser has financial and other interests that differ from those of the Issuer, (iii) the Original Purchaser is not acting as a municipal advisor, financial advisor or fiduciary to the Issuer or any other person or entity and has not assumed any advisory or fiduciary responsibility to the Issuer with respect to the transaction contemplated herein and the discussions, undertakings and proceedings in connection therewith (irrespective of whether the Original Purchaser has provided advice concerning the structure, timing, terms and other similar matters concerning the Notes or other services, or is currently providing other services to the Issuer on other matters), (iv) the only obligations the Original Purchaser has to the Issuer with respect to the transaction contemplated herein are expressly set forth in this Agreement, and (v) the Issuer has consulted its own legal, accounting, tax, financial and other advisors, as applicable, to the extent it has deemed appropriate in connection with the transaction contemplated herein.

## **SECTION 2. PURCHASE, SALE AND DELIVERY OF THE NOTES; REPRESENTATIONS OF ORIGINAL PURCHASER**

On the basis of the representations, warranties and agreements herein contained, and subject to the terms and conditions herein set forth, at the closing time stated below (the “Closing Time”), the Issuer agrees to sell to the Original Purchaser, and the Original Purchaser agrees to purchase from the Issuer, the Notes at an aggregate purchase price of \$590,000, plus accrued interest from the dated date of the Notes to the date of payment and delivery, if any.

The Original Purchaser is knowledgeable and experienced in financial and business matters and is capable of evaluation investment merit and risks associated with its purchase of the Notes. The Original Purchase has been furnished and has reviewed the provisions of the Note Resolution relating to the authorization and security for payment of the Notes. Prior to the execution hereof, the Original Purchase also obtained and examined such financial records and information necessary in order to enable itself to fully evaluate the terms and provisions of the Notes and of the Note Resolution authorizing their issuance and providing for the payment thereof and the financial and investment merits and risks associated with the purchase of the Notes. On the basis of such information materials and the Original Purchaser’s investigation, the Original Purchaser has made the decision to purchase the Notes and has not relied upon any representations of the Issuer or any of its officers or employees with respect to the Notes

The Original Purchaser is purchasing the Notes as an investment for its own account and not with a view to the sale, redistribution or other disposition thereof in the ordinary course of business in a transaction not amounting to a public offering as contemplated by Section 4(2) of the 1933 Securities and Exchange Act. The Original Purchaser acknowledges that (1) the Notes will not be registered under the 1933 Act or any applicable state securities law and (2) no official statement or other offering document has been prepared in connection with the sale of the Notes.

The Notes shall mature, shall bear interest at the rates, shall have the terms as set forth in Schedule I to this Note Purchase Agreement. Payment for the Notes shall be made in immediately available funds by wire transferred Federal Reserve funds, payable to the order of the Issuer against the delivery of the Notes in definitive form at the Closing Time, at Osawatomie, Kansas, or at such other place as may be agreed to by the Original Purchaser and the Issuer. The Closing Time for the Notes shall be 9:00 o’clock a.m., on Monday, September 30, 2013, or at such other time and on such other date as may be agreed to by the Original Purchaser and the Issuer. The Notes shall be made available for final delivery to the Original Purchaser through the Depository Trust Company, New York, New York at the Closing Time or by physical delivery as determined by the Issuer and the Original Purchaser. The Issuer shall pay all costs of issuing the Notes at the Closing Time or as the same may become due in accordance with their terms from funds deposited in the accounts created by the Resolution.

## **SECTION 3. CONDITIONS OF THE ORIGINAL PURCHASER’S OBLIGATIONS**

The obligation of the Original Purchaser to purchase and pay for the Notes will be subject to the accuracy of the representations and warranties on the part of the Issuer herein, to the accuracy of



the statements of the Issuer made pursuant to the provisions hereof, to the performance by the Issuer of its obligations hereunder and to the following additional conditions precedent:

(A) The Resolution delivered to the Original Purchaser by the Issuer shall have been duly approved and executed by the appropriate officials of the Issuer, and shall be in full force and effect and shall not have been amended, modified or supplemented except as may have been agreed to in writing by the Original Purchaser, and there shall be in full force and effect such other resolutions and ordinances of such parties as in the opinion of Bond Counsel shall be necessary and appropriate in connection with the issuance of the Notes and with the transactions contemplated thereby.

(B) At the Closing Time, the Original Purchaser shall receive in form and substance satisfactory to it:

(1) The approving opinion of Bond Counsel;

(2) A certificate or certificates, in form and substance satisfactory to the Original Purchaser, of an authorized officer(s) of the Issuer, dated the date of closing, to the effect that:

(a) each of the representations and warranties of the Issuer as set forth in Section 1 hereof is true, accurate and complete in all material respects as of the Closing Time, and each of the agreements of the Issuer set forth in this Note Purchase Agreement, to be complied with at or prior to the Closing Time, has been complied with as of such time,

(b) no litigation is pending, or to the knowledge of the signer(s) of such certificate or certificates, threatened, to restrain or enjoin the issuance, execution, sale or delivery of the Notes, or in any way contesting or affecting any authority for or the validity of the Notes, the Resolution or this Note Purchase Agreement or the creation and existence or the powers of the Issuer, and that none of the proceedings or authority for the issuance of the Notes has been repealed, revoked or rescinded,

(5) A copy of the Resolution;

(6) Such additional certificates, opinions, or documents as Bond Counsel or the Original Purchaser may reasonably request to evidence the due satisfaction at or prior to such time of all conditions then to be satisfied in connection with the transactions contemplated hereby.

(C) Subsequent to the Issuer's acceptance of this Note Purchase Agreement:

(1) There shall have not occurred any change, or any development involving a prospective change in or affecting particularly the business or properties

of the Issuer, which, in the judgment of the Original Purchaser, materially impairs the investment quality of the Notes, or

(2) The market price of the Notes, or the market price of general credit obligations issued by the United States or political subdivisions thereof, or the market price of general obligations of the character of the Notes shall (in the reasonable opinion of the Original Purchaser) not have been materially and adversely affected by reason of:

(a) legislation enacted by the Congress, or recommended to the Congress for passage by the President of the United States or favorably reported for passage to either House of the Congress by any Committee of such House to which such legislation has been referred for consideration, or

(b) a decision rendered by a court established under Article III of the Constitution of the United States, or the United States Tax Court, or

(c) an order, ruling or regulation made by the Treasury Department of the United States or the Internal Revenue Service, in each such case with the purpose or effect, directly or indirectly, of imposing Federal income taxation upon such interest as would be received by the owners of the Notes, or

(d) the United States shall have become engaged in an outbreak of armed hostilities which result in the declaration of a national emergency.

(3) Trading in securities generally on the New York Stock Exchange shall not have been suspended, minimum prices shall not have been established on such Exchange, nor a banking moratorium declared either by Federal or Kansas authorities, or

(4) No order, decree or injunction of any court of competent jurisdiction, nor any order, ruling regulation or administrative proceeding by any governmental body or board, shall have been issued or commenced nor shall any legislation have been enacted by the Congress, with the purpose or effect of prohibiting the issuing, offering or sale of the Notes as contemplated hereby.

If the Issuer shall be unable to satisfy the conditions to the obligations of the Original Purchaser contained in this Note Purchase Agreement or if the obligations of the Original Purchaser shall be terminated for any reason permitted by this Note Purchase Agreement, this Note Purchase Agreement shall terminate and neither the Original Purchaser nor the Issuer shall have any further obligations hereunder.

#### **SECTION 4. DEFAULT OF THE ORIGINAL PURCHASER**

If the Original Purchaser defaults in its obligation to purchase the Notes hereunder, this Note Purchase Agreement may be terminated by the Issuer without further liability on the part of the Issuer.

#### **SECTION 5. REPRESENTATIONS AND AGREEMENTS TO SURVIVE DELIVERY**

All representations and warranties of the Issuer hereunder shall remain operative and in full force and effect regardless of any investigation made by or on behalf of the Original Purchaser and shall survive delivery of the Notes.

#### **SECTION 6. PARTIES IN INTEREST**

This Note Purchase Agreement has been and is made solely for the benefit of the Original Purchaser and the Issuer and its successors and no other person, partnership, association or corporation shall acquire or have any right under or by virtue of this Note Purchase Agreement. The terms “successors” and assigns” shall not include any purchaser of the Notes from the Original Purchaser merely because of such purchase.

#### **SECTION 7. NOTICE**

All communications hereunder shall be in writing, and if sent to the Issuer, shall be mailed or delivered and confirmed to the address shown on the first page hereof and, if sent to the Original Purchaser, shall be mailed or delivered and confirmed to the Original Purchaser as follows:

Great Southern Bank  
1 South Pearl  
P.O. Box 369  
Paola, KS 66071

#### **SECTION 8. APPLICABLE LAW**

This Agreement shall be governed by the laws of the State of Kansas and may not be assigned by the Issuer or the Original Purchaser.

#### **SECTION 9. COUNTERPARTS**

This Note Purchase Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one instrument.

If the foregoing is in accordance with the Issuer's understanding of the agreement between the Issuer and the Original Purchaser, please sign and return to the undersigned the enclosed duplicate hereof, whereupon it will constitute a binding agreement between the Issuer and the Original Purchaser in accordance with its terms.

Great Southern Bank

By \_\_\_\_\_  
Kenneth A. Sanderson, Vice President

ACCEPTED AND APPROVED on September 12, 2013.

CITY OF OSAWATOMIE, KANSAS

By \_\_\_\_\_  
L. Mark Govea, Mayor

[seal]

ATTEST:

By \_\_\_\_\_  
Ann Elmquist, City Clerk

SCHEDULE I

\$590,000  
CITY OF OSAWATOMIE, KANSAS  
TEMPORARY IMPROVEMENT NOTES  
SERIES 2013-1

MATURITY SCHEDULE

<u>Maturity Date</u>	<u>Principal Amount</u>	<u>Interest Rate</u>	<u>Yield</u>
09/01/2014	\$590,000.00	1.85%	PAR



## STAFF AGENDA MEMORANDUM

**DATE OF MEETING:** September 12, 2013

**AGENDA ITEM:** Sewer Revolving Loan

**PRESENTER:** Don Cawby, City Manager

**ISSUE SUMMARY:** With the decision to move forward with the Sludge Press before our state revolving loan has been finalized by KDHE, we are recommending that we reapply for the loan that includes both the head works project and the sludge press. To do so, we need to reissue the resolution authorizing us to apply for the loan.

Attached is the resolution necessary to re-start this process.

**COUNCIL ACTION NEEDED:** The City Council must pass the attached resolution in order to apply for state revolving loan funds.

**STAFF RECOMMENDATION TO COUNCIL:** Approve the resolution as presented.

**Past-Current-Proposed Sewer Loans**  
2010-2029

	<u>2008A</u>	<u>SRF 1314</u>	<u>SRF 1395</u>	<u>2012A Refi*</u>	<u>Combined New Loan**</u>	<u>Total</u>	<u>Change From 2010 Pmt</u>
<b>Beginning Balance</b>	\$ 3,520,000.00	\$ 616,020.46	\$ 1,284,420.42	\$ 1,410,618.72	\$ 1,272,714.49	\$6,693,155.37	
<b>Payments</b>							
2010	\$ 192,400.00	\$ 100,128.96	\$ 150,584.50			\$ 443,113.46	
2011	192,870.00	100,128.96	150,584.50			443,583.46	\$ 470.00
2012	192,250.00	50,064.48	75,292.25	\$ 115,914.75		433,521.48	(9,591.98)
2013	192,585.00			241,271.48		433,856.48	(9,256.98)
2014	193,830.00			241,271.50	\$ 40,000.01	475,101.51	31,988.05
2015	192,940.00			241,271.48	40,000.00	474,211.48	31,098.02
2016	193,005.00			241,271.47	40,000.00	474,276.47	31,163.01
2017	193,980.00			144,659.82	90,000.00	428,639.82	(14,473.64)
2018	192,820.00			144,659.83	90,000.00	427,479.83	(15,633.63)
2019	193,615.00			144,659.81	90,000.00	428,274.81	(14,838.65)
2020	193,275.00				138,037.27	331,312.27	(111,801.19)
2021	193,845.00				137,763.22	331,608.22	(111,505.24)
2022	193,280.00				137,482.27	330,762.27	(112,351.19)
2023	192,625.00				137,194.26	329,819.26	(113,294.20)
2024	193,880.00				136,899.00	330,779.00	(112,334.46)
2025	193,955.00				136,596.31	330,551.31	(112,562.15)
2026	192,895.00				136,286.01	329,181.01	(113,932.45)
2027	193,745.00				135,967.90	329,712.90	(113,400.56)
2028	193,415.00				135,535.47	328,950.47	(114,162.99)
2029	192,950.00				-	192,950.00	(250,163.46)
<b>Principal Balance</b>							
<b>End of 2029</b>	<b>\$ 2,430,000.00</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$2,430,000.00</b>	

\*Balance is double counted. Subtracted from Beginning Balance Total

\*\* Estimated Loan Payments



RESOLUTION NO. \_\_\_\_\_

RESOLUTION AUTHORIZING FILING OF APPLICATION WITH THE KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT FOR A LOAN UNDER THE KANSAS WATER POLLUTION CONTROL REVOLVING FUND ACT (K.S.A. 1988 SUPP. 65-3321 THROUGH 65-3329).

WHEREAS, under the terms of the Kansas Water Pollution Control Revolving Fund Act (K.S.A. 1988 Supp. 65-3321 through 65-3329), the State of Kansas has authorized the making of the loans to authorized applicants to aid in the construction of specific public projects,

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

SECTION 1. That L. Mark Govea, Mayor be and he is hereby authorized to execute and file an application on behalf of the City of Osawatomie, Kansas with the Kansas Department of Health and Environment for a loan to aid in the construction of the Wastewater Treatment Plant Improvement Project.

SECTION 2. That Donald R. Cawby, City Manager be and he is hereby authorized and directed to furnish such information as may be reasonable requested in connection with the application which is herein authorized, to sign all necessary documents on behalf of the applicant, to furnish such assurances as may be required by law or regulation, and to receive payment on behalf of the applicant.

PASSED AND ADOPTED by the Governing Body of the City of Osawatomie, Kansas this 12th day of September, 2013, a majority being in favor thereof.

APPROVED AND SIGNED by the Mayor.

---

L. Mark Govea, Mayor

(SEAL)

ATTEST:

---

Ann Elmquist, City Clerk



## *Proclamation*

*Issued by the Mayor of Osawatimie*

**WHEREAS**, the Miami County Medical Center Rehabilitation professionals' promise of excellence to patients is "Great Recoveries, Great People;" and

**WHEREAS**, Miami County Medical Center, is observing and celebrating National Rehabilitation Awareness Week to recognize those professionals whose caring, empathetic and motivating attributes help guide patients through recovery; and

**WHEREAS**, Miami County Medical Center rehabilitation professionals, including Physical Therapists, Physical Therapist Assistants, Occupational Therapists, Speech Language Pathologists, Certified Athletic Trainers and support staff work with citizens of all ages to provide services in the hospital, in outpatient settings, at home and at school to help restore citizens to independent, productive and fulfilling lives; and

**WHEREAS**, the City of Osawatimie is proud and honored to have Osawatimie Rehabilitation and Miami County Medical Center Rehabilitation Services serving the community; and

**NOW, THEREFORE, I**, L. Mark Govea, Mayor of the City of Osawatimie, on behalf of its citizens, do hereby proclaim the week of September 15 through September 23, 2013 as

## ***National Rehabilitation Awareness Week***

and encourage all citizens to recognize the significant contributions of rehabilitation professionals and to renew their commitment to people with disabilities and to the efforts of rehabilitative medicine to improve quality of life.

Proclaimed this 12th day of September, 2013.

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L. Mark Govea, Mayor



## STAFF AGENDA MEMORANDUM

**DATE OF MEETING:** September 12, 2013

**AGENDA ITEM:** **Standard Offense Code and Uniform Public Offense Code**

**PRESENTER:** Don Cawby, City Manager

**ISSUE SUMMARY:** The *Standard Traffic Ordinance (STO)* for Kansas Cities and the *Uniform Public Offense Code (UPOC)* for Kansas Cities have been published by the League of Kansas Municipalities for decades. They are designed to provide a comprehensive traffic code (STO) and criminal code (UPOC) for Kansas Cities.

The STO, in large part, parallels the state traffic act, just as the UPOC parallels the state criminal code. They do not take effect in a city until the governing body has passed and published an ordinance incorporating each of them by reference. The incorporating ordinance may delete articles or sections which the governing body considers unnecessary or may change language as long as it does not conflict with state statute.

For public records purposes, there must be at least three official copies of each on file with the City Clerk. We also make sure that enforcing officers each have a copy.

The following represent the changes in the STO from the 2012 edition to the 2013 edition:

- Section 1. Definitions.
- Section 25. Duty to Give Information and Render Aid.
- Section 30. Driving Under the Influence of Intoxicating Liquor or Drugs; Penalties.
- Section 30.1 Driving Commercial Motor Vehicle Under the Influence of Intoxicating Liquor or Drugs; Penalties.
- Section 30.2.1 Refusal to Submit to Alcohol or Drug Test.
- Section 30.3 Ignition Interlock Devices; Tampering.
- Section 183. Head Lamps.
- Section 186. Stop Lamps.
- Section 200. Motor Vehicle Liability Insurance.

The following represents the changes in the UPOC from the 2012 edition to the 2013 edition:

- Section 1.1 Definitions.
- Section 4.3 Selling Sexual Relations.
- Section 4.4 Promoting Prostitution. (deleted)
- Section 4.5 Buying Sexual Relations.
- Section 6.1 Theft.
- Section 6.5 Criminal Deprivation of Property.
- Section 6.7 Criminal Trespass.
- Section 7.2 Interference With a Law Enforcement Officer.
- Section 7.5 Falsely Reporting an Offense. (deleted)
- Section 10.1 Criminal Use of Weapons.
- Section 10.1.1 Criminal Carrying of a Weapon.
- Section 10.5 Unlawful Discharge of a Firearm.
- Section 10.15 Operating a Vessel Under the Influence of Intoxicating Liquor or Drugs;  
Penalties.

**COUNCIL ACTION NEEDED:** Vote on the ordinances to adopt the 2013 STO and the 2013 UPOC.

**STAFF RECOMMENDATION TO COUNCIL:** Adopt both ordinances to incorporate the STO and the UPOC by reference.

**NOTE:** We intend to publish these as summaries. The summaries would read as follows:

*Ordinance No. \_\_\_\_ Summary*

*On September 12, 2013, the City of Osawatomeie, adopted Ordinance No. \_\_\_\_\_, which incorporates by reference the 2013 Edition of the Standard Traffic Ordinance for Kansas Cities, with two amendments related to parking on the berm and establishing the speed limit on Main Street between 15<sup>th</sup> and 18<sup>th</sup> Streets. A complete copy of this ordinance is available at [www.Osawatomeieks.org](http://www.Osawatomeieks.org) or at City Hall, 439 Main St., Osawatomeie, Kansas. This summary certified by Richard Wetzler, City Attorney.*

*Ordinance No. \_\_\_\_ Summary*

*On September 12, 2013, the City of Osawatomeie, adopted Ordinance No. \_\_\_\_\_, which incorporates by reference the 2013 Edition of the Uniform Public Offense Code for Kansas Cities. A complete copy of this ordinance is available at [www.Osawatomeieks.org](http://www.Osawatomeieks.org) or at City Hall, 439 Main St., Osawatomeie, Kansas. This summary certified by Richard Wetzler, City Attorney.*

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE REGULATING TRAFFIC WITHIN THE CORPORATE LIMITS OF THE CITY OF OSAWATOMIE, KANSAS; INCORPORATING BY REFERENCE THE “STANDARD TRAFFIC ORDINANCE FOR KANSAS CITIES” EDITION OF 2013; AMENDING AND REPEALING CHAPTER XIV, ARTICLE 1, SECTIONS 101-103 OF THE CITY OF OSAWATOMIE MUNICIPAL CODE; AND REPEALING ORDINANCE NO. 3703.

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

SECTION ONE: CODE AMENDED. Sections 14-101 to 14-103 of the City of Osawatome Municipal Code are hereby amended to read as follows:

14-101. INCORPORATING STANDARD TRAFFIC ORDINANCE. There is hereby incorporated by reference for the purpose of regulating traffic within the corporate limits of the City of Osawatome, Kansas, that certain standard traffic ordinance known as the “Standard Traffic Ordinance for Kansas Cities,” Edition of 2013, prepared and published in book form by the League of Kansas Municipalities, Topeka, Kansas, save and except such articles, sections, parts or portions as are hereafter omitted, deleted, modified or changed. No fewer than three copies of said Standard Traffic Ordinance shall be marked or stamped “Official Copy as Incorporated by the Code of the City of Osawatome,” with all sections or portions thereof intended to be omitted or changed clearly marked to show any such omission or change and to which shall be attached a copy of this ordinance, and filed with the City Clerk to be open to inspection and available to the public at all reasonable hours. The Police Department, Municipal Judge and all administrative departments of the City charged with the enforcement of the ordinance shall be supplied, at the cost of the City, such number of official copies of such Standard Traffic Ordinance similarly marked, as may be deemed expedient.

14-102. SAME; AMENDMENTS. Section 33 of the Standard Traffic Ordinance as adopted is amended to read as follows:

**Sec. 33. Maximum Speed Limits.**

- (a) Except as provided in subsection (b) and except when a special hazard exists that requires lower speed for compliance with K.S.A. 8-1557, and amendments thereto, the limits specified in this subsection or established as authorized by law shall be maximum lawful speeds, and no person shall operate a vehicle at a speed in excess of such maximum limits:
  - (1) In any business district, 20 miles per hours;
  - (2) In any urban district, 30 miles per hour;
  - (3) On any separated multilane highway, as designated and posted by the secretary of transportation 70 miles per hour;
  - (4) On any county or township highway, 55 miles per hour; and
  - (5) On all other highways, 65 miles per hour.
- (b) No person shall drive a school bus to or from school, or interschool or intra-school functions or activities, at a speed in excess of the maximum speed limits provided in subsection (a), except that the board of education of any school district may establish by board policy lower maximum speed limits for the operation of such district’s school buses. The provisions of this subsection relating to school buses shall apply to buses used for the transportation of students enrolled in community colleges or area vocational schools, when such buses are transporting

students to or from school, or functions or activities. (K.S.A. Supp. 8-1558)

- (c) The maximum speed limits in this section may be altered as authorized in K.S.A 8-1559 and K.S.A 8-1560, and amendments thereto.
- (d) The Governing Body having determined upon the basis of a traffic investigation that the speed limits permitted under state law and Section 33 of the Standard Traffic ordinance are less than reasonable and safe on some streets and are more than reasonable and safe on other streets, and does determine and declare that the speed limit (except when a special hazard exists that requires lower speed for compliance with Section 32) on the streets hereinafter set forth be the limits specified in this section, and no person shall drive a vehicle at a speed in excess of such maximum limits:
  - (1) Speed not in excess of 20 miles per hour shall be lawful on the following streets:
    - (A) Main Street between 15th Street and 18th Street.

14-103. SAME; AMENDMENTS. Section 93 of the Standard Traffic Ordinance as adopted is amended to read as follows:

**Sec. 93. Parking Disabled and Other Vehicles.**

- (a) No person shall park or store any farm machinery, trailer or semi-trailer of any kind, or parts of the same, or any dead, damaged or disabled motor vehicle or farm machinery, trailer or semi-trailer of any kind, in the roadway of any highway, or between the property line or sidewalk and the curb line of any street. No person shall park or store any operable motor vehicle between the property line or sidewalk and the curb line of any street except on a designated driveway.
- (b) A person shall not use the public highway to abandon vehicles or use the highway to leave vehicles unattended in such a manner as to interfere with public highway operations. When a person leaves a motor vehicle on a public highway or other property open to use by the public, the city having jurisdiction of such highway or other property open to use by the public, after 48 hours or when the motor vehicle interferes with public highway operations, may remove and impound the motor vehicle. (K.S.A. 8-1102)

SECTION TWO: EXISTING SECTIONS OF CODE REPEALED. Sections 14-101 to 14-103 of the Code of the City of Osawatomie, Kansas are hereby repealed.

SECTION THREE: EFFECTIVE DATE. This ordinance shall take effect and be in force from and after its publication in the official City Newspaper.

PASSED AND APPROVED by the Governing Body of the City of Osawatomie, Kansas, this 12<sup>th</sup> day of September, 2013.

APPROVED AND SIGNED by the Mayor.

---

L. Mark Govea, Mayor

(SEAL)

ATTEST:

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Ann Elmquist, City Clerk

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE REGULATING PUBLIC OFFENSES WITHIN THE CORPORATE LIMITS OF THE CITY OF OSAWATOMIE, KANSAS; INCORPORATING BY REFERENCE THE “**UNIFORM PUBLIC OFFENSE CODE FOR KANSAS CITIES**” EDITION OF 2013; AMENDING AND REPEALING CHAPTER XI, ARTICLE 2, SECTION 201 OF THE CITY OF OSAWATOMIE MUNICIPAL CODE; AND REPEALING ORDINANCE NO. 3704.

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

SECTION ONE: CODE AMENDED. Section 11-201 of the City of Osawatomie Municipal Code is hereby amended to read as follows:

11-201. INCORPORATING UNIFORM PUBLIC OFFENSE CODE. There is hereby incorporated by reference for the purpose of regulating public offenses within the corporate limits of the City of Osawatomie, Kansas, that certain code known as the "Uniform Public Offense Code," Edition of 2013, prepared and published in book form by the League of Kansas Municipalities, Topeka, Kansas, save and except such articles, sections, parts or portions as are hereafter omitted, deleted, modified or changed. No fewer than three copies of said Uniform Public Offense Code shall be marked or stamped "Official Copy as Incorporated by the Code of the City of Osawatomie, Kansas," with all sections or portions thereof intended to be omitted or changed clearly marked to show any such omission or change and to which shall be attached a copy of this section, and filed with the City Clerk to be open to inspection and available to the public at all reasonable hours.

SECTION TWO: EXISTING SECTION OF CODE REPEALED. Section 11-201 of the Code of the City of Osawatomie, Kansas and Ordinance No. 3684 are hereby repealed.

SECTION THREE: EFFECTIVE DATE. This ordinance shall take effect and be in force from and after its publication in the official City Newspaper.

PASSED AND APPROVED by the Governing Body of the City of Osawatomie, Kansas, this 12th day of September, 2013.

APPROVED AND SIGNED by the Mayor.

---

L. Mark Govea, Mayor

(SEAL)

ATTEST:

---

Ann Elmquist, City Clerk



**STAFF AGENDA MEMORANDUM**

**DATE OF MEETING:** September 12, 2013

**AGENDA ITEM:** **Library Foundation**

**PRESENTER:** Don Cawby, City Manager

**ISSUE SUMMARY:** This summer we solicited bids for piercing the foundation of the library. We discovered significant settlement after the conclusion of the renovation two years ago. This year we finally decided that this piercing needs to be done in order to eliminate further damage to the building.

Attached are three estimates we received for the work:

DC Solutions LLC \$22,550

8 Interior and 4 Exterior Piers for \$18,000; Redo Area Drain System \$4,550

Taylor Brothers Construction \$22,300

8 Exterior Piers; Reset Aluminum Threshold

Piermasters \$35,000

23 Interior Piers; 5 Exterior Piers;

Option: 9 additional piers for \$1,250;

Option: mudjacking of basement slab and stairs for \$4,600

Funding for the project was budgeted at \$35,000. If Piermasters is selected, the Library will fund the additional costs from the Library Fund, along with any other renovations that need to take place to make the interior safe for kids.

**COUNCIL ACTION NEEDED:** Review and approve a bid.

**STAFF RECOMMENDATION TO COUNCIL:** Staff recommends the selection of Piermasters, because of the thoroughness of the bid, the number of piers installed, the use of interior piers because of OSHA concerns, and the recommendation of mudjacking to prevent future settling.



02  
 8/20/13

Contract Submitted to: City of Osawatomie-Osawatomie Public Library Day Phone: (913) 755-2136 Job No: \_\_\_\_\_  
 Mailing Address: \_\_\_\_\_ Date: August 20, 2013  
 \_\_\_\_\_ Eve. Phone: \_\_\_\_\_

Job Address: 527 Brown Avenue Osawatomie, KS 66064

This Contract is between Kansas City Master Companies, Inc®, dba, Master Mudjackers® (hereinafter referred to as KCMC) and the Property Owner(s) and/or their Agent(s) named above (hereafter referred to as Customer(s)) and will be subject to all appropriate laws, regulations, and ordinances in the State of Kansas and/or Missouri, as applicable, and to the following terms and conditions:

KCMC does hereby propose to furnish the labor and materials necessary for the completion of the following:

AREA OF REPAIR*		FILL LIFT		
1.	<u>120 ft x 8 ft area of east wall and rear wall concrete slab floors of library</u>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	\$ _____
2.	<u>Rear steps and upper concrete slab and lower landings</u>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	\$ _____
3.	_____	<input type="checkbox"/>	<input type="checkbox"/>	\$ _____
4.	_____	<input type="checkbox"/>	<input type="checkbox"/>	\$ _____
5.	_____	<input type="checkbox"/>	<input type="checkbox"/>	\$ _____
6.	_____	<input type="checkbox"/>	<input type="checkbox"/>	\$ _____
7.	_____	<input type="checkbox"/>	<input type="checkbox"/>	\$ _____

\*\$4600 minimum includes two (15) cubic yards of materials, \$225.00 per yard there after if needed to fill and/or lift.

Terrain Correction Needed  Yes  No Downspouts; Gutter Correction Needed  Yes  No

Mudjacking includes the following:

- A series of holes varying from 1 1/2 to 2 inches in diameter will be drilled through the slab at selected locations into which the grout mixture will be pumped. Holes are patched with concrete mix.
- Lift only as much as structural integrity will allow. KCMC assumes normal construction and concrete thickness for the purpose of this Contract and that such construction meets standard municipal building codes and/or standard building practices. If the existing construction and/or concrete are not of normal construction, and/or previously repaired, and/or do not meet the standard municipal building codes and/or standard building practices, or if previous underpins/piers, footings, grade beams, and/or inadvertent rock, or fill debris are encountered an additional charge will be required to prepare the affected area for proper installation. KCMC is not responsible for any defects in original building materials and/or materials not installed by KCMC. Customer(s) agree to pay such an additional charge pursuant to this Contract if the above-described events are encountered.
- Reasonable care will be taken, but KCMC will not be responsible before, during, and/or subsequent to this repair process for floor covering, ductwork, plumbing (including sprinklers), electrical, and/or other items located on, through, and/or below the slab to be raised, and KCMC will not be responsible before, during, and/or subsequent to repair process for any floors and/or walls and/or coverings on either, appliances, air conditioners, attachments, outside plantings, and/or other items, etc. that need to be removed, replaced, and/or secured. Any and all items that may be affected by movement of the repair areas, and/or items included above, are to be removed and/or secured by Customer(s). Customer(s) bear the burden to investigate and disclose the existence of any underground facilities located in and/or near the areas, the Customer(s) has requested KCMC to repair. KCMC shall not be liable for any damage caused to such underground facilities if Customer(s) do not disclose such facilities. Customer(s) shall indemnify and hold KCMC harmless for any consequential sub-surface damage caused by KCMC as a result of the Customer(s)' failure to meet their burden hereunder. KCMC will call for public utility locates where applicable, however, this does not include sewer and water line from the meter to the building.
- All production materials will be removed. Additional charges will be required if additional topsoil is needed for grading.
- This bid is based on instructions of the Customer(s) solely in the area KCMC was requested to view and price. Specifically excluded from this bid are any defects beyond the instructions given to KCMC.

**LIMITED WARRANTY**

KCMC warranties all concrete areas mudjacked by them for 1 (One) year, from date work was completed, against settlement with the following exclusions:

- Warranty will be voided if guttering in the area being mudjacked is not kept clean and in good repair with downspouts properly routed away from mudjacked area. Failure to do so voids all warranties and contractor's responsibilities. Proper drainage must be maintained away from areas mudjacked.
- Warranty does not include normal shrinkage caused by dry weather. NOTE: Normal shrinkage may be as much as 1" in some areas during very dry conditions depending on the type of soil in the area.
- Warranty does not apply to new construction under 3 (Three) years old.
- Warranty will not apply to load bearing concrete slabs, such as: room additions and/or sunrooms built on patios without proper foundation to support the walls.
- If any vertical movement/settlement occurs in the area described in scope of work above other than settlement and/or movement caused by earthquake, severe wind, flood, extreme change in water table, other Acts of God, and/or any similar man-made condition, including, but not limited to, explosions, improper drainage, backfill, defects in original building materials, structure decay and/or abandonment of building, then KCMC will, at no cost nor expense to Customer(s), correct any defect in workmanship and/or material that may have occurred in order to stabilize such area. It is the Customer(s)' responsibility to maintain proper grade and drainage around foundation keeping gutters clean and in good repair and downspouts properly routed away from repair area. Failure to do so voids all warranties.

Complete in accordance with above specifications, for the sum of: Forty six hundred dollars Dollars \$4600.00  
 20% Non-refundable Deposit required \$920.00  
 Price herein excludes applicable State and Local Taxes

Progress payments are to be made based on the percentage of work completed at the end of each business week for any jobs that extend beyond one week, and/or jobs delayed due to inclement weather conditions. Jobs that take less than one week are paid upon completion.

Authorized Signature: \_\_\_\_\_, Tom Drummond

**This contract contains warranty provisions and other additional material terms on the opposite page.**

ACCEPTANCE OF PROPOSAL -- The above prices, specifications, and conditions are satisfactory and hereby accepted. By my signature, I have read and understand the terms and conditions set forth on this page and the reverse page \_\_\_\_\_ (initials of Customer(s)) and recognize that such terms and provisions are a part of this contract. KCMC is hereby authorized to do the work as specified. Payment will be made as outlined above. KCMC may investigate my credit worthiness by obtaining a copy of my credit report. THIS CONTRACT CONTAINS A BINDING ARBITRATION PROVISION WHICH MAY BE ENFORCED BY THE PARTIES

Signature: \_\_\_\_\_ / \_\_\_\_\_ SS #/Fed ID #: \_\_\_\_\_ Date: \_\_\_\_\_  
 Print Name

Signature: \_\_\_\_\_ / \_\_\_\_\_ SS #/Fed ID #: \_\_\_\_\_ Date: \_\_\_\_\_  
 Print Name

NO STATEMENT WILL BE SENT - SIGN AND DATE ALL COPIES, RETURN ORIGINAL, AND KEEP COPY AS YOUR RECEIPT



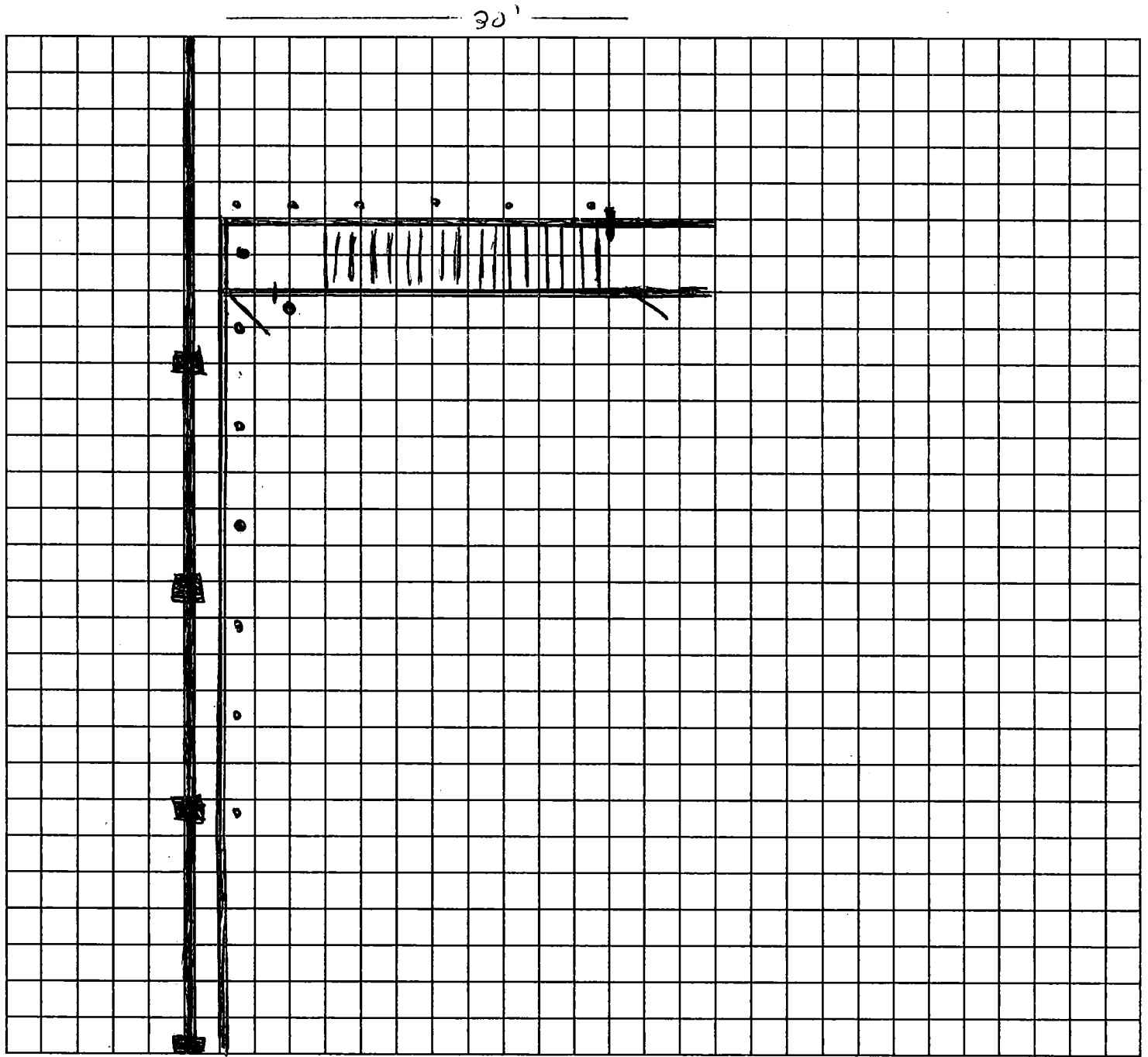
# DC Solutions LLC

Customer's Name: City Library C/Phone 755-2134 F/Phone \_\_\_\_\_  
Phone \_\_\_\_\_ W/Phone \_\_\_\_\_

Mailing Address: 527 Brown City Osawatomie State KS Zip 66064

Property Address: \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Date of Proposal: \_\_\_\_\_ If not accepted, this proposal may be withdrawn by DC Solutions after 30 days.



## DC Solutions LLC

1. 7 interior Piers to be installed on east stem wall. 6 exterior piers to be installed on south retaining wall. 1 interior pier to be installed on south stem wall entrance.  
Note: All carpet in pier area to be removed by others. Asphalt in work area to be paved by others.
2. DC Solutions became aware of water penetration on top of east stem wall. We propose to tuck point mortar joint, seal with NP1 compound, and HLM 5000 membrane.
3. DC Solutions proposes to install approx. 120' of area drain system on east side of Library, to discharge any further excessive ground water to the alley south of property.

DC Solutions would love to answer any questions regarding the work proposed. We are a hometown company with 15 years experience in foundation repair. Our main priority is providing professional work with fair pricing. We value the relationship between ourselves and our customers.

Thank you for this opportunity

Deric L Moore

Chris R Ova

DC Solutions LLC

913-256-9163

# PROPOSAL

1132

*OK  
8/27/13  
(2)*

## Taylor Brothers Construction

Ralph E. Taylor  
2165 Eisenhower Road  
Ottawa, Kansas 66067

(785) 242-7477  
Fax (785) 242-6626

TO: Osawatomie Public Library  
527 Brown Ave  
Osawatomie KS 66064

PHONE	913-755-2136	DATE	4/26/2013
JOB NAME / LOCATION			
JOB NUMBER		JOB PHONE	

We hereby submit specifications and estimates for:

- > Remove 40' of stockade fence and 5 post. Reset fence and new posts in concrete.
- Excavate east side from southeast corner north 50' and south end 5' west at stair retaining wall.
- Stock pile dirt on south parking lot.
- Bore 8 - 20" diam x 8' deep pier holes below basement footing.
- Place 7 on east side and 1 on southeast end.
- Dig shoulder under footing over each pier.
- Jack up foundation to level and square up basement entrance door.
- Stabilize on concrete piers.
- Remove and reset 2 underground down spout drains. Seal all exposed cracks and replace foundation tile. Place gravel 2' over tile. Rebackfill and machine compact.
- Haul off excess dirt. Power wash parking lot.
- Reset basement entry aluminum threshold.
- Shoring of excavated dirt bank will be necessary and included in project.

Owner must get permission from east neighbor for us to remove and reset privacy fence and be on his property along work area only.

Note: If rock is encountered during excavation there may be additional charge. Jacking and releveling may cause cracks in ceiling and walls, these crack repairs are not included in this contract.

**We Propose** to furnish material and labor, complete in accordance with the above specifications, for the sum of: **22,300.00** dollars (\$ \_\_\_\_\_).

Payment to be made as follows:  
**Balance due on completion. All applicable taxes included.**  
If accepted, please sign and return 1 copy.

All material is guaranteed to be as specified. All work to be completed in a professional manner according to standard practices. Any alteration or deviation from above specifications involving extra costs will be executed only upon written orders, and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents or delays beyond our control. Owner to carry fire, tornado, and other necessary insurance. Our workers are fully covered by Worker's Compensation insurance.

Authorized Signature *Ralph E. Taylor*  
Note: This proposal may be withdrawn by us if not accepted within **30** days.

**Acceptance of Proposal** — The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above.

Signature \_\_\_\_\_  
Signature \_\_\_\_\_

Date of Acceptance: \_\_\_\_\_

13501 ARRINGTON ROAD  
GRANDVIEW, MO 64030-2882  
www.piermasters.com

# COMMERCIAL CONTRACT PIER MASTERS®

A Division of Kansas City Master Companies, Inc. SM

(816) 763-1500 MO  
(913) 341-2798 KS  
(816) 763-2867 FAX

Contract Submitted to: City of Osawatome- attn: Elizabeth Trigg Day Phone: (913) 755-2136 Job No: \_\_\_\_\_  
Mailing Address: \_\_\_\_\_ Cell: \_\_\_\_\_ Date: August 20, 2013  
\_\_\_\_\_ Eve. Phone: \_\_\_\_\_

Job Address: Osawatome Public Library -527 Brown Avenue Osawatome, KS 66064 This Contract is between Kansas City Master Companies, Inc. SM, dba, Pier Masters® (hereinafter referred to as KCMC) and the Property Owner(s) and/or their Agent(s) named above (hereafter referred to as Customer(s)) will be subject to all appropriate laws, regulations, and ordinances in the State of Kansas and/or Missouri, as applicable, and to the following terms and conditions:

Furnish labor and materials for the installation of the following work: Install 28 piers to X stabilize X minimal lift (as much as structure will allow) to proper level in areas of the buildings shown on attached drawing. Total- \$35,000.00. 23 piers installed on inside and 5 piers on monolithic walls of steps at rear of building

- a. Options Install 5 additional piers on rear wall and 4 additional piers on front wall -not included in price below add \$1250.00 (as much as structure will allow) wall in areas of the buildings shown on attached drawing if more lift required. See Mudjacking contract for supporting slab floor after piers lifted. Due to O.S.H.A. requirements and lack of adequate access foundation piers to be installed on the interior only
- 2. Complete the above within approximately 7-8 working days.
- 3. KCMC assumes normal construction and concrete thickness for purpose of this contract and that such construction meets standard municipal building codes. If the existing construction and/or concrete are not of normal construction, previously repaired, and/or does not meet the standard municipal building codes; or if previous underpins/piers, and/or inadvertent rock, or fill debris are encountered, an additional charge will be required to prepare the affected area for proper installation. KCMC is not responsible for defects in original building materials or materials not installed by KCMC. Customer(s) agree to pay such an additional charge pursuant to this contract if the above-described events are encountered.
- 4. KCMC will not be responsible before, during, or subsequent to repair process for any floors, tiles, carpet, walls, sheetrock cracks, paneling, and/or coverings on these; appliances, air conditioners, outside plantings, attachments, or other items, etc. that need to be removed, replaced, or secured. Therefore, any and all items that may be affected by the repair process of the structure are to be removed or secured by Customer(s).
- 5. KCMC will leave area broom swept clean and remove all debris from site. \*KCMC will back fill and compact all removed dirt or stone and replace concrete/asphalt KCMC found necessary to remove. KCMC will strew with seed and straw if seasonably applicable on all graded areas. Additional charges will be required if additional topsoil is needed for grading.
- 6. KCMC will not be responsible for ductwork, plumbing, electrical, or other items located on, through, and/or below the grade, slab, or foundation before, during, or subsequent to the completion of repair process. KCMC will notify all public utilities, excluding water and sewer lines, and have these located. Customer(s) bear the burden to investigate and disclose the existence of any underground facilities located in or near the areas, which Customer(s) have requested KCMC to excavate and/or repair. KCMC shall not be liable for any damage caused to such underground facilities if Customer(s) do not disclose such facilities. Customer(s) shall indemnify and hold KCMC harmless for any consequential sub-surface damage caused by KCMC as a result of Customer(s)' failure to meet their burden hereunder.
- 7. This bid is based on instruction of the Customer(s) solely in the areas KCMC was requested to view and bid. Specifically excluded from this bid are any defects beyond the instructions given to KCMC.
- 8. Permits/inspection/engineering fees, asbestos abatement not included (if required) will incur an additional charge to the Customer(s).
- 9. Pier/ Tieback installation depths in excess of 21 feet carry an additional charge of \$ 24.00 per pier/ tieback section foot.

\*Except where noted, itemized, or separated in other areas of the contract.

A/C unit to be removed and replaced by Customer(s)  Yes  No  Other using an outside vendor at an additional charge \$\_\_\_\_\_

Terrain Correction Needed  Yes  No

Downspouts, Gutter Correction Needed  Yes  No

## LIMITED WARRANTY

The work to be performed under this agreement is guaranteed against all defects in material and workmanship for Ten (10) years from the date of completion. If any  downward vertical movement (Piers only)  horizontal movement (Tiebacks only) occurs in the area described in paragraph 1 above other than settlement and/or movement caused by earthquake, severe wind, flood, extreme change in water table, heaving, other Acts of God, and/or any similar man-made condition, including, but not limited to, explosions, improper drainage, backfill, structure decay, insect infestation, and/or abandonment of building, KCMC will, at no cost and/or expense to Customer(s), correct any defect in workmanship and/or material that may have occurred in order to stabilize such area. Customer(s) shall be responsible for maintenance of sump pumps, downspout discharge outlets, guttering, grade, and any damages caused by agents other than those from KCMC. It is the Customer(s)' responsibility to maintain sump pumps, downspout discharge outlets, proper grade and drainage around foundation, guttering, and route downspouts away from repair area. Failure to do so shall void all warranties, express or implied.

Complete in accordance with above specifications, for the sum of: Thirty five thousand and 00/100

Dollars \$35,000.00

20% Non-refundable Deposit required \$7000.00

Price herein excludes applicable State and Local Taxes

Progress payments are to be made based on the percentage of work completed at the end of each business week for any jobs that extend beyond one week, and/or jobs delayed due to inclement weather conditions. Jobs that take less than one week are paid upon completion.

Authorized Signature: \_\_\_\_\_ Tom Drummond

**This contract contains warranty provisions and other additional material terms on the opposite page.**

ACCEPTANCE OF PROPOSAL -- The above prices, specifications, and conditions are satisfactory and hereby accepted. By my signature, I have read and understand the terms and conditions set forth on this page and the reverse page \_\_\_\_\_ (initials of Property Owner(s) and/or their Agent(s)) and recognize

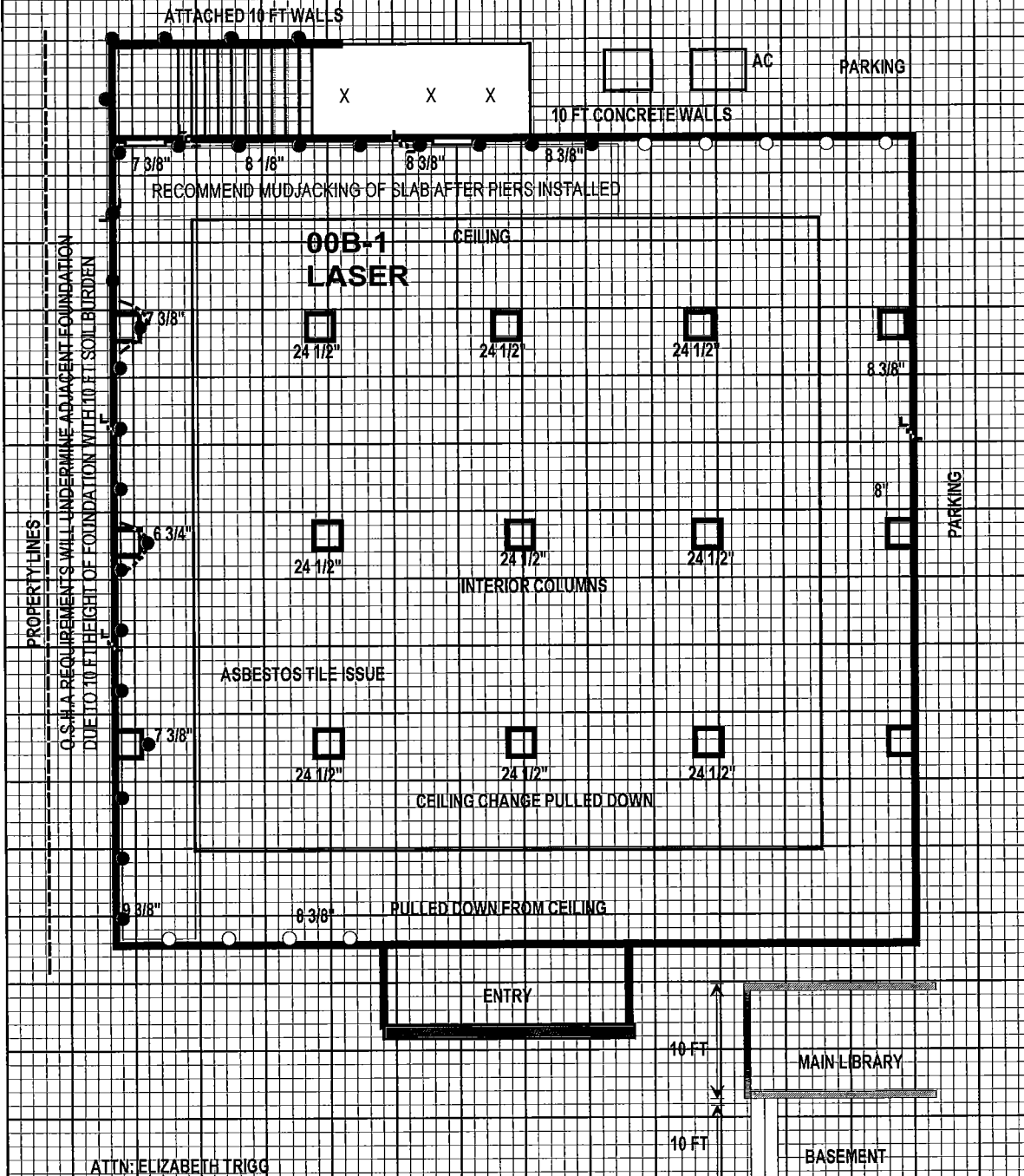
1. KCMC shall have no responsibility for damages from rain, fire, tornado, windstorm and/or other perils, as is normally contemplated to be covered by homeowners insurance and/or business risk insurance, and/or unless specified written agreement is made therefore prior to the commencement of work. Property Owner(s) are to carry fire, tornado, and other necessary insurance.
2. Our workers are fully covered by Workers' Compensation insurance.
3. This proposal will expire fifteen (15) days from the date provided unless extended in writing by KCMC. After fifteen (15) days, KCMC reserves the right to revise the price in accordance with costs in effect at the time. **All contracts are subject and contingent to KCMC underwriting and credit approval.**
4. All material is guaranteed to be as specified. All work to be completed in a workmanlike manner according to standard practices.
5. Any alteration or deviation from the specifications provided in this contract involving extra costs will be executed only upon written orders and will become an extra charge over and above the estimate provided herein.
6. If Property Owner(s) and/or their Agent(s) do not pay as and when required by this contract, however, all guarantees by it will be void and a 1.7% (one and seven-tenths percent) per month interest charge will accrue, and Property Owner(s) and/or their Agent(s) will pay all costs related to the collection of such amount, including reasonable attorneys' fees and court costs.
7. KCMC shall not be liable for failure of performance due to labor controversies, strikes, fires, weather, and inability to obtain materials from usual sources or any other circumstances beyond the control of KCMC, whether of a similar or dissimilar nature.
8. This contract and/or the warranty contained herein shall not be assigned except by or with the written permission of KCMC.
9. This contract cannot be cancelled once work is commenced except by the mutual written agreement of the parties.
10. If any provision of this contract should be held to be invalid or unenforceable, the validity and enforceability of the remaining provisions of this contract shall not be affected.
11. Any representations, statement or other communications not written on this contract are agreed to be immaterial, not relied on by either party and do not survive the execution of this contract.
12. The maximum liability for KCMC shall be the original cost of labor and materials for the work to be performed hereby which customer agrees shall be a liquidated sum, under any event of default of KCMC herein.
13. This contract is composed of this page and the reverse side of this page, is the entire understanding between the parties and supersedes any prior agreements or understandings, whether oral or written. This contract contains all of the terms and conditions agreed to by the parties, and no other representations, warranties, or agreements, express or implied, shall vary the terms of this contract.
14. **NOTICE TO PIERING CONTRACT CUSTOMERS:** THERE ARE INHERENT RISKS, COSMETIC AND/OR STRUCTURAL, ASSOCIATED WITH PARTIAL UNDERPINNING WITH THE POTENTIAL OF FUTURE DIFFERENTIAL MOVEMENTS BETWEEN UNDERPINNED AND NON-UNDERPINNED AREAS OF THE SAME STRUCTURE. KANSAS CITY MASTER COMPANIES, INC. IS NOT RESPONSIBLE FOR ANY DAMAGES THAT OCCUR BEFORE DURING OR SUBSEQUENT TO INSTALLATION OF UNDERPINNING ELEMENTS ASSOCIATED WITH THESE DIFFERENTIAL MOVEMENTS THAT MAY OCCUR.
15. **NOTICE TO CUSTOMER:** ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY AND WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, ARE EXCLUDED, UNLESS SUCH EXCLUSION IS NOT ALLOWED PURSUANT TO ANY STATE OR FEDERAL CONSUMER PROTECTION LEGISLATION THAT MAY APPLY IN THE JURISDICTION IN WHICH THIS CONTRACT WAS EITHER ENTERED INTO, OR THE WORK WAS PERFORMED. YOUR EXCLUSIVE REMEDY SHALL BE FOR CORRECTION OF ANY DEFECT IN WORKMANSHIP AND MATERIALS AS SET FORTH ABOVE. IN NO EVENT SHALL YOU BE ENTITLED TO CONSEQUENTIAL DAMAGES, REGARDLESS OF WHETHER THE CLAIM IS BASED ON WARRANTY, CONTRACT, TORT, OR OTHERWISE.
16. **NOTICE TO MISSOURI CUSTOMER:** FAILURE OF THIS CONTRACTOR TO PAY THOSE PERSONS SUPPLYING MATERIAL OR SERVICES TO COMPLETE THIS CONTRACT CAN RESULT IN THE FILING OF A MECHANICS LIEN ON THE PROPERTY WHICH IS THE SUBJECT OF THIS CONTRACT PURSUANT TO CHAPTER 429 RSMo. TO AVOID THIS RESULT, YOU MAY ASK THIS CONTRACTOR FOR "LIEN WAIVERS" FROM ALL PERSONS SUPPLYING MATERIAL OR SERVICES FOR THE WORK DESCRIBED IN THIS CONTRACT. FAILURE TO SECURE LIEN WAIVERS MAY RESULT IN YOUR PAYING FOR LABOR AND MATERIAL TWICE.
17. All disputes, claims or controversies between the parties arising out of or relating to this contract or a breach thereof shall be settled by arbitration.
18. **NOTICE TO MISSOURI CUSTOMER:** SECTIONS 431.300 TO 431.315 OF MISSOURI REVISED STATUTES PROVIDES YOU WITH CERTAIN RIGHTS IF YOU HAVE A DISPUTE WITH A CONTRACTOR REGARDING CONSTRUCTION DEFECTS

# PIER MASTERS

ENGINEERED EXCELLENCE 13501 ARRINGTON ROAD, GRANDVIEW, MO 64030 \* 816-763-1500 FAX: 816-763-2867

CUSTOMER NAME:	OSAWATOMIE PUBLIC LIBRARY-CITY OF OSAWATOMIE	DATE:	4-26-2013
ADDRESS:	CITY:	STATE:	
JOB ADDRESS:	527 BROWN STREET	CITY:	OSAWATOMIE STATE: KS
PHONE NUMBER OFF:	913-755-2136 EX.	FAX:	etrigg23@yahoo.com MBL:
DRAWING BY:	TOM DRUMMOND	DATE:	

LASER ELEVATIONS WERE SHOT IN BASEMENT INDICATING SUBSTANTIAL SETTLEMENT TO EAST WALL AND SOUTH FOUNDATION WALL. 10 FT WALLS ASBESTOS TILE IN BASEMENT-DUE TO 10 FT WALLS AND ADJACENT HOME SO CLOSE EXTERIOR INSTALLATION IS NOT FEASIBLE DUE TO O.S.H.A. REQUIREMENTS ALL PIERS ON BUILDING WILL BE INSTALLED FROM INSIDE- ALL LOCATIONS WILL BE CORED WITH WATER SAW TO DEAL WITH ASBESTOS.





1. KCMC shall have no responsibility for damages from rain, fire, tornado, windstorm or other perils, as is normally contemplated to be covered by homeowners insurance or business risk insurance, or unless specified written agreement is made therefore prior to the commencement of work. Customer(s) are to carry fire, tornado, and other necessary insurance.
2. Our workers are fully covered by Workers' Compensation insurance.
3. This proposal will expire fifteen (15) days from the date provided unless extended in writing by KCMC. After fifteen (15) days, KCMC reserves the right to revise the price in accordance with costs in effect at the time. **All contracts are subject and contingent to KCMC underwriting and credit approval.**
4. All material is guaranteed to be as specified. All work to be completed in a workmanlike manner according to standard practices.
5. Any alteration or deviation from the specifications provided in this contract involving extra costs will be executed only upon written orders and will become an extra charge over and above the estimate provided herein.
6. If Customer(s) do not pay as and when required by this contract, all guarantees by it will be void and a 1.7% (one and seven/tenths percent) per month interest charge will accrue, and Customer(s) will pay all costs related to the collection of such amount, including reasonable attorneys' fees and court costs.
7. KCMC shall not be liable for failure of performance due to labor controversies, strikes, fires, weather, and inability to obtain materials from usual sources or any other circumstances beyond the control of KCMC, whether of a similar or dissimilar nature.
8. This contract and/or the warranty contained herein shall not be assigned except by and/or with the written permission of KCMC. This warranty is transferable in its entirety to subsequent property owners, provided that a written assignment is properly executed by KCMC customer prior to the sale of the property.
9. **NOTICE OF CANCELLATION: YOU MAY CANCEL THIS TRANSACTION AT ANY TIME PRIOR TO MIDNIGHT OF THE THIRD BUSINESS DAY AFTER THE DATE OF THIS TRANSACTION. THIS CONTRACT CANNOT BE CANCELLED ONCE WORK IS COMMENCED EXCEPT BY THE MUTUAL WRITTEN AGREEMENT OF THE PARTIES.**
10. If any provision of this contract should be held to be invalid or unenforceable, the validity and enforceability of the remaining provisions of this contract shall not be affected.
11. Any representations, statement, or other communications not written on this contract are agreed to be immaterial, not relied on by either party, and do not survive the execution of this contract.
12. The maximum liability for KCMC shall be the original cost of labor and materials for the work to be performed hereby which Customer agrees shall be a liquidated sum, under any event of default of KCMC herein.
13. This contract, composed of this page and the reverse side of this page, is the entire understanding between the parties and supersedes any prior agreements or understandings, whether oral or written. This contract contains all of the terms and conditions agreed to by the parties, and no other representations, warranties, or agreements, express or implied, shall vary the terms of this contract.
14. **NOTICE TO PIERING CONTRACT CUSTOMERS: THERE ARE INHERENT RISKS, COSMETIC AND/OR STRUCTURAL, ASSOCIATED WITH PARTIAL UNDERPINNING WITH THE POTENTIAL OF FUTURE DIFFERENTIAL MOVEMENTS BETWEEN UNDERPINNED AND NON-UNDERPINNED AREAS OF THE SAME STRUCTURE. KANSAS CITY MASTER COMPANIES, INC. IS NOT RESPONSIBLE FOR ANY DAMAGES THAT OCCUR BEFORE DURING OR SUBSEQUENT TO INSTALLATION OF UNDERPINNING ELEMENTS ASSOCIATED WITH THESE DIFFERENTIAL MOVEMENTS THAT MAY OCCUR.**
15. **NOTICE TO CUSTOMER: ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY AND WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, ARE EXCLUDED, UNLESS SUCH EXCLUSION IS NOT ALLOWED PURSUANT TO ANY STATE OR FEDERAL CONSUMER PROTECTION LEGISLATION THAT MAY APPLY IN THE JURISDICTION IN WHICH THIS CONTRACT WAS EITHER ENTERED INTO OR THE WORK WAS PERFORMED. YOUR EXCLUSIVE REMEDY SHALL BE FOR CORRECTION OF ANY DEFECT IN WORKMANSHIP AND MATERIALS AS SET FORTH ABOVE. IN NO EVENT SHALL YOU BE ENTITLED TO CONSEQUENTIAL DAMAGES, REGARDLESS OF WHETHER THE CLAIM IS BASED ON WARRANTY, CONTRACT, TORT, OR OTHERWISE.**
16. **NOTICE TO MISSOURI CUSTOMER: FAILURE OF THIS CONTRACTOR TO PAY THOSE PERSONS SUPPLYING MATERIAL OR SERVICES TO COMPLETE THIS CONTRACT CAN RESULT IN THE FILING OF A MECHANICS LIEN ON THE PROPERTY WHICH IS THE SUBJECT OF THIS CONTRACT PURSUANT TO CHAPTER 429 RSMO. TO AVOID THIS RESULT, YOU MAY ASK THIS CONTRACTOR FOR "LIEN WAIVERS" FROM ALL PERSONS SUPPLYING MATERIAL OR SERVICES FOR THE WORK DESCRIBED IN THIS CONTRACT. FAILURE TO SECURE LIEN WAIVERS MAY RESULT IN YOUR PAYING FOR LABOR AND MATERIAL TWICE.**
17. All disputes, claims, or controversies between the parties arising out of or relating to this contract or a breach thereof shall be settled by arbitration.
18. **NOTICE TO MISSOURI CUSTOMER: SECTIONS 431.300 TO 431.315 OF MISSOURI REVISED STATUTES PROVIDES YOU WITH CERTAIN RIGHTS IF YOU HAVE A DISPUTE WITH A CONTRACTOR REGARDING CONSTRUCTION DEFECTS. EXCEPT FOR CLAIMS FILED IN SMALL CLAIMS COURT, IF YOU HAVE A DISPUTE WITH A CONTRACTOR, YOU MUST DELIVER TO THE CONTRACTOR A WRITTEN CLAIM OF ANY CONSTRUCTION CONDITIONS YOU ALLEGE ARE DEFECTIVE AND PROVIDE YOUR CONTRACTOR THE OPPORTUNITY TO MAKE AN OFFER TO REPAIR OR PAY FOR THE DEFECTS. YOU ARE NOT OBLIGATED TO ACCEPT ANY OFFER MADE BY THE CONTRACTOR. READ THIS NOTICE CAREFULLY. THERE ARE STRICT DEADLINES AND PROCEDURES UNDER SECTIONS 431.300 TO 431.315 WHICH MUST BE OBEYED IN ORDER TO PRESERVE YOUR ABILITY TO FILE A LAWSUIT. OTHER THAN REPAIRS TO WORK DONE BY THE CONTRACTOR THAT ARE NECESSARY TO PROTECT THE LIFE, HEALTH, OR SAFETY OF PERSONS LIVING IN A RESIDENCE, OR TO AVOID ADDITIONAL SIGNIFICANT AND MATERIAL DAMAGE TO THE RESIDENCE PURSUANT TO SECTION 431.306.10, YOU MAY NOT INCLUDE IN CLAIMS AGAINST YOUR CONTRACTOR THE COSTS OF OTHER REPAIRS YOU PERFORM BEFORE YOU ARE ENTITLED TO FILE A LAWSUIT UNDER SECTIONS 431.300 TO 431.315**



## MEMORANDUM

**To:** RSW; MAW  
**From:** Matthew Spahn  
**Date:** 9/5/13  
**Re:** Invocations to Open Osawatomie City Council Meetings  
**File #:** 11863-2

### Question Presented

Is it unconstitutional to open an Osawatomie city council meeting with an invocation given by a secular individual?

### Short Answer

On our facts and as of today, the invocation is likely constitutional. Current U.S. Supreme Court precedent dictates that the practice of opening legislative sessions with a prayer does not violate the Establishment Clause of the First Amendment. Although there is no Kansas case directly on point, it appears that, based on (1) Kansas' own Senate and House of Representative House Rules and (2) comments by Kansas courts in Establishment Clause cases, Kansas also adheres to the notion that an opening legislative prayer is not unconstitutional. Thus, as of right now, the city council of Osawatomie likely "has the power to open its meetings with the kind of legislative prayer that our nation over the course of more than 200 years has come to see as 'tolerable.'" *Snyder v. Murray City Corp.*, 159 F.3d 1227, 1236 (10th Cir. 1998).

Nevertheless, in *Galloway v. Town of Greece*, the Second Circuit recently held that a New York municipality's legislative prayer practice, under the totality of the circumstances, violated the Establishment Clause. The U.S. Supreme Court granted *certiorari* and the case is set for argument on Wednesday, November 6, 2013. Accordingly, the proper course of conduct at this point may be to await the Court's ruling, as it has the potential to upset nearly three decades of Establishment Clause precedent and may have major implications on the appropriateness of invocations at city council meetings.

### Analysis

#### **I. Current Precedent**

In *Marsh v. Chambers*, the U.S. Supreme Court held that the practice of opening legislative sessions with prayers by a State-employed clergyman did not violate the Establishment Clause. 463 U.S. 783, 790 (1983). At issue in *Marsh* was whether the Nebraska Legislature's practice of opening each legislative day with a prayer by a chaplain paid by the

State violated the Establishment Clause. *Id.* at 784. Since 1965, a Presbyterian minister had begun each legislative session with a prayer. *Id.* at 785. A member of the Nebraska Legislature brought an action in Federal District Court seeking injunctive relief, claiming that the legislature's chaplaincy practice violated the Establishment Clause. *Id.*

On appeal, the U.S. Supreme Court held that the Nebraska Legislature's chaplaincy practice did not violate the Establishment Clause. *Id.* at 783. In reaching this conclusion, the Court in *Marsh* did not employ the *Lemon* test that the Court had adopted more than a decade earlier to resolve Establishment Clause issues. *See Lemon v. Kurtzman*, 403 U.S. 602, 612-13 (1971). Instead, the Court relied solely on a historical analysis to justify the practice of legislative prayer, noting the “unique history” of legislative prayer in the United States before concluding that the Nebraska Legislature’s chaplaincy program did not violate the Establishment Clause. *Id.* at 191. The Court stated

[c]learly the men who wrote the First Amendment Religion Clause did not view paid legislative chaplains and opening prayers as a violation of that Amendment, for the practice of opening sessions with prayer has continued without interruption ever since that early session of Congress.

*Marsh*, 463 U.S. at 790. As a result, the Court in *Marsh* concluded that because the National Congress had practiced legislative opening prayers for more than two centuries, there was no real threat of a religious establishment that the Founding Fathers feared. *Id.* at 795. Instead, the Court found that “[t]o invoke Divine guidance on a public body entrusted with making the laws... is simply a *tolerable* acknowledgment of beliefs widely held among the people of this country.” *Id.* at 792 (emphasis added). Therefore, in conclusion, the Court reasoned that the Nebraska Legislature’s prayers did not establish religion and held that “the content of the prayer is not of concern to judges where, as here, there is no indication that the prayer opportunity has been exploited to proselytize or advance any one, or to disparage any other, faith or belief.” *Id.* at 794–95.

Six years later in *County of Allegheny v. American Civil Liberties Union*, in a case that did not directly involve a challenge to legislative prayer, the Court suggested that sectarian prayers may violate the Establishment Clause. 492 U.S. 573, 603 (1989). The Court wrote, “[h]owever history may affect the constitutionality of nonsectarian references to religion by the government, history cannot legitimate practices that demonstrate the government's allegiance to a particular sect or creed.” *Id.* According to the Court, the holding in *Marsh* “recognized that not even the ‘unique history’ of legislative prayer...can justify contemporary legislative prayers that have the effect of affiliating the government with any one specific faith or belief.” *Id.* But, the Court concluded, because the legislative prayers involved in *Marsh* had removed all references to Christ, the prayers did not violate this principle. *Id.*

Thus, interpreting *Marsh* and *County of Allegheny* together, current U.S. Supreme Court precedent would dictate that non-sectarian legislative prayer does not violate the Establishment Clause. However, legislative prayer will run afoul of the Constitution when it has the effect of either proselytizing or advancing any one religion, or disparaging any other faith or belief, regardless of history or custom. *Marsh*, 463 U.S. at 794–95. Furthermore, the selection of the person to recite the invocation may violate the Establishment Clause if the selection “stemmed

from an impermissible motive.” *See id.* at 793. A motive is impermissible if the motive in selecting the individual is to “‘proselytize’ a particular faith or to ‘disparage’ another faith, or to establish a particular religion as the sanctioned or official religion of the legislative body.” *Snyder*, 159 F.3d 1227, 1234 (10th Cir. 1998).

Currently, the State of Kansas appears to acknowledge that opening sessions with invocations does not violate the Establishment Clause. In *Americans United for Separation of Church & State v. Bubb*, the U.S. District Court for the District of Kansas noted that the Establishment Clause does not demand separation of church and state in all respects, including prayers in Kansas legislative halls. 379 F. Supp. 872, 887 (D. Kan. 1974). Furthermore, both the Kansas Senate and House of Representative Rules call for the order of business to begin with a prayer. *See Kan., Rules of the Sen. 4* (2013) (“The order of business, following the roll call and *prayer by the Chaplain*, shall be as follows...”) (emphasis added); *Kan., Rules of the H.R. 103* (2013) (“The first business each legislative day shall be the taking of the roll, the taking of roll *shall be followed by prayer*...”) (emphasis added). Lastly, in *Snyder v. Murray City Corp.*, the Tenth Circuit, in applying *Marsh*, not only held that legislative prayer does not violate the Establishment Clause, but also held that no violation occurs when a city chooses who may offer the invocation to open a city council meeting. 159 F.3d 1227, 1233 (10th Cir. 1998).

## 2. Recent Events

This November the U.S. Supreme Court will hear arguments in *Town of Greece v. Galloway*, a case that may have major implications on whether or not invocations may be given at city council meetings. The town of Greece, located in New York, began an opening prayer practice at Town Board meetings in 1999. *Galloway v. Town of Greece*, 681 F.3d 20, 23 (2d Cir. 2012). In 2007, two local residents challenged the prayer, but the practice continued until litigation began in 2010. In 2010, a New York district court dismissed the plaintiffs’ claims against the town, holding that the Establishment Clause does not necessarily foreclose denominational prayers. *Id.* at 26.

On appeal, the Second Circuit Court noted that the U.S. Supreme Court in *Marsh* did not adopt any precise criteria to govern cases involving legislative prayer. *Id.* at 30 (noting that the Court did not apply the *Lemon* test). Accordingly, the court in *Galloway* applied a totality of the circumstances test to determine whether the town’s prayer practice violated the Establishment Clause. *Id.* at 30. The court’s test asked

whether the town's practice, viewed in its totality by an ordinary, reasonable observer, conveyed the view that the town favored or disfavored certain religious beliefs. In other words, we must ask whether the town, through its prayer practice, has established particular religious beliefs as the more acceptable ones, and others as less acceptable.

*Id.* at 29–30. Applying this test, the Second Circuit concluded that the town’s prayer practice was an endorsement of a particular religious viewpoint – Christianity. *Id.* at 30. In support of its holding, the court noted that the prayer-giver selection process virtually ensured a Christian viewpoint. *Id.* at 31. Furthermore, most of the prayers given from 1999–2010 contained “uniquely Christian references.” *Id.* Lastly, the court noted that the town’s prayer practice

placed non-religious audience members in an awkward position because the prayer-givers often requested audience participation. *Id.* at 32. Consequently, the court concluded that under the totality of the circumstances, the town's prayer practice identified the town with Christianity in violation of the Establishment Clause. *Id.* at 31.

The Second Circuit was quick to note, however, that it was not ruling that a local government could never open its meetings with an invocation nor was it adopting a test that "permits prayers in theory but makes it impossible for a town in practice to avoid Establishment Clause problems." *Id.* at 34. Instead, the court instructed municipalities to consider their prayer practices in context and as a whole when determining their constitutionality. *Id.* at 33.

The U.S. Supreme Court has not addressed legislative prayers for thirty years. Furthermore, the Court in *Marsh* did not adopt any precise criteria to govern cases involving legislative prayer, but rather relied solely on a historical analysis to justify the practice. Consequently, some scholars believe that the U.S. Supreme Court's decision to review *Galloway* is an indication that the Court is preparing to make a major pronouncement regarding its Establishment Clause precedent. Lyle Denniston, *Court to rule on government prayer*, SCOTUSBLOG (May 20, 2013 12:05 PM), available at <http://www.scotusblog.com/?p=163800>. Therefore, I would recommend that the proper course of conduct at this time is to await the Court's ruling this upcoming term, as its decision may govern whether it is constitutional for the city of Osawatomie to continue to open its council meetings with an invocation given by a secular individual.

## APPENDIX

### **Potential Establishment Clause Violations**

If you are concerned that a local or state government body, which represents your interests, may be violating the constitutional principle of separation of church and state in the context of legislative prayer, look for the following indications:

- Invocations of specific deities, saints, prophets, etc., such as Jesus Christ, Allah, Yahweh, Jehovah, Mohammed, Joseph Smith, Buddha, Krishna, Isis, etc.
- Invocation of a specific faith's deities to the near or total exclusion of other faiths' deities, i.e., your state legislature quotes only biblical scripture and invokes only Jesus Christ and the Holy Spirit, but never invokes deities or entities representing other faiths or denominations.
- Prayer leaders are clergy members or religious leaders, who represent only one particular faith, to the near or total exclusion of other faiths, i.e., your city council's prayer leaders are all Catholic priests.
- Prayer content includes disparaging and denigrating remarks about certain faiths, beliefs or non-beliefs.
- Prayer content includes indications of preference for one particular faith or belief over another or others.
- Prayer content encourages listeners (government body members, visitors, and/or citizens) to follow the tenets of a specific or any faith or belief.
- Prayer content indicates that our government (local, state, and/or federal) and/or laws should be subject to religious laws and principles.
- The prayer leaders, be they clergy or government officials, address and refer to visitors attending the government body meeting and/or citizens (whether local, state or federal), especially if requesting visitors and citizens to participate in the prayers or calling upon visitors and citizens to behave in a certain manner as a response to the prayers. Additionally, any public broadcasts of the prayers, including, but not limited to, television, cable, radio, and internet broadcasts, may provide further indication that a legislative body is religiously exhorting citizens.
- Government body members, officials, administrators, and staff, as well as visitors and anyone else who might be present at the public meeting, are denied the opportunity not to participate or be absent during the prayer.
- Prayer leaders, be they clergy or government officials, are paid for leading the prayer, including such reimbursement as stipends, per diems, mileage allowances, parking spaces, as well as publicity and promotion.

Source: STATE/CHURCH FAQ – PRAYERS AT GOVERNMENT MEETINGS, FFRG.ORG (March 26, 2010), *available at* <http://ffrf.org/faq/state-church/item/14015-prayers-at-government-meetings>



## MEMORANDUM

**To:** Mayor and City Council  
**From:** Don Cawby, City Manager  
**Re:** **Projects & Issues Update**  
**Date:** September 12, 2013

### Projects

**Zoning Regulations.** Last night the Planning Commission forwarded recommended Zoning Regulations, Subdivision Regulations and Floodplain Regulations to you for your approval. I plan to provide the recommended documents to you in electronic format Friday and have paper copies available for you early next week. This has been a year-long project and the Planning Commission members need to be commended for their hard work. The members over the last year were Brett Henderson, Mike Gorman, Tom Burgin, Jim Mitzner, Mike Packard and Terry Anderson. Also a big thanks to Scott Michie, our planner, and Lora Upshaw and Ted Bartlett have also put in extra time an effort getting this done.

**Bridge in the Park.** Our staff completed a new walking bridge in John Brown Park that looks fabulous. Eric Draper, Ryan Crowley, Bill Roseberry, Terry Upshaw and Brian Mersmann did the heavy lifting on getting the bridge installed. If you haven't seen it, please make an effort to go by and try it out. I am very happy with the finished product.

### Issues

**Trash Contract.** I will have a draft of our contract with L&K Services ready for you at the September 26 meeting. You might remember that you directed me to draft and extension rather than putting this item out for bid.

**UV Lights at the Sewer Plant.** We continue to have issues with the UV disinfecting lights at the sewer plant. After failing a lab test, we were able to get a KRWA representative to come down and help us figure out the problem. We have replaced breakers and have ordered new sleeves for our lights. We think this will help, but the lightning strike which we had earlier this summer seems to be at the root of most of this. I feel like we have turned the corner.

**Real Estate Transactions.** Since we last met, we have closed on 509 1<sup>st</sup> Street (the Kastler Property). Also, at the tax sale on September 6, I purchased three properties that we were interested in for protecting drainage areas or to provide us with the opportunity to create easements and then re-market the property for private use. These three properties are: the west half of the Indian Ridge Development, the creek to the west of Lom Vista, and the McRoberts property on Walnut street which is directly north of Matney Estates. We purchased each property for \$500.

**Electric Discussion.** Yesterday I met for a couple of hours with our consultant, Scott Shreve. Our pool administrators, KMEA, are looking at long term planning options for purchasing generation and Scott and I discussed our options and responses. Also we reviewed our year to date expenses and revenue. We both agree that we should be seeing better results from our new contracts this year, but there are some issues with KMEA power that we still need to investigate. We also discussed him coming in October to begin to craft an electric incentive and also to get rolling on our Energy Savings Initiative.

**Surplus Property.** We have been getting quite a few phone calls lately from people wanting to buy items from the City. We have had requests for the old white street posts, rocks and bricks, and today pool equipment. I have adhered by the policy that unless it is an unusual or large item, I don't entertain these offers until we are ready to auction off surplus property. I am not sure whether the word is out that we are having a fire sale or coincidence, but there have been an unusual number of inquiries lately.

**Upcoming Meetings/Dates**

Sept 21	Freedom Festival
Sept 26	Council Meeting
Oct 10	Council Meeting
Oct 12-14	LKM in Overland Park
Oct 24	Council Meeting
Oct 25-26	Border War BBQ

**Manager's Out of Town Schedule**

Sept 21-25	ICMA
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